

« THE LOOMING REPUBLICAN BLACKMAIL OVER THE DEBT LIMIT
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Geithner Meets with Homeowners Burned By HAMP

By: [David Dayen](#) Thursday November 4, 2010 7:21 am



On the day after an election wipeout, Treasury Secretary Timothy Geithner sat down with a coalition of homeowner advocates, clergy and people subject to the cruelty of HAMP, the government's loan modification program. This was the first time, to the best of the knowledge of the activists, that Geithner has ever had a face-to-face meeting with the type of people who had to deal with the program his office designed and managed.

The meeting was the culmination of two years of work by PICO, a national network of 45 faith-based community organizations. They do grassroots organizing in local communities, in association with churches, synagogues and a few mosques. They have been at the forefront of the grassroots organizing on foreclosures which has received little media fanfare over the years. It's slow, agonizing work, but it's being done all over the country.

Almost two years ago, PICO members stood outside the Treasury Department building with 180 people, demanding that the Department implement a broad loan modification program. "At that point, the servicers were taking it case by case," said Tim Lilienthal, a staffer with PICO who attended the meeting with Geithner. They began at that time, in early 2009, demanding a meeting with the Treasury Secretary. In addition, PICO puts direct pressure on the servicers to work with their customers, in particular Bank of America, the largest servicer in the country.

In October of last year, PICO members sat down with Michael Barr and Herbert Allison, top-level Treasury Department officials with control over consumer protection and the TARP. They brought with them a stack of photos and stories of people experiencing problems with HAMP and losing their homes in the process. This shows just how long this program has been faltering. As a result of that meeting, PICO [held eight field hearings](#) across the country this spring, to bring attention to the Treasury Department of the horror stories out there. "People who are stuck in DC sometimes are not seeing the direct impact of their policies," said Lilienthal. Lower-level Treasury officials attended the field hearings, and the coalition continued to ask for a meeting with Geithner, which they got yesterday.

Their basic message to the Treasury Secretary was that it's time for a new approach to the foreclosure crisis. "What you're doing is not working," said Lilienthal. "We've demonstrated that." Prior to the meeting, PICO sent a [detailed memo](#) on what they saw as the next steps to fix the broken process. They want a nationwide freeze on foreclosures as the foreclosure fraud scandal is investigated; a senior-level official tasked just with fixing the housing crisis; a reset to the housing market with an "aggressive" principal reduction and forbearance plan, including cram-down, a mandate for Fannie and Freddie to reduce principal on all the loans they own, and making principal write-downs mandatory in HAMP; and actual accountability and penalties for servicers violating HAMP.

"We had a homeowner there who's been waiting for her modification for over a year while paying trial payments," Lilienthal said. "That violates the program."

The attendees believe that Geithner showed sympathy for the plight of homeowners and working people, and shared their frustration with the servicers. "But then, when it came to action, he doesn't feel they have capacity to compel servicers to do anything," said Lilienthal. "We were prepared for that, we said we think you have a lot more power than you think. You created the program, you created the guidelines, you enforce it. Let BofA show their true colors." PICO secured a commitment to get Treasury to respond to their proposal in writing within 30 days.

Michael Hickey from the Center for New York City Neighborhoods, the leader in New York on community-based activism around foreclosures, said that just enforcing HAMP could double loan modifications. To date, there has been no specific action taken to penalize or sanction a single servicer for violating HAMP guidelines. "Even a little bit helps," said Lilienthal.

This meeting is the continuation of a national effort by groups like PICO, SEIU, National People's Action and multiple others to end the extend and pretend scheme of HAMP and replace it with a totally new approach. "Historically, we haven't worked together," said Lilienthal. "But this problem is so big, and the

lack of response such a huge problem, that a powerful movement is brewing.”

In addition to the meeting and working with Treasury, PICO will ramp up their direct pressure on financial institutions. Using the local relationships they have fostered in their communities, PICO has been able to secure major actions against the banks, particularly on promoting a socially responsible investing policy. The city of San Jose recently diverted close to \$1 billion dollars from Bank of America because of their unwillingness to modify loans. This could be replicated across the country, a municipal version of “move your money.” Their message is that cities shouldn’t put their money in a bank which undermines the economic security of the city’s residents.

PICO also plans to meet with state Attorneys General, who are investigating servicers over foreclosure fraud. They believe that they’ve been naming the symptoms of the foreclosure fraud for a while, but that this shows the underlying problem, and why banks aren’t dealing with homeowners straight. “Just like the subprime mess, this is another part of that problem that we have not dealt with,” said Lilienthal. “It’s going to keep stunting recovery until we take care of it.”

