

FORECLOSURE FRAUD: THE MOST DANGEROUS PANEL IN THE WORLD

They've scheduled DDay's Netroots Nation foreclosure fraud panel—with Lynn Szymoniak, Malcom Chu, and Neil Barofsky—in a room with no streaming, and President Obama is holding a press conference to conflict with it. Which suggests this is the most dangerous panel in the world.

So I'm gonna liveblog it.

DDay introduces Barofsky as the first George Bush appointee to speak at Netroots Nation. Says Szymoniak made the name Linda Green famous. Chu is a Springfield MA foreclosure activist.

DDay: We told Eric Schneiderman's Chief of Staff we could fit him in. I don't see him here. We'll put a seat here for Elijah. It occurs I could call this panel "Foreclosure Fraud, the first 5000 years." Elizabeth Warren, Jeff Merkley, nothing has changed. Dissipation of a lot of the leverage that the regulators have.

Foreclosure Fraud is a misnomer, that does a disservice to our efforts. In the general public they stop on the word foreclosure, they capture argument made by banking community that once they're in foreclosure they should be there. That's a pervasive narrative. When we call it foreclosure fraud we buy into it. I tried to write down all the various levels of fraud through the system, just to show it's not confined to people in foreclosure, it touches every single house in the United States. Just off the top of my head: origination fraud (liar loans, discriminatory, paper fraud) appraisal fraud. Then securitization fraud, failure to convey the mortgages to the trust properly. Investor fraud, putting bad mortgages into packages willingly, and not telling the investors. You have MERS, which is a giant tax avoidance scheme. You had servicer fraud—fee

pyramiding. HUD did test of 35 loans from, of the 35 actual price of mortgage could not be verified on 34. And HAMP. Force place insurance fraud. Servicer buys at a huge price and make mortgage holder pay for it. Foreclosure mill. Only then do I get to robo signing. Then you have plain old breaking and entering. If you add all those up, I don't think there's a loan in America that is not touched by this in some way. When someone blames it on someone buying too much home. Made a payment, had a canceled check, could verify the payment, after a three year ordeal, they were going into foreclosure, two days before the foreclosure Norman committed suicide. They weren't irresponsible borrowers.

Asks Lynn: There's always a part where a court says, well the documents can't all be fraudulent. If all the documents are Was there ever a tipping point, where you realized they are all fraudulent.

Lynn: I am in foreclosure. I always begin by saying that because there's so much shame in foreclosure. When I was served I had never heard of the plaintiff. Was attorney who practiced in 32 years, I thought perhaps I would know who it was. I had been paying my mortgage to Option 1, had received threatening letters from them. I thought that's who owned my loan. About two years, they said we found the note, they had assigned it 2 months after Deutsche Bank sued me. I began my investigation with a mortgage assignment, it stood out as fraudulent. It made no sense to me. What I found by going through court records was the Linda Green phenomenon, her name appeared on thousands of assignments in Florida. I was able to do this online. I found that Linda Green's signature varied significantly. Her job title varied significantly. In one month period, had signed as VP of over 20 mortgage servicing companies. This was obvious document fraud. I called and said, it relates to my case. I thought it was limited to DocEx. I discovered BAC, Litton, more often using MERS titles, or using whatever title they needed. Now it's as early as 2003. Over 90%

of what I see is fraudulent. Names a bunch of foreclosure mill lawyers, probably fraudulent. Contacted by 60 Minutes. Brought my investigation to foreclosure happy hour—you need a foreclosure happy hour. Led to 60 Minutes spot, received thousands of documents from around the country. You can find “bogus assignee” on documents. I tried to write legislators, clerk of the court where I practiced law for 32 years. I was forced to file a false claims suit. Part of my suit was settled. As a result, just one piece—it occurred that if they were using these to foreclose. HUD received \$95M from my work, I received award of \$18M.

DDay: We’ll talk about settlement. I should always say that the \$24B, but \$18M worthy dollars to you.

Lynn: I still go to Occupy Courts, I still see people losing their house to the Linda Green documents. There are consent orders in place, those consent orders never required those people to identify fraudulent documents used in foreclosures. I would be proud if I could say that foreclosures have stopped. Nothing have changed in our court houses. Most of these loans owned by Mortgage Backed trusts. Most about to fail. Have <30% of loans. Who are the investors? Pension funds. Our communities, state and local govts, large insurance companies.

DDay to Neil: is this too big What are your beliefs about why this continues unabated.

