



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

January 19, 2017

Mr. David Greene, Esq.
Electronic Frontier Foundation
815 Eddy St.
San Francisco, CA 94109
dgreene@eff.org

Re: OLA/14-03934 (F)
VRB:LAD:SBT

Dear Mr. Greene:

As we've previously advised you, while processing your Freedom of Information Act (FOIA) request dated May 30, 2014, for correspondence pertaining to Operation Choke Point, the Civil Division located eighty-seven pages of material which it referred to this Office for processing and direct response to you. The Civil Division administrative tracking number for this request is Civil No. 145-FOI-13221. For your information, these documents were received in this Office on July 24, 2014. This response is made on behalf of the Office of Legislative Affairs.

Our review of the material referred by CIV is now complete. I have determined that fifty-six pages are appropriate for release without excision, and copies are enclosed. Also enclosed are five pages that are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. For your information, the withheld material consists of names and contact information of individuals, none of which is appropriate for discretionary disclosure.

Because three pages originated with the Federal Deposit Insurance Corporation (FDIC), we have referred that material to the FDIC for processing and direct response to you. You may contact the FDIC as follows:

FOIA Contact
Legal Division, FOIA/PA Group
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Phone: (202) 898-7021
Fax: (703) 562-2797
Email: efoia@fdic.gov

Additionally, we determined that nineteen pages were of primary interest to the Civil Division, and accordingly have returned that material to the Civil Division for direct response to you. You may contact the Civil Division using the following information:

Angie E. Cecil
FOIA, Records, and E-Discovery Office
Civil Division
Department of Justice
Room 8020
1100 L Street, NW
Washington, DC 20530-0001
Phone: (202) 514-2319
Fax: (202) 514-7866
Email: Civil.routing.FOIA@usdoj.gov

Finally, please be advised that we have determined that four pages are not responsive to your request because they consist of print-outs of logistical tracking sheets for the correspondence being provided to you in this response, and contain no independently responsive information.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2012). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal at <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you

submit your appeal by mail, both the letter and the envelope should be clearly marked
“Freedom of Information Act Appeal.”

Sincerely,

A handwritten signature in cursive script, appearing to read "V. Brinkmann".

Vanessa R. Brinkmann
Senior Counsel

Enclosures



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Scott Peters
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Peters:

This responds to your letter to the Attorney General dated December 9, 2013, regarding the Department of Justice's (the Department) investigations of financial institutions that knowingly facilitate or participate in fraud on consumers. We apologize for our delay in responding to your letter.

The Department is committed to protecting the American people from fraudulent practices in all industries. The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), which the Department has responsibility for enforcing, provides for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions, deliberately ignoring evidence that they are fraudulent, in violation of the federal mail fraud and wire fraud statutes. Evidence relevant to such charges could include intentionally disregarding obligations under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable laws. The FIRREA investigations described in your letter relate to the basic principle that a financial institution should not profit from its decision to process fraudulent transactions in violation of federal law, often at great cost to the Americans who are victims of the fraud. The goal of these investigations of financial institutions and third-party payment processors is to identify whether such entities violated their obligations under the anti-fraud laws described above. Consistent with this aim, relevant conduct may include, for instance, causing withdrawals from consumer bank accounts despite knowledge that the account holders had not consented to the withdrawals or continuing to process financial transactions for merchants that it knows do not perform any lawful business.

The Department appreciates your letter, and we share your goal of protecting consumers. However, we wish to clarify an apparent misunderstanding regarding our efforts. While the Department's efforts are focused on banks and other intermediaries in the payment system, these investigations are individualized and pursue only those engaged in specific instances of suspected unlawful activity.

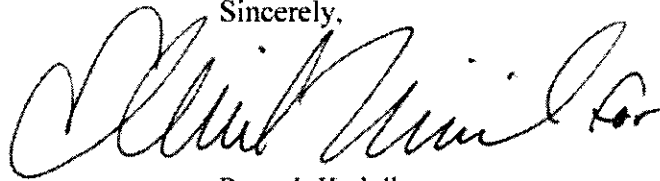
The Honorable Scott Peters
Page Two

Our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public. The Federal Trade Commission found that, in 2011, 25.6 million people – 11 percent of all adults in the United States – paid for fraudulent products and services. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

One recent example of our work is the case of *United States v. Four Oaks Fincorp, Inc. and Four Oaks Bank and Trust Company* (E.D.N.C.). In that case, a federal district court issued a civil monetary penalty and entered a permanent injunction against Four Oaks Bank, which the government alleged had unlawfully facilitated consumer fraud through a third-party payment processor and its merchants.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik", with a stylized flourish at the end.

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Allyson Y. Schwartz
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Schwartz:

This responds to your letter to the Attorney General dated February 11, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent.

Thank you for your supportive comments regarding our efforts in *United States v. Four Oaks Fincorp, Inc. and Four Oaks Bank and Trust Company* (E.D.N.C.). As you have recognized, we are committed to protecting the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Jeffrey A. Merkley
United States Senate
Washington, DC 20510

Dear Senator Merkley:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

One recent example of our work is the case of *United States v. Four Oaks Fincorp, Inc., and Four Oaks Bank and Trust Company* (E.D.N.C.). In that case, a federal district court issued a civil monetary penalty and entered a permanent injunction against Four Oaks Bank, which the government alleged had unlawfully facilitated consumer fraud through a third-party payment processor and its merchants.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Tom Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Richard Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Mazie Hirono
United States Senate
Washington, DC 20510

Dear Senator Hirono:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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Sincerely,

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

Dear Senator Warren:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable Richard Blumenthal
United States Senate
Washington, DC 20510

Dear Senator Blumenthal:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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Sincerely,

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Elijah Cummings
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Cummings:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Sincerely,

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable Suzanne Bonamici
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Bonamici:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Sincerely,

A handwritten signature in black ink, reading "Peter J. Kadzik", is written over a large, stylized, cursive "P" that spans across the signature line.

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Allyson Schwartz
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Schwartz:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Sincerely,

A handwritten signature in black ink, reading "Peter J. Kadzik for", is written over a large, stylized "P" that serves as a background for the signature.

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable John Conyers
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Conyers:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

The Department of Justice is committed to protecting the American people from fraudulent practices in all industries. The FIRREA investigations referenced in your letter seek to hold accountable financial institutions that knowingly assist fraudulent merchants that harm consumers or that process transactions while deliberately ignoring evidence that they are fraudulent. We appreciate your support of our efforts to protect the public from mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law, and we remain committed to these efforts.

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Sincerely,

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 2014

The Honorable Maxine Waters
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Waters:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable George Miller
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Miller:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

May 23, 2014

The Honorable Henry Waxman
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Waxman:

This responds to your letter to the Attorney General dated February 26, 2014, regarding our series of investigations under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") related to financial institutions and third party payment processors that have knowingly facilitated or participated in consumer fraud. We share your concern about this type of consumer fraud. We apologize for our delay in responding to your letter and are sending identical responses to the other signatories who joined in your letter.

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Sincerely,

Peter J. Kadzik
Principal Deputy Assistant Attorney



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 4, 2014

The Honorable Steve Daines
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Daines:

This responds to your letter to the Attorney General, dated December 6, 2013, regarding online short-term lenders, especially those operating in association with Indian Tribes. We apologize for our delay in responding to your letter.

The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), which the Department of Justice (the Department) has responsibility for enforcing, provides for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions, deliberately ignoring evidence that they are fraudulent, in violation of the federal mail fraud and wire fraud statutes. Evidence relevant to such charges could include intentionally disregarding obligations under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable laws. The Department's FIRREA investigations relate to the basic principle that a financial institution should not profit from its decision to process fraudulent transactions in violation of federal law, often at great cost to the Americans who are victims of the fraud. The goal of these investigations of financial institutions and third-party payment processors is to identify whether such entities violated their obligations under the anti-fraud laws described above. Consistent with this aim, relevant conduct may include, for instance, causing withdrawals from consumer bank accounts despite knowledge that the account holders had not consented to the withdrawals or continuing to process financial transactions for merchants that it knows do not perform any lawful business.

Our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public. The Federal Trade Commission found that, in 2011, 25.6 million people – eleven percent of all adults in the United States – paid for fraudulent products and services. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

One recent example of our work is the case of *United States v. Four Oaks Fincorp, Inc. and Four Oaks Bank and Trust Company* (E.D.N.C.). In that case, a federal district court issued a civil monetary penalty and entered a permanent injunction against Four Oaks Bank, which the

The Honorable Steve Daines
Page Two

government alleged had unlawfully facilitated consumer fraud through a third-party payment processor and its merchants.

