Subject: Truth in Lending - Version 2

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Comments:

Wednesday, July 16, 2008 Senator Barack Obama Chairman Bernard Bernanke Federal Governor Randall Kroszner Dear Sirs: I read the enclosed article and think the new requirements are much needed. This office represents the victims of what we call the ‘Fairway Preserve Frauds’. Enclosed you will find a memo outlining the problem. In the ‘Fairway Preserve Frauds’ which appear to be modeled after the infamous ‘Nigerian Internet Bank Frauds’, the developer promulgated a scenario wherein he took real estate that was valued at $130,000.00 generated his own appraisals claiming a market value of $365,000.00 and marketed it to the public through mortgage brokers The loans were generated to lenders such as Merrill Lynch, Lehman Brothers Bank, etc. These mortgage lenders ‘gobbled’ up the mortgages, packaged them to the public as mortgage securities. Referring to these mortgages as securities was an absolute misnomer. The condominiums that serviced these loans at an independent sale would not ‘fetch’ a third of the represented value if they could be sold at all. The mortgage documents were signed by the borrowers in a vacuum. None of my clients (45 people with 69 units) were even given an opportunity to read the documents. In a matter of minutes, hundreds of pages of unintelligible prose was signed and in some cases notarized. Not one of my clients obtained an attorney, attended a closing, or actually understood the transaction. As you will note by the attached documents, the original fraud was intended to be a 'ponzi scheme'. The evolution of the scheme evolved to the representation that the 'victim' was buying an investment that was 'rapidly appreciating'. Running through the items appearing in the enclosed attachments you will notice that; 1. Not one of the underwriters or assignees did any 'due diligence' whatsoever. 2. The developer's surrogates filled out loan applications and liberally invented income for the borrowers. It was not unusual for the surrogate to be told by the victim that income was X dollars and write down Y dollars. It was also not unusual for zero's to be placed in front of the decimal to enhance monthly income. Some of the loans were 'no doc' loans and no one seemed to care that monthly payments exceeded monthly income. As you will notice, the purchase price in just about every case was just as fictitious as the surrogate of the developer placed on the appraisal. The developer through the surrogate 'kicked back' part of the purchase price. It appears that the developer was also able to pay @80,000.00 in commission to the surrogate. The collection practices carried out by the 'servicers' of these loans would make a 'loan shark' proud! Prevarication and 'CYA' are the 'twin towers' of the mortgage originators that my 'Fairway Preserve' clients have had to deal with. Unfortunately, the 'Fairway Preserve Frauds' are not limited to Florida condominiums, the victims are not limited to Illinois and the practices are not unique. So arrogant are the criminals that even though we rescinded each and every mortgage pursuant to RESPA and USCA 1701, the developer continues to practice. The attached material will give you an idea of how the fraud operated. The bank involved in these transactions by not doing an ounce of due diligence, made these frauds possible. It is unfortunate however, that after the banks discovered the frauds that they harass the victims through their loan servicers! We have dozens of letters from loan servicers attempting to intimidate and induce the victims not to take advantage of the rights that Congress has given them. The attitude of the banks is to create 'DENIABILITY'. The banks in the consumer era should not be a predator and they should not engage companies with bad reputations to service loans. It is ironic that not one person in the 'Fairway Preserve Frauds' would have been a victim if any of the affected banks would have done due diligence not one bank would have made these loans if they had done a 'scintilla' of due diligence! Had the banks acted properly when they discovered that the HUD's were fraudulent, the prompt reporting of the frauds to the Fed's would have resulted in roughly one half of the people defrauded not being defrauded. Simply put, while one cannot legislate honesty or humor, the Federal Reserve and Congress by allowing the banks to suffer and not bailing them out would restore proper banking procedures. There is no excuse for a bank making these kinds of loans, what did they expect to happen when the monthly loan payments exceed income and the market value is less than 50% of the loan! Sincerely, Kenneth Ditkowsky KKD/djm Cc: Clients