Arthur Delaney has more on the meeting.

I felt oddly comforted by this meeting. Not because I think Geithner will immediately move to take up their plans, and not because of the psychic benefit to having him sit there and listen to homeowners who he helped screw. It’s because this group took two years to get that audience, and they’re not likely to give up until their constituents get what they need. There are community groups like this all over the country, few of whom get any attention, and their voices need to be amplified. But given their size and their relative power, they’re extraordinarily effective. And now they’re starting to work together. Face-to-face, direct action is the way we’re going to solve this crisis.

The other part of this is that it shows how long Treasury has known about the consequences of their actions. HAMP has been hurting people for a long time, and there are reams of documentation showing people abjectly worse off from exposure to the program. But Treasury has been publicly denying that HAMP puts homeowners into default, or that the program can be negative for borrowers in any way. PICO created eight field hearings to document just that.

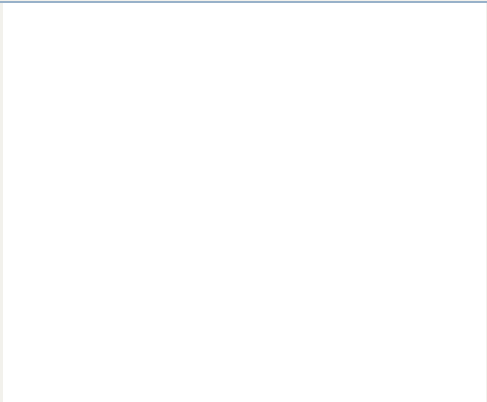
Lilienthal saw an opportunity in the foreclosure fraud scandal, in the problems with HAMP, to reset the housing market. That’s the correct goal, and despite the obstacles it’s heartening to see groups actually working on it. As Lilienthal said, “This is an opportunity to clean it up once and for all, and to get our economy working again.”

42 Comments Spotlight

TAGS: FORECLOSURES, FORECLOSURE FRAUD, TIMOTHY GEITHNER, TREASURY DEPARTMENT, HAMP, LOAN MODIFICATIONS, SERVICERS, PRINCIPAL REDUCTION

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42 Responses to “Geithner Meets with Homeowners Burned By HAMP”

RevBev November 4th, 2010 at 7:34 am 1

Makes me proud...Cheers for the power of the little people.

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wlarip November 4th, 2010 at 7:56 am 2

"See how the mighty have been laid low".

It this doesn't send him packing, what will?

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cbl November 4th, 2010 at 8:18 am

3

I would have never heard of PICO or NACA (and I cast a wide net) had I not been reading David Dayen's work – big thanks

and now I'm going to introduce the local clergy to PICO – see if I get any to bite. our little town could be the poster child for this scandal (1 in 4 in Forecl. and at least 38% underwater)


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masaccio November 4th, 2010 at 9:11 am

4

In response to **cbl** @ 3

Great idea. You would be w wonderful volunteer to help with this mess. If you show up saying you will volunteer, it jumpstarts the whole venture.

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parsnip November 4th, 2010 at 9:11 am

5

From the Delaney HuffPo article:

"The biggest change in the HAMP guidelines so far has been the requirement that as of June applicants must prove their income to qualify for the program, which has resulted in a drastic reduction in the number trial modifications started."

HAMP fed right into this, and also served to cheat the investors! Here's how:

The servicers are motivated by their servicing contracts to maximize their income, which leads them to push toward foreclosure in everything they do, even though it dis-serves the investors.

HAMP gave the servicers a flat fee, even if the people granted provisional mods weren't qualified. There was no penalty to the servicers for gaming HAMP. So they signed up as many borrowers as they wished. This enabled them to tack on lots of fees for 'late payments' because the payments were held in escrow and not credited to the mortgage, and when people got several months 'behind' the servicers could tack on even more fees of other sorts. And here's the genius: these fees, plus the difference between the old monthly payment and the reduced payments during the HAMP trial loan mod get tacked onto the principal, which raises the servicer's servicing fee (which is a percentage of the total principal of each loan) and when they eventually foreclose they get to pay themselves these additional fees out of the proceeds of the sale.

Thus HAMP encourages the servicers to sign up as many borrowers as possible, putting them on a dual track: HAMP, and simultaneous foreclosure process, regardless of ability to afford a loan mod. The way in which HAMP was implemented was designed to force borrowers into inescapable default, and increase the servicers' (banks') income.

In addition, this scheme also serves to cheat the investors, because a default generally results in a 70% loss, whereas principal-reduction loan modifications only lead to a 25-40% loss to the investors. And all of the tacked-on bogus fees, which average an additional \$6,000, come out of what is distributed to the investors after the foreclosure sale.