The Department also is committed to ongoing communication with Indian Tribes and, when appropriate and practicable, to formal consultation before adopting policies that have Tribal implications. We, therefore, appreciate your desire to ensure that there is a proper dialogue between the United States and Indian Tribes. In fact, representatives of the Department have already met with representatives of several Indian Tribes that operate online short-term lending businesses, including the Chippewa Cree Tribe.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik". The signature is fluid and cursive, with the first name "Peter" and last name "Kadzik" clearly distinguishable.

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 4, 2014

The Honorable Brad Sherman
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Sherman:

This responds to your letter to the Attorney General, dated November 15, 2013, regarding online lenders and other short-term, unsecured consumer lending companies. We apologize for our delay in responding to your letter.

The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), which the Department of Justice (the Department) has responsibility for enforcing, provides for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions, deliberately ignoring evidence that they are fraudulent, in violation of the federal mail fraud and wire fraud statutes. Evidence relevant to such charges could include intentionally disregarding obligations under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable laws. The Department's FIRREA investigations relate to the basic principle that a financial institution should not profit from its decision to process fraudulent transactions in violation of federal law, often at great cost to the Americans who are victims of the fraud. The goal of these investigations of financial institutions and third-party payment processors is to identify whether such entities violated their obligations under the anti-fraud laws described above. Consistent with this aim, relevant conduct may include, for instance, causing withdrawals from consumer bank accounts despite knowledge that the account holders had not consented to the withdrawals or continuing to process financial transactions for merchants that it knows do not perform any lawful business.

The Department appreciates your letter, and we share your goal of protecting consumers. However, we wish to clarify an apparent misunderstanding regarding our efforts. Your letter cites an opinion piece from the *American Banker* dated August 22, 2013. Contrary to the suggestion made in the article, Department policy is not to target businesses operating within the bounds of the law, but instead to take the steps necessary to prevent financial institutions from knowingly assisting fraudulent merchants that harm consumers or processing transactions while deliberately ignoring evidence that they are fraudulent.

The Honorable Brad Sherman
Page Two

Our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public. The Federal Trade Commission found that, in 2011, 25.6 million people – eleven percent of all adults in the United States – paid for fraudulent products and services. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

One recent example of our work is the case of *United States v. Four Oaks Fincorp, Inc. and Four Oaks Bank and Trust Company* (E.D.N.C.). In that case, a federal district court issued a civil monetary penalty and entered a permanent injunction against Four Oaks Bank, which the government alleged had unlawfully facilitated consumer fraud through a third-party payment processor and its merchants.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide a briefing on this matter or any additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter J. Kadzik' with a stylized flourish at the end.

Peter J. Kadzik
Principal Deputy Assistant Attorney General

Congress of the United States
House of Representatives
Washington, DC 20515-2600

December 6, 2013

The Honorable Eric Holder
Attorney General
Department of Justice
900 Pennsylvania Avenue, NE
Washington, DC 20530

The Honorable Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20249

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street, NW
Washington, DC 20036

Dear Attorney General Holder, Chairman Gruenberg and Director Cordray,

I am writing to express my concern that a coordinated investigative effort led by components from each of your agencies is having an unwarranted and unintended detrimental impact on tribally owned and operated financial services businesses. More specifically, I am deeply troubled to learn that examiners from the FDIC and investigators from the DOJ have cast a net much wider than known bad actors, indiscriminately targeting payment system service providers without regard for the devastating effect such actions are having in Indian Country. I am aware of and share the concern expressed by a number of my colleagues who have previously corresponded with your agencies. However, I wanted to provide some additional perspective on how this will impact my constituents from the Chippewa Cree Tribe.

In an effort to create jobs and economic development in rural north central Montana, the Chippewa Cree Tribe (CCT) of the Rocky Boy's Reservation created an online, installment lending company known as Plain Green (PG). PG is regulated by tribal law, voluntarily complies with federal consumer protection laws, and is wholly owned by the Tribe. PG creates jobs where there are few and generates essential revenue for the tribal welfare in a time of great need. Unemployment on the Rocky Boy's Reservation is extraordinarily high due to both its remote location in north central Montana and lack of infrastructure. Further, the Tribe has suffered several natural disasters in recent years that have destroyed essential health care and public safety facilities, leaving an already strapped Tribal budget lacking the appropriate resources for recovery. The Tribe is very dependent on federal program funding to carry out its self-determination and economic development, and its leaders continue to do everything possible to become more self-sufficient and to create new sources of income. The revenues from Plain Green now account for a significant portion of the Tribal budget and provide critical funding for health care services, food and

nutrition security programs, education, and financial literacy training. Most importantly, PG has created several dozen permanent jobs and funded summer jobs and internships for more than 300 people.

Online lending is legal, as are the payment services that many targeted essential vendors provide. It appears that your agencies are not focusing on specific troublesome practices or bad actors, but rather on the entire industry as a whole, without regard for the collateral consequences of broad investigative actions and examination tactics. While I join many of my colleagues in re-affirming the need to discretely target known bad actors that engage in clearly unlawful practices, I respectfully request that each agency re-examine your actions and your process for engagement with tribes like my constituents.

Each of your agencies is familiar with the special trust relationship between tribes and the federal government and has engaged tribes in the past through the long-established framework of government-to-government consultation. Congress deliberately excluded Tribes in the definition of States in the Dodd-Frank Act and Dodd-Frank does not propose that the CFPB regulate the activities of states. Perhaps the CFPB and the Chippewa Cree Tribal Consumer Protection Bureau should work cooperatively and respectfully as co-regulators to ensure the consumer is protected and that this important source of employment and income to the Tribe is not eliminated. The Tribe is committed to ensuring their business is operating in compliance with federal and tribal consumer protection, truth in lending and fair lending laws.

I appreciate your prompt attention to this matter and would encourage your agencies to work toward a cooperative regulatory regime with legitimate tribal online lenders and financial institutions who provide services to these entities.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Daines". The signature is stylized with a large, looped "S" and a long, horizontal stroke at the end.

Steve Daines
Member of Congress

SEAN P. DUFFY
7TH DISTRICT, WISCONSIN



WASHINGTON
1208 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4907
PH: (202) 225-3365 • TOLL-FREE: 1-855-585-4251
WEBSITE: duffy.house.gov

Congress of the United States

House of Representatives

October 21, 2013

COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEES:
VICE CHAIRMAN, FINANCIAL
INSTITUTIONS AND CONSUMER CREDIT
INSURANCE, HOUSING AND
COMMUNITY OPPORTUNITY
OVERSIGHT
AND INVESTIGATIONS
COMMITTEE ON THE BUDGET
JOINT ECONOMIC
COMMITTEE

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW, Room 6076
Washington, DC 20429

The Honorable Eric Holder
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW, Room 1145
Washington, DC 20530

Dear Chairman Gruenberg and Attorney General Holder:

It has recently come to my attention that regional agents with the Federal Deposit Insurance Corporation (FDIC) met with two community banks in Wisconsin, unannounced, and asked them to stop working with prominent on-line lenders in the community. These banks were informed that if they chose to ignore FDIC's request, they would face "the highest levels of scrutiny they could imagine," and were given no explanation, details of complaints or any evidence as to why these demands were being made.

These are respectable community banks that support local businesses, and many of the on-line and short-term lending services are provided by Native American tribes of Wisconsin. The intimidation tactics the FDIC employed against them are outrageous, and since the agency examiners refused to give answers when asked, I am requesting you provide these details to me now.

I have heard reports that the FDIC is embarking on a joint effort with the Department of Justice (DOJ) to "choke on-line, short-term lenders off from the very air that they breath." The FDIC and DOJ have claimed they are doing so because of criminal activity that has surrounded certain unregulated, short-term lenders; however, by incorrectly roping the on-line, short-term lenders of Northern Wisconsin into this group of bad actors you could destroy an entire financial community that is operating ethically and legally.

Additionally, many of those Native American tribes provide much needed on-line and short-term lending services to lower-income families. These tribes are well-known, respectable, and responsible on-line lenders, they license all of their on-line vendors, and take great effort to comply with local, State, and Federal laws. The lenders then use the profits for many community projects, and they also provide jobs to the tribal community. There is no reason community banks in Wisconsin should be bullied out of doing business with them because of failed attempts by the FDIC and DOJ to go after bad actors located outside the United States.

Further, neither the FDIC or DOJ has significant legal basis with which to engage in these efforts. Both agencies are ignoring the clear intent and directive of Congress. There has been no legislation enacted that gives blanket authority to target legitimate businesses legally operating under State laws, and the Dodd-Frank Wall Street Reform Act (Dodd-Frank) specifically recognizes the need for specialty

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WAUSAU, WI 54403
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SUPERIOR, WI 54880
PH: (715) 392-3984 • FAX: (715) 392-3999

HUDSON
502 2ND STREET, SUITE 202
HUDSON, WI 54016
PH: (715) 808-8160 • FAX: (715) 808-8167

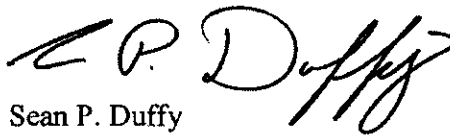
products for the under-served areas like Northern Wisconsin and lower-income families that use on-line and short-term lending. Dodd-Frank even goes so far as prohibiting the use of rule-making to limit short-term lending rates. The evidence suggests your efforts stem more from a philosophical opposition to on-line and short-term lending than legal justifications.

