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# OVERSIGHT OF THE FINANCIAL FRAUD ENFORCEMENT TASK FORCE

## HEARING

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

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# OVERSIGHT OF THE FINANCIAL FRAUD ENFORCEMENT TASK FORCE

**THURSDAY, JUNE 30, 2011**

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS
COMMITTEE ON THE JUDICIARY,
*Washington, DC*

The Subcommittee met, pursuant to notice, at 10:08 a.m., Room SD–226, Dirksen Senate Office Building, Hon. Amy Klobuchar, Chair of the Subcommittee, presiding.

Present: Senators Blumenthal and Grassley.

## OPENING STATEMENT OF HON. AMY KLOBUCHAR, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator KLOBUCHAR. I am pleased to call this hearing of the Senate Judiciary Subcommittee on Administrative Oversight and the Courts to order.

Good morning, everyone. Thank you for being here.

Senator Sessions said to go ahead, and we may be having other Senators joining us later in the morning.

Today, we are going to focus on the oversight of the Financial Fraud Enforcement Task Force, which is the largest coalition of Federal, state and local partners ever assembled in this country's history to combat fraud.

This issue is vital to our country as a whole and to individuals and families for a multitude of reasons. First of all, mortgage fraud caused many Americans to end up in homes they could not afford, which helped lead to the financial crisis and recession. Certainly, we saw that in my home State of Minnesota early on that that was the canary in the coal mine; people starting to get in trouble on their homes because they took mortgages out from people that did not have their best interests in mind.

The proliferation of Internet scams has made many vulnerable citizens at risk of being swindled by false claims of easy money and cash prizes.

Fraud on government programs can undermine confidence in government and diminish the benefit of cruical public investments at a time where you have senior citizens that could barely afford the health care. The thought that there are storefronts set up where people are receiving Medicare checks that they do not even deserve, that they do not even qualify for just can make anyone want to scream.



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So the idea here is to cut back on that and do something about fraud, and that is what the task force is about.

Fraud and Medicare and Medicaid has cost the Nation billions of dollars, something we can ill afford, given the dire fiscal situation we are in today.

In the investment realm, we have seen what criminals like Bernie Madoff can do to the savings and the finances of families, schools, and charitable organizations.

For all of these reasons, it is critical that our antifraud efforts be effective, efficient, and comprehensive.

As a former prosecutor, I know that this is no easy task. We must ensure that we are providing adequate tools and resources to law enforcement and that we have the necessary laws and policies in place to deter this kind of fraud.

We must have well trained prosecutors and other government officials, and we must promote the public awareness of the dangers of financial fraud.

Finally, we need collaboration among law enforcement and regulatory agencies at all levels of government. It has always been my experience, when I was county attorney, that if there was a major fraud committed, the citizens really did not care who prosecuted, whether it was the local prosecutor's office or the state attorney general's office or the U.S. attorney's office, they just wanted us to get the job done.

And the other thing we have learned is that these crooks do not respect boundaries. They do not care if they are doing something in another country or another county or another state. And so that is why combining our resources so that we are better able to tackle crimes and to be as sophisticated as the crooks that are breaking the law is so critical in the area of white collar crime.

President Obama formed the Financial Fraud Enforcement Task Force in late 2009. The task force includes more than 25 Federal agencies, the 94 U.S. attorneys' offices, the National Association of Attorneys General, and the National District Attorneys Association.

I think it is very important that local prosecutors be represented. So many crimes, especially since 9/11, when our U.S. attorney's office, understandably, focused on many of these terrorism crimes, so many of the regular white collar crimes, including crimes involving millions and millions of dollars, were handled on the county level by the local prosecutors, by the DAs' offices. So they have to have a part of this task force and be a part of the task force.

The task force seeks to harness the capabilities of its member agencies and foster coordination in the fraud enforcement efforts. Its work covers a wide variety of fraudulent activities in the areas of mortgage lending, Recovery Act stimulus funds, securities, commodities, and government procurement and grants.

The task force recently came out with its first year report, and we will examine that report today. We will discuss the operations of the task force, how it has enhanced antifraud efforts at the Department of Justice, and the steps that it has taken to increase coordination among government agencies.

We have with us today two excellent representatives of the task force. First, we have B. Todd Jones, the U.S. Attorney from the great State of Minnesota, who sits on the steering Committee of

the task force. This is Todd Jones' second round as U.S. attorney. So he brings a lot of experience to the job and to our state.

And, second, we have Robb Adkins, who is the executive director of the task force.

I will give a more complete introduction of our witnesses before they testify.

Senator KLOBUCHAR. And I would like to turn it over to Senator Blumenthal, if he would like to make some opening remarks.

I also see we have been joined by Senator Grassley of Iowa, and I am sure he has a few things he would like to say, as well.

Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL, A U.S. SENATOR FROM THE STATE OF CONNECTICUT**

Senator BLUMENTHAL. Thank you, Madam Chairwoman, Madam Chairman. And first of all, thank you for having this hearing and, again, demonstrating your leadership in the area of combating financial fraud and related issues that undermine so importantly the integrity, as well as trust of the public in our financial system.

These crimes are more than just superficial or passing in their impact. They are enduring because they go to the core of what people trust and need to have confidence in.

I want to begin by saying that I have reviewed the task force first year report, which outlines increased prosecutions and convictions associated with mortgage fraud and related kinds of criminal activity. Those developments are very positive, and I really want to commend your efforts in this area.

Twice as many defendants were charged in mortgage fraud cases in 2010 as in 2009, and twice as many convictions and, roughly, twice as many people were sentenced at every level of criminal severity, and that is very good news in sending a message, a deterrent message about the severity and seriousness of this Administration in dealing with this kind of crime.

The 533 defendants that were found guilty of mortgage fraud last year are a dramatic increase from the 235 the year before, but I think everyone here, and I know both of you, being very experienced and expert prosecutors, agree that the scope of the problem and the magnitude of what remains to be done is certainly very daunting and important.

And that is partly why we are here today, to make sure that the progress continues and, also, that the public understands the difficulty of doing these cases, and that is the second point I want to make here.

Not only have you made progress, but I think you have amassed the infrastructure and the cooperation that is necessary to address these problems going forward. A lot of people simply do not understand these are very document-intensive, resource-demanding cases.

They are not like the bank robberies that we used to do when I was United States attorney in Connecticut years ago, which were relatively simple cases. We moved to white collar crime fraud, which was more demanding, and the kinds of crimes that you are investigating and prosecuting are much more demanding and difficult to investigate and prosecute, because you need not only dedi-

cated and skilled professionals, which we have always had in the FBI and the U.S. attorneys' offices, but, also, individuals who are really schooled and trained in the kinds of investigation that needs to be done.

So I want to thank you for your efforts so far and say that I look forward to working with you, cooperating with you, aiding you in Minnesota, where I know you are doing great work as the United States attorney and in Washington, DC, Mr. Adkins, where you are bringing together the kinds of resources that we need to do not only on mortgage fraud, but, also, the gasoline price spikes that we have seen and crimes that may be related to them.

And as you know, I have advocated even more aggressive action in that area, and look forward to working with you. Thank you for being here today.

Senator KLOBUCHAR. Thank you very much.

Senator Grassley from the State of Iowa.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you very much, Madam Chairman, and I congratulate you on your leadership of this committee.

It is a Committee that, when I chaired it in the 1980s, the subcommittee, I should say, when I chaired it in the 1980s, we established a record that was able to help us get the false claims bill passed, and that bill, as you know, has brought $28 billion back into the Federal Treasury.

Senator KLOBUCHAR. Those are big shoes to walk in there, Senator Grassley. Thank you.

Senator GRASSLEY. You bet. Today's hearing provides us the opportunity to fulfill our constitutional duty and a continuing basis to conduct oversight. It is also an opportunity to further address fraud against American taxpayers, an issue that is not a partisan one. It is one that, obviously, a lot of us take very seriously.

Most recently, this Committee held a hearing on fraud enforcement efforts of the Justice Department in January. Unfortunately, we just received responses to our written questions from that hearing last night after 5 p.m., nearly 5 months after the questions were submitted.

While I am glad the Justice Department was able to finally get answers to these questions returned to the committee, it does a disservice to all members of the committee, Republican or Democrat, to get them after 5 p.m. the night before the next hearing on the same subject.

Notwithstanding the 5-month delay in receiving those written answers to our questions, Senator Leahy and I, joined by Senator Klobuchar, introduced the Fighting Fraud to Protect Taxpayers Act in May. This important legislation provides a number of fixes to the criminal code to assist in fraud enforcement, as well as providing additional resources to the Justice Department to combat fraud.

It provides these resources from fraud recoveries without utilizing taxpayers' resources. The Committee reported the bill by a strong bipartisan vote, and it is now on the Senate calendar.

While our bill addresses important legislative changes to help combat fraud, important work remains. This hearing is a part of that continued work. By conducting continued oversight, we can ensure that the Justice Department is targeting fraud aggressively on behalf of our taxpayers.

This is especially important given the significance of annual government expenditures in programs like Medicare and Medicaid, Defense Department procurement, not to mention the increased expenditures over the last few years, including the President's $1 trillion stimulus spending, the AIG bailout, the auto industry bailout, the government conservatorship of Fannie Mae and Freddie Mac, and the TARP program.

Understanding the significant expenditures of taxpayers' dollars, President Obama signed an executive order in November 2009 creating the Financial Fraud Enforcement Task Force. The task force is "designed to strengthen the efforts of the Department of Justice to investigate and prosecute significant financial crimes and other violations relating to the current financial crisis and economic recovery efforts." That is the end of a quote about the establishment of the task force.

General Holder stated that the task force will, "wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes." He added, "not just hold accountable those who helped bring about the last financial meltdown, but to prevent another meltdown from happening."

While I appreciate the Attorney General's comment on the task force, I want to know more about how the task force is operating and whether it is achieving the stated goals of the President and AG.

Also, all too often, here in Washington, task forces and commissions are created to make people think that they are doing more than they actually are. It is a way for public servants to tell the American people they are addressing a problem, when nothing really changes. I want to hear from witnesses about how the task force has furthered the fraud fight.

For example, I am concerned that the task force may, in fact, be too broad in its missions. The task force is made up of a steering Committee chaired by the deputy attorney general, vice chaired by associate attorney general. There is also a training and information-sharing committee. Then there is a separate victim rights committee. There are also five separate working groups within the task force. Each of those separate working groups has no less than three participating Federal agencies.

It appears that a lot of time and effort could be expended just meeting and coordinating all these task forces and working groups. This is time that could be spent actually investigating and bringing prosecutions, and I want to hear some specific examples of how this has added value and not simply facilitated a more bureaucratic process combating fraud.

I am also concerned that the task force may be a press release collection agency utilized by the Justice Department to collect examples of investigations and prosecutions that would otherwise have been brought.

My staff has heard this specific accusation from agents and attorneys in the field. So I would like to learn a bit more about why the task force is necessary and about how taxpayer dollars are utilized to facilitate all meeting and coordinating it has added to the fighting of the fraud process.

I thank you, Madam Chairman.

Senator KLOBUCHAR. Thank you very much, Senator Grassley.

Can the witnesses please stand to be sworn?

[Witnesses sworn.]

Senator KLOBUCHAR. Thank you. As I mentioned, we are pleased to be joined today by, first of all, B. Todd Jones, who is the U.S. Attorney for the State of Minnesota. He also serves on the steering Committee of the task force and chairs the Attorney General's Advisory Committee of U.S. Attorneys.

Mr. Jones also served as U.S. Attorney from Minnesota from 1998 to 2001 and served on active duty with the United States Marine Corps from 1983 to 1989, and again in 1991 during Operation Desert Storm.

He graduated from Macalester College in 1979 and the University of Minnesota Law School in 1983.