I'm convinced that was intentional, because Treasury's policy is for the banks to 'earn' their way back to solvency.

But there's one question about this that I can't answer: Why do the servicers force people into foreclosure if this leads to wiping out the many 2nd mortgages that the banks are carrying on their own books? The banks are pretending that these 'assets' are worth 90%, but after foreclosure they are wiped out, which shows the banks' insolvency. Has Treasury decided to look the other way on this? Or is there another kind of fantasy accounting being done?

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BMcGarth November 4th, 2010 at 9:22 am

6

The meeting as far as I am concerned was a sham...conveniently coming after a big election lost.David reported previously that treasury designed the program to help Banks & dislodge homeowners.

This HAMP was designed by Obama & co.....just look at his stance on the FORECLOSURE FRAUD that District attorneys are uncovering.....folks the Obama WH really don't care about us,ordinary Americans.

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Scarecrow November 4th, 2010 at 9:48 am

7

Excellent write up, David. thanks for your continuing coverage.

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Margaret November 4th, 2010 at 9:48 am

8

He met with them and survived? I guess the veneer of civilization is still intact.

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Sinestar November 4th, 2010 at 9:56 am


9

The program should have been named HAMPER!

'Cause that's what it smells like!

To Homeowners:

Have EMT's on scene to treat that nasty knife wound you will have in your back.

 Login to Reply

indiepro November 4th, 2010 at 9:58 am

10

power to the people!

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dakine01 November 4th, 2010 at 10:00 am

11

I wonder how long Geithner spent in the bathroom washing his hands after this meeting.

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rmwarnick November 4th, 2010 at 10:07 am

12

On the one hand, it's really great to learn that smart people are organizing to effect change in Washington.

OTOH, it took them a year to get the attention of Treasury officials, and two years to arrange a meeting with Geithner.

But when the banks want a small favor, like for example hundreds of billions of dollars in free money, they get it right away with no questions asked!

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Propagandee November 4th, 2010 at 10:11 am

13

PICO, a national network of 45 faith-based community organizations. They do grassroots organizing in local communities, in association with churches, synagogues and a few mosques. They have been at the forefront of the grassroots organizing on foreclosures which has received little media fanfare over the years. It's slow, agonizing work, but it's being done all over the country.

How long before Darrell Issa subjects them to an ACORN style investigation?

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cbI November 4th, 2010 at 10:11 am

14

In response to [masaccio @ 4](#)

thanks, that's the plan

p.s. papering the interwebs with your QE II post from yesterday – some of our more partisan friends are a little, um, dismayed

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cbI November 4th, 2010 at 10:13 am

15

In response to [Propagandee @ 13](#)

excellent point about ACORN style take down –

Issa (although it'll be a goon like Gomert) could easily harass them about non profit tax status


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David Dayen November 4th, 2010 at 10:18 am

16

In response to [parsnip @ 5](#)

mainly because they don't have to show the loss until they sell the home – and a lot of these homes are being deliberately held off the market. The original plan was to wait until the economy got better and then sell the homes at less of a loss, and benefit from rising prices. The string has been pulled on that. Now I think they don't know what to do.

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dosido November 4th, 2010 at 10:18 am


17

In response to [parsnip @ 5](#)

Short answer: it doesn't "wipe out" seconds.

The banks consider it a "separate issue" and still send it to collections, esp since they think they have a better chance of collecting on a smaller amount than the bigger first mortgage.

There was a story about a San Diego woman who foreclosed on her house, thought she was all done with the bank, and they came after her for the second.

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ShotoJamf November 4th, 2010 at 10:21 am

18

In response to [Margaret @ 8](#)

The miracle of Kevlar.

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dosido November 4th, 2010 at 10:22 am

19

The attendees believe that Geithner showed sympathy for the plight of homeowners and working people, and shared their frustration with the servicers. "But then, when it came to action, he doesn't feel they have capacity to compel servicers to do anything," said Lilienthal.

That's the part that always galls me. They do have the power. They don't want to use it. They are not enforcing the law. Be a problem with the executive branch for some time now. grrrr.

"We were prepared for that, we said we think you have a lot more power than you think. You created the program, you created the guidelines, you enforce it. Let BofA show their true colors." PICO secured a commitment to get Treasury to respond to their proposal in writing within 30 days.

Good for them for being prepared for the limp answer. I do hope they can keep the pressure on.

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KarenM November 4th, 2010 at 10:28 am

20

Great post, dday!


I'm going to tweet and facebook it.