Therefore, I would like answers to the following questions:

1. What complaints or evidence prompted you to ask community banks in Wisconsin to discontinue doing business with legitimate on-line, short-term lenders?
2. What steps are you taking to ensure you are only targeting on-line and short-term lending "bad actors," and not putting an entire, much-needed industry out of business?
3. What legal authority or Congressional direction do you have to carry out this effort?

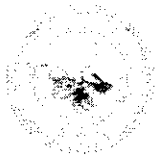
I look forward to receiving your written response within 14 days.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean P. Duffy". The signature is stylized with a large, looped "D" and a trailing flourish.

Sean P. Duffy
Member of Congress

CC: Rep. Patrick McHenry, Chairman of the Subcommittee on Oversight & Investigations



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

NOV 26 2013

The Honorable Sean P. Duffy
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Duffy:

This responds to your letter to the Attorney General dated October 21, 2013, regarding online short-term lenders.

The Department of Justice (the Department) shares your concerns – and those of many state attorneys general and consumer protection organizations – about bad actors in the online lending industry. As Department officials have stated publicly in several contexts, the Department will vigorously investigate those engaged in fraudulent or otherwise unlawful transactions, and bad actors who use our financial system to further their schemes. Unfortunately, American consumers are plagued by all manners of fraud, including telemarketing fraud, healthcare fraud, mortgage rescue schemes, government grant scams, vacation scams, credit repair scams, and deceptive on-line lending scams, to name a few. These schemes often are targeted at elderly and middle class working people.

To combat this illegal activity, the Department is investigating the role played by banks and other intermediaries that stand between consumers and the offenders who seek to take their money. The Department's efforts in this regard are not targeted at any one of these scams; rather, we are targeting fraud and unlawful practices in all of them. We are particularly concerned about instances in which banks and others know or turn a blind eye to fraud against consumers, and the proceeds of that fraud passing through their accounts. Our efforts are targeted at ending unlawful practices against consumers, which are well within the Department's mandate.

The Department appreciates your letter, and we share your goal of protecting consumers. However, we wish to clarify an apparent misunderstanding regarding our efforts. In your letter you refer to reports that we are engaged in a joint effort with the Federal Deposit Insurance Corporation (FDIC) to "choke on-line, short-term lenders off from the very air that they breath[sic]." We believe these reports may come from a quotation in the Wall Street Journal. The Wall Street Journal accurately reported the following quote: "We are changing the structures within the financial system that allow *all kinds of fraudulent merchants* to operate," a Justice Department official said, with the intent of 'choking them off from the very air they need

The Honorable Sean P. Duffy
Page Two

to survive.” (emphasis added).¹ The reports you have heard appear to have incorrectly substituted “online short term lenders” for the correct targets of our initiative – “all kinds of fraudulent merchants.” At no point did the Department’s quote in the Wall Street Journal mention online lenders. The Department seeks to combat fraud and other unlawful practices in the payment system, and our efforts are focused on all those engaged in illegal activity. We appreciate the opportunity to clarify these important points.

The Department is committed to using every available tool to investigate and hold accountable individuals and entities that engage in fraudulent or otherwise unlawful practices. Such tools may include not only criminal prosecution, where appropriate, but also civil claims under the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C. § 1833a (“FIRREA”) and the Anti-Fraud Injunction Act, 18 U.S.C. § 1345 (“Section 1345”).

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. J. Kadzik', with a stylized flourish at the end.

Peter J. Kadzik
Principal Deputy Assistant Attorney General

¹ Alan Zibel and Brent Kendall, “Probe Turns Up Heat on Banks,” *Wall Street Journal*, August 7, 2013.

Congress of the United States
Washington, DC 20515

May 12, 2014

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Holder,

We write to you today to raise our concerns about the impact of the Department's Operation Choke Point on our communities and their access to credit. As you know, access to affordable credit is a critical element of financial stability in any community, and this country's growing Hispanic communities are no different.

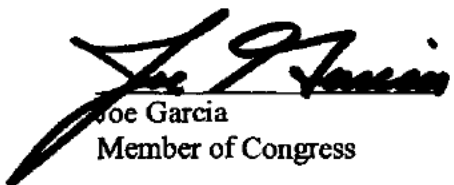
The tightening of the credit markets has been felt acutely in the districts we represent. Whether to run a small business or mitigate the economic damage caused by a household emergency, short term loans offered in a well regulated environment have been a key aspect to keeping economic engines running in our communities. Too often, Hispanic consumers have been left with few choices when it comes to banking services. Traditional forms of credit have been hard to come by, especially in the aftermath of the financial crisis. As a result, nonbank financial institutions like payday loan stores have become an important source of credit for consumers and business owners. While the industry is not the answer for all consumers' credit needs, it has certainly filled a void where there are few other options.

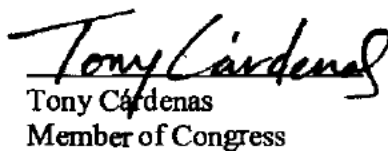
Recently, however, we have begun to hear that banks are severing business relationships with many small dollar payday lenders because of the effort of Operation Choke Point. We wholeheartedly agree with the goal that our regulatory agencies should work tirelessly to protect consumers from scam artists and those who prey on the bank accounts of innocent citizens. It has come to our attention, though, that many legal, licensed payday lenders have seen their banking relationships impacted by the environment created by the regulators. Without a safe system in which to store the funds they loan, nonbank lenders will not be able to do business any longer. These nonbank institutions will be forced to close up shop entirely, leaving our constituents with no options when it comes to accessing credit.

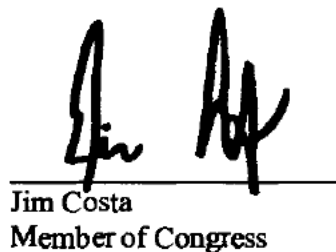
Our greatest hope is that more financial institutions will see the economic promise that Hispanic communities hold and choose to more aggressively serve our constituents. We also hope and believe that the products they offer will be regulated in a safe and fair environment that protects consumers and allows families and businesses to flourish. Presently, the work of Operation Choke Point may be ensnaring the wrong people. We ask

that you ensure that Operation Choke Point is achieving its goal of denying banking access to illegal entities who defraud consumers, not legal entities who are providing much needed access to credit.

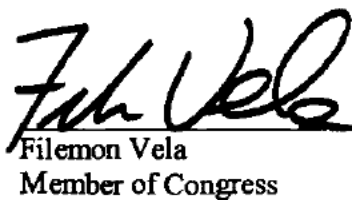
Sincerely,


Joe Garcia
Member of Congress


Tony Cardenas
Member of Congress


Jim Costa
Member of Congress


Henry Cuellar
Member of Congress


Filemon Vela
Member of Congress

From: Wilson, Karen L (OLA)
Sent: Monday, January 27, 2014 4:31 PM
To: Frimpong, Maame Ewusi-Mensah (CIV)
Subject: FW: Request from Senator Grassley

Karen L. Wilson
Attorney Advisor
Office of Legislative Affairs
U.S. Department of Justice

Direct: 202-616-0658
Fax: 202-514-9353

From: Dodge, Kameron (Grassley)
Sent: Friday, January 17, 2014 10:49 AM
To: 'Karen.L.Wilson@usdoj.gov'
Subject: Request from Senator Grassley

Hi, Karen! Thanks again for your help with this and enduring my pestering phone calls. Below, is a sample of the correspondence we are receiving.

Thanks!
Kameron

Dear Senator Grassley,

As your constituent, I want to urge you to take immediate action against wreckless U.S. Department of Justice Attorneys, NACHA and New York State's Superintendent of Financial Services, Benjamin Lawsky as they usurp Federal law, harm millions of every day Americans like myself, discriminate against tribal-owned businesses and devastate the economies of dozens of tribal communities.

In early August, Mr. Lawsky ordered tribal-owned small dollar lenders to cease offering loans in New York. In doing so, and with the assistance of the Department of Justice and NACHA, the electronic payments association, unlawfully threatened 117 banks to choke off these tribal lenders from the automated clearing house system, the bank-supported network that handles electronic bank account debits.

Even the FDIC cites that 51 million adults, 1 in every 5 households, rely on alternative financial services like those provided by these legal, licensed tribal-owned lenders.

Again, I urge you to take immediate action to help stop these wreckless regulators as they take away options from families like mine. I'm ashamed that these government employees are allowed to ignore the Constitution and discriminate against a proud people whose sovereign rights predate even the United States.