When I was the county attorney, the DA in Minnesota, he and I worked extensively together.

And, Mr. Adkins, you will be happy to know that Todd Jones and I actually went together once to the White House, my very first visit to the White House—I had not even been on a tour before—and we were invited in to talk about the introduction of a crime bill, the hate crimes bill.

And during the speeches where President Clinton spoke and I spoke, I mentioned Todd Jones and mentioned our coordination and I said, "Mr. President, we work together so well, we talk on the phone nearly every day." And so then the next day, I got home and it was a Saturday and I got a phone call and it was from Todd Jones.

I go, "Why are you calling me on a Saturday?" He said, "You told the President of the United States we talk on the phone nearly every day and I am taking it seriously."

[Laughter.]

Senator KLOBUCHAR. So he is truly an honest man.

Next, we have Robb Adkins, who has been the executive director of the task force since February 2010. Mr. Adkins became a Federal prosecutor in 2001 and was named chief of the U.S. Attorney's office in Santa Ana, California in 2007.

He is a recipient of the Attorney General's Award for Exceptional Service, the highest commendation in the Department of Justice, and was once named one of the top 20 lawyers in California under the age of 40.

He graduated from Stanford University and the Georgetown University Law Center.

Mr. Adkins, I understand you are leaving the task force in July, and I would like to thank you for your tireless work. I know you have done a tremendous job in combating fraud and I wanted to make sure that we all thank you for your service over the last year and a half, as well as your time as a prosecutor.

I look forward to hearing more about your work with the task force.

Mr. Jones, if you would like to begin.

**STATEMENT OF B. TODD JONES, U.S. ATTORNEY FOR THE DISTRICT OF MINNESOTA, MINNEAPOLIS, MINNESOTA**

Mr. JONES. Thank you and good morning, Madam Chair, Senator Grassley, Senator Blumenthal. It's a privilege to be here with you today.

As you all know, the financial crisis has, in some way, impacted virtually every American across the country, and the underlying purpose of the Financial Fraud Enforcement Task Force is to address that crisis with an equally comprehensive response.

Senator Klobuchar, you have already talked about it. I know you understand the value of collaboration and, as you had mentioned, 12 years ago, when we worked together on a number of issues of mutual concern, including fraud, when you were the county attorney and I had the privilege of first serving as the United States attorney, the importance collaboration was always at the forefront.

As we learned then and we know now, different partners, law enforcement partners have different resources, they have different tools in their box, and the goal overall of effective law enforcement is to bring everything we have collectively to bear on the issues at hand.

That is what this multiagency task force is about. It is not, in strict terms, an operational traditional task force. We have task forces like that all across the country, composed of agents and prosecutors working every day, making cases across the country.

This task force operates at the 30,000-foot level, so to speak, providing coordination and training, sharing information and expertise among all the partners who are all on the same side working toward the same goal.

The President created this task force, as has been said, in November of 2009. It is composed of more than 25 Federal agencies, as well as state and local partners, and it is one of the largest coalitions ever brought to bear in confronting fraud.

It is chaired by the Attorney General of the United States and includes the criminal and civil divisions of the Department of Justice, as well as all 94 United States attorney offices.

But this is not just a DOJ initiative. The task force includes, just to name a few, Department of Treasury, HUD, Commerce, Homeland Security, numerous Federal inspectors general, the FDIC, the FTC, the SEC, the IRS, special inspector general for TARP, and the Recovery Accountability and Transparency Board, as well as numerous states attorneys general.

The executive order directs us to use the full criminal and civil enforcement resources of all these different agencies to do five things: first, investigate and prosecute; second, recover criminal proceeds; third, address discrimination in the lending and financial markets; fourth, enhance coordination among Federal, state and local authorities; and, last, to conduct training and outreach to the public.

As Chairman of the Attorney Generals Advisory Committee, I am honored to serve on the steering committee, along with representa-

tives from the other agencies. However, the leadership of this group extends beyond the Beltway.

For example, my colleague in the Southern District of New York, Preet Bharara, the United States attorney, along with Lanny Brewer, the Assistant Attorney General of the Criminal Division, representatives from the FTC and the CFTC, chair the Securities Fraud Working Group.

On the West coast, the Mortgage Fraud Working Group is co-chaired by another one of my colleagues, U.S. Attorney Ben Wagner in the Eastern District of California, and he knows firsthand the impact of the mortgage crisis because his district has one of the highest foreclosure rates in the country.

To give you an idea as to the multiagency approach of the task force, he chairs that group with representatives from our civil division here in Washington, DC, the FBI, HUD OIG, and the National Association of Attorneys General.

The task force also has developed a comprehensive network establishing financial fraud coordinators in every United States attorneys' office. The task force has equipped this network with more tools and better trained personnel by compiling and distributing a resource guide of financial databases, and information is important, holding national training conferences, launching a Website with fraud reporting and distributing information about emerging fraud trends.

I know firsthand the value of having this kind of individual in the offices, because all of the civil and criminal assistant U.S. attorneys that work with me can rely on our fraud coordinator to literally wire them in nationally in a way that hasn't really occurred before with all of the best practices and provide the government-wide network that has got the complete alphabet soup of financial regulators at their disposal.

Many of those agencies my folks have never worked with before.

I see my time is running out. I will pass it off to Robb Adkins, and look forward to addressing any of the questions that you have.

Thank you.

[The prepared testimony of Mr. Jones appears as a submission for the record.]

Senator KLOBUCHAR. Thank you.

Mr. Adkins.

**STATEMENT OF ROBB ADKINS, EXECUTIVE DIRECTOR, FINANCIAL FRAUD ENFORCEMENT TASK FORCE, WASHINGTON, DC**

Mr. ADKINS. Good morning, Chairman and distinguished members of the subcommittee. It is a privilege for me to appear before you today to talk about the Financial Fraud Enforcement Task Force and our continuing fight to address fraud.

I'm honored to appear before you today with Todd Jones, the U.S. Attorney for Minnesota, who is a national leader of this effort on the task force and is also a national example for the fraud enforcement that he does in his home district in Minnesota.

As U.S. Attorney Jones has described, the task force has a broad membership and mandate to focus on the full array of financial fraud. That includes mortgage fraud, investment fraud, securities and commodities fraud.

It also includes those efforts that are designed to help the economy recover and to address those who would seek to defraud those efforts around the country.

As more fully detailed in the task force's annual report, which the Chairman described, there are many ways in which the task force has been very successful within its first year. I want to highlight a few of them and discuss more of them with you.

As Senator Grassley correctly noted, the task force is very broad. That breadth comes with challenges, but it also comes with strengths.

One of the great strengths of the task force is training and information-sharing, which is critical to unlocking the strength from such a large coalition. In pursuit of that goal, the training and information-sharing Committee of the task force has been active in its first year. It has brought together financial fraud coordinators, including the one in Todd Jones' district, to a national training in October 2010, bringing together a robust set of white collar professionals from around the country to discuss trends and how to move forward.

The Mortgage Fraud Working Group is tasked with addressing mortgage fraud, which, as Senator Blumenthal correctly noted, is a broad array of fraud. From loan origination fraud to reverse mortgages to short sale schemes to builder bailouts, loan modification scams and foreclosure rescue scams, it is a wide array of fraud that is addressed by that group.

And mortgage fraud trends show that the fraud evolves with the cycles of the housing market and varies by geographic region. The working group has held regional summits around the country with enforcement officials at the operational level.

I have seen in concrete ways how collaboration at these summits has led to better enforcement. For example, at these summits, representatives FinCEN and from HUD's office of inspectors general combine their datasets in order to produce essentially a target list of individuals who are engaging potentially in fraud.

This serves a valuable purpose to those in the field. One of the great challenges they face in addressing mortgage fraud is its atomistic nature and the great prevalence of it.

In crude terms, it allows them to get the best bang for their buck in terms of where to focus those resources to address that problem in a targeted and efficient way.

Another area of focus for the task force is potential fraud, waste and abuse of Recovery Act funds. Because the task force was established at a time when these stimulus funds were still at the stage that they were being distributed, much of the work of that working group has focused on fraud prevention and detection.

At the close of 2010, more than 100,000 professionals responsible for awarding and overseeing Recovery Act fund disbursements, as well as investigators, prosecutors and agents were trained as part of this effort, which we believe is one of the largest fraud prevention training efforts in history.

The task force is, similarly, focused on efforts to combat fraud, waste and abuse with respect to the TARP program. They have engaged in successful efforts to partner the special inspector general

of the TARP program with U.S. attorneys' offices around the country, and there have been good results in this area.

SIGTARP, along with other task force members, have brought cases, including Park Avenue Bank, which was one of the—which was the first conviction of an individual who was attempting to defraud the TARP program of $11 million.

Another working group of the task force focuses on securities, commodities and investment fraud, and brings together a broad array of impressive subject matter experts, as described by U.S. Attorney Jones.

In its first year, the working group members conducted workshops on important issues such as the Dodd-Frank Wall Street Reform and Consumer Protection Act, investigations and prosecution of investment fraud schemes, and parallel criminal and civil proceedings.

During 2010, working group members investigated and prosecuted numerous securities and commodities fraud involving large, complex cases against executives at the highest levels. For example, different task force members, including the criminal division, the U.S. Attorney in the Eastern District of New York, as well as SIGTARP, charged Lee Bentley Farkas, who was the Chairman of a company called Taylor, Bean & Whitaker, for a fraud of more than $2.9 billion. That contributed to the failures of one of the 25 largest banks in the United States and one of the largest privately held mortgage lending companies.

Farkas was convicted at trial on all counts in April 2011, and is, in fact, scheduled to be sentenced this morning in the Eastern District of Virginia.

Last, and definitely not least—and I see that I am over my time—the task force believes that we cannot prosecute our way out of this crisis. Public outreach, consumer financial literacy, and assisting those to prevent themselves from being victimized is important. We have an online consumer-based Website, stopfraud.gov, that is designed to do that.

Thank you, Chairman. I look forward to any questions that any of you have.

[The prepared testimony of Mr. Adkins appears as a submission for the record.]

Senator KLOBUCHAR. Thank you, Mr. Adkins. I think people learned, especially 9/11, the importance of exchanging information and having people aware of things, whether it is a terrorist network or whether it is a white collar crime network right here in the United States.

So I am a big fan of trying to exchange this information and trying to get after some very sophisticated crooks. But you know Senator Blumenthal is a former prosecutor and Senator Grassley is certainly someone who counts the money and makes sure the taxpayers get the bang for the buck.

So I am very focused on what we have seen in terms of prosecutions coming out of the efforts. We understand the task force—the U.S. attorneys' offices and the county attorneys' offices are prosecuting those on the frontline, but the job of the task force, I figure, is to get out all that information so that they can do their jobs better and quicker.

According to the first year report of the task force, the number of mortgage fraud prosecutions went up significantly in the task force's first year. I know it is hard to quantify the precise impact of a task force, but generally speaking, how has the existence of the task force helped increase the number of prosecutions?

Mr. ADKINS. Thank you, Chairman. My background, as you noted, is also as a Federal prosecutor and I am well aware that prosecutions occur at the line level throughout the country, in the U.S. attorneys' offices and in the field offices of the FBI and elsewhere.

And you are correct that the task force, as U.S. Attorney Jones mentioned, is designed to help them, that is the model, to support them in the cases that they bring; not as an overarching agency that would duplicate their efforts, but rather to help enable them through cooperation, information-sharing, training, and coordination.

The information-sharing efforts and the training efforts in the mortgage fraud arena are very important. I don't think that you should look to the increase in mortgage fraud prosecutions and say that those were directly caused, each and every one, by the task force, because that is not the model. It is a metric, though, to see success and it is the important metric, which is enforcement.