Neil: Responsible versus irresponsible homeowner. Tremendously successful campaign about all these deadbeats. We should all kneel to sanctity of contract. This starts at the very top. When Obama announced HAMP, the first thing that was supposed to benefit Main Street, that was part of the deal for TARP, foreclosure relief was not a throw-in or gift. Obama introduced that term—responsible homeowners. I’m not saying that as a Bush appointee. That sense ignores basic facts about why the banks did this. It’s not just bc banks are fundamentally

evil, which they may well be. CFPB did back of envelope calculation: \$25B in profit they avoided by fraud. Unless the govt punishes beyond \$25B—and the settlement is not a \$25B settlement. If you don't break those incentives, nothing will change. Response from AGs has been to endorse enable this broken system of fraud. It starts with the govt. The govt is the institution that needs to stop this victimization of the country. Part of it comes back to TBTF. Realization of what would happen if you started pulling at this thread. What we have is status quo and a bunch of enabling measures, Dodd Frank, does some nice things on the edges. So many people make so much goddamn money off of it.

DDay: Let's get into settlement. I want to bring Malcom in. I've been to some Occupy Foreclosure events. Go up to exec homes and say we need principal reduction. WF said, we have no plans for principle reduction but high level WF execs continue to say we have not plans for principle reductions.

Malcom: I've heard of one person, we work with thousands. We haven't seen that begin to happen. Big part is homeowners are deadbeats, they're responsible. They don't deserve a principle reduction, bc others still paying even if house is worth half of mortgage. It's even more than broken system of fraud. Whole economic system that is broke. Speculation, seeking unlimited profit. When we talk about principle reduction, banks get it on a daily basis. If you own two houses, judges can give you principle reduction, but judges not allowed to give it if you own just one house. When we think about organizing against this. One of the things in local communities, and communities hit hardest by foreclosure. Vast majority feel alone, it's their fault, don't know all the fraud. They see it all the day, don't know they can fight back. Our model is direct outreach. Bring folks together. We bring hundreds of residents together, we start to eliminate the shame and fear. By talking about this analysis. The

millions facing foreclosure not facing foreclosure just bc of individual actions. In many senses an inevitable course for the way our housing market is set up. When we've been demanding principle reduction this for about five and a half years now. It was socialist. There were some people accepting of it, but it was way out there. We've seen it shift in last year and a half.. AGs pushing for it. Even though \$17B not enough, it's a key piece of solving this problem. That only happens when one homeowner stands up, but also organizing post-foreclosure. Avoiding evictions. Not a judicial foreclosure state, a lot comes out in eviction. Garnering public pressure on families facing eviction, making it difficult for banks to take these houses. Black and Latino communities stripped of decades of wealth they've built up. In mounting that resistance to foreclosure. Gives a lot of power to demands we can make pre-foreclosure.

DDay: Timebomb. Law in Congress that expires at end of year, if it expires, all principle reduction given to a borrower will be treated as income. Enormous issue, leg on Hill to deal with it. John Larsen has main bill. Some other things that will be legislated. Will be treated by CBO as a deficit reducer. Please talk about that. People who have been totally screwed, it would be the entire coup de grace. Let's talk settlement.

Neil: Headlinenumber of \$25B. That would nice if they had to pay close to what they gained. That wouldn't be enough to deter the conduct. But the numbers don't even come close. A couple billion will get paid out to people wrongly foreclosed on. \$2000/head. A bunch of \$\$ to states, was supposed to help borrowers, that is going to close budgets. \$1B has gone to fill budget holes. Extend corporate tax cuts. Enterprise zones. \$7B of that will go to things they do every day. They'll get \$7b of credit, difference between what they sell house for. They get credit by not suing people to collect money. When they donate or bulldoze houses,

they're going to get credit against the settlement. So that's nonsense. You're left w\$10B. That's what we heard about principle reductions. So banks take \$10B and knock it off what people owe. Even then it's not quite that way. Allowed to take investment and reduce principle on those, so investor will take the loss. They get 45% credit when they reduce other people's loans. Most offensive part of settlement, when they talk about accountability. It makes me angry. Same TARP program, they get credit when they put a mortgage through HAMP. The way HAMP works is incentive based system, pays servicers and banks to reduce principle. If I'm a bank, I reduce a loan on my portfolio. I might get check for \$50,000. As part of this settlement, they'll get credit when they receive a taxpayer check. You have a settlement that is supposed to bring accountability. How does it work? Taxpayer \$\$ flowing from us to them. It is very conceivable, if they've already marked down the value, they'll profit, they're going to recognize taxpayer funded profit as part of this settlement as punishment. Part of this entire approach is why in 2 years we'll still be here talking about this problem. I don't see how it's going to happen. Principle reduction, they can talk the talk. Make principle reduction mandatory whenever net positive for investor. HAMP supposed to be required. When they did principle reduction, never made it mandatory, lets servicer decide. What they could have done was put provision in there, said, whenever in best interest of homeowner and investor. Moral hazard never entered their mind when they bailed out the bankers. That's what we hear over and over again when it comes to these issues. Hate to use words foreclosure settlement, bc it's really just another bailout.

