Written Testimony on Auction Rate Preferred Securities
September 18, 2008 in front of the Committee on Financial Services
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1. Company Background
   Sherr Development Corporation is a Michigan based real estate company that has been creating construction and retail-related jobs since the mid-1980s.

2. Why We Purchased the Auction Rate Preferred Securities
   In March of 2005, our company completed and sold a number of retail projects. At that point, we had an unusually large cash position in excess of forty million dollars. Our intent was to park those proceeds for a relatively short period of time, intending to pay capital gain taxes and then redeploy those funds in other projects as opportunities were identified. Our goals for these funds were safety and liquidity. We made those goals clear to Comerica Bank, which has served as our corporate and family banker for over sixty years. Comerica recommended the purchase of specific auction rate securities as a prudent place to park funds. Comerica sold these securities as cash equivalents. There was no disclosure of any risk to liquidity or value.

   The names of the auction rate preferred securities (ARPS) that we currently own and the current dollar amounts are listed below:

Advent Claymore Income Fund	$2,500,000
Blackrock Preferred Income Strategies Fund Inc.	$ 750,000
Calamos Convertible Opportunities & Inc. Fund	$ 675,000
Cohen & Steers Select Utility Fund	$2,500,000
Dreman Claymore Dividend & Income Fund	$2,500,000
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Ing Clarion Global Real Estate Income Fund	$1,950,000
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	$15,325,000

3. End of Liquidity
   In February of this year, we were stunned to learn that, as a result of the freezing of the market for ARPS, our funds placed by Comerica were no longer available to support ongoing business operations. In May, after waiting for Comerica to offer a solution, we requested the bank to follow through and give us the liquid investment that we purchased. Even though Comerica selected the specific funds and earned a healthy commission, they refused to shoulder any responsibility for their misrepresentation. Notwithstanding additional correspondence to date, Comerica has repeatedly refused to repurchase our securities or participate in any settlements encouraged by regulators.

4. How Our Firm and the Economy is Harmed
   Having cash on hand provides an important competitive advantage for a firm our size. It allows us to move quickly and pursue projects we may otherwise not have a chance to do. Moreover, to the extent real estate opportunities we pursue create jobs in America, the liquidity of our company's balance sheet is important to stability and growth of the economy in general. It may be of interest that, in the past, Sherr Development has completed more than twenty-five residential and commercial projects with an aggregate value in excess of $250 million. As a result, thousands of jobs have been created, and millions of dollars in taxes have been paid.

5. Impact on Michigan's Economy
   As you know, the Michigan economy is facing very difficult times. Comerica's failure to fully correct the illiquid condition at our company has directly contributed to the tough times in Michigan. One investment, for example, that we would have pursued is the development of a large community shopping center in the City of Detroit. It would have provided needed retail services for people living in the area along with providing 100s of high-paying construction jobs, and 100's of permanent retail positions. Because our funds are still locked up in these ARPS, we were not able to make a rapid decision and make an offer without a typical finance contingency. As of now, it appears that the development site will remain undeveloped. Residents in the area will drive unnecessarily long distances for groceries and other goods they need while others in the region may remain unemployed or underemployed.

6. Public Policy Implications
   Comerica Bank has $60 billion in assets, more than $5 billion in equity, and ranks as one of the top twenty largest banks in the country. Comerica advertises that it puts its customer's interests first and has 100s of retail branch locations to attract depositors and make loans to customers. Unlike Goldman Sachs, Merrill Lynch, or UBS, Comerica is a bank trusted to sell safe products designed to protect customers rather than make them rich. Comerica's customers have a good reason to hold them to a higher fiduciary standard of care than the standard applicable to the fast-paced world of investment banking.

   Comerica sold more than two billion dollars of ARPS to individuals, municipalities and other firms like ours that pay taxes and create jobs. Clearly, given the resources and sophistication of the bank, they should have understood and accurately communicated the type of securities that they were selling in large volumes. If they had advised us, and their other customers, of the true nature of these securities, they would not have been purchased as money market instruments. Like any retailer, they should be held responsible for misrepresenting the nature of what they sold.

   It is important to note that judicial remedies alone are not sufficient here. If we and thousands or other individuals, firms, and municipalities that own auction rate

securities, are forced to go to court for justice and wait months if not years to be heard, our economy will suffer in both the short and long term. In the short term, without access to our funds, we and other firms cannot create desperately needed jobs. In the longer term, trust and confidence in the banking and regulatory system, which is already facing a critical challenge, will be further eroded.

7. Proposed Solution

Perhaps Banks should loose their franchise if they refuse to make their customers whole from losses stemming from patent misrepresentation of investment products. Banks should either "stick to their knitting" and focus on serving their customers with plain vanilla loan and deposit products or acquire the appropriate intellectual and managerial resources if they are to sell instruments or products they do not presently understand.

We hope that Congress will understand that Comerica's and other security dealers' sale of these investments has significantly undermined the integrity of the American markets. Billions of dollars of these securities were sold to Americans who were expressly looking for safety and liquidity – they wanted cash equivalents. But these investments were grossly misrepresented to them by financial institutions who were legally obligated to make proper disclosures. Now thousands of Americans are left holding the bag. Congress must act now to remedy this problem and have institutions such as Comerica live up to their obligations.