We want to get out there not just criminally, although that is certainly important because it serves the most valuable deterrent that you can have, but, also, with respect to other tools that we can use.

As you saw in the annual report, one of the greatest success stories of the task force has been bringing together some of these other entities that previously had not been as coordinated or brought into the fight in mortgage fraud.

I am talking about state attorneys general working very closely with U.S. bankruptcy trustees, with the FTC, with the FBI and the U.S. attorney's offices, and even within the Department of Justice, not just criminal prosecution, but FIRREA and very important civil enforcement that can be brought, not to the exclusion of criminal cases, but to complement it, because we know that we can't just criminally prosecute all these cases away and we need to bring every tool we have to the toolbox.

And so specific things that the task force has done, in addition to that targeted data compilation that I described earlier, which is very valuable to the field, we have taken that show on the road, so to speak, to those areas that are hardest hit around the country in mortgage fraud in order to interface with the 94 different mortgage fraud working groups and task forces at the operational level so that we can get data from DC sometimes that doesn't always get to the field directly in their hands to assist with prosecution.

Senator KLOBUCHAR. Could you also tell me about Operation Broken Trust, which targeted fraud against investors?

Mr. ADKINS. Yes. Operation Broken Trust was an effort in December of 2010. One of the issues that we were hearing, for example, when the financial fraud coordinators came together in October of last year, was that there is an incorrect perception that investment schemes, such as Ponzis and the like, what we often refer to and I am sure you have referred to as affinity frauds that rely upon

a level of trust and relationship between the victim and the fraudster, that there is an incorrect perception that when the economic tide receded, it left all those flopping fish on the beach.

And by that, I mean all those Ponzi schemes unwound, such as Madoff, and that there are no such schemes occurring today.

That is incorrect and we wanted to draw a focus to that in the most powerful way we could to get into the hands of potential victims, but even current victims who could report fraud, that they are occurring and that it is an increasing problem, especially as people look potentially to publicly traded markets and look for other ways to invest their money, through PPMs and other means.

And so we put together a snapshot, a window of 3.5 to 4 months to find how prevalent it was and to get that message out, and we found startling results, over 120,000 victims in cases that were brought during that period.

It's part of the outreach. It's part of the effort to reach the public, because as I said in my opening remarks, we know we can't just prosecute our way out of it. We need the public's help.

Senator KLOBUCHAR. Well, I have also found, specifically in the white collar area—I remember when we prosecuted some pilots for tax fraud. Once you start doing that, I think of no other area that is quite like this, and people see examples, suddenly, in the case of Minnesota, millions and millions of dollars suddenly got paid into the treasury, because other people that might have been engaging in schemes that we did not have the information on suddenly decided to pay up.

So I think it can have not only the prevention of the fraud, but actually can help fiscally better than any other area that I can think of when you show the examples that you are willing to go to bat and put people in jail.

U.S. Attorney Jones, could you just talk about some examples from the frontline in Minnesota of some of the white collar cases that have been particularly successful and how many millions of dollars they involved?

Mr. JONES. Senator, we have been very busy in the district of Minnesota, as a lot of my colleagues around the country have, on the fraud front, and it's not always obvious.

So I think that to address Senator Grassley's concern about slapping a label on a press release and taking credit for work that really isn't related to the Financial Fraud Enforcement Task Force is a misplaced notion. A lot of this work is in the pipeline. Anyone that has been out in offices know that these cases are complicated, they take time.

And so we have a fully stoked pipeline of fraud cases, many of which are generated by the increased focus and the collaboration and coordination that is going on right now as a result of the Financial Fraud Enforcement Task Force effort.

Senator KLOBUCHAR. Can you give me some examples of ones that either have been finalized——

Mr. JONES. There are two examples.

Senator KLOBUCHAR. People are in jail.

Mr. JONES. Well, you know that we have some people in jail——

Senator KLOBUCHAR. Yes.

Mr. JONES—from the district of Minnesota. First and foremost is Tom Petters, who is the CEO of a corporation that was involved in a massive Ponzi scheme, $3.5 billion ponzi scheme. And within a period of 18 months, we went from an FBI/IRS investigation to a full-blown trial, to a sentencing in April of last year, where Tom Petters received the largest fraud sentence ever of 50 years, and he is now in the custody of Bureau of Prisons in Fort Leavenworth. And that was all done in 18 months.

More recently, to get to the point of this collaboration that is going on, Trevor Cook, another person who was involved in foreign exchange that we worked very closely with the SEC and the CFTC, in part, through the efforts of this, to not only criminally prosecute Trevor Cook, and he received a sentence of 25 years, but also to take civil recovery action for assets, appoint a receiver, and protect what we could recover for the victims of his fraud.

Those are just two examples from Minnesota, but that has been replicated across the country.

Senator KLOBUCHAR. Thank you very much. It was a good answer.

Senator Grassley.

Senator GRASSLEY. Well, thank you, Madam Chairman.

This task force was created in November of 2009. Senator Leahy and I wrote the Fraud Enforcement Recovery Act of 2009, signed into law May of 2009.

The legislation increased the resources available to the Justice Department to combat criminal and civil fraud. It also provided additional resources to the FBI and the SEC.

Combating fraud was on Congress' radar before the creation of the task force. Given that, regardless of the existence of the task force, fraud-related crime was being investigated and prosecuted.

Consequently, it is difficult to determine exactly what investigations and prosecutions are directly attributable to the task force.

So, Mr. Adkins, I would like to have you answer these questions. And they are not accusatory, they are just trying to get some information.

How does the task force determine what cases were investigated and prosecuted as a direct result of the task force? And then I will have a couple other questions.

Mr. ADKINS. Well, thank you, Senator Grassley. And I should tell you that—and I do want to thank you, also, as well as Senator Leahy, for FERA. As you know, and I'll talk about—hopefully, later, I will have an opportunity to talk about how directly the extension of financial institution definitions to non-bank lenders is a direct causal effect between that and one of the policy proposals that FinCEN, through the task force policy committee, has put out as a rule, which is to extend suspicious activity reporting not just to financial institutions, but then to extend it to those non-banking lenders.

Your question is a good one. As I said before, my background and my personal view of the task force is that we need to support the AUSAs in the field, as well as the non-DOJ staff attorneys at the SEC and the FBI agents.

The way that we determine which efforts and press releases and announcements that we highlight through the task force is depend-

ent upon the executive order, which we have filtered into different working groups.

You mentioned earlier, correctly, that there can be some bureaucracy involved in such a broad effort. The working groups are designed to try to address that, to try to put in place the subject matter experts that are at the point of the spear in those focused areas.

And so mortgage fraud, securities and commodities fraud, Recovery Act fraud, which, as you know, relates to procurement and grant fraud in the Recovery Act area, TARP fraud, largely worked by SIGTARP, and certain nondiscrimination cases, those are the areas that the task force has prioritized through the executive order. Those are the areas we coordinate with the financial fraud coordinators, and those are the areas that we try to highlight and push out to get the maximum deterrent value.

Senator GRASSLEY. If you can answer this question. How often do the different working groups of the task force meet?

Mr. ADKINS. That is actually hard to answer. There are—it depends on the working group. For some of them, like the securities and commodities fraud working group, which is chaired by Preet Bharara in the Southern District of New York, Rob Khuzami, the director of enforcement with the SEC, David Meister, the director of enforcement at the CFTC, as well as Lanny Brewer, who you know well, each of them hosts meetings on a rotating basis, and the last one was actually hosted by the FTC up in New York a couple of weeks ago.

That group, because of its size—and as you noted, we didn't start prosecuting fraud back in November 2009. That's a group that has been working together for some time.

They meet regularly, typically, 2 to 3 months, but they also have individuals who are at a lower level within those organizations that I interface with on a weekly basis offline, outside of those more formalized groups. I find that to be very productive.

Other groups meet much more regularly. In the mortgage fraud working group, they would have meetings, but they also would hold summits around the country. They have subgroups that would get together on particularized issues.

And so some meet on a more regular basis, every few months, others meet much more frequently.

Senator GRASSLEY. We have the press releases that I have referred to. We have an annual report that I characterize as a summarization of those press releases.

What other official work product is derived from the activities of the task force and the various working groups?

Mr. ADKINS. We put together, through the information—the training and information-sharing committee, compilation of the different fraud databases, fraud enforcement databases. This, surprisingly, had not been done previously.

Amongst the alphabet soup of the Federal enforcement family, there exists many different types of datasets, and we put together a resource guide and got it out to the field through the financial fraud coordinators, allowing those, again, at the line level, getting around a bureaucratic response, getting it to the line level, where they can form, at the line level, those MOUs necessary to get access to that data to help with what they do.

There are other things, like a USA bulletin that goes out to all U.S. attorneys around the country. We have put forth actually two separate USA bulletins that go out.

It is a resource and training guide for the field, describing ways in which to confront particular difficult problems, including mortgage fraud and some of the others that I know that we've discussed.

Senator GRASSLEY. I have a series of questions. I do not know if we will get through all of them, but I would kind of like to get a handle on budget and financial control.

According to your written testimony and the task force annual report, the mortgage fraud working group has held regional summits around the country, including Miami, Detroit, Phoenix, Columbus, Fresno, Los Angeles. Further testimony discusses training of attorneys and agents at the National Advocacy Center. Your testimony also described training material.

Despite all of these deliverables and the travel required for these meetings, nowhere in the annual report of your testimony is there a discussion of a budget and accountabilty of tax dollars expended to fulfill the task force functions.

I am concerned that by not having a formal budget, expenditures for travel could be unnecessarily high.

Question. The executive order creating the task force states the department shall provide funding for the task force subject to the availability of appropriation.

Is there a separate budget at the Justice Department for the activities of the task force; and, if there is not, why not?

Mr. ADKINS. I don't know that there is a separate budget for the task force, and I think the reason for it is the task force model.

The task force, I think, would be ill served if it attempted to essentially put in place—and I know you are not suggesting this—an agency structure that would be duplicative of the efforts that are already ongoing.

The task force model is one in which we enable those who already are the experts—they know how to prosecute these cases, they know how to regulate certain markets, but to put them in places and to, frankly, co-opt some of the efforts that are ongoing so we can take one part of the Federal family and put it in touch with another, grab folks at the state level and bring them in so they can work better.

You mentioned the NAC training, the National Advocacy Center. That was originally planned—there have been several National Advocacy Center trainings that were going to occur anyway.

What we did was we made them better, in my view. We brought in Neil Barofsky, the Special Inspector General of the TARP program, to speak to the AUSAs in their trainings so they can see a broader array of fraud resources that they can use in their everyday lives out in the field.

That is the model. It is not so much to always create, but to use the resources and the dedicated individuals who have decided to be members of this effort so that we can better use the funding that does exist amongst the Federal and state families.

Senator GRASSLEY. I will follow-up with some questions later on that. I will stop for now.

Senator KLOBUCHAR. Thank you very much, Senator Grassley.

Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Madam Chairman.

I have some questions focused particularly on gasoline prices and the commodities markets that are related to fuel and, soon, heating oil, which, even though now it is pretty warm outside, will be a pressing topic pretty soon.

And as you know, the national average is close to $4 a gallon. To be specific, I think it is about $3.54 a gallon. In Connecticut, it is $3.92 a gallon, which is way higher than it has been.

In my view, the trends that we have seen lately in the markets cannot be explained solely by supply and demand, and the creep down in those prices after some developments and actions by the Administration and other law enforcers I think substantiate my view that speculation and possibly illegal manipulation of the markets is to blame, at least to some extent.

And I welcomed and applauded the decision to create the oil and gas price fraud working group within your task force. I applauded and commended the Federal Trade Commission in initiating an investigation, a wide-ranging inquiry, into fraud and manipulation relating to gas prices at every level of the industry.

