



National Association of Independent Housing Professionals

601 Pennsylvania Ave. NW • South Building, Suite 900 • Washington, DC 20004

March 23, 2011

Chairman Tim Johnson
United States Senate Banking Committee
136 Hart Senate Office Building
Washington, D.C. 20510

Chairman Spencer Bachus
United State House of Representatives,
Financial Services Committee
2246 Rayburn Building
Washington, D.C. 20515

Dear Chairman Johnson and Chairman Bachus:

I write you today, requesting a Congressional investigation into the basis for the Federal Reserve Board of Governors (Board), finalized rule on mortgage loan originator compensation.

As you are aware, this rule is scheduled to be implemented on April 1, 2011.

According to the Board, the rule was proposed to combat current compensation practices by mortgage brokers and loan originators, which the Board deemed to be unfair, deceptive and conflictive with the best interests of consumers.

The Board claims their original decision to move forward with the rule, was based on certain studies, which provided the necessary supporting documentation. At issue is the Board's dismissive action, with respect to ANY study that clearly showed brokers and originators in a positive light. Two such studies were, (1) "The Pricing of Subprime Mortgages by Mortgage Brokers and Lenders." This intensive study, which involved the review of over 1 million loan files, was authored by former Georgetown University Professor Gregory Elliehausen. (2) "Mortgage Broker Regulations. Analyzing Earnings, Employment, and Outcomes for Consumers." This study was authored by Morris Kleiner and Richard Todd. Both studies overwhelmingly concluded, consumer costs were substantially less and borrowers received better loan terms from mortgage brokers. The largest consumer savings were experienced by African Americans and Hispanics.

NAIHP not only questions the Board's outright dismissal of these studies, but why these same three authors are now employed by the Board. If the Board deemed their studies "non-dispositive," then why were they recruited for employment? We believe the reasons are obvious. The authors are now not inclined to "bite the hand that feeds them."

Interestingly enough, other studies, which produced opposite results, were used as the foundation for the rule. One study, which is actual a "survey," was produced by AARP. The survey consisted of calling 1008 borrowers (65+ years of age), and asking certain questions about their loans. It's important to note, AARP never reviewed a single loan document from any of the 1008 borrowers. Another highly questionable study was produced by Michael LaCour-Little, Ph.D. This study "The Pricing of Mortgages by Brokers. An Agency Problem," borders on the absurd. It appears Dr. LaCour-Little, obtained his research from two banks, of which he declines to name, because he signed confidentiality agreements, and rate sheets that he said, can be found anywhere. Two other studies, including one from the Center for Responsible (CRL) and the Board's commissioned Macro study, were also given weight in their decision to propose the rule. The CRL study is also questionable, given their long standing campaign against brokers, the fact that their study was conducted "in house," and therefore not impartial. Moreover, I personally gave CRL's President, documentation that conflicted with their established views about brokers and yield spread premiums (YSP), which was never factored into their study. Finally, we have the Board's study by MACRO International, Inc. This study consists of testing 35 people in 4 cities. Moreover, as admitted by Macro, they changed the original test questions, after the first test was conducted.

The Board disregarded clear and convincing evidence that mortgage brokers were NOT engaged in unfair, deceptive or abusive practices and promulgated a rule, despite the fact they knew brokers provided lower costs to all borrowers, especially minorities.

In addition to recruiting authors, whose studies attacked the foundation of their rule, the Board also hired a highly respected advocate for brokers and YSP. Attorney Nikita Pastor is employed by the Board's Consumer and Community Affairs Division. This is the division that wrote the rule in question. Ms. Pastor was formerly employed by the National Association of Mortgage Brokers (NAMB), as their Vice President and Regulatory Counsel. Prior to my position with NAIHP, I was President of NAMB. Ms. Pastor and I worked closely together on several issues, including the issue of yield spread premiums (YSP). In fact, many of the times I testified before Congress, it was Ms. Pastor, who authored much of my written testimony. She also developed a PowerPoint presentation for me (YSP 101), which I used on Capitol Hill in seminars about this issue. As Regulatory Counsel, Ms. Pastor was NAMB's lead person on the YSP issue. NAIHP suspects like the authors mentioned above, she was recruited by the Board to silence yet another opposing voice.

On March 7, 2011, NAIHP filed suit against the Board to prevent implementation of the compensation rule. On March 9, 2011, NAMB filed suit in the same matter. Regardless of the outcome of these complaints, NAIHP asks you to investigate the false, misleading

and deceptive practices by the Board. We strongly believe a hearing should be called to expose these practices.

We also suggest you link to the website below for additional information.
<http://tbwsdailyshow.com/2011/03/22/the-lo-compensation-fed-rule-scandal/>

Respectfully submitted,

A handwritten signature in black ink that reads "Marc S. Savitt". The signature is written in a cursive style with a large, prominent initial "M".

Marc S. Savitt, President

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