Please reply to me with your position on these issues. Your actions will have a major impact in my future voting decisions.

Kameron Dodge
Legislative Correspondent

U.S. Senator Chuck Grassley
135 Hart Senate Office Building
Washington, D.C. 20510
202-224-3744

(b) (6)



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e-Newsletter

JOSEPH J. HECK
3RD DISTRICT, NEVADA

COMMITTEE ON
ARMED SERVICES
EDUCATION AND
THE WORKFORCE COMMITTEE
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ON INTELLIGENCE

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8485 WEST SUNSET ROAD, SUITE 300
LAS VEGAS, NV 89113-2251
(702) 387-4941

Congress of the United States
House of Representatives
Washington, DC 20515-2803

October 24, 2013

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Dear Attorney General Holder and Chairman Gruenberg:

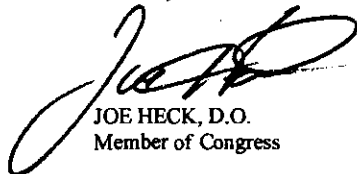
It has come to my attention that the U.S. Department of Justice (DOJ) and the Federal Deposit Insurance Corporation (FDIC) are leading a joint agency effort to ensure banks are properly managing and monitoring relationships with certain clients, specifically online short-term lenders.

While I certainly appreciate efforts to prevent and eliminate financial fraud, I am concerned with reports that the DOJ and the FDIC are applying regulatory pressure to banks that serve online short-term lenders, even when there is no indication of any wrongdoing. According to a number of businesses in my district, these efforts are causing some banks to unnecessarily terminate relationships with law-abiding online short-term lenders, jeopardizing jobs and access to credit for constituents in my district. The DOJ and the FDIC should be focusing their efforts on the bad actors within the industry and not targeting the industry as a whole.

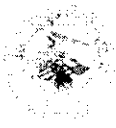
To prevent further damage to the online short-term lending industry, the DOJ and the FDIC must reassure banks that they will not be penalized for doing business with law-abiding online short-term lenders. The Financial Institution Letter sent by the FDIC on September 27, 2013 clarifying its approach and policy regarding interactions between banks and online short-term lenders, was a step in right direction

As such, I urge the DOJ and the FDIC to continue working with banks and online short-term lenders to ensure that efforts to prevent financial fraud are not unnecessarily putting the future viability of the entire online short-term lending industry at risk.

Sincerely,



JOE HECK, D.O.
Member of Congress



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 24 2013

The Honorable Joe Heck
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Heck:

This responds to your letter to the Attorney General dated October 24, 2013, regarding online short-term lenders.

The Department of Justice ("the Department") shares your concerns – and those of many state attorneys general and consumer protection organizations – about bad actors in the online lending industry. As Department officials have stated publicly in several contexts, the Department will vigorously investigate those engaged in fraudulent or otherwise unlawful transactions, and bad actors who use our financial system to further their schemes. Unfortunately, American consumers are plagued by all manners of fraud, including telemarketing fraud, healthcare fraud, mortgage rescue schemes, government grant scams, vacation scams, credit repair scams, and deceptive on-line lending scams, to name a few. These schemes often are targeted at elderly and middle class working people.

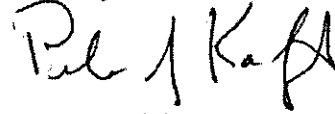
To combat this illegal activity, the Department is investigating the role played by banks and other intermediaries that stand between consumers and the offenders who seek to take their money. The Department's efforts in this regard are not targeted at any one of these scams; rather, we are targeting fraud and unlawful practices in all of them. We are particularly concerned about instances in which banks and others know or turn a blind eye to fraud against consumers, and the proceeds of that fraud passing through their accounts. Our efforts are targeted at ending unlawful practices against consumers, which are well within the Department's mandate.

The Department appreciates your letter, and we share your goal of protecting consumers. In your letter, you refer to "reports that the [Department] . . . is applying regulatory pressure to banks that serve online short-term lenders, even when there is no indication of any wrongdoing." The Department seeks to combat fraud and other unlawful practices in the payment system, and some indication of wrongdoing is a prerequisite to any action we take. We appreciate the opportunity to clarify these important points.

The Honorable Joe Heck
Page Two

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik". The signature is written in a cursive, flowing style with a large initial "P" and a distinct "K".

Peter J. Kadzik
Principal Deputy Assistant Attorney General



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 28, 2014

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin Yoder
U.S. House of Representatives
Washington, DC 20515

Dear Congressmen Luetkemeyer and Yoder:

This letter follows the January 9, 2014, briefing conducted by Stuart Delery, the Assistant Attorney General for the Civil Division, and ongoing conversations between your offices and the Department of Justice (the Department) on investigations targeting financial institutions and payment processors that have facilitated consumer fraud.

You and your staff have indicated concerns regarding the nature of these investigations. Assistant Attorney General Delery noted in his meeting with you that the Civil Division would reiterate the goals of our investigations to interested external parties. We therefore call your attention to the attached letter from Assistant Attorney General Delery to the American Bankers Association and the Electronic Transactions Association.

The letter reiterates that the Department does not target businesses operating within the bounds of the law. Specifically, Assistant Attorney General Delery noted that:

The Department has no interest in pursuing or discouraging lawful conduct. Our policy is to take the steps necessary to prevent financial institutions from knowingly assisting fraudulent merchants that harm consumers or processing transactions while deliberately ignoring evidence that they are fraudulent.

To be clear, our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions. We agree, of course, that it is important for the Department's public statements to be both consistent with this policy and sufficiently clear as to avoid any confusion on this point.

The Honorable Blaine Luetkemeyer
The Honorable Kevin Yoder
Page Two

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "P. J. Kadzik", with a stylized flourish at the end.

Peter J. Kadzik
Principal Deputy Assistant Attorney General

Enclosure

Congress of the United States
Washington, DC 20515

August 22, 2013

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Commission
550 17th Street, NW
Washington, D.C. 20429

Dear Attorney General Holder and Chairman Gruenberg:

It has come to our attention that the Department of Justice (DOJ) and Federal Deposit Insurance Corporation (FDIC) are leading a joint agency effort that, according to a DOJ official, is intended to “change the structures within the financial system...choking [online short-term lenders] off from the very air they need to survive.”¹ Your efforts to stop banks from processing these lawful transactions would destroy many legitimate, legally compliant companies and small businesses, and adversely impact tens of millions of low-income American families who depend on short-term credit provided by online lenders because they do not qualify for traditional loans or credit cards.

More than one in four American households conducts some or all of their financial transactions outside the mainstream banking system, according to the results of the FDIC's 2011 National Survey of Unbanked and Underbanked Households. If the government cuts off underserved consumers' credit options, it will force many Americans who live paycheck-to-paycheck to turn to unregulated and unsafe alternatives that are much more expensive than currently available short-term credit products.

We are especially troubled by reports that the DOJ and FDIC are intimidating some community banks and third party payment processors with threats of heightened regulatory scrutiny unless they cease doing business with online lenders. As a result, many banks and payment processors are terminating relationships with many of their long-term customers who provide underserved consumers with short-term credit options.

We understand that, as with any industry, there are bad actors in online and nondepository lending. We support your efforts to protect consumers with disclosure rules that protect consumers by giving them full information. We also believe in strong enforcement of existing laws designed to prevent abusive lending. However, it is highly inappropriate to pre-judge an entire industry, or significant portions of it. Your current actions would eliminate the basic processing services that legitimate lenders rely upon to serve millions of Americans. A much more targeted approach is required.

¹ Alan Zibel and Brent Kendall, *Prosecutors Target Firms that Process Payments for Online Payday Lenders, Others*, Wall Street Journal, Aug. 8, 2013, at A1.

Regulators must be especially careful not to impose undue restrictions on online credit services because many underserved consumers find it more convenient to go online than to drive to a storefront lender, and they enjoy the convenience and privacy that only the Internet can provide. These competitive advantages have made internet lending a nationwide and global business.

Underserved consumers need more access to innovative and better-suited financial products and services, not less. Federal banking regulators such as the FDIC should focus on finding creative, realistic ways to help low-income families make ends meet, instead of cutting off access to legal online lenders.

Your actions to “choke off” short-term lenders by changing the structure of the financial system are outside your congressional mandate. With the enactment of the Dodd-Frank Act, Congress acknowledged the need for short-term credit products and did not try to limit online lender’s or storefront operators’ ability to offer such products.

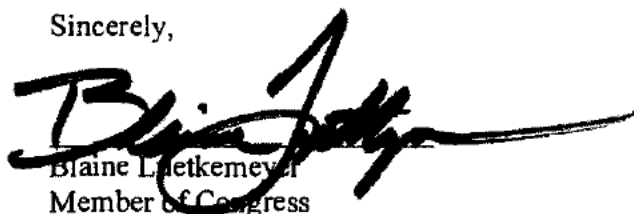
Dodd-Frank also included a specific provision designed to prohibit the Consumer Financial Protection Bureau (CFPB) from imposing rate limitations on short-term loans. Neither Dodd-Frank, nor any other legislation passed by Congress, has given the DOJ, FDIC or any other federal agency the authority to “take away the very air” that online lenders “need to survive.”