So far, I note, with some regret, the Department of Justice has not announced any such investigation.

So my question is, can you tell us whether the Department of Justice has initiated any actual civil or criminal fraud investigations into potentially illegal speculative activity in the futures markets or any other markets that are related to fuel?

Mr. ADKINS. Thank you. The oil and gas price fraud working group, which was established some months ago, as noted in the title, it focuses on fraud. It's not an energy policy group or anything like that and, as you noted, it has brought together different partners, like the FTC, the CFTC, states' attorneys general, those very same types of relationships that we have tried to use to make ourselves better at fraud enforcement.

I will admit that oil and gas price fraud is not something that is part of my personal background as a prosecutor, and so it has been a learning experience for me, as well, which is a good thing.

The FTC, it is my understanding, and I have seen the announcement about their investigation into potential anticompetitive or manipulative conduct in the wholesale oil area. The department, as you know, does not announce investigations, if there are any, and we aren't in a position now to announce if there are any investigations. We typically speak when we charge or act.

Different agencies have different standards in how they address that. I can tell you that the department is fully engaged in that effort. Different components, including the antitrust division, is fully engaged, and I think that we're playing a valuable role, especially in terms of the interface between the Federal family and the state attorneys general, who have very flexible authority in this area.

Senator BLUMENTHAL. Well, let me just suggest that the rule, as I understand it, is that the Department of Justice does not announce investigations, but sometimes, particularly the antitrust division, makes known its interest and, in fact, sometimes makes known its investigations. And the very powerful effect of the an-

nounced actions so far in bringing down prices and convincing the speculators that they are on the wrong side of history, on the wrong side of the markets, on the wrong side of the bets that they are making, is of benefit to the public.

In fact, what we have seen, as Bart Chilton of the Commodities Futures Trading Commission has said, speculation is at an all-time high. Speculative positions are 64 percent higher since June of 2008.

All of the indicia are there to indicate that an investigation by the antitrust division or some part of the Department of Justice is certainly appropriate and necessary here.

And I understand that, as U.S. Attorney Jones said, your task force is looking at this area from the 20,000 or 30,000-foot level, but you certainly have the authority and, in my view, the responsibility to drive those investigations at the 1-foot level in the Department of Justice, which is where they should be driven.

Mr. ADKINS. And I appreciate that. I think that I could repeat what the Attorney General has said in this area, which is that we are very aware of it. We are looking into it.

We've brought all those components and agencies and regulators together so that we can look at this issue to pursue any fraud, if it occurs. And that while we all understand that there can be legitimate market forces that change the prices of gas or any other commodity, it is an area of concern that we want to make sure that we are doing all we can.

It is just good government to bring the folks together to make sure we are focused on exactly the issue that you raised.

Senator BLUMENTHAL. What is the position of the task force on whether there should be position limit? I do not know whether you are familiar with that issue in the Commodity Futures Trading Commission area, but, obviously, position limits would help diminish the power of speculators to corner the supply in certain areas, and I believe strongly that we should have those limits as soon as possible.

Mr. ADKINS. I would have to defer to my much more sophisticated colleagues at the CFTC and elsewhere on position limits.

As I said before, while I have prosecuted some commodity fraud cases, this has been a learning experience for me, as well, in the oil and gas price area.

Senator BLUMENTHAL. Well, I would like to suggest and request from the task force that it give us a position on whether there should be position limits and what other measures and steps the Commodity Futures Trading Commission should take, because I believe it is part of your task force; is it not?

Mr. ADKINS. Correct, and a part of this individual working group.

Senator BLUMENTHAL. And I would request that the task force provide the Committee with a position on that issue.

Mr. ADKINS. Well, thank you. And I will definitely bring that back to them, and I appreciate your interest in this area.

Senator BLUMENTHAL. Thank you. Thank you very much, and thank you both for your very good work.

Mr. ADKINS. Thank you.

Senator KLOBUCHAR. Senator Grassley.

Senator GRASSLEY. Yes. I thank you, Madam Chairman, for letting me go ahead of your second round.

I would like to continue with you, Mr. Adkins, along this budget line. You have answered the first question as best you could because of the purpose of the task force. It does not have a budget then. So let us move on to the next question.

From what specific accounts are appropriated funds drawn and utilized to fund the activities of the task force?

Mr. ADKINS. I don't know the answer to that question either in the DOJ or with respect to the 25 other——

Senator GRASSLEY. Then let us leave it and you answer that in writing. Would you?

Mr. ADKINS. Very well. Thank you.

Senator GRASSLEY. Let me go on then. Is official travel authorized for any of these meetings; and, if so, is there a separate budget for the travel?

Mr. ADKINS. I don't believe—I believe official travel is authorized. The reason I couldn't say for sure is that you've got components within DOJ, for example, the antitrust division, the civil division, the civil rights division, the criminal division, the executive office of the U.S. attorneys, the 94 different U.S. attorney's offices.

I don't know exactly how each of them, even within DOJ, handle it. My surmise is they do it through official travel, because it is. Oftentimes, what we'll try to do is use, like I said before, existing facilities. We will try to use resources and dedicated personnel or people that are already in the region to represent us at those types of events.

But there is, of course, official travel and cost associated with those efforts. Oftentimes, it's in replacement for other efforts that were going to be had, but not on such a broad and collective level, where we're really bringing together individuals who might be trying to strike out on their own to do some of these efforts and do it in a comprehensive way, with maybe a bigger target audience and a better way of pushing it out to the field.

Senator GRASSLEY. What I think I will do is—you might not have the information for three or four other questions. I think I will turn those in to you and let you answer those in writing.

If I could go to Mr. Jones. President Obama's stimulus program had a lot of taxpayers' money into it, into various projects and programs across the country.

The Recovery Accountability and Transparency Board was created as part of that law to oversee how the funds were spent to ensure that they were not subject to fraud, waste and abuse.

The recovery board and various inspectors general have found examples of grantees and contractors abusing Recovery Act dollars.

For example, there was a significant fraud in the Department of Energy's home weatherization program in Illinois, where an audit found shoddy work and widespread fraud.

My question to you. Why is the Recovery Act working group necessary given the existence of the Recovery Accountability and Transparency Board, which is made up of all the inspectors general of each agency awarded Recovery Act funds?

Mr. JONES. Well, I think keeping with the consistency of the model, Senator, the Recovery Act working group has focused pri-

marily, to date, on training for state, local, and Federal folks that are grant administrators. More than 50,000 officials and nearly 400 agents and auditors have been spun up through our training program, through the information-sharing, to investigate this fraud.

And as Robb said earlier, this grant and procurement fraud is something that we would do and be engaged in anyway. I think what the working group does, as does the Financial Fraud Enforcement Task Force, is it allows us to leverage our resources in a more focused way.

And it will shift over time. We fully expect that the Recovery Act training that investigators and auditors got will be of use, for example, in Alabama as they start to get resources to rebuild after the tragedies there with the tornadoes and anyplace else that there are FEMA funds or other Federal dollars gone into an area.

This training lasts forever and it will live beyond the Financial Fraud Enforcement Task Force existence.

Senator GRASSLEY. Mr. Jones, my last question would start with the first year report from the task force, this quote. "The establishment of the working group last year added the full weight of law enforcement community behind the recovery board's efforts," end of quote.

As a U.S. Attorney out there in the field working very much on the frontlines to prosecute fraud, regardless of the existence of the Recovery Act working group, would not the full weight of law enforcement already be behind investigating and punishing those who commit Recovery Act-related fraud; and, if not, then why not?

Mr. JONES. Well, where we're at up in Minnesota, we have been keeping an eye on. I can tell you the one thing that, from a practical standpoint, that the Financial Fraud Enforcement Task Force has done is really enhance communication between our offices and the IGs and between the IGs and the FBI, and it has also enhanced our communications between the IGs and our civil divisions, and that is true in many U.S. attorney offices.

You have done a lot of work on False Claims Act legislation throughout your career, Senator, and you, more than anyone, understand the importance of the civil aspects of the work that we do in our offices to recovery money from people who should not get that money or who have committed a fraud against the government.

And I can tell you that many U.S. attorney offices have enhanced the resources that they have put on affirmative civil enforcement.

Senator GRASSLEY. Mr. Adkins, let me finish with you on this budget item. Now, I do not necessarily agree that the task force should not have a budget, but I wonder if it would not be worth—well, I guess I would kind of like to ask you if you would commit to putting together a budget for all the activities and operations of the task force, including specific budget line items for travel, conferences and training materials.

Would that not be useful? And if you would not want to do that, why would that not be a good thing to do?

Mr. ADKINS. That is an interesting question and one which I think we would be happy to explore with you. I think that any way that we can improve what we do on the task force is something that we should embrace.

My surmise is that there could be some difficulty with it once you get outside of the Department of Justice. Most of my time is spent with relationships—I would probably say slightly more than 50 percent of the time is spent with the alphabet soup of the Federal agencies and at the state level, and it does become difficult to track because it is different, I think, than some of the other task forces, like the Enron task force that I served on and some of the others.

This is different. It is so much broader. That kind of tracking is problematic for the task force writ large. But I would be happy to explore that question, certainly, if it is something that could improve the work we do and be more efficient.

Senator GRASSLEY. Thank you, Madam Chairman.

Senator KLOBUCHAR. Thank you very much, Senator Grassley.

Overall, Mr. Adkins, how would you describe the level of fraud that seems to have occurred—I think Senator Grassley was talking about it with respect to Recovery Act funds. And where do you see the level? Is it as much as people anticipated, given how much money is at stake?

Mr. ADKINS. Well, it is always hard to know a negative, but certainly there have been hundreds of billions of dollars in Recovery Act funds that have gone out and, in my view, the level of fraud is very low in relation to that.

That's not to say that there won't be any, but I think that great credit is deserving for the Recovery Accountability and Transparency Board and its chairman, Earl Devaney, but also for the IGs around the country, as well as the historic training effort that has taken place.

You never can tell whether a fraud would have occurred but for the training. It's hard to measure. But I believe that it has a great effect and I believe that that working group has brought in—there was a 4-year effort that you are probably familiar with called the National Procurement Fraud Task Force that was somewhat recently brought into the recovery fraud working group.

That was done because there was some duplication and it was just great leadership at the IG level that we want to bring to bear so that we are poised to address the fraud if and when it occurs, but probably more importantly to the American public, try to prevent it from happening in the first place.

Senator KLOBUCHAR. Mr. Jones, as we look at potential legislation—Senator Grassley mentioned the bill that we have to try to get more resources through fines redirected into the white collar fraud area—can you think of any legislation that would be helpful not only just to the task force, but to you in your efforts to prosecute white collar crimes and fraud crimes?

Mr. JONES. Well, Senator, as you know, the department, particularly the office of legislative affairs in the criminal division, has routine contact with your staff, with the Committee on Judiciary, and we have, on occasion at the AGAC, seen proposals for legislative fixes.

Nothing particular comes to mind beyond some of the things that are a result of Supreme Court cases, but I know that there is a package of proposed legislation that the criminal division has worked on with your staff and with Senator Leahy.

Nothing in particular comes to mind and I'm not going to get myself in trouble by suggesting something.

Senator KLOBUCHAR. I was sure we would have some ideas. Thinking back to when you were U.S. attorney your first round, what years was that, again?

Mr. JONES. 1998 to 2001.

Senator KLOBUCHAR. 1998 to 2001. What do you see as the differences now, about 10 years later, in the types of white collar crimes that we are seeing around the country and the approach that our government is taking to those crimes?

Mr. JONES. Well, three things Senator, and it's kind of like Groundhog Day. The evolution of the FBI has been absolutely amazing in 10 years to be an intelligence-based law enforcement agency, and, at the same time, they've got enhancements on their abilities to detect fraud sort of as a collateral to things that they have done on the national security front.

