

Testimony of  
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before

The U.S. House Committee on Financial Services

“Protecting Consumers and Promoting Competition in Real  
Estate Services”

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Chairman Oxley, Ranking Member Frank, and Members of the Committee, thank you for inviting me here today to offer my views on consumer protection and competition in real estate services. It's good to see so many old friends. Let me assure those old friends that while much has changed in the 4 and a half years since I left Congress, I have not lost my fondness for brevity.

The enactment of the Gramm-Leach-Bliley financial modernization law in 1999 was a singular event in the nation's financial history. It did away with many of the rules and regulations that hampered economic growth in the financial services industry.

One of -- if not THE -- central aspects of the Act was the creation of a new category of financial institutions known as “financial holding companies (“FHCs”),” the logical successors to simple “holding companies” under the Bank Holding Company Act. These new FHCs were given the authority to engage in a full range of activities – that is, “activities that are [quote] “financial in nature or incidental to financial activity” [endquote] -- that were impermissible under Glass-Steagall. As our Committee Report said in 1999, “permitting banks to affiliate with firms engaged in financial activities represents a significant expansion from the current requirement that bank affiliates may only be engaged in activities that are closely related to banking.”

Gramm-Leach-Bliley was supposed to put to final rest the issue of bank agency powers. Congressman Leach and I had

numerous discussions in various forums on the mixing of banking and commerce. The collective wisdom of Congress in Gramm-Leach-Bliley was to generally prohibit any mixture of commerce and banking, to strictly limit certain activities with a significant underwriting risk – such as insurance underwriting and real estate development – and to allow banking competition in agency and brokerage activities.

There is a reason that Congress specifically walled off real estate development and investment. It's not that we forgot about real estate brokerage or had never heard from the realtors. No, we intentionally drew the line at financial activities that put bank capital at risk, while leaving brokerage activities open, fully expecting that real estate brokerage would ultimately be part of that group. This was a careful compromise as we went from

allowing a basket of bank-commercial activities to walling off each activity Congress did not want banks to engage in.

In fact Gramm-Leach-Bliley specifically directed the Federal Reserve Board and Treasury to periodically bring in new activities that are financial in nature or incidental to a financial activity, for example because “such activity is necessary or appropriate to allow a financial holding company ...to... compete effectively with any company seeking to provide financial services in the United States.” We knew it was coming and created the mechanism to keep the system dynamic.

We could have outlawed any number of other activities. We did not. That’s largely because we didn’t want the Act to become outdated before the conference report was even signed. In an era of amazing technological innovation and change, we

consciously chose to make the law flexible, to allow the functional regulators – with appropriate statutory guidance -- to define what specific activities should be permissible.

Thank you, Mr. Chairman for the opportunity to be here today. I also want to thank you and other Members of the Committee for seeking to uphold the deregulatory intent of Gramm-Leach-Bliley.

I'm not accustomed to being a witness, so let me use a line from my days giving press conferences as Mayor of Richmond: I'd be happy to dodge any questions you may have.