From: Joe DeLaney

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Comments:

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I am writing this letter in an attempt to have an input in the current study you are doing with regards to the lending industry and the Frank-Dodd law. This study was much needed in 2007-08. I would like to give you an inside view of the industry from an appraiser and hope this does not fall on deaf ears. As I know this study is not only difficult but very important to the lending industry and the appraisal profession. Do to the increase in standards as of January 2008 to become an appraiser. And the fact that the average age of an appraiser in Arizona is 53. It is quite possible if things in the profession that have come about over the last couple of years do not change, we could see a shortage of not just qualified appraisers but appraiser mentors as well. That is one the reasons why I have taken the time to write this letter to you. With regards to the HVCC, The HVCC profoundly changed the manner in which residential appraisals were typically ordered in connection with credit secured by real property. It disrupted - and largely ended the traditional relationships appraisers had developed over years/decades with mortgage lenders and brokers, the vast majority of which were lawful and professional.
Typically when you have a good Dentist or Auto mechanic you stick with them and don't want to lose them. The HVCC robbed me and other appraisers of all our clients because it was set up, not to keep loan originators from choosing appraisers (that was always the rule in the banking industry, they just never enforced it) but to make the banks a lot of money through unearned fees.
Instead, Appraisal Management Companies (AMCs) became the dominant source of appraisal orders; and, with this dominance, AMCs now exercise almost total control over the terms and conditions of the appraisal, including determinations regarding who does or does not receive appraisal assignments; how much they will be paid (price fixing); the turn-a-round time for completing the appraisal;
the nature and extent of information provided the appraiser about the property to be valued and the scope of work to be performed; and, with whom the appraiser can and cannot communicate to get answers to questions necessary to

properly understand and complete the assignment. This plainly put is a monopoly over the appraisers by the banks. As the banks own the largest and predominate AMCs. It is hard to believe this is aloud since the bank owned AMCs are the ones who made it possible to come up with the phony values for the banks liar loans. Landsafe was owned and controlled by Countrywide (now by Bank of America) and was how they got so many of their fraudulent loans valued as if they were legitimate. All the other banks owned large AMCs too (Wells Fargo - RELS, Chase - Quantrix etc.). These were the instruments they used to control the situation to get most of the bad loans through. And they also have the power to protect these AMCs by destroying the documents that serve as evidence. Now with the advent of the HVCC they can continue to control things and get bad loans through as well as get half of the appraiser's fee. Now we've moved from the HVCC to Appraiser Independence, which in my opinion is just a new name for HVCC as it did not change anything. How did this get started, well it is easy to see the bank owned AMCs are profiting enormously from this arrangement while tens to hundreds of millions of dollars are leaving the appraisers and the states which do not headquarter these banks.   There are several acts and practices of an AMC which would, in my opinion, give rise to an "appraiser independence" violation: For example, an AMC which refuses to include an appraiser on its approved fee panel or which declines to give assignments to an appraiser on its panel, for reasons unrelated to the qualifications and competency of the appraiser, would, in my view, violate the letter and spirit of the appraisal independence provisions. An AMC which prohibits
its appraisers from communicating with mortgagees or others knowledgeable about the property to be appraised or the scope of work to be performed when the appraiser believes additional information is required to comply with USPAP, also would be a violation. AMCs which require its appraisers, as a condition of their engagement, to attest that the fee being paid by the AMC is "customary and reasonable" when it clearly is not, would violate the appraiser independence provisions. The Fed's interim final rule should encompass such conduct as well as other acts and practices by AMCs and others that impede appraiser independence. They violate out independence now and there is nowhere to go for the complaint. If you do complain and the AMC finds out about it they remove you from their list/panel. I am on about 200 AMCs lists. Most of them have either unreasonable standards and/or request and some even violate current federal employment laws with their applications by requesting informationthat is prohibited by law. They also have indemnity clauses or contracts the appraiser must sign in order to get work from them stating their fees are reasonable and customary. Or they want you to violate the Uniform Standard of Professional Appraisal Practices (USPAP) or guess what; if you don't you're off their approved appraiser list. The lower standard they cater to is a blight on the appraisal profession. Not to mention having to be under this rule/regulation means in many cases violating our own professional business practices. It is interesting that all mortgage Brokers, Loan officers and Processors must be tested and registered but underwriters are not. The amount of education, training and licensing I had and have to continue going though to continue to be an appraiser is vast. Yet the underwriters/reviewers that review my reports don't. They typically don't even read the report. They have check lists to look them over and if they find something that's on the list they just red flag it and send it back. That is when I have to return the appraisal with the usual line, "read the report" or "it's in the report".   And these are the people that are working for the banks that underwrite/insure the loan? I knew an underwriter that was the head one of the biggest banks in Arizona. Know how they got the job? They were the only one that did not quit or get fired! And they had no education in the field except what they learned

