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Subject: Regulation Z

From:

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To Whom It May Concern:

I wholeheartedly support the Federal Reserves' objective of protecting the consumer when it comes to mortgage lending. We are at a rare point in time politically when the Federal Reserve can make major moves in that direction. If the Federal Reserve fails to take the appropriate action I believe we are doomed to repeat the failings of the past couple of years.

But, further restriction of mortgage broker compensation would only serve to do more harm to the consumer.

When clients come to me for a loan I evaluate their situation with the goal of placing them into the type of loan that will best suit their needs. Among other things, I want to know how long they expect to stay in the home. Once I know this I can offer them a range of rates and fees to suit their circumstances. For instance, if they are going to stay in the home for only a year or two it might be in their best interest to take a slightly higher interest rate in order to pay less fees upfront. The yield spread premium (YSP) allows me to do this. Unquestionably, this is in the consumer's best interest.

With a slightly higher interest rate I can reduce the upfront fees to an amount below what they would have otherwise paid over that short period.

I will recoup my expense out of the yield spread premium. On the other hand, if the borrowers desire a lower rate for a long term investment, I can accommodate them by allowing them to buy down the rate through higher upfront fees and a lower YSP. This flexibility is what benefits the consumer.

In many cases it would be impossible to state an accurate YSP amount in documentation upfront since not only must the borrowers needs be determined but also the best program must be assessed and the rate must be locked. Sometimes credit problems or ongoing negotiations with sellers must be resolved before any of this can take place. Other times the borrower might prefer to wait to lock a rate for any number of reasons. Rates and YSPs can change multiple times daily. What I currently do is to state a YSP range on my Good Faith Estimate. In other words, I state "The YSP typically ranges between .500 and 1.500".

Once the loan is locked the actual YSP is disclosed on the closing documents. At the time of locking the interest rate, the borrower can call other lenders to compare.

Keep in mind that the banks, although conducting business just like mortgage brokers; never give such information to the borrower, not during the loan process nor at closing. The borrower is intentionally fooled by the banks into believing the banks are loaning their own money

and only the fees shown on the HUD-1 are earned by the banks.

The insidious thing about the disclosure policy is the implication that brokers are somehow intrinsically evil. The bank lobby forces brokers to disclose what they make on the back end while the bankers do as they like, consumer be damned.

Twenty years ago I became involved in the industry as a mortgage broker. What I noticed then and I believe still holds true today was that the banks held all the regulatory cards but were able to conduct themselves in any manner they chose without fear of sanction. Up until a few years ago the banks continued to fail to make home loans to many who were qualified. Still, they charged high interest rates and high origination fees to those who they deemed worthy of a loan.

I knew there had to be a better way. I was excited once I became aware of the mortgage broker industry as an alternative to the banks. Two things caught my attention.

First, even though the programs being offered were developed by the banks at the wholesale level they provided many more opportunities for borrowers than were being offered to the consumer by the banks at the retail level. Second, as a broker, I could make a living wage to support my family by offering solid potential borrowers a variety of good loan programs at rates and fees that competed with or beat the banks.

Because of the presence of mortgage brokers, banks have been forced to become more competitive. To do this banks have apparently decided that they should emulate mortgage brokers by selling their loans in the same way as mortgage brokers but without any disclosure or public oversight.

In fact, the bank lobby seems to spend an incredible amount of energy talking about how bad brokers are while acting just like them but without the regulation or public oversight. If disclosure of back end fees is consumer protective then the bank originated home loans should contain the same disclosures.

I believe that a major cause of today's "mortgage meltdown" is the inflated price of homes. Over the past few years the economy wasn't experiencing serious inflation nor was there a huge increase in personal income. So, how can we explain the unrealistic increase in home prices?

Certainly the access to easy loan terms was a contributing factor. But, I also blame two other factors that are just now reaching public awareness.

First, the banks and the real estate industry enjoy a sweetheart relationship with each other at the consumer's expense. Second, the real estate industry adds a layer of inflation through their predatory practices and is in a position to exercise undo influence over appraisers.

Mortgage Brokers represent neither the borrower nor the lender in the real estate transaction so we are able to conduct arms length transactions while banks are hopelessly entangled with both the Realtors and, in many cases, the borrowers.

Both are often clients of the bank! Existing borrower client relationships can put the transaction at some risk but far more dangerous is the relationship between the Realtor and the bank. Obviously, the bank wants both entities' money deposits and ever expanding peripheral business. But the real danger to the housing

market comes because the bank wants Realtor real estate loan referrals while the Realtors want access to easy loans to accomplish their own goals. Too often these goals work against the interest of the consumer particularly in the area of "pocket listings".

