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Statement by Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force, Glenn Theobald, Before the FCIC

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**Statement of Chief Glenn Theobald,
Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force
to the Financial Crisis Inquiry Commission
January 14, 2010**

Good morning Mr. Chairman, Vice Chairman, and Members of the Committee. I want to thank you for the opportunity to testify before you today about the Miami-Dade Police Department's (MDPD) efforts to combat Mortgage Fraud. Facing a wave of Mortgage Fraud investigations, Miami-Dade County Mayor Carlos Alvarez established the Mayor's Mortgage Fraud Task Force in September 2007. This public/private partnership uses a comprehensive approach that blends legislative change, prevention, enforcement, regulation, and prosecution to reduce Mortgage Fraud and prevent victimization of individuals and businesses.

The Scope of the Problem:

According to the Financial Crimes Enforcement Network (FinCEN) Mortgage Fraud is one of the fastest growing white collar crimes in the United States. From 2006 to 2007, Florida held the dubious distinction of ranking first in the nation in Mortgage Fraud, according to the Mortgage Asset Research Institute (MARI). Miami-Dade County, in particular, leads the state in incidents of Mortgage Fraud, and ranks in the top five major metropolitan areas hit by that crime.

The number of suspicious activity reports from financial institutions, as reported by the FinCEN, more than tripled from 17,127 in 2004 to 64,717 in 2008. MARI estimates that 70 to 80 percent of all foreclosures contain some type of Mortgage Fraud, so it seems clear that foreclosures and Mortgage Fraud are intertwined to some degree. In both 2007 and 2008, Florida ranked second in the nation in foreclosures, with Miami-Dade again being the hardest hit area in the state.

Traditionally, the FBI and the Housing and Urban Development Inspector General's Office handled Mortgage Fraud investigations. In many areas, though, the FBI's threshold for handling cases is set at certain dollar amounts, and cases that fall below the thresholds must be handled at a local level. The FBI Miami Office, for instance, had a \$1 million threshold that 98 percent of cases did not meet. Compounding the problem was the fact that no state statute existed to address Mortgage Fraud as a crime, and local law enforcement investigators and prosecutors did not have sufficient knowledge, experience, or training in taking on Mortgage Fraud cases.

**Statement of Chief Glenn Theobald,
Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force
to the Financial Crisis Inquiry Commission
January 14, 2010
Page 2**

The Scope of the Problem (Continued):

In addition, the combination of questionable mortgage industry professionals, the lack of appropriate resources for state regulators to accomplish the legal mandates of their office, and the relaxed lending requirements by lending institutions led to a rapid increase in Mortgage Fraud that has had a detrimental effect on Miami-Dade County, Florida, and the entire country.

Miami-Dade's Response:

Because local law enforcement lacked the authority and tools to investigate and charge subjects with Mortgage Fraud, the Task Force drafted and lobbied for the passage of Florida State Statute 817.545, which allowed local law enforcement throughout the state to arrest perpetrators for the crime of Mortgage Fraud. This legislation formed the cornerstone of the Task Force; nevertheless, a multifaceted approach was necessary because the Mortgage Fraud crisis was not created by one or two different components gone wrong, but by an entire breakdown of the real estate industry.

To address the various strategies for reducing Mortgage Fraud, the Miami-Dade Police Department consulted key stakeholders, including county and state elected officials, politicians, leaders of local government, business executives, law enforcement professionals, and prosecutors, and formed five committees:

1. **Law Enforcement**—Detects, investigates, apprehends, and prosecutes Mortgage Fraud subjects and enterprises. The committee comprises largely investigators and supervisors of the Miami-Dade Police Department's Economic Crimes Bureau (ECB). ECB detectives work with other local, state, and federal law enforcement to solve cases and apprehend subjects. The State Attorney General's Office, U.S. Attorney's Office and the Miami-Dade Attorney's Office prosecute the cases in the respective courts.
2. **Legislative**—Enhances current laws and creates new laws and ordinances. Several Task Force members are state legislators who have assisted in sponsoring and passing state laws to achieve the Task Force's goals.
3. **Regulatory**—Enhances and enforces state regulations on all parties involved in a mortgage transaction.

**Statement of Chief Glenn Theobald,
Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force
to the Financial Crisis Inquiry Commission
January 14, 2010
Page 3**

4. **Business Partnership**—Creates and transmits effective business practices and an ethical code of conduct to enhance cooperation with law enforcement and different professions involved in a mortgage to attack the problem and stop fraudulent loans from being written.
5. **Education**—Helps law enforcement, prosecutors, and industry professionals to build awareness about Mortgage Fraud through extensive community visibility and guest-speaking events, news conferences for major sweeps, arrests, and new legislation.

