

MEMORANDUM TO ATTORNEY-GENERAL MURRILL

**WAYS AND MEANS FOR AG MURRILL
TO RECOVER INCOME TAXES EVADED BY
FOREIGN ENTITIES THROUGH FORECLOSURES
SUBSEQUENT TO THE APRIL 2017 CLOSURE OF FNBC BANK**

The following memorandum was provided to Judge Michael G. Bagneris (Ret.) regarding the ability of the Louisiana Attorney General to recover tens (or hundreds) of millions of dollars in unpaid income taxes and fees from property foreclosures after the First NBC Bank was closed on April 28, 2017 by state and federal regulators. It is hereby replicated as a *direct* communication to the Louisiana Attorney-General.

On April 28, 2017, the Louisiana Office of Financial Institutions, John Ducrest, Commissioner, in the matter styled *In re First NBC Bank, New Orleans, LA, a Louisiana Bank*, filed a Motion to Close and Liquidate First NBC Bank and Confirm the Appointment of a Receiver, CDC Docket 17-4057 (“the Receivership Action”). By order entered in the Receivership Action on April 28, 2017, the Federal Deposit Insurance Corporation (“FDIC”) was appointed Receiver to liquidate all FNBC assets.

Pursuant to the then-existing September 2, 2009 Final Statement of Policy on the Acquisition of Failed Banks, the FDIC was *prohibited* from selling FNBC debt to “...investors from *Secrecy Law Jurisdictions...*” such as the Cayman Islands and to bidders

with "...complex and functionally opaque ownership structures...". Pursuant to policy, several United States Senators warned against allowing offshore structures with a history of (i) financial fraud, (ii) money laundering, (iii) tax evasion and (iv) fiscal terrorist misconduct to bid on the FNBC loans, Federal Register Volume 74, Number 169, at 45449. One of the most notorious domiciles was the Uglan House in Georgetown, Grand Cayman, the registered office of 40,000 entities, Exhibit A. Significantly, the 111th United States Congress provided the following description of vulture funds in the **Stop the Vultures Act, 2009 H. R. 2932**:

THE CONGRESS FINDS THE FOLLOWING:

(7) So-called "vulture" creditors acquire by purchase, assignment or other form of transaction, the defaulted obligations of and sometimes actual court judgments against [debtors]. Vulture creditors usually acquire the debt for the payment for a sum far less than the face value of the defaulted obligation. They do so for the sole purpose of collecting through litigation, seizure of assets or other means, payment on the defaulted debt on terms and in amounts far in excess of the amount paid by the vulture creditor to acquire the debt.

In 2017, the FDIC auctions returned **47.96%** on \$1,800,097,745 (\$1.8 Billion dollars) in FNBC debt, not including 21% default interest, etc., etc. etc. The following statistics were provided in-line:

Site	No. Loans	Book Value	Price Paid	Winning Bidder
Dallas	12	\$ 116,843,665	\$ 2,635,571	The Cadle Company
Dallas	4	\$ 5,915,060	\$ 4,828,131	Northeast Bank
Dallas	1	\$ 1,712,900	\$ 1,459,771	Frontier Capital
Dallas	1	\$ 1,360,878	\$ 982,856	Frontier Capital
Dallas	3	\$ 785,864	\$ 733,997	LNV Corp.
Dallas	38	\$ 146,041,313	\$ 69,000,000	OS Prin II LLC
Dallas	141	\$ 427,111,867	\$ 100,275,000	SBN FNBC
Dallas	113	\$ 68,932,531	\$ 41,359,519	JTS Capital
Dallas	113	\$ 61,430,592	\$ 22,188,000	SBN FNBC
Dallas	157	\$ 68,991,684	\$ 53,261,580	LNV Corp.
Dallas	112	\$ 56,177,052	\$ 20,131,717	IV Loan Solutions
Dallas	68	\$ 11,959,889	\$ 8,503,481	LNV Corp.
Dallas	16	\$ 53,181,365	\$ 31,730,000	OSK VII
Dallas	56	\$ 14,633,922	\$ 3,815,063	Apex Bank
Dallas	7	\$ 13,808,582	\$ 8,529,561	Apex Bank
Dallas	19	\$ 3,615,944	\$ 1,988,769	Amos Financial
Dallas	21	\$ 1,446,691	\$ 795,680	Amos Financial
Dallas	14	\$ 701,885	\$ 386,036	Amos Financial
Dallas	35	\$ 892,616	\$ 490,939	Amos Financial
Dallas	44	\$ 249,575,492	\$ 208,145,960	LNV Corp.
Dallas	49	\$ 80,208,687	\$ 66,632,473	DCR Mortgage

Dallas	123	\$ 208,702,913	\$ 119,029,332	GIROD LOANCO
Dallas	121	\$ 206,066,353	\$ 96,583,758	GIROD LOANCO
TOTAL	1,268	\$1,800,097,745	\$ 863,487,194	47.96 %

The highly acclaimed Corporate Finance Institute (“CFI”) in Vancouver, Canada, says this about vulture profits:

