

Statement of

The Honorable Russ Feingold

United States Senator
Wisconsin
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Opening Statement of U.S. Senator Russ Feingold
Hearing on "Policing Lenders and Protecting Homeowners: Is Misconduct in Bankruptcy Fueling the Foreclosure Crisis?"
Senate Judiciary Administrative Oversight and the Courts Subcommittee
As Prepared For Delivery

"While Wisconsin has not been as hard hit as other regions of the country by the subprime mortgage crisis, foreclosures are on the rise in the state and more and more I hear concerns back home about the effects of rising number of foreclosures on our communities. I have heard from local government officials who are concerned about holding lenders accountable for maintaining abandoned homes and ensuring the abandoned homes do not fall into disrepair. I have heard from housing advocates concerned about borrowers who may have been misled into taking out a subprime loan and now face the prospect of losing their homes. And I have heard from dedicated lawyers and counselors who are trying to provide counseling and other services in order to help individuals and families through these tough times. Helping families avoid foreclosure should be a top priority of Congress.

"For some families, bankruptcy provides an entirely legitimate way to prevent foreclosure. This is exactly the purpose of Chapter 13 - to let people pay their past due debts over several years under the supervision of the court and the trustee so they can stay in their homes. When foreclosure is avoided, everyone wins - lenders get paid, families aren't uprooted, property values are protected, and communities are strengthened. Of course, if Congress continues to refuse to give bankruptcy courts the power to modify the terms of subprime mortgages, even going into bankruptcy will not help some families. But it can still work in some circumstances.

"That is why it is so shocking and disheartening to learn of the abuses of the bankruptcy process by mortgage servicers. At the very point when families are trying to straighten out their affairs and do the right thing by their creditors, including those who hold their mortgages, they are being taken advantage of and pushed again to the brink of foreclosure. These abuses, or even mistakes, if that's what they are, are inexcusable. We know that some businesses will profit from these tough economic times. That's probably unavoidable. But to cheat and steal from hardworking people who are down on their luck and are trying to do the right thing is just unacceptable.

"I'm also concerned that what we are beginning to learn about the practices of these companies may not be limited to bankruptcy cases. Millions upon millions of Americans have mortgages. They are told how much they owe, and they pay it. Month after month after month. They assume that the calculations of the mortgage servicing companies are correct and that their payments are properly credited. Very few people have the ability to analyze the amounts listed on their payment coupons or their annual statements and figure out if they are accurate. And if they start having trouble with their payments, most people can't determine whether the fees and charges they are assessed are legitimate.

"I commend the U.S. Trustee and the Chapter 13 trustees for putting more effort into scrutinizing these cases and the claims of these servicing companies, and I applaud the bankruptcy judges who have used their power to sanction companies and law firms that engage in improper practices. The Department of Housing and Urban Development needs to do more to address these issues. But I think it's also pretty clear that changes in the law are needed as well to help the trustees and judges recognize and stop these tactics and to provide the kind of sanctions that are needed to deter them. I am prepared to work with you, Mr. Chairman, on legislation, and I hope the Judiciary Committee will take the recommendations that come out of this hearing very seriously."