Lynn: Real change is going to be failure of MBS trusts. After Nov, will be widespread failure of MB trusts. Once analysis is what will keep trusts performing. In S FL we've lost 65% of home values. If you modify \$400,000 down to \$300,000 and someone continues to generate funds for trust. You're going to choose door A. Don't

modify and the trusts will collapse. I think people in this room largely understand MBS. I see progress where others don't see it. When I see roomful of women w/t-shirts that say I am Linda Green. When I meet regulator, I avoid T word which is trillion. When I've had 2 gins, I will say how widespread the problem is.

DDay: DocEx had a price sheet of the frauds they would do.

Lynn: I've printed out every DocEx in one county over 3 months, over half a billion in properties, 1 county, one state. Should have been \$2.5T settlement. When I say the T word my lawyers leave the room. We've got over \$12T, over \$8T in MB trusts, failing. We have to modify to fair market value. It's the only thing that will save our economy.

Malcom: Quick story about one of our members. How do we mount the pressure, how do we tell story that principle reduction is in banks best interest. Fannie and Freddie could save \$1.7T by reducing all their underwater to current value. She's been involved 2 years, when we first knocked on door, was packing up, had auction scheduled. I was thinking abt is there anything else? Auction postponed. Mod process endless, eventually house foreclosed on Nov 2011, last fall, had gone to DC. When auction happened was visiting family, we had her call in, crowd outside her house. Fannie sold back to themselves for 50-60% of pervious amount. She said over the phone I'm not going anywhere, this is a continued fight. I'm not leaving this house. You're going to accept my rent, sell it back to me, or you're going to have to drag me off the property. We started working with a non-profit lender that has started to work with community groups to make offers to bank post-foreclosure using political pressure, but also legal pressure. We were prepared to continue doing actions, BoA, 16 people sit in at bank. 3 months later, bought house back at 60% of market value, they accepted. F&F have been most resistant to principle reduction. Were willing

to sell it to 3rd party lender, willing to sell to investors at 20-30% of value. They spent \$14,000 to do auction, to hire lawyers, of our taxpayer money, and were willing to sell back at 60% discount. Could have given house back at 70% discount, could have saved lot of headache, time, and money. That's what's so incredible. For all the fraud that went into maximizing bank profit. They're not making decision about bank profit. We had some members interviewed, the one place they're making decision about profit, by punishing homeowners, message to 16M other underwater homeowners, "don't you dare stop paying." As you laid out, David, they're going to make money whether this person defaults or not.

DDay: Service profits off of foreclosure much more than modification.

Malcom: Mobilize the millions who have been impacted by this fraud. All these people who are in default. That's starting to happen. Tying in with energy that's coming out of Occupy, ingrained community groups, working with Occupy groups, in ATL, and MN, turning around and doing that base-building work. Organizing people who have been directly affected. Long-term people can train mass mobilization, national alliances, national networks, to make these national demands. To make these demands on elected officials.

DDay: I would have brought AG Schneiderman into conversation.

Question: What's the difference between a bailout and money laundering.

Neil: I'd suggest that's more of a comment.

Q: MERS, I'd like to have Neil comment. Fraudulent or tax avoidance. How much of an impact has that been local level of robbing localities?

DDay: Massive. MERS was private registry of mortgage transfers, database. Completely funded by banks and F&F. Basically idea was all these

MBS traded dozens of times, every time, the way it worked for 300 years, when you transferred mortgage, pay around \$35, it's straight tax avoidance. Other implications as well, Just robbery of local govts. At a time when local govts stressed. There have been suits to recoup.

Lynn: If you haven't read, Beau Biden's complaint, Jeff Thigpen out of Carolina, John O'Brian, Curtis Hertel, taking point on struggle against MERS. Most signed under guise of MERS officer. Now file corrective assignment. Complicity between mortgage servicers, MERS, those are best places to education yourself. These trusts all specify that trust had to have physical docs in stainless steel vault fireproof for 10 hours or some such crap. Trust had to be listed on mortgage. Not registered to MERS until homeowner goes into default. If you're not in arrears or default, you may think your mortgage owned by mortgage company, probably sold. Probably owned by trust. You'll never really know. Those MERS registrees. Beau Biden does really good job.

