From: "Michelle Winarsky" <mortgagehelp@mindspring.com> on 03/26/2008 06:05:02 PM

Subject: Regulation Z

To the Board of Governors:

I am licensed as a mortgage broker in the state of Florida. Florida has one of the oldest and most active associations for mortgage brokers in the country. There are currently over 64,000 licensed mortgage brokers in FL. In order to obtain a mortgage broker license, one has to take classroom training and study and pass an exam. In addition, every 2 year period during the re-issue period, we are required to have a minimum of 14 hours of continuing education in our field, with 2 hours specifically in the area of laws and rules so we are constantly kept apprised of changing laws. All professional brokers I know regularly attend workshops, read articles, check with the state associations and attend trade events to remain current with the legislation and regulations affecting our industry.

The state of FL has 4 main licenses: Mortgage Broker (MB), Mortgage Broker Business (MBB), Correspondent Lender (CL) and Mortgage Lender (ML). In order to work for a Mortgage Broker Business, one has to be licensed as a mortgage broker. One cannot practice as an independent mortgage broker here in FL without working for one of the three business types: MBB, CL or ML. However, one can work for a CL or ML WITHOUT an individual mortgage broker license. In a way, working for a bank requires LESS training because one can be a loan originator WITHOUT an individual license and that required training.

We are all regulated under the same guidelines but bank employees or MLs are given more latitude. A CL can be given the same type of latitude if they have their own warehouse line of credit and close loans in their name (even though a lender or bank is really making the loan). The only group that is required to disclose fees according to HUD and state guidelines are MBs working for MBBs and those originators who are brokering loans through a CL.

The average consumer here in FL couldn't tell you the difference between a mortgage company, a broker or a bank because the distinctions have been blurred in recent years. Consumers are largely unable to distinguish between brokers and lenders, which have similar names, use similar signage, and rely on similar advertising. They don't know the difference between retail and wholesale as well as servicing and all the sales of their loans to additional agents. Borrowers should not have to distinguish among mortgage originators: both government policies and the marketplace should be set up to permit consumers to get the best deal at the best price, regardless of whether they use a broker or deal directly with a lender.

I fully believe that all the governing bodies are trying to protect consumers and I support the Federal Reserve Board's proposed amendments to Regulation Z, but respectfully oppose the proposal to restrict compensation for mortgage brokers. As a MB or originator brokering a loan as an employee of a CL, we now have to disclose the yield spread premiums (YSPs) and broker fees to our borrowers on the GFE. If there are any changes to the fees as the loan progresses (rates change, for example), we have to re-disclose at least 3 days prior to closing. In addition, we have to disclose the same on the HUD1. There is NO corresponding requirement for lenders to disclose compensation collected from borrowers or paid to their own sales staff.

If there are going to be laws and rules, there should not be loopholes that apply only to a selective group who practice the same jobs and work with borrowers in the same way. I would like to see that we have NATIONAL UNIVERSAL DOCUMENTS to encourage borrowers to comparison shop and to show the same information to all borrowers, regardless of what type of lending institution they were using. If the real estate industry is a national issue, why can't we have UNIVERSAL NATIONAL disclosures that apply equally to ALL mortgage originators, not just brokers?

I have originated loans for over 10 years in FL. I avail my clients to my time evenings and weekends. Most are working and cannot take time off from work to finance or re-finance a home. I answer most of my calls directly and return calls promptly. This is something that a large bank cannot do. My company is a CL and it conducts business with about 200 MLs and investors. If one Lender is not suitable for my client, I can switch to another seamlessly so my client does not have to be inconvenienced running all over town to re-supply applications and paperwork. In this competitive environment, my rates are usually LESS than the retail rates that banks charge. Even when they are not, my borrowers appreciate the service I provide and are willing to pay for it. This is evidenced by the fact that I have 4th and 5th generation borrowers who keep coming back to me.

When a borrower first contacts me for financing, I am unable to provide a GFE until I am able to pull and review their credit and submit their loan to a lender (along with all of the items pertinent to their file) . The underwriter, even if an automated system is in place, will determine the final loan approval. It is IMPOSSIBLE to PRE-DETERMINE the exact loan program for the borrower until we get an approval from a lender. Many times, the borrowers are not forthcoming with pertinent facts. At others, the property does not meet specific loan guidelines. Mainly, borrowers don't realize how so many aspects of their income, assets and debts affect their loan approval so they fail to mention certain issues that are later discovered in the loan processing. If I were to have to stick to rates/terms offered at the outset 100% of the time, there would definitely be issues with those files. One primary issue is the time to close on a loan. Borrowers do not always provide their paperwork timely. Home inspections yield hidden problems with properties that have to be addressed before closing. Many things can impact the speed of a closing. It is difficult to lock in an interest rate that far in advance when we aren't sure which loan will be approved or if we can close by a certain date. Lenders price their loans to us/borrowers based on loan size, property type, cash out, doc type, LTV and so many other things. These things can change often in the course of the loan. Another important aspect is what the lenders call "FALLOUT". These are files that we submit to them but fail to close or are locked and fail to lock in time. We can actually be dropped as a client. Coupled with the turmoil in the industry, we cannot afford to lose lenders due to fallout.

The assets of a borrower will often impact our fees. If they have money they often want to pay a discount fee and buy a lower rate in which case we have to charge a broker fee in order to be paid. If they do not, they still pay a competitive rate but don't have to pay any fees to us to complete their loan. This fee structure is in place regardless of whether I am a broker or an employee of a bank. The only difference is who and what percentage of the fee will be paid to whom? I have had borrowers tell me that their bank said that they were cheaper than brokers because they wouldn't have to pay a broker fee. They use that tactic to steer borrowers away from brokers. A bank is going to call the fee an origination fee. We call it a broker fee. It is the same thing to a borrower...money out of pocket to do the work. What the banks fail to tell them is that they are limited to the few programs that they offer and if they don't offer a specific program, they have a loan denial. As brokers, we at least, have the full gamut of programs available in the market whether through a bank, lender or other institutional investor. Limiting the choice to consumers will only hurt them and help banks. It will put a huge network of businesses and individuals out of business.

As a broker, I have to compete DIRECTLY with lenders. In the past, this was possible because we had a more level playing field. Now, many banks are not using wholesale channels and they are intentionally trying to eliminate mortgage brokers so they can eliminate any perceived competition. Brokers were responsible for about 80% of the loans going to the banks. So they had to give brokers competitive pricing and pay us commissions (YSPs) to solicit business. The smart banks know that if they use wholesale channels, they have in a sense, tens of thousands of sales reps on the street working for them.

I currently have a borrower who is obtaining a specific type of loan. There are 2 lenders in the state of FL providing this loan type. Therefore, their service times are greatly affected by all of the applications. It will take at least 2 weeks for the underwriter to review their file. If borrowers are limited to MLs because brokers are forced out of business, all banks will be unusually short staffed and there will be a slowing down of the whole process. I spoke with a bank manager recently when I found out that one of my clients was turned down for a loan with them. The borrower clearly did not meet the bank requirements but I knew this in about 3 minutes after reviewing their application and documents. I asked the manager why they took their application and charged the $25 application fee. He told me that they don't care if people are approved or not. They have a 'profit center' with the application fees and they just want as many applications as possible to boost that profit center. Borrowers will not be served without an intermediary like mortgage brokers. Monopolies do not service the community. Choice services the community.

Thank you for your time in reading my email message,

Michelle Winarsky
Licensed Mortgage Broker
Florida