The Delaware Bay Company LLC

"Let the people know the facts . . . and the country will be safe." - A. Lincoln

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What are they waiting for?

"*We have to make clear that* (conservatorship) *is transitory, because otherwise it looks like nationalization."*
-- President Bush to Treasury Secretary Paulson, Thursday, September 4, 2008, in the Oval Office.

"They (aren't going to be allowed to) repay their debt and escape . . ."
-- A senior advisor to President Obama, in an August 18, 2012 email explaining the purpose of the Net Worth Sweep.

The **Federal Housing Finance Agency** ("FHFA") published its 2023 **Fannie Mae** and **Freddie Mac** stress tests last month and as one publication put it, the two companies "aced" them.

They indicate that the GSEs would earn $9.9 billion under the "Severely Adverse" scenario, which assumes a whopping *38 percent* decline in residential housing values (yikes!); a 40 percent drop in commercial real estate; an eight percent decline in GDP, and an unemployment rate of 10 percent. Those are extremely conservative assumptions when you consider that the largest residential housing price decline in the country's history was during the 2008 financial crisis (down 27½ percent according to the S&P/Case-Shiller U.S. National Home Price Index).

Imagine that. A *38 percent* drop in housing prices – and even under that draconian scenario, Fannie and Freddie remain profitable and neither would need a dime of government support. Indeed, **Don Layton**, installed by the government as CEO of Freddie Mac from 2012 until his retirement in 2019, recently commented that the "de-risking" of the GSEs has progressed to the point that *"given the existing level of capital at the two companies, the probability of taxpayers having to inject more funds into the GSEs is approaching levels that I believe are so small they cannot be statistically measured."*

In the meantime, today marks the 15th anniversary of the conservatorships – which then Treasury Secretary **Henry Paulson** referred to as a "temporary time out". Fannie and Freddie have been profitable since 2012 (in July, they announced earnings of $8.6 billion for the second quarter of this year). They have paid over $90 billion in corporate income taxes to Uncle Sam over the past decade and have piled up a record $111 billion of equity. "Reforms" critics insisted were necessary have long-since been enacted. As Fannie Mae CEO **Priscilla Almodovar** commented on her company's most recent quarterly earnings call, *"today Fannie Mae has been transformed. Fannie Mae is safer and stronger, thanks to years of work to improve the resiliency of our business and our steadfast focus on strong risk management."* Indeed, it has been suggested that freed from conservatorship, Fannie and Freddie might likely be assigned a higher credit rating than the U.S. government itself.

The purpose of a conservatorship is to preserve and conserve the assets of an enterprise, restore it to financial health, and then return it to its owners. Under capitalism and our free enterprise system, the government is not supposed to be in the business of owning private, profit-making companies. Respect for private property rights is a bedrock principle of our democracy and is enshrined in our constitution.

Clearly it is time to ask why these companies – whose tenure as wards of the state has now outlasted even the conservatorship of pop star **Britney Spears** – should not be released. Tens of thousands of shareholders (many of whom are Fannie and Freddie retirees now in their eighties) – as well as the companies' 16,000 employees – rightfully want to know: *"when do we get our companies back?"*

Once Treasury formally admits that the $191 billion it advanced Fannie and Freddie during the financial crisis has been fully repaid[1] (with a profit of over $100 billion – clearly the best deal for the taxpayer since the Louisiana Purchase), FHFA Director **Sandra Thompson** can release them pursuant to a consent decree which could set in stone whatever safety and soundness measures she deems appropriate. This would allow the companies to go to market and raise whatever additional capital FHFA might require. It would also allow the government to monetize its warrants; some analysts assert they could be worth yet another $100 billion.

Mr. Layton and Republicans in congress have called upon the Administration to free Fannie and Freddie. They have been echoed by the former head of the FDIC, **Sheila Bair** as well as by the man who signed the papers putting Fannie and Freddie into conservatorship in the first place: **James Lockhart**, former head of FHFA. Others include the **Independent Community Bankers Association** (*"perpetual conservatorship is simply not sustainable over the long term*") and even **Dave Stevens**, former head of the **Mortgage Bankers Association** (and a long-time critic of the GSEs). Indeed, the evidence is overwhelming: *there simply is no legitimate reason for keeping these companies in conservatorship any longer*.

Meanwhile, a jury verdict last month should resolve any doubt that Fannie and Freddie shareholders deserve to get their companies back. On August 14, a **District of Columbia** jury found the government acted in *bad faith* in 2012 when it imposed the Net Worth Sweep. The NWS, you will recall, changed the government's 10 percent dividend to one equal to *100 percent of their profits* (in perpetuity, no less!) And it did this just after the companies resumed showing black ink. If it wasn't obvious before, the jury's unanimous verdict should make clear that shareholders possess the moral high ground here.

So, Mr. President, what are we waiting for? Shareholders have been waiting 15 years to have their ownership rights restored. You've put an end to "forever" wars; how about doing the same to "forever" conservatorships?

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[1] This had already been confirmed on May 18, 2019 by then Counsellor to the Treasury Secretary **Craig Phillips**.