Given the threat that the overreaching actions taken by your agencies pose to low-income American families who depend on short-term, online credit to pay their bills and feed their families, we ask that you promptly suspend any activities that could deny any lawfully operating lenders access to the payments system. Additionally, we strongly encourage your agencies to immediately stop any actions designed to pressure banks and payment processors to terminate business relationships with lawful lenders.

We take the actions of your agencies very seriously and look forward to a detailed and prompt response. Additionally, we request that your agencies contact Chris Brown of Rep. Luetkemeyer’s staff (b) (6) or Lara Driscoe of Rep. Yoder’s staff (b) (6) to arrange a staff briefing on this matter.

Thank you in advance for your consideration and timely response.

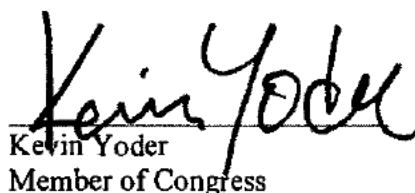
Sincerely,



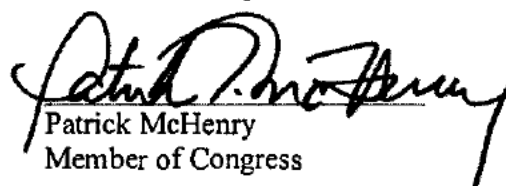
Blaine Luetkemeyer
Member of Congress



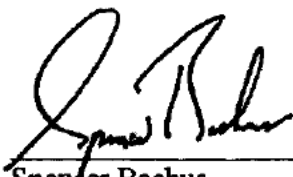
Pete Sessions
Member of Congress



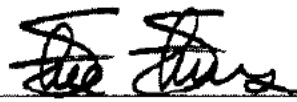
Kevin Yoder
Member of Congress



Patrick McHenry
Member of Congress



Spencer Bachus
Member of Congress



Steve Stivers
Member of Congress



Scott Garrett
Member of Congress



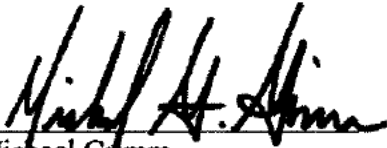
Tom Cotton
Member of Congress



David Schweikert
Member of Congress



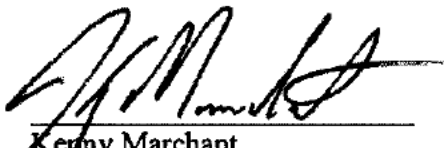
Lynn Westmoreland
Member of Congress



Michael Gamm
Member of Congress



James B. Renacci
Member of Congress



Kenny Marchant
Member of Congress



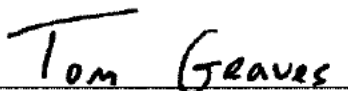
Mick Mulvaney
Member of Congress



Ann Wagner
Member of Congress



Andy Barr
Member of Congress



Tom Graves
Member of Congress



Trey Radel
Member of Congress



Pete Olson
Member of Congress



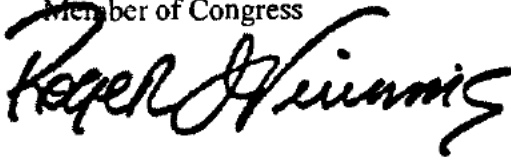
Walter B. Jones
Member of Congress



Stephen Fincher
Member of Congress



Dennis A. Ross
Member of Congress




Roger Williams
Member of Congress



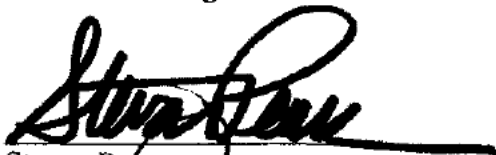
Steve Wornack
Member of Congress



Chuck Fleischmann
Member of Congress



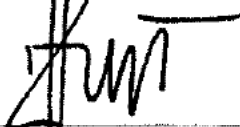
Tim Griffin
Member of Congress



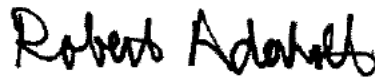
Stevan Pearce
Member of Congress



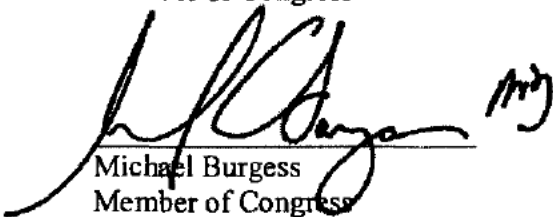
Steve Chabot
Member of Congress



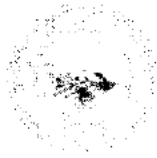
Robert Hurt
Member of Congress



Robert Aderholt
Member of Congress



Michael Burgess
Member of Congress



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 12 2013

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Luetkemeyer:

This responds to your letter to the Attorney General dated August 22, 2013, regarding online short-term lenders. We are sending identical responses to the other signatories of your letter.

The Department of Justice (the Department) shares your concerns – and those of many state attorneys general and consumer protection organizations – about bad actors in the online lending industry. As Department officials have stated publicly in several contexts, the Department will vigorously investigate those engaged in fraudulent or otherwise unlawful transactions, and bad actors who use our financial system to further their schemes. Unfortunately, American consumers are plagued by all manners of fraud, including telemarketing fraud, healthcare fraud, mortgage rescue schemes, government grant scams, vacation scams, credit repair scams, and deceptive on-line lending scams, to name a few. These schemes often are targeted at elderly and middle-class working people.

To combat this illegal activity, the Department is investigating the role played by banks and other intermediaries that stand between consumers and the offenders who seek to take their money. The Department's efforts in this regard are not targeted at any one of these scams; rather, we are targeting fraud and unlawful practices in all of them. We are particularly concerned about instances in which banks and others know or turn a blind eye to fraud against consumers, and the proceeds of that fraud passing through their accounts. Our efforts are targeted at ending unlawful practices against consumers, which are well within the Department's mandate.

The Department appreciates your letter, and we share your goal of protecting consumers. However, we wish to clarify an apparent misunderstanding regarding our efforts. Several times in your letter you refer to a quotation reported in the Wall Street Journal. The Wall Street Journal accurately reported the following quote: "We are changing the structures within the financial system that allow *all kinds of fraudulent merchants* to operate," a Justice Department official said, with the intent of "choking them off from the very air they need to survive." (emphasis added).¹ In quoting the article, your letter incorrectly substitutes "online short term

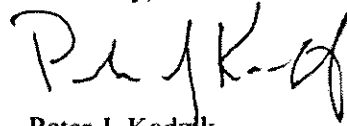
¹ Alan Zibel and Brent Kendall, "Probe Turns Up Heat on Banks," *Wall Street Journal*, August 7, 2013.

lenders” for the correct targets of our initiative – “all kinds of fraudulent merchants.” At no point did the Department’s quote in the Wall Street Journal mention online lenders. The Department seeks to combat fraud and other unlawful practices in the payment system, and our efforts are focused on all those engaged in illegal activity. We appreciate the opportunity to clarify these important points.

While we will not be able to discuss the specifics of any particular investigation, we look forward to providing your staff with a briefing of our efforts. We will contact your staff in order to schedule a briefing.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter J. Kadzik". The signature is fluid and cursive, with the first name "Peter" and last name "Kadzik" being clearly distinguishable.

Peter J. Kadzik
Principal Deputy Assistant Attorney General

KENNY MARCHANT
24TH DISTRICT, TEXAS

COMMITTEE ON
WAYS AND MEANS

SUBCOMMITTEE ON
SELECT REVENUE MEASURES

SUBCOMMITTEE ON OVERSIGHT

Congress of the United States
House of Representatives
Washington, DC 20515-4324

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IRVING, TX 75063
(972) 556-0162

May 16, 2014

The Honorable Eric Holder
Attorney General
Department of Justice
950 Pennsylvania Ave., NW Suite 5111
Washington, DC 20530-0009

Dear Attorney General Holder:

I am writing to you regarding my concerns about the Department of Justice's program, "Operation Choke Point," which was informally coined by a DOJ trial attorney during a presentation to the Federal Financial Institutions Examination Council in 2013. This operation was the subject of a letter sent by the House Committee on Oversight and Government Reform to DOJ in January, 2014, and was also addressed by various Members of Congress in a hearing of the House Financial Services Committee on April 8, 2014. It is my understanding that, in both of these contexts, Operation Choke Point has been discussed as an effort by DOJ to enforce the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) by using broad investigative powers to pressure financial institutions to stop doing business with online lenders and their third-party payment processors. The stated purpose is to combat financial fraud in a high-risk industry, but the apparent effect is an indiscriminate and heavy financial imposition upon many lawful actors whose businesses are disfavored by the DOJ. I am very concerned about the impact of Operation Choke Point on law-abiding businesses.

