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Committee on General Law
Bill 303

Dear Committee:

It is clear that the mortgage market pendulum swung widely towards easy credit, poor underwriting standards, extremely risky mortgages and significant fraud.

The markets have yet to correct from the reckless practices employed over past several years and will be proven further buy a significant increase in foreclosure activity and bank failures.

Wall Street armed with worldwide excess capital seeking a home, found a way to satisfy its excess greed by way of securitizing the single family home into a toxic brew in the form of mortgage back securities. Unfortunately Wall Street failed to understand many of the key market characteristics associated with real estate (No Centralized Market, Limited Specific Market Information, Infrequent Unique Trades, Unique Nature and Immobility) all of which are not common characteristics for Stock or Bond markets. These factors coupled with the fact Wall Street and several other lending institutions failed to correctly value underlying assets, misrepresented associated risks, inflated ratings for securities all while ignoring many red flags raised by valuation experts.

The above being said this crisis evolves and each day proves the disaster is far from over and has yet to fully rear it true ugly head. The impact will be unprecedented and have a significant impact on our financial history.

The Chain of Blame clearly starts at the top of food chain with Wall Street and Banks eager to make fees, package and distort risks to distant investor groups. It will certainly make its way down the chain to the individual appraiser and scrutinize the processes that were employed in an attempt to find an escape goat.

It will be clear that traditional lending practices were ignored to feed the lending frenzy. The result changed the industry landscape were lenders who typically held loans now could sell loans with ease, receive proceeds to create more loans and make substantial fees with limited to no risk. The change promoted incentives for lenders to be less vigilant, willing to accept risky loans by the transference to securitized purchasers. Lenders interests ensuring accuracy for asset valuation via an appraisal was substantially diminished and not aligned with the profit incentives objectives for quantity of loans versus quality of loans. Adding fuel to the fire is the fact that lenders created an environment that had an incentive to pressure appraisers to inflate values to close loans, regardless of the fact that the appraisal accurately reflected a true market value.

In order to feed "The Machine" many institutions set up separate entities known as Appraisal Management Companies (AMC'S) to expedite and consolidate the underwriting process, increase efficiency, reduce costs, all under the guise superior performance and promoting appraisal independence. Actually these entities engaging in the outsourced processes became profit centers for the institutions at the appraiser expense. As it turns out it didn't matter since the risk was being shifted down line. The environment created "Fast & Cheap" appraisals to no appraisals at all (Automated Valuation Models- AVM's). The goal, reduce all transaction costs, create separate profit center with no regard to valuation or risk affiliation, push it out the door and crank up the volume. The result was that many of these entities promoted as AMC's, were anything but independent or separated from the loan production of many institutions.

This was made clear by the Andrew Cuomo suit settlement with Washington Mutual and EAppraiseit an AMC clearly influenced by WaMU. It created the HVCC which has been adopted with many unintentional errors and unintended consequences.

A case was filed on 10/16/2008 in US District Court in Seattle against Countrywide and it's AMC affiliate Landsafe in a class action employing RICO statutes by identifying the use of "Enterprises", the violation of federal laws regarding appraisal independence, and outlines how the process was accelerated and disguised through the use of a company owned or affiliated AMC's. A second case was filed as well against Wells Fargo for it's Rels AMC entity.

Another case reportedly settled was the WaMu case in Sacramento by Jennifer Wertz and WaMu LSI, Fidelity et al, were sued under 12 counts including fraud and unfair business practices. This is just the tip of the iceberg.

Federal and States laws have been established to protect integrity of appraisal process giving an appraiser the right to provide borrowers and lenders independent and accurate valuations for homes. The laws are clear that lenders are prohibited from pressuring appraisers into compromising their independence and producing a report not based on an objective opinion.

Several lenders and affiliates have engaged in the practice of pressuring and intimidating appraisers to meet the business objectives with the use of appraisals that don't follow specific industry guidelines or accepted standards.

It is well known that the failure to comply results in "Black Listing" at lender level as well as at the mortgage brokerage level. AMC's are completely integrated in oppressive practice.

It is clear to all these collective activities have resulted as one of many factors into distorting the marketplace for real estate. Collusion amongst the several entities violates several laws including the Federal Racketeering Influenced Corrupt Practices Act.

