

February 1, 2017

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Hatch:

We write regarding why we, the Democratic members of the Finance Committee, did not attend the markup of Department of Treasury Secretary Nominee Steven Mnuchin and Department of Health and Human Services Secretary Nominee Tom Price on January 31, 2017. Despite repeated requests by members of this Committee, both nominees have yet to answer important questions that impact the American people. Further, we have significant concerns that both Mr. Mnuchin and Congressman Price gave inaccurate and misleading testimony and responses to questions to the Committee. In addition, Mr. Mnuchin failed to respond to Senators' questions and requests for data regarding the foreclosure practices of OneWest. In the case of Mr. Mnuchin, news reports revealed disturbing inaccuracies in his testimony over the weekend, and for Rep. Price, serious ethics questions came to light only hours before the markup.

We believe that the nominees should provide accurate and complete responses to the following topics before the Committee meets to report their nominations.

1. Congressman Price's inaccurate and misleading answers to questions about privileged and discounted access to stocks and the implications of his taking advantage of that privilege;^[1]
2. Mr. Mnuchin's inaccurate and misleading answers to questions about the potentially illegal process known as robo-signing;^[2]
3. Mr. Mnuchin's failure to provide One West foreclosure data, despite his clear ability to obtain that information.^[3]

We have attached specific questions or requests that we believe the nominees must address on these issues.

The decisions that the HHS and Treasury Secretaries make affect all of our constituents. At the very least, these cabinet nominees should answer basic questions about their records before we move forward with a Committee vote.

We must insist that these issues for both nominees be addressed in writing and that Mr. Mnuchin provide the requested data.

Sincerely,

RON WYDEN

DEBBIE STABENOW

MARIA CANTWELL

BILL NELSON

ROBERT MENENDEZ

THOMAS R. CARPER

BENJAMIN L. CARDIN

SHERROD BROWN

MICHAEL F. BENNET

ROBERT P. CASEY, Jr.

MARK R. WARNER

CLAIRE McCASKILL

Congressman Price

For Congressman Price, we respectfully request he further explain his second purchase of shares in Innate, in August 2016, when he purchased 400,613 shares through a private placement offered at prices discounted by as much as 42% compared to the stock price listed on the Australian Stock Exchange. There is now additional evidence that this private placement was not made available to a broad class of investors but, instead, in the United States, was made available only to a small group of favored investors, and those investors had access to far more stock than the investors in Australia.

According to the recent article in the Wall Street Journal, the August 2016 private placement was made available to three categories of investors: first, in Australia and New Zealand, to all existing investors; second, in the United States, to a small group who previously had been offered a private placement; third, also in the United States, to another small group described as “friends and family.” The first category reportedly consisted of about 2,000 purchasers, and the latter two categories a total of about 16.

If this description is correct, which category did Congressman Price fall into? According to information he provided to the Committee, he did not participate in a prior private placement. If it was “friends and family,” we ask that he briefly state his understanding of why he was allowed into that category and in what way was he considered a “friend” and, further, why the offering of shares to a handful of U.S. investors at a price significantly below market rates, was ethical and appropriate.

If only 16 individuals in the US were able to participate in the Innate private placement, was his denial that he received “an exclusive discount on stock in the Australian biomedical firm” a true and accurate statement?

Was his testimony to the Finance Committee that the discounted shares he purchased “were available to every single individual that was an investor at the time” complete and accurate?

Mr. Mnuchin

Mr. Mnuchin has repeatedly denied that OneWest Bank, under his leadership, engaged in questionable robo-signing. Court documents, sworn testimony, and a 2011 Consent Order from the Office of Thrift Supervision (OTS) signed by Mr. Mnuchin show otherwise. Last Sunday, the Columbus Dispatch reported new analysis of Ohio foreclosure documents and found four dozen foreclosure cases in one Ohio county alone had been robo-signed.

For Mr. Mnuchin, we respectfully request that he explain why he denied in testimony before the Finance Committee that OneWest engaged in “robo-signing” on mortgage documents. Please have him answer the following:

- While Mr. Mnuchin was chairman of the bank, how many OneWest foreclosures were robo-signed, as defined in paragraph 2(a), (b), and (c) of the OTS's 2011 consent order. Do not use vague categories like "borrower not in default" or "servicer did not have standing to foreclose" under the Independent Foreclosure Review.
- How many OneWest foreclosure filings were signed by Erica Johnson-Seck, in her capacity working for any corporation for which she had signing authority, while Mr. Mnuchin was chairman of the bank;
- Did OneWest employ or contract with firms that utilized robo-signing i.e. Lender Processing Services (LPS)? If yes, please list the names of each of the firms used by OneWest.
- Did OneWest permit employees to foreclose on borrowers in the name of MERS rather than as OneWest?

Committee members have repeatedly asked Mr. Mnuchin how many Americans he foreclosed on, and he refuses to come forward with the information *despite his ability to obtain such information for at least one Republican member of the Committee*. Such selective disclosure of information relevant to a confirmation flies in the face of committee practice and the intent of the oversight process. It should be entirely understandable that members were not willing to move forward after being confronted with this fact. Please have Mr. Mnuchin provide:

- A state-by-state breakdown of the foreclosures initiated by OneWest from the time that Mr. Mnuchin purchased the bank from the FDIC in March 2009 until the time that it was sold to CIT Group, including a comparison of the loans serviced by OneWest and the loans owned by OneWest;
- A breakdown of the number of permanent HAMP modifications as well as the number of permanent propriety modifications that OneWest completed from the time that Mr. Mnuchin purchased the bank from the FDIC until the time that it was sold to CIT Group, including a comparison of the loans serviced by OneWest and the loans owned by OneWest.

[1] **Rep. Tom Price Got Privileged, Discounted Offer on Biomedical Stock, Company Says**

<https://www.wsj.com/articles/rep-tom-price-got-privileged-discounted-offer-on-biomedical-stock-company-says-1485800769>

[2] **Trump treasury pick Mnuchin misled Senate on foreclosures, Ohio cases show**

<http://www.dispatch.com/news/20170129/trump-treasury-pick-mnuchin-misled-senate-on-foreclosures-ohio-cases-show>; <https://www.occ.gov/static/ots/misc-docs/consent-orders-97665.pdf>

[3] <https://twitter.com/SenDeanHeller/status/825039281328631808>