Q: MERS got formed in late 90s. 17-18 servicing companies, started in 2003. Timeline, did all this start happening at same time?

Lynn: Most of what I see in terms of bad trusts, 2004-2006 heydays. Tremendous # of loans being securitized. Only physical action that had to occur was gathering of these documents to be put in vault. That one physical task which is at heart of ownership got put by wayside. Seeing many more fraudulent endorsements. MB trusts really non-MB trusts. Difference in secured and unsecured loans. If they don't have the note it's not a loan.

Q: Did all these companies decide one day to do this.

Lynn: Countrywide, American Home Mortgage.

Malcom: Vast majority bubbled up in 90s. Regulatory rules on servicing companies different.

Q: Bank makes mortgage creates \$\$ out of thin air. If mortgage fails, claim a loss of \$XX, they haven't lost anything.

DDay: Settlements, the \$\$ is just air on the banks books. Will not really affect them in any meaningful way.

Q: Political change at federal and local level blocked. What about investors and really local levels. Register of deeds. How much can we get involved at local level.

Malcom: Lynn mentioned Mr. O'Brian, he's been working very closely w/community groups. Challenge for activist groups, if we get sucked into paperwork and going through it, that's all your time. That's a big place there can be alliances. Mr. O'Brian not just doing affys, going around country to review and teach people how to review paperwork. Looking at your cities, passed mandatory mediation. Passed in Senate Wednesday in MA. Ripe places for organizing, leadership development. Direct results on cities taking back on top, taking control of local economy.

DDay: You can't help people who refuse to help themselves. Many investors refuse to help themselves.

Lynn: As long as the \$\$ continues to flow.

Q: It's almost a game. I still have an issue w/mortgage companies not entered into trustable agreement. Lied about value of house. Got owner into illegal contracts. What really could they do?

DDay: Strategic default, dog that hasn't barked. Banks preempted, this would be terrible. A lot of built up sense of shame abt strategic default. Psychological. I've talked to people who are in foreclosure. They say this house is all I have, would rather not pay electric. Deep seated sense of responsibility. Another side of America is you can always start over. Change the laws to allow first BKs to write down. Obama Admin promised.

Malcom: Came up for vote.

Neil: The banks own the place.

Lynn: If everytime you hear responsible homeowner, groan out loud. That is the myth. If it survives, it'll be bc of work of Malcom and other local people. That teach people not to be ashamed of fact. They did not break the economy.

Neil, CRE equivalent, strategic default is not called strategic default. No moral judgments. Our govt has been captured by financial industry. Far worse than old school corruption under the table. You can put someone in jail if they're putting \$\$ in their freezer. This concept that if you do principle reduction everyone's going to stop paying their loans.

Dday: Mortgage banker Association did a reduction.

Malcom: We say to people that you shouldn't pay anything just to keep your house. I'm not going to say strategic default. But you can fight back. Auction is last step in foreclosure, but first in staying in your home.

Q: What happens w paperwork.

DDay: Lynn has come into \$\$, having problems paying off loan.

Lynn: I never had <\$500,000 of equity. I now own \$1.4 on house that is worth \$500,000. No longer judgment proof. When I pay it off, what will I have, the most famous broken chain of title in the country. In the process of saying please give me pay off, Could not get figure from attorneys. Had to go into court, asked Judge to give me payoff figure. Judge was incensed, must give 7 days, motion for 5 day extension. Pay off figure in Feb when I had not \$\$ to May, when I got money, \$250,000, took depositions from my pool guy, my lawn guy. It's not a \$250,000 of legal work, not even \$10,000. Almost impossible to get payoff. Paid off condo, wired \$\$, attorney called me, got a refund check for \$2800 on condo. That's laughable. For everyone trying

to scrape together, \$3000 probably made the difference. I don't think these two examples limited to my case, or Linda Green.

Q: I represent sliver of sliver of sliver. Farmer, Ag mortgage. Not sure how much it coincides w/mortgages, all owned by coop, funded by Cargill, owned by USDA, all commercial interest rates. When we were in default, they did not have to go through formal foreclosure. Considered commercial. Most small family farms under these circumstances. 10% interest. 10 years, no reduction in principle. How many family farms are going to survive this. USDA being unbelievable aggressive.