 [Login to Reply](#)

BlueCrow November 4th, 2010 at 10:34 am

21

I scanned the piece for the keywords: plexiglass and stones, finding neither, I concluded justice was not done because our side failed to act.

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KrisAinCA November 4th, 2010 at 10:36 am

22

The city of San Jose recently diverted close to \$1 billion dollars from Bank of America because of their unwillingness to modify loans. This could be replicated across the country, a municipal version of "move your money." Their message is that cities shouldn't put their money in a bank which undermines the economic security of the city's residents.

I think this could be an incredibly effective tool. I live about 15 miles from San Jose, and saw just a

brief mention of this in the paper when it happened. It didn't get much attention.

I imagine, if this happened on the scale of 100 municipalities, we could damn near take out BofA. Pull \$100 billion in liquid assets out of the bank. It would be glorious.

On another note, I think we should start rallying all these lame duck Dems to DO something. They hold Lame Duck majorities in both houses and they're already on their way out. Maybe we can convince them to buck the kabuki model and get some things done. Real progressive legislation on DADT, the housing crisis, healthcare, etc. (I know, I'm dreaming) I just don't see why they won't do it. As I said, they're already on their way out. Even if the Rethugs shred all the legislation 3 months from now, it'll still provide three months of relief.

I'm just saying.

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[veganrevolution](#) November 4th, 2010 at 10:40 am

23

In response to [dosido @ 19](#)

What do expect from Timmy? He's a miserable failure just like his boss. Appealing to common decency is a non-starter with this crowd. It's going to take more than polite conversation. But we all knew that.

I wish FDL could start its own Tea Bagger movement to get in the face of Barry Oilbummer. I'd be the first in line.

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[veganrevolution](#) November 4th, 2010 at 10:43 am

24

Sorry meant "conversation." I wish we could edit like on the old days!

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[badgerexpat](#) November 4th, 2010 at 10:46 am

25

In response to [dosido @ 17](#)

Well hold on. Foreclosure of a mortgage absolutely "wipes out" junior mortgages. I think you are confusing the security interest (the "mortgage") with the debt (typically evidenced by a note).


Were you trying to say that the elimination of the junior security interest does not eliminate the obligation to pay the junior indebtedness, because that would generally be accurate.

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[mzchief](#) November 4th, 2010 at 10:51 am

26

Thank you for your indefatigable coverage of this issue, David!

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[Gitcheegumee](#) November 4th, 2010 at 10:56 am

27

In response to [Propagandee @ 13](#)

On election day, Nov. 2, 2010, ACORN filed for bankruptcy in Brooklyn.

It was actually seven different ACORN entities that filed, with a debt obligation of about \$4 million-one of the debtors being GE Capital.

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[Gitcheegumee](#) November 4th, 2010 at 10:59 am

28

In response to [mzchief @ 26](#)

I heartily second that emotion.

Amazing, humbling and prolific work.

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[FightTheFuture](#) November 4th, 2010 at 11:40 am

29

"But then, when it came to action, he [Geithner] doesn't feel they have capacity to compel servicers to do anything,"

Corporatist assclowns like Geithner think they are CEO's and don't have a right to tell other companies how to run themselves. Hello!!! They need to wake up and realize they are not CEO's, they are Government officials, heads of the Cabinet of the President of the United States and can

enforce many things and launch criminal investigations on these criminal cabals raping us blind today.

Unbelievable!

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BMcGarth November 4th, 2010 at 11:48 am

30

In response to [veganrevolution @ 23](#)

It's the only way Veg....Progressives shouldn't be deferring to Obama...he a corporatist.


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nycterrierist November 4th, 2010 at 12:08 pm

31

In response to [BMcGarth @ 30](#)

Count me in.

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parsnip November 4th, 2010 at 12:13 pm

32

David Dayen @ 16

Can you understand how it helps the banks to keep the foreclosed houses off the market, unsold? Don't the servicers have to keep advancing money to the MBS under that strategy? I was under the impression that the current speed-up of foreclosures was an effort to end these advances on defaulted loans. Maybe there's a loophole that allows the banks to stop advances upon foreclosure, but prior to sale. But then the banks can't collect on the juicy fees or reimburse themselves for the advances.

dosido @ 17

Gotta link on the San Diego 2nd mortgage story?

badgerexpat @ 25

I think what may be going on is this: The junior security interest is wiped out upon foreclosure of the first mortgage. But apparently the banks later try to trick the foreclosed borrowers into making a payment on the 2nd mortgage by sending them bills with threatening language. If the recipient makes a payment of any amount, this is considered an acknowledgment of the debt, and reinstates the debt, and the banks may then legally demand repayment.