More disconcerting, however, are recent reports that Operation Choke Point is expanding beyond its initial scope of online lenders. Press accounts indicate that Choke Point is now pressuring financial institutions to sever ties with any businesses in a lawful industry that DOJ finds undesirable, under the guise of their being a "high-risk" for fraud. Firearms and ammunition dealers and manufacturers are among those reported to have been affected. According to the National Rifle Association, some banks and large online shopping venues (such as eBay, Craigslist, and PayPal) have stopped dealing with transactions involving firearms as a result of Operation Choke Point or similar pressure. If true, these accusations point to a troubling chilling effect on my constituents' constitutional rights. In light of these developments, I would appreciate your answers to the following questions:

1. What is the official name and description of the program described informally as "Operation Choke Point?"
2. When was Operation Choke Point proposed? How was it approved? When did

implementation of Operation Choke Point begin? Does DOJ have a planned end date for the operation?

3. Did DOJ perform an analysis of the legality, as well as costs and benefits, of Operation Choke Point with regard to law-abiding online lenders and payment processors and, if so, what were its conclusions?
4. Are the lenders targeted by operation Operation Choke Point limited to online lenders, and their payment processors, or are traditional payday advance lenders with physical sites also being, or will be, targeted?
5. How many "high-risk" persons or businesses have been targeted by Operation Choke Point? Of those, how many were operating lawful businesses? What categories of businesses or industries have been targeted by Operation Choke Point thus far?
6. How many financial institutions have been enlisted or pressured to participate in Operation Choke Point by severing ties with "high-risk" customers?
7. Does DOJ plan on, or has DOJ already been, expanding Operation Choke Point to non-lending business, such as those in the firearms or ammunition industry? If so, which industries will be targeted, on what basis, and how many persons or businesses will be targeted? Has DOJ performed an analysis of the legality of such actions and, if so, what are its conclusions? Does DOJ believe such additional actions to be authorized under FIRREA and not violate constitutional rights?
8. How much does implementation of Operation Choke Point cost in terms of actual operational costs to taxpayers as well as the impact on lawful sectors of the economy?

Thank you for your review of this correspondence and I look forward to your reply. Should you have any questions regarding this letter, please feel free to contact me, or my Legislative Director, Scott Cunningham, at (b) (6) or (b) (6)

Sincerely,



Kenny Marchant
Member of Congress

Congress of the United States
Washington, DC 20510

February 26, 2014

Hon. Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Holder:

We write today to encourage the Department of Justice (the Department) to continue a vigorous review of potential payment fraud, anti-money-laundering violations, and other illegal conduct involving payments by banks and third-party payment processors. We believe this review is particularly important to preventing banks and third-party payment processors from facilitating illegal lending, such as predatory payday lending. Stopping that facilitation, along with preventing other payment system violations, is vital to protecting consumers across the country and especially in many of the states we represent, where state laws outlaw abusive lending practices.

The nation's payment system, which clears millions of transactions every day, is the backbone of the U.S. financial and economic infrastructure. Banks and third-party payment processors play a central role in the operation of the payment system, and all Americans depend on the vigilance of banks and payment processors to ensure they do not become unwitting victims of fraudulent schemes.

Because of the importance of this task, the law obligates banks and payment processors to be on the lookout for "red flags" that may indicate a payment is improper or illegal. Department enforcement plays a critical role in ensuring banks and payment processors meet these legal obligations. Unfortunately, recent cases demonstrate the seriousness of the consequences when those obligations are not met.¹ Accordingly, we urge the Department to enforce vigorously applicable laws pertaining to payment fraud, money-laundering, and other illegal payments, and we highlight below several issues of particular concern.

For example, know-your-customer obligations are critical to ensuring that banks do not process payments for unlawful purposes, such as consumer scams, money-laundering, or unlawful

¹ See Complaint for Injunctive Relief and Civil Monetary Penalties, *United States v. Four Oaks Fincorp, Inc.*, and *Four Oaks Bank & Trust Company*, (E.D. N.C. Jan. 8, 2014), available at <http://www.courthousenews.com/2014/01/09/USvFourOaks.pdf>.

payday lending.² Many of the states we represent have passed strong consumer protection laws that require small dollar lenders to be licensed and impose caps on rates those lenders can charge, as well as other protections. Accordingly, when banks and payment processors process payments for small dollar lenders, know-your-customer due diligence should include a review of whether the lenders hold all required state licenses and lend in conformity with state laws.

We are also concerned by lenders' growing use of "lead generators" to develop business. Lead generators do not make loans but instead collect and auction a consumer's application to the highest bidder.³ In some cases, this auction process can result in predatory payday lending that does not comply with state law. In other cases, consumer information is purchased by entities that fraudulently attempt to collect "debts" the consumer does not owe. Given this history, payments that are connected to lead generation should be closely scrutinized.

High rates of returned, contested, or otherwise failed debits or the regular use of remotely created checks may also be signs of payment fraud and related violations by the banks or processors that encounter them. In some scams, fraudsters deceive consumers into believing that they are taking out a one-time loan with a one-time payment but their accounts are then repeatedly debited, even after the consumer has sought to stop payment or even closed the account.

Finally, failure to incorporate or maintain a business presence in the U.S. can also be indicative of fraud and other payment system violations, including money-laundering. The use of shell entities or other business structures that seek to evade relevant federal and state law is particularly problematic as that can make it difficult for law enforcement and regulators to do their jobs.

Banking regulators have appropriately deemed processing payments for many payday lenders as a "high risk" activity for banks.⁴ The Department plays a critical role in ensuring system-wide compliance with anti-fraud, anti-money-laundering, and related laws, especially as it applies to the unique risks associated with our payments system and we urge the Department to continue its vigorous oversight.

² See Jessica Silver-Greenberg, *Major Banks Aid in Payday Loans Banned by States*, N.Y. TIMES, Feb. 23, 2013, available at http://www.nytimes.com/2013/02/24/business/major-banks-aid-in-payday-loans-banned-by-states.html?_r=0.

³ See Carter Dougherty, *Data from Payday Loan Applicants Sold in Online Auctions*, BLOOMBERG NEWS, Jun. 8, 2012, available at <http://www.bloomberg.com/news/2012-06-08/data-from-payday-loan-applicants-sold-in-online-auctions.html>.

⁴ FDIC Financial Institutions Letters, *Payment Processor Relationships, Revised Guidance*, Jan. 31, 2012, available at <http://www.fdic.gov/news/news/financial/2012/fil12003.html>.

Thank you for your time and continued attention to this issue.

Sincerely,

Jeffrey A. Mackley

Tom Udale

Dir Dahi

Mazni K. Diano

Elizabeth Han

Richard Blumenfeld

Erle E. Cummings

Ernesto Bernal

Adrian J. Galt

John Conyers

Melanie Waters

George Miller

Ken A. Wapner

Hon. Eric Holder
Page 4

cc: Hon. Jacob Lew, Secretary of the Treasury
Hon. Richard Cordray, Director, Consumer Financial Protection Bureau
Hon. Tom Curry, Comptroller of the Currency
Hon. Martin Gruenberg, Chairman, Federal Deposit Insurance Corporation
Hon. Thomas M. Hoenig, Vice Chairman, Federal Deposit Insurance Corporation
Hon. Jeremiah O. Norton, Director, Federal Deposit Insurance Corporation
Hon. Janet Yellen, Chair, Board of Governors of the Federal Reserve System
Hon. Daniel K. Tarullo, Governor, Board of Governors of the Federal Reserve System
Hon. Sarah Bloom Raskin, Governor, Board of Governors of the Federal Reserve System
Hon. Jeremy C. Stein, Governor, Board of Governors of the Federal Reserve System
Hon. Jerome H. Powell, Governor, Board of Governors of the Federal Reserve System

SCOTT H. PETERS
52ND DISTRICT, CALIFORNIA

2410 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-0508

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-0552
December 9, 2013

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Dear Attorney General Holder:

It has come to my attention that over the last several months the Department of Justice has spearheaded a multi-agency initiative under the name "Operation Choke Point". It is my understanding that the goal of this initiative is to examine the relationship between certain depository institutions and activities that are the subject of heightened Administration scrutiny (e.g. on-line short-term lending). I applaud the Department for its vigilance in rooting out wrong doing and holding those responsible accountable. All current laws should be enforced that protect consumers from predatory actors.

