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**WRITTEN TESTIMONY OF MARK S. ANDERSON, ESQ.**

**Anderson Bowman PLLC**

Before the

**New York State Senate Standing Committee on Codes**

and

**Senate Standing Committee on Consumer Protection**

Public Hearing on New York’s Criminal and Civil Fraud Statutes:

Practices and Impacts on Consumers, Workers, and Businesses

**March 4, 2026**

**I. Introduction**

Good morning, Chairperson Myrie, Chairperson May, and distinguished members of the Committees. My name is Mark Anderson, and I am a founding partner of Anderson Bowman PLLC, a litigation firm based in Kew Gardens, New York. I am grateful for the opportunity to address the Committees on a matter of grave importance to New York homeowners, creditors, and the public fisc.

My firm has been at the forefront of litigation exposing a systematic and coordinated scheme by certain foreclosure law firms, mortgage servicers, and financial institutions to inflate foreclosure judgments through unlawful interest calculations—defrauding homeowners, creditors, and government entities out of hundreds of millions of dollars across New York State.

**II. The Fraudulent Scheme: Inflated Foreclosure Judgments**

At its core, the scheme involves the deliberate use of unlawful interest calculation methods in foreclosure proceedings. New York law is clear: under the New York Civil Practice Law and Rules (“CPLR”) and forms promulgated by the New York Office of Court Administration (“OCA”), foreclosing plaintiffs are entitled to interest at the note rate until the Judgment of Foreclosure and Sale is entered, and at the statutory default rate thereafter. Post-judgment interest is to be calculated on the principal balance pursuant to the note or mortgage from the date of the Referee’s computation to the date of judgment.

Despite these clear directives, multiple foreclosure law firms have systematically calculated interest using compounding or other impermissible methodologies, resulting in artificially inflated judgment amounts. Internal firm training materials obtained in our litigation explicitly direct employees to calculate foreclosure judgment interest in a manner inconsistent with the CPLR—producing inflated and improperly compounded interest figures.

These inflated judgment figures then serve a dual fraudulent purpose: (1) they are used as the basis for reimbursement claims submitted to the United States Department of Housing and Urban Development/Federal Housing Administration (“HUD/FHA”), the Federal National Mortgage Association (“Fannie Mae”), and the Federal Home Loan Mortgage Corporation (“Freddie Mac”); and (2) they suppress the surplus proceeds available to junior lienholders, homeowners, and government entities following a foreclosure sale.

### **III. The Scope and Magnitude of the Harm**

The financial damage is staggering. A Freedom of Information Act (“FOIA”) request for New York City Department of Finance records revealed approximately \$150 million in total unclaimed surplus foreclosure proceeds in New York City alone. A significant portion of that unclaimed surplus can be directly traced to cases litigated by the firms engaged in these unlawful practices. When one accounts for claimed surplus proceeds across New York City, and for claimed and unclaimed foreclosure surplus throughout the State and the nation at large, the total harm to homeowners, creditors, and government entities could amount to hundreds of millions of dollars.

The scope of the problem is confirmed by independent investigative reporting. In December 2025, Gothamist and New York Focus published the results of their own independent analysis of approximately 10,000 post-foreclosure reports scraped from the state court system’s website, spanning 2013 to August 2025. They identified at least 7,400 foreclosure cases that ended in auction since 2013 and were handled by 14 law firms that routinely employed the unlawful calculation method. Strikingly, those firms used the improper “judgment amount” method approximately 95% of the time—making this not an occasional error but standard operating practice. One firm alone, RAS Boriskin, used the method in more than 2,000 foreclosure reports statewide since 2015, while representing lenders in nearly 20% of one- and two-family home foreclosure auctions in New York City last year. New York Focus has since identified more than 1,250 additional cases in which the inflated minimum bidding price—set artificially high by the

improper calculation—deterred outside bidders entirely, allowing lenders to acquire properties for as little as \$100, only to resell them for hundreds of thousands or even millions of dollars.

These findings are not without precedent. A 2013 audit by the New York State Comptroller’s Office examined foreclosure referee conduct in Kings County and found that in 9 out of 10 foreclosure cases with surplus funds that were reviewed, the referee had incorrectly reported the funds owed to homeowners. That audit was a clear warning of systemic dysfunction in the referee oversight process—a warning that went unheeded for over a decade. The current crisis is, in significant part, the consequence of that failure to act.

These harms do not fall on abstract entities. They fall on families who have already lost their homes to foreclosure—homeowners who are legally entitled to any surplus after the mortgage debt is satisfied, and who are being deprived of funds they are owed because the judgment debt has been artificially inflated. They fall on junior lienholders, municipalities with tax liens, and ultimately on federal and state agencies that are being overcharged through fraudulent reimbursement claims.