They have also lost capacity, because a substantial core of the bureau, which, in a lot of districts around the country, is sort of a main partner on fraud investigations, has somewhat diminished because of the resourcing issue.

But that has also allowed us to do some things with the IRS and with the IGs and look at civil enforcement on the fraud front.

Senator KLOBUCHAR. Part of it is, understandably, after 9/11, a lot of the focus—I remember Director Mueller showing me their numbers—was put on working on some of the terrorism issues. And so that has probably contributed to some of the changes.

Mr. JONES. The two other things that I've seen really is the volume of information—the volume of information that is out there because of technology and the use of the Internet as a platform to commit frauds and communicate——

Senator KLOBUCHAR. Over the last 10 years.

Mr. JONES. Over the last 10 years. When I left in 2001, it wasn't—the Internet was emerging as a criminal platform, but it is much more enhanced now and it creates a lot of challenges with detecting fraud, with identity theft, and with unanimity for criminals globally to try and track down individuals that are accountable for perpetrating fraud, and that is a challenge that we are trying our best to address.

Senator KLOBUCHAR. Very good. And in terms of the work with the Department of Justice through this task force and others for coordinating, has that been enhanced, would you say?

Mr. JONES. In my personal opinion, it has, because I remember the Corporate Fraud Task Force from 10 years ago, post-Enron. That was kind of very much a DOJ-driven, lots of boxes, lots of top-of-the-charts people sitting around a table and talking great thoughts and great plans.

But this is very much one, because it is such a collection of 25 Federal agencies and because it includes a lot of outside-of-the-Department of Justice agencies at an operational level, the IGs and the auditors and the folks that are actually going to generate cases, I think makes this—one, gives it some sustainability, because it is adaptable to emerging trends, like oil and gas, and it also allows us to have some continuity with operators. They are learning from each other.

That has been probably the biggest benefit that I've seen from a U.S. attorney office perspective is the information-sharing that goes on. Not only are we doing cases in our district, we are also now sharing the lessons, modes of operation, individuals nationally through the financial fraud coordinator network, and we are also sharing some of the best practices both in the investigation and prosecution and best practices of the crooks, so that we can catch and get ahead of emerging fraud trends and maybe, just maybe, cut some things off before they emerge into a crisis level criminal justice issue.

Senator KLOBUCHAR. I appreciate that. I just never have taken you as someone, from your experience in the Marines and as a prospector, wanting to just sit around and be at meetings thinking great thoughts, although I am sure you do, Mr. Jones.

Thank you.

Mr. JONES. Thank you, Senator.

Senator KLOBUCHAR. Senator Blumenthal, do you have some additional questions?

Senator BLUMENTHAL. Just a couple of quick questions. And thank you, Mr. Jones, by the way, for your service in the Marine Corps, as well as as a prosecutor in the Department of Justice.

Focusing, again, on the mortgage foreclosure issue, I wonder if you could tell us, either Mr. Adkins or Mr. Jones, whether the robo-signing practices that were uncovered some months, maybe now a year ago or more, have given rise to any criminal investigations and prosecutions.

Mr. ADKINS. You are correct. I think it came to light in late September and then increasingly into October of last year, what is commonly referred to as the robo-signing, although there is more to it than just that in the foreclosure documentation issues, as you know.

The task force—I think this is a benefit. As U.S. Attorney Jones said, there are certain things that will hopefully outlive the task force. One that I'm most proud of and that I think is necessary to effective enforcement at the national level is great synergy between state and Federal enforcement authorities.

In my experience, it's not something that we have always done as well as we could have, and that has been a primary focus. Because of that relationship-building that had already taken place as part of the task force, it had a very good platform to address this crisis, because so much of what is involved in that area is a state issue, but there is also a Federal issue with HUD and the FTC and the department.

And so a working group has been put together that is focused on it. We won't discuss potential actions or investigations, but they are very focused on it.

There has been discussion of the negotiations with certain financial institutions and loan services.

And it is impossible to say right now what the result of all of that will be, but certainly it is a focus. Certainly, the department is committed to looking into it, and, in my estimation at least, I think critical to that success is a positive relationship between the Federal and state parties.

Senator BLUMENTHAL. I am aware, as we all are, of the state attorney general negotiations, but I am not aware of any Department of Justice investigation concerning potential criminal charges. The state attorneys general are apparently investigating and perhaps negotiating a possible resolution of civil claims.

But is there any consideration to potential criminal charges?

Mr. ADKINS. Well, I think as has been stated publicly already, the department is committed to looking into this issue and being aggressive in pursuing it.

We can't confirm criminal investigations, if there are any. The states have very flexible authorities in this area and, as you well know, some have criminal authority, some don't.

Some have broad authority and there are different ways in which foreclosures take place in the different states. And so that is an important element of what we do.

While I can't confirm the existence of a criminal investigation, we are certainly focused on it and we certainly are interested in continuing to pursue this matter with all the resources that we do have.

Senator BLUMENTHAL. Did you have anything to add?

Mr. JONES. We have to tread lightly here because of the parameters that we're operating on about confirming investigations. But I do think it would be fairer to say that a number of my colleagues are very alert to the possibilities that some of the activities might rise to the level of criminal investigations and potentially prosecutions, and that is dispersed throughout the 94 U.S. attorney offices.

And there are certain geographic areas of the country where there is a higher likelihood that something could evolve into a prosecution and there are areas that they're not. Is that cryptic enough, Senator?

[Laughter.]

Senator BLUMENTHAL. Well, you are understandably and correctly, appropriately cautious.

Mr. JONES. People are paying attention to the possibilities.

Senator BLUMENTHAL. And the only point I would make is that someone who signs a false affidavit that is going to be submitted to a court, with the proper evidence, would be in violation of Federal law and I would hope that it would be under investigation by the Department of Justice.

Again, I want to thank you both for your very helpful and informative testimony today and for your work in this area. Thank you.

Mr. ADKINS. Thank you.

Senator KLOBUCHAR. Well, I want to thank both of you for testifying, and, also, both Senator Blumenthal and Senator Grassley for being here and sitting through the hearing and asking some good questions.

I know that Senator Leahy would like to submit his statement for the record, which I will do.

[The prepared statement of Senator Leahy appears as a submission for the record.]

Senator KLOBUCHAR. And I also want to thank Senator Leahy for his leadership and Senator Sessions in his leadership in this area of financial fraud.

We will leave the record for the hearing open for 2 weeks. And I just want to thank—1 week—1 week. We are getting very efficient in the Senate now.

We will keep the record of the hearing open for 1 week. And with that, I want to thank both of the witnesses for your work and your excellent testimony today.

Thank you. The hearing is adjourned.

[Whereupon, at 11:21 a.m., the hearing was adjourned.]

[Questions and answers and submission for the record follows.]

# QUESTIONS AND ANSWERS

**Questions for the Record**
**U.S. Attorney B. Todd Jones and**
**Executive Director Robb Adkins**
**Financial Fraud Enforcement Task Force**

**Subcommittee on Administrative Oversight and the Courts**
**Committee on the Judiciary**
**United States Senate**

**"Oversight of the Financial Fraud Enforcement Task Force"**
**June 30, 2011**

## QUESTIONS POSED BY SENATOR COBURN

**1. How much money is the Task Force spending per year?**

**a. How much of that money is spent on things other than investigations and prosecutions? For example, how much is spent on public outreach, regional summits, training events, public awareness, workshops, and courses at the National Advocacy Center – all of which were mentioned in your testimony?**

**Response:**

The Task Force has a broad membership of federal, state, and local authorities. Member agencies with expertise in certain areas serve as co-chairs of various working groups and committees to further the goals listed in the Executive Order establishing the Task Force, including outreach, coordination, and training. However, each department, agency, office, inspector general, state attorney general's office, commission, and regulator has its own mandates, allocated budgets, policies, and procedures. The Task Force does not replace or supersede the mandates, budget decisions, policies or procedures of the many member agencies, but rather facilitates coordination, outreach, and training among these members. Each member agency that participates in Task Force initiatives uses its own existing funds. Indeed, many Task Force efforts are aimed at leveraging existing resources, such as: expanding the scope of an existing training session by a member agency to include other Task Force member agencies and thus providing broader outreach and reducing duplication; using existing conference space at agency facilities; expanding awareness of existing resources such as SIGTARP fraud inspectors and FinCEN data support services; and coordinating with existing regional efforts such as the 94 Mortgage Fraud Working Groups and Task Forces and with the Financial Fraud Coordinators throughout the country.

**b. What amount of funds has been recovered by the Task Force in criminal fines and forfeiture?**

**Response:**

As discussed in the preceding response, the Task Force is composed of criminal, civil, and regulatory agencies at the federal, state, and local level. While the Task Force members in



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various working groups and committees conduct coordination, training, and outreach, the Task Force does not replace or supersede the mandates or specific discretionary enforcement decisions of its criminal, civil, and regulatory members. With that understanding, however, improved asset forfeiture, restitution, civil judgments, and fines are a priority of the Task Force. During the first year of the Task Force, the U.S. Attorneys' Offices collected more than $690,000,000 in criminal restitution and fines in financial fraud cases.

**2. According to your First Year Report (Table 1 on page 4.7), less than 45% of the defendants you charged with fraud were actually found guilty in both 2009 and 2010.**

**a. Is that percentage consistent with other crimes the Department of Justice charges?**

**Response:**

Table 1 on page 4.7 of the First Year Report does not indicate a 45% rate of conviction. The "Defendants Guilty" column does not represent convictions of the defendants that make up the totals in the "Defendants Charged" column of the chart. Instead, the "Defendants Guilty" column simply represents convictions obtained in mortgage fraud cases adjudicated during that fiscal year, whereas the "Defendants Charged" column represents the total number of defendants charged during the same fiscal year. In fact, the actual conviction rates for mortgage fraud prosecutions adjudicated in FY 2009 and in FY 2010 were greater than 92% in each of those periods. These rates compare favorably to conviction rates in all white collar crime prosecutions of 90% in FY 2009 and 91% in FY 2010 and are comparable to overall conviction rates of 92% in FY 2009 and 93% in FY 2010 reported by the Department for all criminal prosecutions. www.justice.gov/usao/reading_room/foiamanuals.html

**b. Who makes the decision to bring charges?**

**Response:**

The Task Force coordinates efforts among its members but does not make the decisions for the criminal, civil, and regulatory member agencies at the federal, state, and local level; those powers are within the jurisdiction of the individual federal, state, and local authorities. At the Department of Justice, United States Attorneys within their respective districts have plenary authority, under the supervision and direction of the Attorney General and his/her delegates, regarding federal criminal and civil matters. 28 U.S.C. §§ 509. 519, 547.

**i. What factors go into that decision?**

**Response:**

Department prosecutors are required to adhere to the Department's "Principles of Federal Prosecution" and "Principles of Federal Prosecution of Business Entities," which provide clear guidance to prosecutors on the exercise of discretion in making charging decisions. The



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guidance specifies various factors to be considered in making charging decisions including culpability of the individual or entity, the nature and seriousness of the offense and federal law enforcement priorities.

3. **This week, *USA Today* reported that there has been a 20% decrease, according to DOJ statistics, in prosecutions of people accused of defrauding government benefits programs, such as Social Security and food stamps, and a shift to prosecuting fraud in mortgage lending, financial institutions, and Medicare. This has occurred even though the number of people collecting government benefits has increased significantly.**

   **Have the efforts of the Task Force drawn resources away from benefits fraud during a time when we can least afford to be paying fraudulent benefits claims?**

**Response:**

Task Force efforts have not diverted resources from benefits fraud enforcement. Aggressive enforcement targeting benefits fraud continues to be a priority of the Department and our law enforcement partners. In its recent Semiannual Report, the United States Department of Agriculture-Office of Inspector General (USDA-OIG) reports that, from October 1, 2010, through March 31, 2011, USDA-OIG investigations led to 199 indictments and to 249 convictions. Fines, recoveries/collections, restitutions, claims established, cost avoidance, asset forfeiture, and administrative penalties resulting from USDA-OIG investigations totaled approximately $47.8 million.