The Results of the Program:

To date, Mayor Carlos Alvarez' Mortgage Fraud Task Force is one of the few public/private task forces at the county level in the United States and it has had a tremendous impact in the way Mortgage Fraud is viewed in Florida. The Law Enforcement Committee has shouldered much of the burden in achieving this goal. To date there have been several thousand reports and inquiries and currently 682 investigations are active. The ECB has made more than 189 felony arrests for Mortgage Fraud and related charges, which represent more than \$60 million in losses. We have created a training manual and trained more than 400 investigators and prosecutors in Florida.

Legislation: The Legislative Committee and Task Force Chair Glenn Theobald crafted new legislation and enhanced Florida State Statute 817.545: House Bill 743, sponsored by Representative Carlos Lopez-Cantera, and Senate Bill 1116, sponsored by Senator Gwen Margolis (both Task Force members), passed the Florida House and Senate unanimously, was signed into law by Governor Charlie Crist, and became effective July 1, 2008. The enhanced Florida State Statute 193.133 requires law enforcement to notify the County Property Appraiser's Office of an affected property when there is probable cause that a Mortgage Fraud has occurred. The Property Appraiser's Office is required to reevaluate both the effected property and the properties around the particular home or condominium. This will reduce the taxes of all properties affected by the fraud, not only the individual property involved in the scheme. House Bill 743 also enhanced Florida State Statute 817.545 by making a Mortgage Fraud of more than \$100,000 a second- degree felony.

**Statement of Chief Glenn Theobald,
Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force
to the Financial Crisis Inquiry Commission
January 14, 2010
Page 4**

Legislation (Continued): In 2008, at the federal level, House Resolution 6853, the Nationwide Mortgage Fraud Task Force Act of 2008 sponsored by Congressman Kendrick Meek, was passed in the U.S. House of Representatives 350–23, amended as the Nationwide Mortgage Fraud Coordinator Act of 2008. It ran out of time in the Senate, but was filed again on January 14, 2009, as HR 529, the Nationwide Mortgage Fraud Task Force Act of 2009. The legislation sought to create a nationwide program modeled after the Miami-Dade Mortgage Fraud Task Force to address Mortgage Fraud in the United States. On May 20, 2009, President Obama signed Public Law 111-22, a sense of congress, encouraging the creation of a Nationwide Mortgage Fraud Task Force. The Act, S-896, was sponsored again by Congressman Meek and Senator Bill Nelson.

Regulation: Following the recommendations of the Task Force's Regulatory Committee, the Florida Office of Financial Regulation and the Department of Business and Professional Regulation enacted regulations to expedite emergency hearings to suspend the licenses of real estate agents and mortgage brokers involved and arrested for Mortgage Fraud or other related fraud. The immediate suspension will prevent the agent or broker from victimizing unsuspecting home purchasers. Regulations also require background checks and licensure for all loan originators. Additionally, a complete overhaul of the state statute regulating the mortgage industry was in this year's legislative package.

Additional accomplishments: The Business Partnership Committee created real estate best practices manual to distribute to Miami-Dade County realtors. The committee also sought and received private funding from Florida bankers and other professions involved in the mortgage business to assist in financing the costs involved in investigating and prosecuting Mortgage Fraud.

The Education Committee created a public complaint form with web site access to report Mortgage Fraud. It is on the mayor's web site at www.miamidade.gov/mayor. There is also an established data base of speakers available to appear at engagements and speak on behalf of the Mayor's Task Force. Additionally, an aggressive media campaign to educate the public and prevent victimization has been undertaken.

**Statement of Chief Glenn Theobald,
Chairman of Mayor Carlos Alvarez Mortgage Fraud Task Force
to the Financial Crisis Inquiry Commission
January 14, 2010
Page 5**

Conclusion:

Mr. Chairman, the Task Force is committed to making a difference in the quality of life of the citizens of Miami-Dade County by reducing the number of incidents of Mortgage Fraud. Although this is a tremendously large problem in the United States, the steps that have been taken in Miami-Dade can be duplicated elsewhere in Florida and throughout the United States.

The Task Force's comprehensive multidisciplinary approach that has proven to be successful in Miami-Dade County is being sought as a model for attacking Mortgage Fraud in the United States. The Mortgage Fraud Task Force and its accomplishments can provide a solution to the national financial crisis. With the Task Force model, hard work and perseverance by dedicated public servants and industry professionals can unravel the mess that was created by greedy lenders and fraudsters.

I look forward to working with you and other members of this committee on solving this serious threat to our nation's economy. Thank you for allowing me the opportunity to testify before you today. I look forward to taking your questions.