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Gitcheegumee November 4th, 2010 at 12:32 pm

33

In response to [BMcGarth @ 6](#)

They are too busy doing a job ON us, to ever ,ever do a job FOR us.

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dakine01 November 4th, 2010 at 12:32 pm

34

In response to [parsnip @ 32](#)

My understanding is that as long as the banks can hold the house with a foreclosure and keep it off the market, they can show it on their books at the loan amount, not the actual amount it will bring at sale. I thin the term is "mark to myth" but it allows them to pretend to be almost solvent.

It's the same reason they stay away from short sales.

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badgerexpat November 4th, 2010 at 12:45 pm

35

In response to [parsnip @ 32](#)

I think what may be going on is this: The junior security interest is wiped out upon foreclosure of the first mortgage. But apparently the banks later try to trick the foreclosed borrowers into making a payment on the 2nd mortgage by sending them bills with threatening language. If the recipient makes a payment of any amount, this is considered an acknowledgment of the debt, and reinstates the debt, and the banks may then legally demand repayment.

In most states, they wouldn't really be "tricking" them into paying. Most states allow a lender to seek a deficiency judgment if the foreclosure proceeds don't satisfy the indebtedness. In this case, the foreclosure proceeds to the junior mortgagee are probably \$0.

And I think you're confusing ratification of a discharged debt, a legal concept that sometimes comes up in bk. Foreclosure is not like bk, it does not discharge a debt, so there doesn't need to be any ratification.

 Login to Reply

dosido November 4th, 2010 at 1:34 pm

36

In response to [parsnip @ 32](#)

trying to find it. It was a story I read about a year ago.

To all: I'm not an expert, I'm talking in Joe Sixpack, *gee, I thought I took care of all finances associated with the house* terms. It's fraught with confusion, to say the least.

 Login to Reply

dosido November 4th, 2010 at 1:47 pm

37

For badgerexpat and parsnip:

I could not find the original article that used teh San Diego woman's situation as their anecdote. But I did find this:

Let's pretend that you bought client's house for \$300,000 at foreclosure. Who gets the \$300,000? The entire \$300,000 goes to the first mortgage of Chase. Client will not owe Chase the difference of \$100,000 for the deficiency on the first mortgage because the foreclosure process that was used was extrajudicial. If the process used was judicial, Chase can still collect the deficiency of \$100,000 on the first mortgage, under normal times. But for a foreclosure happening this year up to next year, no deficiency can be had on the first mortgage. What happens to the second mortgage owed to Chase of \$100,000? The foreclosure sale did not produce enough money to pay that off, so client still owes Chase the entire \$100,000 for the second mortgage. What about the Heloc of \$100,000? It also becomes an unsecured debt of \$100,000 still collectible. Thus, after losing her house to foreclosure, client will still owe \$200,000 of unsecured debt. If the security was lost due to sale or destruction, the security agreement or mortgage is rendered worthless because the collateral is gone, but the promissory note for the loan remains valid.

<http://www.asianjournal.com/consumer/atty-larry-yang/2754-legal-liability-for-liens-after-foreclosure.html>

 Login to Reply

dosido November 4th, 2010 at 1:48 pm

38

my edit time already expired! ugh.

Anyway, this is California. YMMV. IANAL.

 Login to Reply

badgerexpat November 4th, 2010 at 1:53 pm

39

Weird, I thought CA was a no-deficiency judgment state.

 Login to Reply

parsnip November 4th, 2010 at 2:20 pm

40

Thanks dosido and badgerexpat for the very helpful clarifications.

I'm still stuck wondering about the limbo between foreclosure and sale (or non-sale): Yes, the 2nd mortgage can still be marked to myth, but what about the hemorrhaging advances that must still be paid to the MBS out of the servicers' own account? Is this not an issue?

And the big question: Who is buying up the cheap houses? Is it the same crew that bought defaulted HUD properties in the 1990's?

 Login to Reply

MarkH November 4th, 2010 at 4:54 pm

41

In response to [parsnip @ 5](#)

Magical accounting probably. Heh.

 Login to Reply

antifa November 5th, 2010 at 2:28 am

42

In response to [RevBev @ 1](#)

Reminds me of the scene from the movie, "The Outlaw Josey Wales" where Lone Watie describes all the Indian chiefs going to Washington to complain about broken treaties, and in reply were encouraged to endeavor to persevere:

"We thought about it for a long time, "Endeavor to persevere." And when we had thought about it long enough, we declared war on the Union."

Power is not asked for, it is taken or not taken. Geithner's weasel words mean far, far less than nothing at all.

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