However, I am concerned that the initiative unfairly targets Third Party Payment Processors (TPPPs.) It has been publically reported that a Consumer Protection Branch trial attorney has commented before the Federal Financial Institutions Examination Council (FFIEC) that the initiative is focusing on the payment system, and their attendant banking relationships, as a "relatively efficient and fast" methodology for getting at wrong doing as opposed to individualized investigations of alleged illegal acts/actors. The Department's stated rationale for approaching the issue in this manner was to "protect[] consumers *prospectively* as we [the Department] investigate" before any actual conviction based upon illegal activity.

In directing its considerable resources towards closing off key financial sector players from the electronic payments system, the Department has in some respects chosen to target technology and not the bad actors who abuse consumers. The United States has one of the most efficient financial processing systems in the world, and a vast majority of merchants who use TPPPs abide by the law. The focus on the technology/finance system can hurt users of cutting edge technology by stifling innovation, impairing product performance, decreasing access to efficient means of payment processing and increasing consumer costs.

The Department is working hard to protect consumers, but this particular strategy can have unintended consequences for entities who in no way are participating in the activities being investigated. Thank you for your dedicated service and your time and consideration with respect to this matter. I look forward to your response.

Sincerely,



Scott Peters

United States Senate

WASHINGTON, DC 20510-7012

May 13, 2014

The Honorable Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. ~~Attorney General~~ *Holder*:

I am writing to you concerning reports I have received about a Department of Justice (DOJ) program known as "Operation Choke Point." These reports suggest that Operation Choke Point was launched in 2013 in order to apprehend individuals engaged in financial fraud. As part of this program, DOJ has engaged in a series of investigations into banks that provide payment processing for money service businesses.

News organizations report that these investigations target specific industries that DOJ has deemed "high risk." Members of these targeted industries claim that DOJ's investigation is overreaching. They assert that instead of targeting criminals and preventing fraud, the operation is an attempt to force banks to break off all business relations with the so-called high risk industries.

I would like to know more about Operation Choke Point. Please provide me with written answers to the following questions:

1. What industries does DOJ consider high risk?
2. What factors were used to make the high risk determination?
3. What steps have been taken to ensure that Operation Choke Point does not have a negative impact on companies operating legally?

Sincerely,



HARRY REID
Majority Leader
United States Senate-Nevada



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 24, 2014

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

This responds to your January 8, 2014, letter to the Attorney General regarding the Department of Justice's financial fraud enforcement efforts related to financial institutions and third party payment processors that have facilitated or participated in consumer fraud.

The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), which the Department has responsibility for enforcing, provides for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions, deliberately ignoring evidence that they are fraudulent, in violation of the federal mail fraud and wire fraud statutes. Evidence relevant to such charges could include intentionally disregarding obligations under the Bank Secrecy Act, the USA PATRIOT Act, or other applicable laws. The FIRREA investigations described in your letter relate to the basic principle that a financial institution should not profit from its decision to process fraudulent transactions in violation of federal law, often at great cost to the Americans who are victims of the fraud. The goal of these investigations of financial institutions and third-party payment processors is to identify whether such entities violated their obligations under the anti-fraud laws described above. Consistent with this aim, relevant conduct may include, for instance, causing withdrawals from consumer bank accounts despite knowledge that the account holders had not consented to the withdrawals or continuing to process financial transactions for merchants that it knows do not perform any lawful business.

The Honorable Darrell E. Issa
The Honorable Jim Jordan
Page Two

We want to clarify that the Department does not target businesses operating within the bounds of the law. Assistant Attorney General Delery underscored this point in the enclosed letter to the American Bankers Association and the Electronic Transaction Association:

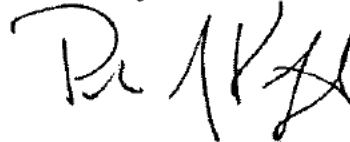
The Department has no interest in pursuing or discouraging lawful conduct. Our policy is to take the steps necessary to prevent financial institutions from knowingly assisting fraudulent merchants that harm consumers or processing transactions while deliberately ignoring evidence that they are fraudulent.

We agree, of course, that it is important for the Department's public statements to be both consistent with this policy and sufficiently clear to avoid any confusion on this point.

Our purpose is to investigate violations of federal law, especially those involving fraudulent conduct that threatens to harm the American public.¹ The Federal Trade Commission found that, in 2011, 25.6 million people—eleven percent of all adults in the United States—paid for fraudulent products and services. We want to protect the public from this mass-market consumer fraud by holding accountable those banks and payment processors that violate federal law by facilitating fraudulent transactions.

We hope this information is helpful. If we could offer greater assistance by providing a briefing to your staff, we would be happy to do so. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Principal Deputy Assistant Attorney General

cc: The Honorable Elijah E. Cummings
Ranking Member

The Honorable Matthew A. Cartwright
Ranking Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

¹ Your letter notes that certain subpoenas have requested "documents related to payment processors and/or merchant-clients that experienced a transaction return rate of *three percent* or greater in any one month period" and states that "[s]uch a criterion is wholly inappropriate to trigger a federal investigation." Letter at 3 (emphasis in the original). The subpoenas seek evidence that there has been a violation under FIRREA, as described above. Return rates are but one piece of evidence we consider to be relevant in our analysis. We agree that a three-percent return rate alone does not demonstrate fraud.

ALLYSON Y. SCHWARTZ
10TH DISTRICT, PENNSYLVANIA

COMMITTEE ON THE BUDGET
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE
MEANS 400

Congress of the United States
House of Representatives
Washington, DC 20515-3813

February 11, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I write in support of the ongoing Department of Justice (DOJ) initiative, informally known as "Operation Choke Point," to prevent banks and payment processors from allowing businesses engaged in fraud to illegally withdraw funds from consumer checking accounts. The initiative has done that by holding the banks and payment processors that serve them accountable for compliance with existing regulatory requirements in order to protect the banking network, and particularly the Automated Clearing House (ACH) system, from these abusive businesses.

The recent lawsuit brought by DOJ against Four Oaks Bank, as part of "Operation Choke Point," set forth the extensive evidence showing how the bank, aware of the illegality of its customers' conduct, allowed third-party payment processors to illegally withdraw more than \$2.4 billion from consumers' checking accounts on behalf of internet payday lenders and other merchants, including internet gambling sites and an alleged Ponzi fraud scheme. The complaint in that lawsuit cited several similar cases as examples of the vast damage wrought upon the finances of working Americans by banks that have knowingly allowed fraudulent internet payday lenders and other illegal businesses access to the banking network. The strong signal provided by those cases has greatly increased banks' vigilance over the last year.

Many payday lenders employ coercive collection tactics and charge interest rates that range from 400 percent to 1,800 percent or more, trapping borrowers in a cycle of debt and harassment. In addition to these abuses, the case against Four Oaks Bank makes clear that many internet payday lenders are also engaged in illegal activities. The internet payday lenders cited in the Four Oaks case utilized fraudulent and misleading loan agreements to illegally gain access to consumers' bank accounts, manipulated repayment withdrawals for the purpose of extending loans and racking up additional finance charges, and provided exceptionally high interest loans to residents of states where such loans are prohibited by state law.

The Automated Clearinghouse System (ACH) relies upon banks to protect consumers from those engaged in illegal activity, and I understand that in response to DOJ's recent actions banks have acted to strengthen their efforts to prevent illegal payday lenders, fraudulent telemarketers, and other unscrupulous businesses from using the ACH system to illegally withdraw funds from

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Tel: (703) 335-3200
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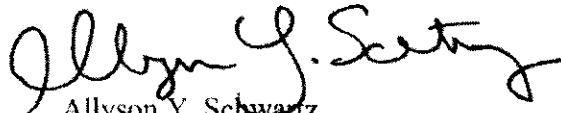
301 Oak Grove Road
Suite 212
Harrisburg, PA 17108
Tel: (717) 517-0972
Fax: (717) 517-0975

www.house.gov/schwartz

consumers' accounts. This heightened vigilance will wane if DOJ does not maintain rigorous oversight. The perception that DOJ's commitment to this issue has wavered will place more consumers at risk and jeopardize the remarkable achievements of the last year that have occurred in response to DOJ's efforts.

In addition to protecting the consumers directly impacted by illegal activity, your dedicated enforcement efforts will continue to encourage banks to fulfill their responsibilities to protect customers by eliminating access to the banking network by these entities. I applaud the recent actions you have taken, and look forward to working with you to address this critical issue. Thank you and please do not hesitate to contact me if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Allyson Y. Schwartz", with a stylized flourish at the end.

Allyson Y. Schwartz
Member of Congress



BRAD SHERMAN
UNITED STATES CONGRESS

PH: (202) 225-5911
FAX: (202) 225-5879

November 15, 2013

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder,

I write with grave concern about whether the Administration, and the Department of Justice (DOJ) in particular, respect the constitutional roles of Congress and the Executive Branch.