Years ago the securities industry recognized that it is against consumer interest to allow stockbrokers to "front run" the market. The practice was outlawed. That is to say no stockbroker or their family members are allowed to partake in the purchase of a new stock offering until it has been on the market for a specified period of time.

Why do we allow Realtors to front run the housing market?

The Realtor sees a developing market so he/she buys up all the homes they can while often using short term sweetheart loans from the bank. They do practically nothing to the home but return it to the market at an inflated price. At the same time they use every trick in the book to create a buying frenzy in the market. They've now succeeded in adding a layer of inflation that serves only themselves while robbing both the original seller and the potential buyer of coming to terms at a fair price. They add to the harm done by artificially creating a comparable sale to be used by appraisers in assigning value in subsequent home sales. This is decidedly against public interest

I believe that "front running" should be outlawed in the real estate market. No Realtor or any family member should be allowed to purchase a home until it has been publicly offered for sale for at least 60 or preferably 90 days. Infractions should incur serious penalties to include mandatory loss of license and heavy fines. If after the 90 days have passed and the Realtor or their family decides to buy the home they should only be able to purchase it at the original or higher listed asking price. This will motivate Realtors to act in the best interest of the seller and the buyer, removing themselves from the equation.

Realtors also engage in the practice of putting undue pressure on the home sale. They want to engage the seller into as long a listing period as possible but when it comes to accepting an offer they conversely want to force the potential buyer to close the deal in an often unrealistically short period of time. They direct the buyer to a lender of the Realtor's choice, no doubt someone with whom they have a sweetheart relationship. Then they call the appraiser and the lender needlessly putting pressure on the appraiser to agree with the asking price and the lender to hurry up and finish the loan transaction regardless of the borrower's best interests.

To counteract these practices, Realtors should be forced to write a minimum 45 day offer with the understanding that the offer will close sooner if possible. They should only be able to refer the buyers to the yellow pages for a lender. Next they should be forbidden from initiating any contact with the appraiser or the lender. In non disclosure States like Idaho, appraisers should have, by law, unfettered access to the MLS sales records to assist them in finding comparable sales.

I believe that today's problems in the mortgage industry originated with the "commoditizing" of the family home. This phenomenon seems to be an outgrowth of that 1990s mentality which said we don't need to work or to be productive. We need to put our money to work instead. Of course we saw what happened to the stock market as a result but somehow apparently thought it would be OK to apply the same rationale to the housing market. What a disastrous thought! We are living the consequences. If

a person wants to speculate on a stock that's one thing. But, to put the family home in jeopardy, that is unconscionable.

To me it seems that Fannie & Freddie should remove themselves from the second home and investment property business at least until we have reached a balance in the market. Further, given my belief that homes are still too expensive, I believe that the Fed should refrain from making any policy that could be considered inflationary. Home ownership should be attained through the ability to qualify through real gains in productive income. No assistance or reward should be given to those purchasing 2nd homes or investment properties.

Banks should be able to continue to conduct business as brokers but their mortgage divisions should be in separate buildings. I have never understood the reasoning behind the requirement for mortgage brokers to disclose back end fees. All a borrower needs to do is to consult various lending institutions and compare Good Faith Estimates. If the rates and fees are essentially the same, the borrower can make the choice. All lending institutions make something on the back end one way or another. If the bank lobby believes that back end fee disclosure is helpful to the consumer then the banks ought to make the same disclosures.

Also, bank mortgage loan officers should join mortgage brokers under the national loan officer licensing system soon to be required. It makes no sense for bank loan officers who commit fraudulent acts while working for a bank then be allowed to get a mortgage broker's license because their firing is not part of the public record. In my small town alone there are several cases reputed to have occurred.

Finally, the more non brick & mortar locations county by county of banks, brokers and other mortgage companies, the higher the risk of fraud. In my experience the consumer is not better served and often disadvantaged by national companies compared to local lenders. I've never seen a program offered by a national company that was better than what I had to offer. To the contrary, I often saw borrowers taken advantage of by these lenders.

Certainly the bank and Realtor lobbies are powerful but hopefully not so powerful that our lawmakers can't rein them in. If there ever was a time to do it, that time is now.

I want to thank the Board of Governors for their consideration.

Sincerely,

Bob Waterous