



Press Release

The GSEs and the Net Worth Sweep: Federal Judge Rules Against the FHFA and Treasury

PAULINA ENCK | AUGUST 17, 2023

After 15 years seeking redress via the courts, this week shareholders of government-sponsored enterprises (GSEs) and mortgage giants Fannie Mae and Freddie Mac were awarded \$612 million after a federal court ruled that the Federal Housing Finance Agency (FHFA) had acted in breach of contract by locking them out of future earnings in perpetuity. In a new insight, Director of Financial Services Policy Thomas Kingsley walks through the controversial amendment directing the two companies to return nearly all of their profits back to the federal government – in what came to be known as the “net worth sweep” – and the shareholders’ win in court.

Kingsley concludes:

Under the Fifth Amendment, private property cannot be taken for public use by the government without just compensation. *Berkley v. FHFA* represents the first steps taken in 15 years to provide some financial redress for shareholders. More important, it represents the first time the courts have recognized that the net worth sweep represented a breach of contract that amounted to little more than government seizure of property. If only the same progress could be seen in unwinding the GSE conservatorships.

[Read the analysis](#)