The role of online lenders and other short-term, unsecured, consumer lending companies is controversial. Many state legislatures have taken action that limits or prohibits certain business models. I have served on the House Financial Services Committee for 17 years and we have reviewed many proposals, and some of the limitations I would like to see on these consumer lenders have not been adopted.

I cosponsored the Dodd-Frank Wall Street Reform and Consumer Protection Act, which gives substantial power to regulate these lenders to the Consumer Financial Protection Bureau (CFPB). Thus Congress, state legislatures, and the CFPB are legally authorized to determine what rules apply to consumer lenders and to prohibit practices that are not in the interest of consumers.

As much as I would like to see stronger regulation of consumer lenders, I've sworn to uphold the U.S. Constitution. Accordingly, I must oppose efforts to "legislate by prosecution" and legislate by "criminal investigation," even if I agree partly or completely with the ultimate substantive aim.

I cite an article from the American Banker dated August 22, 2013, which states: "The DOJ and FDIC, in particular, are seeking to use threats and coercion to convince community banks and processors [including third-party payment processors] to cease doing business with online lenders. In the case of the DOJ, there is the prospect of expensive litigation. Such costs cause a financial institution to enter a settlement agreement to stop the bleeding."

I ask that you please assure me that your Department is not engaged in trying to prohibit certain consumer loans, or to prevent loans from taking place at certain interest rates, by trying to prevent financial services firms, banks, and third-party payment processors from doing business with those who are engaged in legal practices (even if you and I would want those practices to become illegal). Depository institutions and third party payment processors are part of the back



bone of our modern financial system. They should be subject to criminal investigation only when there is a suspicion that they have engaged in illegal activity.

Your department should conduct criminal investigations for the purpose of enforcing the laws we have – not the laws you (and I) might wish we had.

I would appreciate it if you or a senior official at the DOJ could call me to let me know whether the charges made in the American Banker article, and which I am hearing from other sources as well, are accurate. I would also like to discuss with you or your senior staff the general philosophy of the DOJ – do you use your prosecutorial power solely to enforce existing laws, or do you also use your powers to try to prohibit activities which *ought to be* illegal.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Brad Sherman", with a long horizontal flourish extending to the right.

Brad Sherman

MARK R. WARNER
VIRGINIA

United States Senate

WASHINGTON, DC 20510-4606

2014 MAR 10 PM 4:21

February 18, 2014

277-7331
COMMITTEES:
BANKING, HOUSING, AND
URBAN AFFAIRS
COMMERCE, SCIENCE, AND
TRANSPORTATION
BUDGET
RULES AND ADMINISTRATION
INTELLIGENCE
JOINT ECONOMIC COMMITTEE

Ms. M. Faith Burton
Acting Assistant Attorney General for Office of Legislative Affairs
Office of Legislative Affairs
U.S. Department Of Justice
950 Pennsylvania Avenue, Nw, Room 1145
Washington, DC 20530-0001

Dear Ms. Burton,

I have recently been contacted by several of my constituents (6) concerned about regulations related to automated clearing house systems. Attached, please find sample copies of their correspondence. I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER
United States Senator

MRW/lis
Enclosures

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Date: 2/9/2014

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February 8, 2014

The Honorable Mark Warner
United States Senate
State Capitol, 3rd Floor
Richmond, VA 23219

Dear Senator Warner,

As your constituent, I want to urge you to take immediate action against wreckless U.S. Department of Justice Attorneys, NACHA and New York State's Superintendent of Financial Services, Benjamin Lawsky as they usurp Federal law, harm millions of every day Americans like myself, discriminate against tribal-owned businesses and devastate the economies of dozens of tribal communities.

In early August, Mr. Lawsky ordered tribal-owned small dollar lenders to cease offering loans in New York. In doing so, and with the assistance of the Department of Justice and NACHA, the electronic payments association, unlawfully threatened 117 banks to choke off these tribal lenders from the automated clearing house system, the bank-supported network that handles electronic bank account debits.

Even the FDIC cites that 51 million adults, 1 in every 5 households, rely on alternative financial services like those provided by these legal, licensed tribal-owned lenders.

Again, I urge you to take immediate action to help stop these wreckless regulators as they take away options from families like mine. I'm ashamed that these government employees are allowed to ignore the Constitution and discriminate against a proud people whose sovereign rights predate even the United States.

Please reply to me with your position on these issues. Your actions will have a major impact in my future voting decisions.

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Date: 2/7/2014

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February 7, 2014

The Honorable Mark Warner
United States Senate
State Capitol, 3rd Floor
Richmond, VA 23219

Dear Senator Warner,

As your constituent, I want to urge you to take immediate action against wreckless U.S. Department of Justice Attorneys, NACHA and New York State's Superintendent of Financial Services, Benjamin Lawsky as they usurp Federal law, harm millions of every day Americans like myself, discriminate against tribal-owned businesses and devastate the economies of dozens of tribal communities.

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Please reply to me with your position on these issues. Your actions will have a major impact in my future voting decisions.

Sincerely,

(b) (6)

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(b) (6)

Date: 2/7/2014

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February 7, 2014

The Honorable Mark Warner
United States Senate
State Capitol, 3rd Floor
Richmond, VA 23219

Dear Senator Warner,

As your constituent, I want to urge you to take immediate action against reckless U.S. Department of Justice Attorneys, NACHA and New York State's Superintendent of Financial Services, Benjamin Lawsky as they usurp Federal law, harm millions of every day Americans like myself, discriminate against tribal-owned businesses and devastate the economies of dozens of tribal communities.

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Please reply to me with your position on these issues. Your actions will have a major impact in my future voting decisions.

Sincerely,

The Leadership Conference
on Civil and Human Rights

1629 K Street, NW
10th Floor
Washington, DC
20006
202.466.3311 voice
202.466.3435 fax
www.civilrights.org



January 22, 2014

The Honorable Eric Holder
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave
Washington, DC 20530

Re: Preventing fraudulent transactions and protecting consumers

Dear Attorney General Holder:

On behalf of The Leadership Conference on Civil and Human Rights and Americans for Financial Reform, we write to express our support for the Department of Justice's ongoing efforts to ensure that parties involved in electronic consumer financial transactions are working together to prevent fraud and to protect consumers. The Department's recent complaint against Four Oaks Bank & Trust demonstrated the extent to which fraudsters can abuse consumers when key safeguards designed to protect these payment networks are ignored – and the troubling facts in this case provide ample justification for the Department to continue devoting significant resources to enforcement in this area.

Consumers receive considerable benefit from the ability to conduct transactions electronically. Millions of Americans pay their mortgages, car payments, utility bills, and other payments using electronic payment networks such as the ACH system. The integrity of this system, however, hinges on a series of safeguards that are designed to make sure that when a merchant seeks to take money out of a consumer's account, the correct authorizations are in place to debit the correct amount at the correct time.

In most cases, the financial institutions that process payments on behalf of third-party payment processors and interface with the bank where a consumer's account is held are responsible actors, as they closely monitor the behavior of payment processors and the merchants that contract with them. In these circumstances, the necessary safeguards are in place to ensure that the recipient of a consumer's funds is an honest business, and that all applicable state and federal laws are being followed.

Yet when required safeguards are ignored, consumers' bank accounts are left exposed to transactions initiated as part of internet scams, abusive debt settlement fees, online gambling, illegal online payday loans, or other practices that are prohibited under federal and state law. Perpetrators of these frauds do not need a physical check to access a consumer's wages, retirement income, or other income; they simply need a routing number and an account number.

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National Education Association
Randi Weingarten
American Federation of Teachers

Policy and Enforcement
Committee Chair
Michael Lieberman
Anti-Discrimination League
President & CEO
Wade J. Henderson
Executive Vice President & COO
Karen McGill Lawson



In the case of Four Oaks Bank & Trust, the bank demonstrated a shocking disregard for its legal obligations to prevent fraud. The complaint showed how the bank allowed a payment processor to bypass bank internal controls, which resulted in abnormally high return rates. The complaint also showed that the bank disregarded knowledge that some merchants were changing names or operating off shore in an effort to avoid scrutiny or to evade consumer protection laws. Even after being notified by NACHA that some transactions violated payments rules, Four Oaks Bank & Trust continued to process payments for the processor involved.

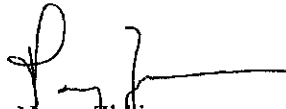
While the vast majority of transactions processed through national payment networks are legitimate, continued scrutiny of payments networks and the payment processors and banks that use them is critical to preventing money laundering, fraud, and abusive transactions. We strongly support the ongoing efforts at the Department of Justice to ensure that fraudsters are prevented from gaining unfettered access to consumers' bank accounts, and we look forward to vigorous enforcement actions by the Department in the future.

If you have any questions, please feel free to contact any of us, or Senior Counsel Rob Randhava, at (202) 466-3311.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President



Lisa Donner
Executive Director
Americans for Financial Reform