This is not a matter of isolated errors or negligent bookkeeping. The evidence demonstrates a coordinated business model in which mortgage servicers direct their retained foreclosure counsel to implement impermissible calculation practices, and those firms comply without question. When courts and opposing parties have examined this work, the fraud has been uncovered repeatedly—underscoring that this scheme depends on lack of scrutiny for its perpetuation.

#### **IV. Related Litigation and Judicial Notice**

My firm, along with co-counsel, has filed multiple federal class action lawsuits in the Eastern District of New York on behalf of homeowners harmed by these practices. These actions name foreclosure law firms, mortgage servicers, and financial institutions as defendants, and allege violations of federal and state consumer protection, fraud, and civil rights statutes. The class actions include:

- *Bidar v. Eckert, Seamans, Cherin and Mellott, LLC, et al.*, No. 1:25-cv-01828-MKB-JAM (E.D.N.Y.);
- *Bhoge v. Frenkel Lambert, et al.*, No. 1:25-cv-01836-MKB-JAM (E.D.N.Y.);

- Caldero, et al. v. MTGLQ Investors, et al., No. 1:25-cv-01831-MKB-JAM (E.D.N.Y.);
- Ruiz v. State of New York Mortgage Agency, et al., No. 1:25-cv-01837-MKB-JAM (E.D.N.Y.); and
- Small v. Shapiro DiCaro & Barak LLC, et al., No. 1:25-cv-01834-MKB-JAM (E.D.N.Y.).

The investigative reporting by Gothamist and New York Focus that brought these lawsuits to broader public attention has already had direct legislative consequence: it prompted Senator Myrie to introduce legislation that would mandate uniform, standardized referee forms in every courthouse across New York and explicitly prohibit lenders from charging compound interest during the pre-judgment period. The fact that this legislation is now before the Committee is a testament to how serious and widespread these practices are. Our firm has called on the legislature to go further—enacting a plain statutory prohibition on compound interest consistent with existing law, and requiring judicial approval of final sale reports before any lender receives proceeds.

Federal courts have already taken notice of deeply troubling patterns by some of these actors. In an April 28, 2025 Order, Magistrate Judge Lee G. Dunst of the Eastern District of New York noted “a disturbing pattern” of attorneys at one defendant firm “routinely failing to comply with the Federal Rules of Civil Procedure, this District’s Local Rules, the assigned judges’ Individual Practice Rules, and several orders issued by the undersigned.” This conduct reflects a broader culture of disregard for judicial authority and lawful process that this Committee’s work can help address.

## **V. Legislative Recommendations**

The existing framework of criminal and civil fraud statutes, while important, has proven insufficient to deter or adequately remedy the systemic misconduct described above. I respectfully urge this Committee to consider the following legislative measures:

### **1. Mandatory Judicial Review of Interest Calculations in Foreclosure Judgments.**

Require that all motions to confirm a referee’s report and for entry of a judgment of foreclosure and sale include a certification, under penalty of perjury, that interest has been calculated in strict compliance with the CPLR and OCA guidelines, subject to independent judicial review.

**2. Enhanced Civil and Criminal Penalties for Fraudulent Foreclosure Practices.**

Enact or strengthen civil and criminal penalties for the knowing submission of inflated interest calculations in foreclosure proceedings, and for the submission of fraudulent reimbursement claims to government entities based on such inflated judgments.

**3. Expanded Surplus Proceeds Notification and Recovery Mechanisms.**

Require enhanced notice to homeowners, junior lienholders, and relevant government agencies of available foreclosure surplus proceeds, and streamline procedures for recovery of surplus funds where inflated judgments have reduced or eliminated surplus.

**4. Attorney and Law Firm Accountability.**

Authorize the Office of Court Administration and the Appellate Divisions to investigate and refer for discipline attorneys and law firms that engage in systemic non-compliance with foreclosure interest calculation rules, and to impose proportionate sanctions including fee disgorgement.

**5. Strengthened State False Claims Act Provisions.**

Clarify and strengthen the New York State Finance Law's false claims provisions to expressly encompass fraudulent reimbursement claims arising from inflated foreclosure judgments submitted to state and municipal entities, and increase the effectiveness of the State's whistleblower protections and relator share provisions to incentivize exposure of such fraud.

## **VI. Conclusion**

The harm being perpetrated through fraudulent foreclosure interest calculations is not a historical wrong—it is ongoing. Cases are being litigated today using the same unlawful methods, even as courts and litigants have raised alarms. The New York Legislature has both the authority and the responsibility to close the gaps in our fraud statutes and to equip the courts, regulators, and private litigants with the tools necessary to hold accountable those who exploit the foreclosure process at the expense of New York homeowners and the public.

I am prepared to answer any questions the Committees may have, and I am happy to provide additional documentation, case citations, or legal analysis as the Committees' work proceeds. Thank you for your time and your commitment to protecting New Yorkers from financial fraud.

Respectfully submitted,

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