The Social Security Administration – Office of the Inspector General (SSA-OIG) reports in its recent Semiannual Reports that from October 1, 2010 through March 31, 2011, its agents closed 3,358 criminal investigations and from April 1, 2011 through September 30, 2011, its agents closed more than 3,809 criminal investigations for a total of 7,167 for the Fiscal Year. This has led to the following results:

- 488 indictments and informations from October 1, 2010 through March 31, 2011, and 637 indictments and informations from April 1, 2011 through September 30, 2011 for a total of 1,125 for the Fiscal Year;
- 262 arrests from October 1, 2010 through March 31, 2011 and 327 arrests from April 1, 2011 through September 30, 2011 for a total of 589 arrests for the Fiscal Year;
- 698 criminal convictions (including pretrial diversions) from October 1, 2010 through March 31, 2011 and 676 criminal convictions (including pretrial diversions) from April 1, 2011 through September 30, 2011 for a total of 1,374 for the Fiscal Year; and,
- 36 civil judgments/civil monetary penalty assessments from October 1, 2010 through March 31, 2011 and 66 civil judgments/civil monetary penalty assessments from April 1, 2011 through September 30, 2011 for a total of 102 civil judgments/civil monetary penalty assessments for the Fiscal Year.

For FY 2011, SSA-OIG reports over $419 million in investigative accomplishments, including over $81 million in SSA recoveries, restitution, fines, settlements, and judgments; and over $328



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million in projected savings from investigations resulting in the suspension or termination of benefits.

**4. The Justice Department, including U.S. Attorney Offices and the FBI, received $591 million for fighting fraud—excluding healthcare fraud—in 2010, $635.6 million in 2011, and the President has requested $683 million for 2012. That's an increase of about 8% per year.**

**i. Has fraud increased by 8% per year?**

**Response:**

While fraud occurrence is difficult to measure for a number of reasons, including the many different types of fraud and the possibility of undetected or emerging fraud, the FBI has assessed significant increases in certain types of fraud such as mortgage and securities fraud schemes, which may be indicative of an increase in fraud. According to the FBI's 2010 Mortgage Fraud Report, mortgage fraud pending investigations totaled 3,129 in FY 2010, a 12 percent increase from FY 2009 and a 90 percent increase from FY 2008. The FBI also reports that securities and commodities fraud cases increased from 1139 open cases in FY 2005 to 1510 cases in FY 2009, an increase of about 32%. The Office of Investigations at HUD OIG has experienced a 12% increase in its number of FHA mortgage fraud related cases in the past year, which now account for 36% of its total number of ongoing investigations. A noticeable spike in the number of Suspicious Activity Reports (SARs) being reported also is indicative of an increase either in the occurrences of fraud or better detection of ongoing fraud schemes.

**ii. Have resources been diverted from frauds that aren't being prosecuted as heavily, such as benefits fraud, to pay for the new attention to financial frauds?**

**Response:**

Please see our response to question 3, above.



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**QUESTIONS POSED BY SENATOR SESSIONS**

5. **I have serious concerns with the vagueness plaguing the "honest services" statute, which has been recognized by the Supreme Court. Criminal statutes must be clearly written to tell the court precisely what it is that a prosecutor must prove and to provide citizens with a clear understanding of what the law punishes. Despite the *Skilling* decision, federal judges are still struggling with this statute. In fact, a few months after the *Skilling* decision, one district court judge was quoted in oral arguments as saying, "nobody can articulate – including us – what someone has pled to in an honest services charge." (*U.S. v. Ring*, District Court of the District of Columbia, Sept. 2010).**

   a. **Is it the Task Force's view that its prosecutors must identify a *quid pro quo* agreement in establishing a scheme of bribery or kickbacks in order to rightfully charge an individual with honest services fraud?**

**Response:**

The Executive Order established the Task Force as a broad coalition of federal, state, and local authorities, including the Department of Justice, but it does not replace or supersede the mandate, policies or specific discretionary enforcement decisions of its individual members. The Justice Department's views regarding "honest services" fraud were expressed in testimony in September 2010 by Assistant Attorney General Lanny Breuer before the Senate Judiciary Committee:

> "For many decades, both before the *McNally* decision and under Section 1346, the two core forms of honest services fraud recognized by the courts remained the same: first, schemes involving bribery and kickbacks, and, second, schemes involving undisclosed self-dealing. In *Skilling*, the Supreme Court eliminated this entire second category of schemes from the reach of Section 1346, holding that the statute covers only bribery and kickback schemes, and not schemes involving undisclosed self-dealing."
>
> "The impact of *Skilling* on pending investigations and our ability to bring criminal charges for certain types of corrupt conduct is significant. The Department's efforts in this area are robust. But by eliminating undisclosed self-dealing from the scope of the honest services fraud statute, the *Skilling* decision takes away one of the tools that the Department has heavily relied on to address corruption."
>
> "A public official who conceals his financial interests and then takes official action to advance those interests engages in behavior every bit as corrupt as if he accepts a clear bribe from a third party."

   b. **Prior to *Skilling*, there was confusion within the circuits about the scope and source of the fiduciary duty that must be breached in order to prove honest services fraud. Many of the questions remain even after *Skilling*. Do Task Force prosecutors have a clear definition or understanding of what kind of fiduciary duty must exist under the honest services statute? If so, what is it?**



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**Response:**

As noted above, the Executive Order established the Task Force as a broad coalition of federal, state, and local authorities, including the Department of Justice, but it does not replace or supersede the mandate, policies or specific discretionary enforcement decisions of its individual members. The Department's prosecution of "honest service" fraud was described in testimony in September 2010 by Assistant Attorney General Lanny Breuer before the Senate Judiciary Committee:

> "The Department of Justice is committed to using all available tools in our effort to combat fraud and corruption in the public and private sectors. Our enforcement efforts, which employ a number of different federal statutes, remain active and successful. However, one of the tools that we have relied upon for more than two decades was significantly eroded as a result of the Supreme Court's recent decision in *Skilling v. United States.* In *Skilling*, the Supreme Court held that the honest services fraud statute, 18 U.S.C. § 1346, applies only to bribery and kickback schemes, and not in situations involving undisclosed self-dealing by a public official or private employee. In short, the *Skilling* decision removed a category of deceptive, fraudulent, and corrupt conduct from the scope of the honest services fraud statute and placed that conduct beyond the reach of federal criminal law. The Department believes that the Court's decision has created a gap in our ability to address the full range of fraudulent and corrupt conduct by public officials and corporate executives, and we urge Congress to pass legislation to fill the void."
>
> "Corrupt individuals can be very creative in their efforts to benefit themselves at the expense of those to whom they owe a duty of loyalty. While the Department of Justice's work in this area remains active and successful, the Department needs a full range of tools to address fraud and corruption in all forms. The Supreme Court's decision in *Skilling* removed undisclosed self-dealing from the scope of the federal criminal law, and we urge Congress to act quickly to restore our ability to address this significant category of fraudulent and corrupt conduct."

6. **For FY10, the Department of Justice received $591 million for fighting financial fraud, not including health care fraud. For FY2011, that number rose to $635.6 million. Again, for FY2012, the request rose by 8% to $683 million. Additionally, other agencies, like the Department of Health and Human Services, request and receive significant funding for combating fraud. You testified at the hearing that the Task Force has no formal budget, and a Justice Department representative has confirmed, that the Task Force has no "line item" for funding.**

    a. **Are the Justice Department's budget requests for financial fraud consistently increasing because of the need for additional funding of the Task Force's activities? Please explain your answer.**



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**Response:**

The Financial Fraud Enforcement Task Force is not a Department of Justice task force, but rather a broad coalition of federal, state, and local criminal, civil, and regulatory authorities. It neither seeks nor receives funding.

In testimony in January 2011 before the Senate Judiciary Committee, Assistant Attorney General Lanny Breuer addressed increased funding for financial fraud enforcement:

> "The Department is grateful for the many resources Congress has provided to support and enhance the Department's criminal fraud enforcement efforts. Beyond providing expanded statutory tools to fight various forms of fraud, Congress has authorized critical funds through various means, including in the Fraud Enforcement Recovery Act (FERA), which of course Chairman Leahy and Ranking Member Grassley sponsored. FERA, passed in 2009, authorized needed and targeted funds for the FBI, the Criminal Division, the U.S. Attorneys' Offices, and the Securities and Exchange Commission (SEC), giving us further resources to increase the scope of our collective enforcement response. In addition, last year, in the Affordable Care Act, Congress authorized additional, critical funding for use in health care fraud enforcement."
>
> "Congress's financial support of our criminal investigations and prosecutions is critical to protecting the American taxpayer's hard earned money. And the amount of taxpayer money restored to the United States Treasury through our criminal enforcement efforts far exceeds what we spend to recover that money. As a result of our criminal fraud prosecutions, the Department is transferring to the U.S. Treasury far more money than the amount budgeted by Congress to support the Department's criminal fraud and corporate corruption investigations and prosecutions."

**b. You testified that the Task Force holds various meetings and conferences across the country. From where does the Task Force obtain the funding to organize such conferences and for the travel costs associated with attendance of Task Force members, including yourself?**

**c. Without a formal budget, how does Task Force leadership determine when too much money is being spent on a particular Task Force operation?**

**Response to 6(b) and (c):**

The Task Force is composed of a broad membership of criminal, civil, and regulatory agencies at the federal, state, and local level. While the Task Force members in various working groups and committees conduct coordination, training, and outreach, the Task Force does not replace or supersede the mandate or specific discretionary enforcement decision by the criminal, civil, and regulatory members. Each department, agency, office, inspector general, state attorney general's office, commission, and regulator has its own mandates, allocated budgets, policies, and procedures. The Task Force facilitates coordination, outreach, and training among these members.



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Each member agency that participates in Task Force initiatives uses its own existing funds. Indeed, many Task Force efforts are aimed at leveraging existing resources, such as: expanding the scope of an existing training session by a member agency to include other Task Force member agencies and thus have a broader outreach and to reduce duplication; using existing conference space at agency facilities; expanding awareness of existing resources such as SIGTARP fraud inspectors and FinCEN data support services; and coordinating with existing regional efforts such as the 94 Mortgage Fraud Working Groups and Task Forces and the Financial Fraud Coordinators throughout the country.

**d. How is the Task Force accountable to the agencies who share in funding Task Force operations or activities?**

**Response:**

The Task Force does not pool and distribute funds from its broad membership but rather each member makes its own decision whether to participate in a coordinated effort. Given the breadth of the Task Force, this is the most feasible means by which to operate. Moreover, it ensures that the Task Force focuses on those areas of mutual benefit for the membership that serves their mandates and needs.

**e. Does the Task Force issue regular or annual reports to any of the agencies who fund the Task Force identifying how the money has been spent?**

**Response:**

The Task Force does not have separate funding. While the Task Force does provide an annual report (see http://www.stopfraud.gov/docs/FFETF-Report-LR.pdf), the report does not identify how member agencies spend their money.