The individual consumer, tax payers will ultimately will pay the price and integrity of the mortgage markets will take years to recover. Lack of or perceived integrity or affiliated risks in mortgage markets will clearly lead to higher interest rates.

As indicated the Federal Law is clear in federally related transactions as it relates to an "In House" appraiser being independent from lending, investment collection of funds, and not involved, except as an appraiser and have no direct or indirect interest financial or otherwise in a property. A fee appraiser may be engaged directly by regulated institution or its agent and also must maintain same independence.

The OTS published in 2005 a document on Independent Appraisal Evaluation Function and one of the key components identifies that loan production staff be completely independent and not be affiliated with selecting an appraiser.

This is the carrot at the end of the stick AMC's use to promote their cause. That an institution can outsource said appraisal process, not require a costly compliance department, not need to constantly monitor an efficient "Chinese Wall" keeping production personnel away from underwriting and risk management staff. All this is promoted as a "Win Win" by cost reduction along with outsourcing to an independent entity.

It is painfully clear with several mentioned filed court cases with many to follow, that the use of AMC's are a smoke and mirrors and do nothing to insure appraiser independence. If anything the use of a separate entity actually promoted the improper activities via a false sense of security thinking the institutions were insulated. In reality it turns out that the collusion and enterprise activities are going to be very costly as it plays out in the courts. One can also note that many of the recent suits and players affiliated with AMC's are now out of business or insolvent.

Bottom line we need to get back to the basics, let failures attributed to excess valuation revert to the mean and even possibly overshoot the mean to restore reality. We created a process that failed to touch, feel and value assets correctly. We allowed the risk takers to be too far away from risk underwriters that poorly convey risks by employing many short cuts, falsely rating assets through the use of third party non-expert middlemen. The result will most like be chronicled as the greatest financial disaster in world wide history.

More scrutiny is required in valuing assets and can't be achieved by shortcutting the valuation process. Employing middlemen such as AMC's that dilute and diminish the critical appraisal process by siphoning fees can only be to the detriment of the mortgage/banking industry and the general public as a whole.

Banks will find in a post mortem that they should have allocated more resources to insure appraiser independence, engage directly proper certified experts qualified to communicate accurate values, eliminate unessential parties in middle that dilute and or distort the valuation process. Banks will see the true cost benefit analysis was significantly short sighted, resulted in significant loss, failure to identify affiliated risks and jeopardized the entire banking system while putting the entire economy in a massive recession.

Hopefully financial institutions will see the light and stop the use of non-essential intermediaries and eliminate the use of AMC's. The primary lending objective should be to establish strict quality control standards, with extensive in house review departments that are totally independent from production. These institutions should also seek out and employ outside licensed experts to confirm reported values, identify proper risk affiliations, engage quality assurance programs and finally regularly review said processes insure quality and integrity. It should be noted this was the previous operating procedure financial institutions employed.

Only with proper legislation, limited regulation, diligence, compliance and controls can we attempt to prevent the current financial disaster from occurring in the future.

Clearly as outline above in the broad strokes we now are at a critical stage in our economic history. The housing crisis was created with "World Wide Cheap Money" that allowed individuals to buy houses they could not afford. The individual borrowed against future demand and now has to pay it back. The party is over. A national savings plan, debt and leverage voidance will become the norm.

It may seem insignificant as to what AMC's contribute destroying the entire valuation process. Nothing could be farther from the truth. As a result of the widespread use of AMC's, applications for appraisers in Connecticut have basically gone to zero. Quality appraisers are exiting mortgage lending in droves as a result of their fees going to AMC's. What remains are the producers of "Fast & Cheap". The saying goes "Buy Cheap, Buy Twice".

The practice of non-certified individuals collecting fees in the appraisal process should be deemed illegal and a fineable offense and or imprisonment.

We employ great effort to qualify and certify appraisers at national and state levels. Significant time is invested to better quality standards, education, experience and enforcement. We strive to perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

Allowing the recognition of AMC's or individuals to share in the fees of a strictly regulated profession is akin to legalizing prostitution and recognizing the "Pimp" who adds no value, benefits from criminal actions, as critical to the process.

Sincerely,

Scott E. P. Kelland
President /CEO