

## JONES DAY

555 SOUTH FLOWER STREET • FIFTIETH FLOOR • LOS ANGELES, CALIFORNIA 90071.2452

TELEPHONE: +1.213.489.3939 • FACSIMILE: +1.213.243.2539

DIRECT NUMBER: (213) 243-2382  
BBENNETT@JONESDAY.COM

November 4, 2021

### *Via CM/ECF*

Peter R. Marksteiner  
Circuit Executive & Clerk of Court  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, D.C. 20439

Re: FRAP 28(j) Letter filed by Plaintiffs-appellants in No. 20-1934  
Regarding *Bhatti v. Fed. Hous. Fin. Agency*, No. 18-2506 (8th Cir. Oct.  
6, 2021)

Dear Mr. Marksteiner:

The plaintiffs-appellants (“Shareholders”) write to advise the Court of the decision in *Bhatti v. Fed. Hous. Fin. Agency*, No. 18-2506, 2021 WL 4558312 (8th Cir. Oct. 6, 2021).

In *Bhatti*, the Eighth Circuit recognized that *Collins* controlled and reversed the district court’s ruling dismissing the shareholders’ separation of powers claims for lack of standing. Specifically, the court determined that the shareholders had standing because “the relevant action in this case is the third amendment, and [ ] the shareholders’ concrete injury flows *directly from* that amendment.” *Bhatti*, 2021 WL 4558312 at \*1 (quoting *Collins v. Yellen*, 141 S. Ct. 1761, 1779 (2021) (emphasis added)).

As the Shareholders explained in their *Joint Supplemental Brief Regarding Collins* [ECF 75], the determination that shareholders have a “concrete injury [that] flows *directly from*” the Net Worth Sweep directly supports the Shareholders’ explanations of why they have direct claims. Jt. Supp. Br. 9. The Shareholders alleged that the Net Worth Sweep transferred their ownership rights including their rights to dividends and a liquidation preference, in which they have a “direct personal interest,” to the government. Because this injury is entirely separate from,

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and independent of, any injury to Fannie Mae and Freddie Mac themselves, this gives rise to a “distinct injury.” *Id.* at 9–10. And moreover, the Shareholders seek money damages for themselves. *Bhatti* confirms that, under *Collins*, these allegations establish that the Net Worth Sweep directly injured Shareholders.

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Respectfully,

/s/ Bruce S. Bennett

Bruce S. Bennett

JONES DAY

555 South Flower Street Fiftieth Floor

Los Angeles, California 90071

Telephone: (213) 489-3939

Facsimile: (213) 243-2539

bbennett@jonesday.com

– and –

Lawrence D. Rosenberg

C. Kevin Marshall

JONES DAY

51 Louisiana Avenue, N.W.

Washington, D.C. 20001

Telephone: (202) 879-3939

Facsimile: (202) 626-1700

ldrosenberg@jonesday.com

ckmarshall@jonesday.com

*Counsel for Plaintiffs-Appellants Owl  
Creek Asia I, L.P., Owl Creek Asia II, L.P.,  
Owl Creek I, L.P., Owl Creek II, L.P., Owl  
Creek Asia Master Fund, Ltd., Owl Creek  
Credit Opportunities Master Fund, L.P.,  
Owl Creek Overseas Master Fund, Ltd.,  
Owl Creek SRI Master Fund, Ltd.; Mason  
Capital L.P., Mason Capital Master Fund  
L.P.; Akanthos Opportunity Fund, L.P.;  
Appaloosa Investment Limited Partnership  
I, Palomino Master Ltd., Azteca Partners  
LLC, Palomino Fund Ltd.; and CSS, LLC*

cc: Counsel of record (via CM/ECF)

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS**

**Case Number:** 20-1934; 20-1936; 20-1938; 20-1954; 20-1955

**Short Case Caption:** Owl Creek Asia I, L.P. v. U.S.

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Date: 11/04/2021

Signature: /s/ Bruce S. Bennett

Name: Bruce S. Bennett