Vulture funds have also been criticized for their debt recovery mechanisms. These funds purchase debts at deep discounts with the intention of suing debtors for recovery of amounts exceeding the original debt amounts. **The funds have recovery rates of 5 to 20 times their initial investment, putting rates of return at 300% to 2,000%.**

Because vulture-creditors debt won’t disclose how much was paid or who they are, the AG’s computation of profits should be uncontested pursuant to equitable estoppel concepts and the following analysis at Water Street Bank v. Panama, 1995 WL 51160 (S.D.N.Y.):

Vulture funds tend to be secretive about their investors. Yet knowing the identity of a litigation adversary is a matter essential to defending against claims made. In Water Street Bank & Trust v. Panama, Judge Harold Baer found the plaintiff’s steadfast refusal to disclose his human owners unacceptable and dismissed the case outright. Vultures, Alter Egos, and Other Legal Fauna, Jonathan Blackman.

I. ILLEGALITY COMMON TO ALL FNBC DEBT-PURCHASERS

The illegality common to all vultures is that none qualified to transact business in Louisiana and none had the right to “...present demands ...” to a Louisiana court of law, La. R.S. 12:1354:

§1354(A) Transacting business without authority

A. No foreign limited liability company transacting business in this state shall be permitted to present any judicial demand before any court of this state unless it has been authorized to transact such business, if required by and as provided in, this Chapter. The burden of proof shall rest upon the limited liability company to establish that it has been so authorized, and the **only** legal evidence thereof shall be the certificate of the secretary of state or a duly authenticated copy thereof.

The above factor should be “...the beginning of the end...”

§1354(C). Attorney General Obligations

(C) A foreign limited liability company transacting business without authority shall be liable to the state for the years it transacted business without authority equal to all fees and taxes that would have been imposed had it qualified. **The attorney general shall bring proceedings to recover amounts due the state under this Section.**

Because Louisiana's Closed-Door Statute was passed for the preservation of the public interest, lawsuits filed by unqualified purchasers of FNBC debt are absolute nullities, *ab initio*:

Article 7. Laws for the preservation of the public interest

Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity.

Any action to recover unpaid taxes or other *parens patriæ* damages will be consistent with all 50 states and the District of Columbia, *viz*:

Door-closing statutes bar a corporate plaintiff from pursuing an action based on an intrastate claim in a state's courts if the corporation has been conducting intrastate business in that state without having qualified to do so. **Their purpose is to encourage foreign corporations to qualify to conduct intrastate business and to pay the state taxes.**

II. LITANY OF VIOLATORS

The following purchasers of FNBC debt have a dismal history of qualifying in Louisiana as a foreign business or as a debt-collector:

Entity	Face Value	Qualified Date	Debt Collector
Apex Bank	\$ 28,442,504	None	None
Cadle Company	\$ 116,843,665	None	None
DCR Mortgage	\$ 80,208,687	None	None
Girod LoanCo	\$ 414,769,266	05/27/20	None
Frontier Capital	\$ 3,073,778	None	None
IV Loans	\$ 56,177,052	None	None
JTS Capital	\$ 68,932,531	None	None
LNV Corp.	\$ 331,312,929	None	None
Northeast Bank	\$ 5,915,060	None	None
OSK VII	\$ 53,181,365	None	None
OS Principal	\$ 146,041,313	None	None
SBN FNBC	\$ 61,430,592	None	None

**III. UNCONTESTED MATERIAL FACTS
NEEDED FOR SEQUESTRATION AND ATTACHMENT
BY ATTORNEY-GENERAL MURRILL**

Winning bidder addresses and the amount paid versus face value is provided to Attorney-General Murrill as follows:

Bidder	Face Value	Amount Paid	Discount
Caddle Company II, Inc. 100 North Center Street Newton Falls OH 44444	\$ 116,843,665	\$ 2,635,567	2.255%

Northeast Bank 200 Berkley Street Boston, MA 02116	\$ 5,915,060	\$ 4,828,131	81.624%
Frontier Capital Group P.O. Box 99 Dimmitt, TX 79027	\$ 1,712,900	\$ 1,459,771	85.222%
LNV Corporation 7195 Dallas Parkway Plano, TX 75024	\$ 331,312,929	\$ 270,645,018	81.588%
OS Principal II P.O. 38 Prinsburg MN 56281	\$ 146,041,313	\$ 69,000,000	47.246%
SBN FNBC 1700 Lincoln Street Denver CO 80203	\$ 488,542,459	\$ 122,463,000	25.067%
JTS Capital II 3208 Greenleaf Drive Waco TX 76710	\$ 68,932,531	\$ 41,359,519	60.000%
IV Loan Solutions 4600 Wells Fargo Center Minneapolis MN 55402	\$ 56,177,052	\$ 20,131,717	36.160%
OSK VII 4121 West 50 th Street Edina MN 55402	\$ 53,181,365	\$ 31,730,000	59.612%

DCR Mortgage 333 Third Avenue N. St. Petersburg FL	\$ 80,208,687	\$ 66,632,473	83.073%
--	---------------	---------------	---------