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SUBMISSIONS FOR THE RECORD

# Department of Justice

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**STATEMENT**

**OF**

**B. TODD JONES**
**UNITED STATES ATTORNEY**
**DISTRICT OF MINNESOTA**
**CHAIRMAN**
**ATTORNEY GENERAL'S ADVISORY COMMITTEE**

**AND**

**ROBB ADKINS**
**EXECUTIVE DIRECTOR**
**FINANCIAL FRAUD ENFORCEMENT TASK FORCE**

**BEFORE THE**

**SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS**
**COMMITTEE ON THE JUDICIARY**
**UNITED STATES SENATE**

**ENTITLED**

**"THE FINANCIAL FRAUD ENFORCEMENT TASK FORCE: SIGNIFICANT ACCOMPLISHMENTS AND ONGOING CHALLENGES IN THE FIGHT AGAINST FRAUD"**

**PRESENTED ON**

**JUNE 30, 2011**

**Statement of**
**B. Todd Jones**
**United States Attorney**
**District of Minnesota**
**Chairman**
**Attorney General's Advisory Committee**

**and**

**Robb Adkins**
**Executive Director**
**Financial Fraud Enforcement Task Force**

**Subcommittee on Administrative Oversight and the Courts**
**Committee on the Judiciary**
**United States Senate**

**"The Financial Fraud Enforcement Task Force: Significant Accomplishments and Ongoing Challenges in the Fight Against Fraud"**

**June 30, 2011**

Chairman Klobuchar, Ranking Member Sessions, and distinguished Members of the Subcommittee, the Department of Justice (the Department) is honored to appear before you today to discuss the Financial Fraud Enforcement Task Force and the continuing fight against fraud. The financial crisis has impacted virtually every American. It has presented not only fraud and deception in the finance and housing markets that helped fuel the crisis, but also the potential for fraudulent schemes to misuse the public's unprecedented investment in economic recovery. Financial Fraud devastates consumers, siphons taxpayer dollars, weakens our markets, and impedes our ongoing economic recovery. While we are aggressively confronting fraud born of the financial crisis, the reality is that we cannot simply prosecute our way out of the situation. Instead, we must address it with an equally broad and comprehensive enforcement response.



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This is the mission of the Financial Fraud Enforcement Task Force. The Department thanks you for the opportunity to discuss this broad interagency effort.

## I. OVERVIEW

The President created the Financial Fraud Enforcement Task Force (the Task Force) by Executive Order in November 2009. Composed of more than 25 federal agencies, regulators and inspectors general, as well as state and local partners, it is the largest coalition ever brought to bear in confronting fraud. Its membership is broad, consisting of several Department of Justice components, the Department of the Treasury, the Department of Housing and Urban Development, the Department of Commerce, the Department of Labor, the Department of Homeland Security, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Home Finance Agency, the Financial Crimes Enforcement Network, the Federal Reserve Board, the Federal Trade Commission, the Internal Revenue Service — Criminal Investigation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Recovery Accountability and Transparency Board, the Special Inspector General for the Troubled Asset Relief Program, the U.S. Postal Inspection Service, the U.S. Secret Service, federal inspectors general, state attorneys general and many others.

The President's Executive Order directs the Task Force to focus on the full array of corrupt conduct presented by the financial crisis, including securities and commodities fraud, bank fraud, mail and wire fraud, mortgage fraud, money laundering, False Claims Act violations, discrimination, and other financial crimes and violations. This far-reaching list, however, only begins to capture the breadth — and depth — of this massive interagency effort.



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The Executive Order directs the Task Force to use the full criminal and civil enforcement resources of the member departments and agencies: (1) to investigate and prosecute financial crimes and other violations relating to the current financial crisis and economic recovery efforts; (2) to recover the proceeds for such crimes and violations; (3) to address discrimination in the lending and financial markets; (4) to enhance coordination and cooperation among federal, state and local authorities responsible for the investigation and prosecution of financial crimes and violations; and (5) to conduct outreach to the public, victims, financial institutions, nonprofit organizations, state and local governments and agencies, and other interested partners to enhance detection and prevention of financial fraud schemes.

To make this mission a reality, the Task Force has established working groups and committees to focus on the types of financial fraud that affect us most during this time of economic recovery: mortgage fraud; securities, commodities, and investment fraud; financial discrimination; and potential frauds preying upon the response to the economic crisis, including the funds disbursed through the American Recovery and Reinvestment Act and the Troubled Asset Relief Program. Each of the Task Force working groups and committees has their own action plan and goals consistent with its subject matter. For example, the Mortgage Fraud Working Group has hosted public summits in areas hardest hit by mortgage fraud, provided guidance to the field in how to attack mortgage fraud, and has engaged in coordinated mortgage fraud enforcement, whereas the Victims' Rights Committee, which has taken the lead in developing the Task Force's public Web site, updates content and tracks the frequency that the public visits portions of the Web site. Through the working groups and committees of the Task Force, we have put in place a structure that draws from the collective wisdom and expertise of the many member agencies but is still nimble enough to adapt to emerging schemes, capture



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lessons learned from one context and apply them to others, and share information and training. Whether it is case referrals, information sharing, case coordination or public outreach, we are far more effective and efficient when we combine our efforts.

The Task Force has developed a comprehensive enforcement network by establishing Financial Fraud Coordinators in every U.S. Attorney's Office in the country to coordinate efforts at the line level. The Task Force has strengthened and expanded that network by incorporating existing national and regional financial fraud task forces and increasing the number of collaborative anti-fraud efforts at the local level, such as the 94 regional mortgage fraud working groups and task forces around the country. We have armed that network with more tools and better trained personnel by compiling and distributing a resource guide of financial databases across enforcement agencies, holding national training conferences spanning the broad range of financial fraud areas, launching a website with fraud reporting and public education resources drawn from the full complement of government agencies, and tracking and distributing information about emerging fraud trends.

As more fully detailed in the Task Force's Annual Report for 2010, which was recently completed and made publicly available at http://www.stopfraud.gov/docs/FFETF-Report-LR.pdf, the Task Force made great strides in its inaugural year. There have been impressive criminal, civil and regulatory enforcement efforts by the many Task Force members in its first year, with thousands of enforcement actions addressing a broad array of fraud. For example, during one week in June 2010 alone, the Task Force members announced the indictment of the orchestrator of a multi-billion dollar complex fraud scheme that contributed to the failure of one of the nation's largest banks, as well as over 1,500 prosecutions and civil actions in mortgage fraud cases being prosecuted throughout the country. More recently, other Task Force members in the



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Southern District of New York obtained multiple convictions against defendants associated with the Galleon Group, in one of the largest hedge-fund insider-trading cases ever brought by the Department of Justice.

The Task Force is conducting outreach to the public, victims, financial institutions, nonprofit organizations, state and local governments and agencies, and other interested partners to enhance detection and prevention of financial fraud schemes. Understanding that our most powerful tool in combating financial fraud is an informed public, the Task Force has engaged in training and outreach efforts spanning every type of financial fraud and reaching every level of consumer, including government officials, business professionals and private citizens. In the Recovery Act area alone, the Task Force conducted one of the largest anti-fraud training efforts in history in order to help safeguard Recovery Act funds from fraud, waste and abuse. The Task Force has prioritized victim assistance and launched a website that serves as a "one-stop-shop" for the public to report fraud and to obtain information on how to avoid becoming victims.

The financial crisis is incredibly broad and the types of fraud that contribute to and prey upon the crisis are equally broad — including securities and commodities fraud, investment scams, mortgage foreclosure schemes, and efforts to defraud economic recovery programs. The Task Force was set up to address this wide array of fraud, and the committees and working groups of the Task Force — the enforcement experts — have produced impressive results in their first year in information sharing, training, enforcement, and outreach.

## II. IMPROVED TRAINING, INFORMATION SHARING AND COLLABORATION

The Task Force's Training and Information Sharing Committee has been active in its first year, supporting Task Force members and their enforcement priorities. In addition to organizing the National Conference of Financial Fraud Coordinators in October 2010, the committee helped



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conduct numerous training courses at the Department's National Advocacy Center in South Carolina, covering a variety of fraud subjects.

The committee developed and distributed across the law enforcement and regulatory agency communities the Resource Guide for Financial Investigations, which currently includes descriptions of 22 data sources from 12 Task Force member agencies that are effective tools in the investigation and prosecution of financial fraud matters. The Resource Guide will be a valuable resource to assist in conducting financial fraud investigations and prosecutions, and the committee expects that it will expand the guide to include additional datasets in the future.

## III. ENFORCEMENT

### A. MORTGAGE FRAUD

The Mortgage Fraud Working Group is tasked with combating a wide range of fraud in the mortgage, finance and housing markets, including loan modification schemes, foreclosure rescue scams, loan origination fraud, reverse mortgage schemes, short sale frauds and builder bailout schemes. Mortgage fraud trends show that the fraud evolves with the cycles of the housing market and varies by geographic region. Accordingly, the working group has focused its efforts in different, hard-hit regions throughout the country.

The working group has held regional summits around the country in Miami, Detroit, Phoenix, Columbus, Fresno, and Los Angeles. In each location, the public came together to hear from law enforcement, victims, housing counselors, industry experts and others to assess the mortgage fraud issues in that community. The regional summits also included a closed session with regional law enforcement authorities, including the regional mortgage fraud working groups and task forces, to discuss strategies, resources and initiatives to successfully combat mortgage fraud.



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Increased efforts to combat mortgage fraud have seen dramatic enforcement results. In the first year of the Task Force, the number of mortgage fraud defendants charged by U.S. Attorneys' Offices has more than doubled from 526 in fiscal year 2009, to 1,235 in fiscal year 2010. There was a similar increase in the number of mortgage fraud cases charged, going from 267 in fiscal year 2009 to 656 in fiscal year 2010. And the emphasis on firm sentences for mortgage fraud followed the same trend for 2010, with a near doubling of the number of defendants sentenced to more than two, three and five years in prison. This increase has coincided with a near doubling of the number of regional mortgage fraud working groups and task forces nationwide.

The Mortgage Fraud Working Group helped increase not just the cases charged and sentences imposed for mortgage fraud, but also expanded the tools and strategies used to confront mortgage fraud. For example, on June 17, 2010, the group announced the results of Operation Stolen Dreams, which included charges, convictions and sentencings against a total of more than 1,500 criminal defendants involved in mortgage fraud throughout the United States. The operation was different from prior efforts not just in terms of its size, but also because it included a broad array of enforcement actions. Civil enforcement actions were part of the sweep as well, with approximately 400 civil fraud defendants involved and nearly $200 million in civil recoveries ordered. And the sweep included not just federal enforcement by U.S. Attorneys' Offices, but important participation by federal agencies such as the Federal Trade Commission (FTC), state attorneys general and district attorneys, and the use of bankruptcy actions and other enforcement means to confront fraud. These efforts reinforce the strength of the Task Force's strategy of bringing broad coalitions to bear and using all of the enforcement tools available to us. We expect this approach to continue to be effective.



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Our fight against mortgage fraud continues. For example, two weeks ago, Ben Wagner, U.S. Attorney for the Eastern District of California and co-chair of the Mortgage Fraud Working Group, announced that in the year since Operation Stolen Dreams his U.S. Attorney's Office alone had charged 47 new mortgage fraud defendants involving many tens of millions of dollars in alleged losses. Mortgage fraud continues to be a problem in regions throughout the country and will continue to be a Task Force priority.

**B. RECOVERY ACT, PROCUREMENT AND GRANT FRAUD**

According to the Recovery Board, by the close of 2010 the federal government had released approximately $600 billion in funds under the Recovery Act. Notwithstanding the substantial volume of funds now distributed, the number of prosecutions for Recovery Act-related offenses has been relatively low.

The relatively low level of fraud to date is due in significant part to the continuing efforts of the Recovery Board and the inspectors general, bolstered by the working group, to prevent fraud from happening in the first place, through such mechanisms as the Recovery Operations Center (ROC). The establishment of the Recovery Act, Procurement and Grant Fraud Working Group added the full weight of the law enforcement community behind the Recovery Board's efforts.

