TESTIMONY OF A C WHARTON, JR. MAYOR OF THE CITY OF MEMPHIS

BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS, AND CIVIL LIBERTIES

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

THURSDAY, APRIL 29, 2010

PROTECTING THE AMERICAN DREAM PART II – COMBATING PREDATORY LENDING UNDER THE FAIR HOUSING ACT

(READING VERSION)

Chairman Nadler, Ranking Member Sensenbrenner, and Members of the Subcommittee. Thank you for the opportunity to address you on this afternoon. A special thanks is extended to my Congressman and friend, Congressman Steve Cohen for his graciousness and also his fierce engagement on this important issue.

I am delighted to be present today. Although I am currently the Mayor of Memphis, I feel that my words will not only represent the struggles of my own city and county with respect to this issue, but they will also echo the frustrations of other mayors and local officials grappling with the serious consequences of predatory lending.

In his address before the signing of the landmark Civil Rights Act of 1968, President Lyndon Baines Johnson recognized Dr. Martin Luther King, Jr. and Dr. King's involvement on the subject of non-discrimination in housing. This legislation, inclusive of Title VIII or the Fair Housing Act as it is commonly known, was signed into law by President Johnson on that day, April 11, 1968. And while this event was historic and memorable – a truly seminal moment in civil rights – this signing ceremony was overcast by the long shadow of Dr. King's assassination in Memphis, Tennessee exactly one week earlier.

It is altogether befitting that Memphis – inspired by the legacy of Dr.

King – has taken on the updated fight for non-discrimination in housing

with the Reverse Redlining Lawsuit our city and county filed against Wells Fargo on December 30, 2009. We allege that Wells Fargo targeted minority citizens and communities in Memphis for predatory loans that offered a fragile opportunity for home ownership that was essentially a financial house of cards.

As we have advanced this cause and found a voice for our grievance in the Fair Housing Act, we have been ever-mindful of the larger context to be considered.

Having taught in the law school setting for many years, I understand implicitly the sensitivity we all must have to the changing face of discrimination. The long and storied history of civil rights clearly shows us that one generation's Jim Crow is another generation's glass ceiling in corporate America. Outright police brutality was largely banished, only to be later repatriated under the identity of racial profiling.

Against the changing backdrop of political and social realities, we must continue to ensure that the principles of fairness and equity do not fall victim to discrimination in new forms and with new names.

It is our contention that the discriminatory acts that once kept African-Americans from renting or owning homes in certain neighborhoods is hardly different from blatant actions from financial institutions that singled out African-Americans with noxious agreements that were rotten to the core.

Simply put, predatory lending is to this generation what "no lending" to Blacks and Latinos was to a generation before.

In Memphis, our reality is particularly unsettling as we see whole neighborhoods that have been picked apart and hollowed out by foreclosed properties. With state law that allows for non-judicial foreclosures, since the year 2000, foreclosures in Shelby County have increased by 180 percent.

For those who would say that the lawsuit we've filed is aligned with our city's history for "singing the blues," I assure you all that this is not the case. We are not "singing the blues" – we're "crying foul."

Wells Fargo's foreclosure rate for loans in predominately African-American neighborhoods in Shelby County is **nearly seven times as high** as its foreclosure rate in predominately white neighborhoods. Wells Fargo's foreclosed properties since at least 2000 have been **concentrated in South Memphis**, **Binghamton**, **Hickory Hill**, **Orange Mound**, and other **neighborhoods with African-American populations exceeding 80%**.

This higher rate is not a product of chance events. This statement is validated by former Wells Fargo employees from Memphis who have confirmed the company's abusive behaviors targeted toward African-American communities.

The list of indictments includes Wells Fargo

- making mortgage loans without regard for whether borrowers qualified for the loans or could repay them
- failing to inform borrowers that their mortgages had adjustable interest rates and that their monthly payments could increase
- giving loan officers broad discretion and large financial incentives to steer customers who qualified for prime and FHA mortgages into much more costly subprime products with increased interest rates, points, and fees.

We recognize that as we speak on these issues we can not forget the devastating impact that a foreclosure has on individuals and families. In that same connection, however, impact and injury to the larger community is also real and not exaggerated.

With foreclosed properties, local government incurs any number of costs from efforts to repair or demolish the building or the associated costs from police and fire services when a vacant property morphs into a crime haven or a fire hazard.

More importantly, in a community like Memphis that depends heavily on the property tax as the mother's milk of local government, every foreclosed property is essentially another revenue stream being lost when we need it the most. In the end, with the unfair practices Wells Fargo and certain other mortgage lenders have promoted, the American Dream has effectively not only been transformed into a temporary pipe dream, but a ticking time bomb that detonates to produce direct harm and debilitating collateral damage including plummeting values for neighboring homes.

Every day the crisis grows more acute and the damage done by Wells Fargo gets worse. And every day – every single day – we are reminded that our misery was calculated to produce profit. Quite frankly, it's ironic that we've seen the need to codify protections for those who rent under the "Uniform Landlord Tenant Act" and the "Protecting Tenants at Foreclosure Act" while not extending the same types of assurances to those individuals and families who step out to pursue home ownership.

This is why all branches of government, whether it be the U.S. Department of Justice; State Attorneys General; municipalities like ours; or administrative agencies like HUD, need to come together to address these issues, ensure that violations of the law are fully redressed, and work together to make sure that lending institutions like Wells Fargo pay their fair share for the damage they have caused.

In closing, I would remind you all that in 1968, in addition to the signing of the Fair Housing Act, one of the year's other major stories was the report from The National Advisory Commission on Civil Disorders or the Kerner Commission as it came to be called. The most poignant and memorized part

of this historic report was the conclusion that America is "moving toward two societies, one black, one white—separate and unequal."

If mortgage lenders are allowed to unfairly undermine the fundamental dream of home ownership for African-American communities without a strong, concerted reaction to stop their practices and make them accountable, we will have collectively allowed these institutions to make our nation more separate, more unequal, more polarized, and a less perfect union.

Thank you for this time and this opportunity.