Girod LoanCo 301 Commerce Street Fort Worth TX	\$ 414,769,266	\$ 215,613,090	51.989%
--	----------------	----------------	---------

IV. WRITS OF SEQUESTRATION OR ATTACHMENT

All vultures have left the state or were never here. Most seized properties are still in the name of Girod Titling Trust or Girod REO, LLC. The Attorney General has a statutory lien with a higher ranking because the November 13, 2017 and January 12, 2018 transactions are absolute nullities:

Article 3571. Grounds for sequestration

When one claims the ownership or right to possession of property, or a mortgage, security interest, lien, or privilege thereon, he may have the property seized under a writ of sequestration, if it is within the power of the defendant to conceal, dispose of, or waste the property or the revenues therefrom, or remove the property from the parish, during the pendency of the action.

Given that it is well "...within the power of the defendant(s)..." to conceal, dispose of and waste the properties and the revenues

therefrom, the Attorney General is entitled to attachments pursuant to Louisiana Code of Civil Procedure Article 3541, which provides:

Article 3541. Grounds for attachment

A writ of attachment may be obtained when the defendant: (1) has concealed himself to avoid service of citation; (2) has mortgaged, assigned, or disposed of his property with intent to defraud creditors; (3) has converted or is about to convert his property into money or evidences of debt, with intent to place it beyond the reach of his creditors; (4) has left the state permanently before a judgment can be obtained and executed against him. . . .

For compelling reasons, sequestration and attachment must take place and all parties within the purview of the Attorney General as *parens patriæ* protector of the citizenry must see the law “...enforced as it is written...”, *infra*.

V. NO GIROD ENTITY DESERVES AG PROTECTION

On January 12, 2018, for the sole purpose of purchasing the FNBC loans from Girod LoanCo, Girod Titling Trust, a Delaware Real Estate Investment Trust (“REIT”) was created. The Louisiana AG is duty-bound to protect Louisiana citizens from ill-motivated foreign corporations.

The "...Delaware Statutory Trust..." is a particularly repugnant vehicle which does not deserve any protection from the Louisiana Attorney-General, boasting the following traits explained by Baker-Donelson as follows:

TRUST STRUCTURE: A number of states have adopted statutory trust provisions, but Delaware is on the leading edge and has the longest history of successfully using the statutory trust model. One of the principal advantages of the Delaware statutory trust is that one or more sub-trusts may be created within the umbrella of the master trust and assets may be allocated into those sub-trusts.

UNDER THE DELAWARE STATUTE, ASSETS ALLOCATED TO A SUB-TRUST ARE INSULATED FROM EXPOSURE TO LIABILITY OF CREDITORS OF OTHER SUB-TRUSTS OR OF THE GENERAL TRUST.

The Louisiana Constitution and Revised Statutes give AG- Murrill ample bases to intervene in any pending litigation to protect the public and to collect taxes and fees owed to the state by vultures that have fleeced Louisiana citizens out of hundreds of millions of dollars post-FNBC collapse. Undersigned counsel has been retaliated-against for his whistle-blower statistics, unexposed by any other litigator.

VI. CONSTITUTIONAL BASES FOR INTERVENTION
BY ATTORNEY-GENERAL MURRILL
AND EXPEDITED GOVERNMENTAL ACTION

Article IV, Section 8 of the Louisiana Constitution provides as follows:

As necessary for the assertion or protection of any right or interest of the state, the attorney general shall have authority to institute, prosecute, or intervene in any civil action or proceeding.

Pending in the State of Louisiana First and Fourth Circuit Courts of Appeal and in the United States District Court for the Eastern District of Louisiana are actions challenging the right of the various foreign entities which have violated laws promulgated to protect the public interest to use Louisiana courts to cash-in on the obscene profits, pursuant to the *Ex Turpi Causa Doctrine*, inter alia.

VI. PARENS PATRIÆ.

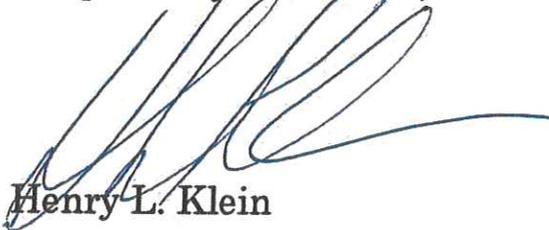
Concepts of the relationship between a State Attorney General and its citizens is deeply entrenched since the turn of the century:

[1] If the health and comfort of the inhabitants of a State are threatened, the State is the proper party to represent and defend them" Missouri v. Illinois, 180 U.S. 208 (1901).

[2] The health, comfort and prosperity of the people of a State and the value of their property being menaced, the State is the proper party to represent and defend such rights by resort to the provisions of the United States Constitution, New York v. New Jersey, 256 U.S. 296 (1921).

[3] In the May 28, 1976 remarks of Senators Hart and Scott: "...[a] primary duty of the State is to protect the health and welfare of its citizens; the State Attorney General is the responsible public officer whose duty it is to promote the public interest..."

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "H. Klein", with a long horizontal flourish extending to the right.

Henry L. Klein