Because it was established at a stage when stimulus funds had yet to be distributed in significant quantities, the working group focused its early efforts on fraud prevention. Perhaps the most influential work done by the working group to date is the group's fraud prevention and detection training effort. At the close of 2010, more than 100,000 professionals responsible for awarding and overseeing Recovery Act funds, including inspectors, agents and prosecutors, were



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trained as part of this effort, and these numbers are only continuing to grow. This targeted fraud prevention and detection effort is one of the largest in history.

These efforts were punctuated by a flagship training event for agents, auditors and procurement and grant officers, entitled "Focus on Recovery," which was held in November 2010, in Philadelphia. The Conference included speakers from the highest levels of the Justice Department and inspectors general community, as well as elected officials, including the Vice President of the United States. The conference was a tremendous success, attracting well over 500 attendees.

In the year ahead, a critical foundation for the working group is the enforcement framework previously established by the National Procurement Fraud Task Force (NPFTF), which has now been merged into the working group, bringing together the community of inspectors general with the institutional knowledge of how to prevent and investigate procurement and grant fraud. The expertise that these inspectors general bring to the table will be of tremendous benefit for the working group as it continues its training, detection, prevention, and enforcement efforts.

**C. TARP-RELATED FRAUD ENFORCEMENT**

The Rescue Fraud Working Group is focused on the detection of fraud, waste and abuse, and increasing the robust and aggressive prosecution of crimes related to the Troubled Asset Relief Program (TARP). The working group has labored collectively to improve coordination and information sharing among agencies addressing rescue fraud, to enhance civil and criminal enforcement efforts, and to increase training and outreach opportunities for member agencies.

The working group made great progress in achieving these goals, including partnering throughout the country with working group members as well as state and local agencies to



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conduct investigations and to engage in outreach activities to familiarize authorities with the investigatory resources of the Special Inspector General of the TARP (SIGTARP) as well as working group priorities.

The working group's efforts have translated to significant results within its first year. For example, on June 15, 2010, the Justice Department's Criminal Division and the U.S. Attorney's Office in the Eastern District of Virginia, working in partnership with SIGTARP and other Task Force members, charged Lee Bentley Farkas, former chairman of Taylor, Bean & Whitaker (TBW), for his role in a more than $2.9 billion fraud scheme that contributed to the failures of Colonial Bank and TBW. The scheme involved, among other things, an attempt to steal $553 million from TARP. Farkas was convicted on all counts in April 2011.

In another significant rescue fraud enforcement milestone, on October 8, 2010, Charles Antonucci, the former president and CEO of Park Avenue Bank, pleaded guilty in U.S. District Court for the Southern District of New York to securities fraud, making false statements to bank regulators, bank bribery and embezzlement of bank funds. Antonucci attempted to steal $11 million of TARP funds by, among other things, making fraudulent claims about the bank's capital position. With his guilty plea, Antonucci became the first defendant convicted of attempting to steal from the taxpayers' investment in TARP.

In the year ahead, the working group intends to continue to engage in collaborative enforcement efforts and outreach, with the goal of continuing to protect TARP funds from fraud, waste and abuse.

### D. SECURITIES, COMMODITIES AND INVESTMENT FRAUD

The Securities and Commodities Fraud Working Group (SCFWG) brings together an impressive array of subject-matter experts in the enforcement of securities, commodities,



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corporate and investment frauds. Although many members of the SCFWG have a long history of collaboration, through the working group they have formed new initiatives, information-sharing efforts and training programs.

In the first year, SCFWG members conducted workshops on and discussed a number of important issues related to securities and commodities fraud enforcement, including the Dodd-Frank Wall Street Reform and Consumer Protection Act, the investigation and prosecution of investment fraud schemes, parallel criminal and civil proceedings, and the use of SEC administrative proceedings.

Apart from the formal meetings of the working group, SCFWG representatives communicate regularly to coordinate on specific investigations and prosecutions, as well as relevant policies. SCFWG members also participate in regional and state cooperative efforts, such as the Virginia Financial and Securities Fraud Task Force; the Connecticut Securities, Commodities and Investor Fraud Task Force; and the South Florida Securities and Investment Fraud Initiative.

The SCFWG members also have been active in public awareness and education. For example, to help people affected by the economic downturn, the FTC created ftc.gov/moneymatters, a website with information about avoiding scams, managing money and dealing with debt. As part of the Delivering Trust Campaign, the U.S. Postal Inspection Service developed a fraud prevention brochure with additional fraud prevention and awareness tips and mailed it to every household in the United States.

During 2010, SCFWG members investigated and prosecuted numerous significant securities, commodities and other investment frauds. The following are just a few of the many impressive enforcement results in 2010:



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• On April 8, 2010, Thomas J. Petters was sentenced to 50 years in prison, one of the longest financial crimes-related sentences in history, for engaging in $3.4 billion investment fraud that harmed hundreds of investors. In addition, prosecutors in the United States Attorney's Office obtained lengthy prison terms were secured against Petters' co-conspirators. This case was the largest fraud case ever prosecuted in the District of Minnesota. Members of the SCFWG continue to investigate other individuals and companies related to the investment scheme.

• As discussed above, in June 2010, the Criminal Division and the U.S. Attorney's Office for the Eastern District of Virginia, in partnership with other Task Force members, charged Lee Bentley Farkas with, among other things, securities fraud in connection with his role in a more than $2.9 billion fraud scheme that contributed to the failures of one of the 25 largest banks in the United States and one of the largest privately held mortgage lending companies. Subsequently, Farkas was convicted by a jury on all counts.

• In April 2010, the SEC filed charges against Goldman Sachs & Co. and one of its employees, Fabrice Tourre, alleging fraud in connection with the marketing of a synthetic collateralized debt obligation (CDO). On July 20, 2010, the court entered a consent judgment in which Goldman agreed to pay $550 million to settle the charges. The SEC's litigation continues against Fabrice Tourre.

• The CFTC filed 57 enforcement actions in Fiscal Year (FY) 2010, representing a 14 percent increase over the number of cases filed in FY 2009. During this period, the CFTC obtained judgments ordering the payment of more than $200 million in civil monetary penalties, restitution and disgorgement. During FY 2010, the number of investigations opened by the CFTC increased 66 percent from the prior fiscal year.



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• On December 22, 2010, the FTC filed suit against 10 individuals and 61 corporations allegedly responsible for an Internet scheme that caused consumers to lose more than $275 million. The scheme lured consumers with allegedly false promises of government grants or money-making programs and, at its height, ensnared 15,000 consumers per day.

### E. EFFORTS TO COMBAT DISCRIMINATION IN THE HOUSING AND FINANCE MARKETS

The Task Force's Non-Discrimination Working Group focuses on financial fraud and other unfair practices directed at people or neighborhoods based on race, color, religion, national origin, sex, age, disability or any other bases prohibited by law. These practices take many forms, including charging minorities higher prices for credit, providing less favorable financial services to minority neighborhoods and steering minorities to more expensive loan products.

Throughout 2010, the members of the working group came together to discuss enforcement initiatives and to sponsor outreach events for the public, enforcement authorities, housing counselors and industry representatives.

Again, increased collaboration has helped improve enforcement. During the first year of the Task Force, the Department of Justice received more referrals from the federal banking regulators and others for potential discriminatory conduct than at any time in at least 20 years. The bank regulators and the Department of Housing and Urban Development combined referred 26 matters to the Department of Justice involving possible discrimination on the basis of race or national origin, which is more than twice as many as in the previous year. The Task Force expects that these referrals, and other enforcement actions taken by the Task Force members, will yield an increased number of cases in the year ahead. This would be in addition to the millions of dollars that Task Force members recovered for victims of discrimination through enforcement actions brought in 2010.



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Beyond increased information sharing and referrals, the working group members have also pursued significant enforcement actions. For example, in March 2010, the United States filed a fair lending complaint and consent order resolving *United States v. AIG Federal Savings Bank and Wilmington Finance Inc.*, in which two subsidiaries of AIG agreed to pay more than $6 million to resolve allegations that they engaged in a pattern or practice of discrimination against African American borrowers, and agreed to invest at least $1 million in consumer financial education.

## IV. UPHOLDING THE RIGHTS OF VICTIMS

Finally, the Task Force has established a Victims' Rights Committee (VRC). The VRC's primary purpose is to address the needs and rights of victims of financial fraud. Accordingly, the committee has concentrated its efforts in three areas: (1) public awareness and education through the launch of a public website; (2) training on victims' rights and services; and (3) focusing on restitution as a priority in federal prosecutions.

During its first year, the VRC has worked to meet its goals by developing website content, training materials and legislative improvements aimed at addressing the needs and rights of financial fraud victims. The committee took the lead in establishing the Task Force's public website, www.stopfraud.gov, which was launched at a ceremony commemorating National Crime Victims' Rights Week. The website is an invaluable resource for members of the public, and contains descriptions of a wide variety of financial scams and information on how best to avoid becoming a victim of financial fraud. Beyond establishing the website, the VRC has also conducted numerous training sessions at national training events, and is currently working to develop an exportable training module that can be used by investigators, prosecutors and victim service providers to improve their awareness of and response to financial fraud victims.



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## V. CONCLUSION

Chairman Klobuchar, Ranking Member Sessions, and distinguished Members of the Subcommittee, thank you for this opportunity to discuss with you the significant accomplishments and ongoing challenges of combating financial fraud. While we have accomplished much in the first year of the Task Force, our work is far from complete. A healthy economy and, in these times, a full economic recovery, requires our continued vigilance in protecting American businesses and consumers from financial fraud. We look forward to working with you in pursuit of our shared goals and will be happy to answer any questions that you may have.



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**Statement Of Senator Patrick Leahy (D-Vt.),**
**Chairman, Senate Judiciary Committee**
**"Oversight of the Financial Fraud Enforcement Task Force"**
**June 30, 2011**

I thank Senator Klobuchar for chairing this important hearing and for her strong commitment to fraud enforcement. In these trying economic times, cracking down on the fraud which has contributed to the current crisis and has harmed so many hardworking Americans is more important than ever. I look forward to working with Senator Klobuchar and with Senators from both sides of the aisle on anti-fraud initiatives this year.

Financial fraud enforcement has long been a Judiciary Committee priority, and one that we have pursued in a bipartisan manner with great success. Last Congress, one of the first major bills the Committee considered, and one of the first bills the President signed into law, was the Leahy-Grassley Fraud Enforcement and Recovery Act (FERA). That bill gave fraud investigators and prosecutors additional tools and resources to better recover taxpayer money and hold those who commit financial fraud accountable for their crimes.

Ranking Member Grassley and I have sought to build on the success of FERA with the Fighting Fraud to Protect Taxpayers Act (FFPTA). The FFPTA will protect taxpayers by deterring fraud and bringing money back into our Nation's coffers. If passed, it will provide funding and new tools for law enforcement to prosecute and punish those responsible for fraud and will do so at no added cost to taxpayers. The bill would take approximately $15 million each year that is collected by the Government in fines and penalties from wrongdoers and redirect those funds into investigating, prosecuting, and litigating fraud cases, including financial fraud cases.

I was pleased to learn last year that the Financial Fraud Enforcement Task Force secured charges against 343 criminal defendants and 189 civil defendants for fraud schemes that harmed more than 120,000 victims throughout the country in Operation Broken Trust. I look forward to hearing about the Task Force's activities, including progress combating mortgage fraud, which continues to plague hardworking families across the country.

Americans are worried about their budgets at home. We need to protect their investments, both public and private. Democrats and Republicans have worked together to fight fraud, and we need to continue in that spirit of bipartisanship. I look forward to working with Senator Klobuchar, Ranking Member Grassley, and Senators of both parties to crack down on financial fraud and quickly pass the FFPTA.

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