at work, which was basically how to use their check list. With regards to the HOEPA, The HOEPA Rules establish important benchmarks - now widely recognized in the mortgage lending and housing marketplaces - to prohibit and punish attempts to undermine the independence of the appraiser and the integrity of the appraisal process. The appraisal independence provisions contained in section 1472 of the Dodd-Frank law reinforce, supplement and extend the HOEPA rules. If enforced the HOEPA Rules, are far less prescriptive than the HVCC, which has disrupted or eliminated legitimate business relationships with many ethical and honest real estate professionals. It is my view that had the HOEPA amendments been enacted earlier and aggressively enforced, the HVCC would not have been necessary and in my opinion is still unnecessary. This issue is extremely important given evidence that indicates wide divergence between fees paid to appraisers through appraisal management companies and those retained directly by financial institutions. Many appraisers nationwide are having to accept reduce fees by as much as 50 percent since the inception of the Home Valuation Code of Conduct. The Dodd-Frank law is vague as to definitions of reasonable and customary. What the consumer use to pay $350 for they now are paying between $450 - $600 while the AMCs pay the appraiser between $150-$200. Both the consumer and the appraiser are being taken advantage of because of this (HVCC) monopoly. I do not except these controlled fees that are a direct obstruction of commerce, free enterprise and robs me/appraisers of a fair fee for our service. So who are excepting these fees? Trainees and newly licensed appraisers that don't truly understand what they are doing. Which is just fine for the banks. They make a profit and get a simpleton report that if sued, they can always send it back to the weakest link To facilitate the separation needed between the loan originators and appraisers is simple. There should be an online firewall for each state and/or county that the requests for appraisals are sent through. The appraiser(s) in that area that can do the specific type report is on a rotating list so request are given out without controls over who gets what and how many appraisals. The appraiser(s) submits the report back through the firewall when finished. All data can be logged and recorded so there is no possibility for unethical practices. It seems this is just too simple and could have easily been done instead of the implementation of the HVCC. I wonder why it wasn't. Even with the HVCC (and/or its replacement) there is no real policy as of yet to address conflicts of interest or anywhere to report them to, with any reasonable resolve to be set forth as a result of reporting a violation. You ether do what the AMC tell you to do or again, your of the their list. Lenders have always had several options open to them for selecting appraisers. These options include in-house appraisers; independent appraisers; and appraisal management companies, (which now dominate the field of lending) which often subcontract with independent Appraisers. Having a lending institution with their own appraisal staff in anyway shape or form seems a lot like having the Fox running the Hen house. To have any form of economic control over an appraiser is to violate their independence. How can one be independent if they are to be loyal to their employer who writes their check? To develop an appraisal, appraisersmay use one or a combination of three approaches to value -cost, income, and comparable sales approach. These are all very useful in appraising properties, as well as applying other methodologies. Of course it takes an experienced appraiser to determine the methodology and to apply it to different types of properties to find their value. An appraisal of a property is the only way to effectively determine its value. Other forms of so called valuations like broker price opinions (BPOs), automated valuation models (AVMs), property tax assessments and possibly other "evaluation" products are used to value properties all have major inherent flaws. The BPO for example is done usually by an agent or trainee, signed off on by a Broker and not only has no reliability in its value but there are no real laws regulating them. As well as the Realtor doing them usually has a vested monetary interest in the property. The BPO forms are also conspicuously made up to look like an appraisal. AVMs are not any better considering that they have given value to properties that burned to the ground weeks earlier. And banks have loaned money on those very properties. Are you beginning to see the problem with these so called alternate forms of valuation? You may have already learn most of this through your study but if not I am telling you this because what is currently being done, not through legislation but through regulation, is being done for the banks and ultimately against the appraisers. With independent appraisers doing valuations there is always recourse. But if they are being controlled by the very groups that use their services there cannot be any true independence. I would ask that the following changes be considered, First, that appraisers be an able to pick and choose their clients in all instances and not the other way around as it is with the control of these AMCs. Second, that reasonable and customary fees be established through the Veterans Administration (VA) fee schedule and (if not available) a median of other independent appraisal sources. Third, that independent appraisals be required for any/all Real Estate Loans for federally backed securities. Fourth, there should be some form of limit(s) placed on banks owning and/or operating AMCs for their own loan purposes. There are more changes that should be made but this letter was only supposed to be a couple of pages and I am sure that you are probably familiar with most of this. If you have any questions or would like to speak directly to me you can call me at the number below. Joe Delaney