History of Predatory Lending

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by: Atlanta Legal Aid Society

PREDATORY LENDING:
HISTORICAL PERSPECTIVE

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Atlanta Legal Aid's Bill Brennan, as one of the nation's experts on predatory lending, was asked by Senator Grassley to testify at the Senate Special Committee on Aging hearing on "Equity Predators: Stripping, Flipping, and Packing Their Way to Profits." Bill was warmly received and several Senators made statements at the hearing indicating the value they placed on legal service program involvement in this area. Bill's testimony (see text below) clearly outlines the problems of predatory lending and equity theft, how victims are targeted, and some historical perspective. An Exhibit (updated in September 2000) presented to the Committee details how these scams work.

Bill was quoted in the New York Times, December 13, 1997 in an article about lending practices. "We have financial apartheid in our country. We have low-income, often minority borrowers, who are charged unconscionably high interest rates, either directly or indirectly through the cover of added charges."

Testimony of William J. Brennan, Jr., Director,
Home defense program of the Atlanta Legal Aid Society, Inc. before the committee on banking and financial services, United States house of representatives
May 24, 2000

Thank you for this opportunity to address the United States House Committee on Banking and Financial Services on the subject of predatory mortgage lending practices directed against elderly, minority, low and moderate income, and women homeowners. My name is William J. Brennan, Jr. For almost 32 years, I have been a staff attorney at the Atlanta Legal Aid Society, Inc. specializing in housing and consumer issues. For the past 12 years, I have served as the director of the Home Defense Program of the Atlanta Legal Aid Society.

Over the years, the Home Defense Program has provided referrals and legal representation to hundreds of low and moderate income homeowners and home buyers who have been victimized by home equity and home purchase scams, including predatory mortgage lending. The Program is funded by the Atlanta Legal Aid Society and the DeKalb County, Georgia, Department of Human and Community Development with HUD community development block grant funds. The Program consists of myself, a staff attorney, and a paralegal.

On a daily basis, we assist individual homeowners who have been targeted by local and national companies with abusive, predatory mortgage lending practices. We evaluate their cases to determine whether legal claims exist. We settle some cases without litigation and litigate others. Most often, because of our limited resources, we assist homeowners in obtaining private attorneys to represent them in cases where the homeowners may have legal claims. Where appropriate, we also refer homeowners to local nonprofit housing counseling and other agencies which assist them in obtaining refinancing of their high cost mortgage loans through low cost, conventional mortgage lenders or other special programs. We refer many senior citizen homeowners for reverse mortgages. We also participate on a regular basis in a range of community education efforts aimed at warning home buyers and homeowners against home equity theft scams, including abusive mortgage lending practices.

When homeowners come to the Home Defense Program with sub prime mortgage loans, my job is to conduct an investigation and determine whether they have any legal claim. In a few cases, a strong legal claim exists that will result in a settlement that cancels the mortgage. In other cases, legal claims exist that will result in a settlement that may give the homeowner some cash and a restructured mortgage loan with a lower balance, lower interest rate, and lower monthly payments that the homeowner can afford. In too many cases, the loan is full of predatory and abusive lending terms, but I can find no legal claim. Homeowners who are not eligible for a reverse mortgage or low cost refinance are bound to those high cost, abusive mortgages with no legal recourse. When they cannot make the payments, they go into default and lose their homes and all their equity.

The financial services industry (including banks and thrifts, local and national, large and small mortgage lenders and finance companies) has evolved a system of financial apartheid in our country. Many people with A credit are provided with fairly low cost loan products with little or no abusive practices. On the other hand, people with B and especially C and D credit (and some of those with A credit) are often egregiously overcharged and subjected to abusive lending practices.[1] Moreover, these high cost, abusive loan products are marketed disproportionately among our elderly, minority, and low and moderate income communities. The rationale that risk justifies exploitation is bogus. As Philadelphia Community Legal Services attorney Irv Ackelsberg points out, it is as though society has dealt with the problem of inadequate access to productive credit by drowning low income households in destructive debt.

Devastating Impact on Individuals, Families and Communities

The impact of predatory mortgage lending has been devastating on individuals, families and communities. Because these mortgages are grossly overpriced and contain abusive, predatory terms that further drive up the cost, many families are struggling to make their monthly mortgage payments. Too often they forego paying for other important necessities such as food, medicine, utilities, and property taxes in order to keep their homes. When they fall behind on the mortgage payments, they face foreclosure. Many inevitably lose their homes and are kicked out on the street.

Predatory Lending Practices

Based on my 32 years at the Atlanta Legal Aid Society, 12 years as director of the Home Defense Program, and hundreds of sub prime lending cases that have come through my program, I have never seen a sub prime mortgage lender not engage in one or more of three distinct categories of predatory lending practices. Here is what they do.

I. They overcharge on interest and points.

Predatory mortgage lenders charge egregiously high annual interest and prepaid finance charges (points) which are not justified by the risk involved because these loans are collateralized by valuable real estate. Since these companies only lend at 70-80% loan-to-value ratios, they have a 20-30% cushion to protect them if they have to foreclose. They usually buy in at the foreclosure auction sale, evict the former homeowner, and sell the house for enough to pay off the loan and often generate additional profits. This assertion may be tested by ascertaining the net profits sub prime mortgage lenders earn. If the risk were great, losses would be high. High losses would be reflected in diminished profits. In spite of this, profits in fact are great.

These profits are reflected in the trading values of these lenders. For example, two years ago Ford Motor Company sold its sub prime finance company subsidiary, Associates Financial Services, to stockholders for $25.8 billion. First Union purchased The Money Store for $2.1 billion. The CEO of GreenTree Financial received $102 million in total compensation for 1996 and $65 million in the previous year. More recently, Bank of America offered NationsCredit, one of its sub prime mortgage lending subsidiaries, for sale for $1 billion. "BoA Is Asking $1 Billion For NationsCredit Unit," National Mortgage News, May 15, 2000, p. 1. According to the article, NationsCredit currently brings in $5 million per month. EquiCredit, the other sub prime mortgage lending subsidiary owned by Bank of America, makes $30 million per month. In an article entitled "Loan Sharks, Inc.," Thomas Goetz reports that:

Sub prime companies say their interest rates are so high to compensate for the greater risk these borrowers bring. But a welcome side effect of high rates is the profits that traditional banks can't hope to match. According to Forbes, sub prime consumer finance companies can enjoy returns up to six times greater than those of the best-run banks. Corporate America hasn't failed to notice.

Village Voice, July 15, 1997 at 33.

II. They perpetrate other profitable abuses.

Predatory mortgage lenders purposely engage in other abusive lending practices that effectively allow the lenders to collect hidden, indirect interest and thereby increase and enhance profits.

Examples are:

- Loan flipping;
- Packing the loan with overpriced single premium-financed credit life, disability and unemployment insurance;
- Balloon payments;
- High prepayment penalties;
- Using scam home improvement companies to generate originations;
- Paying kickbacks to mortgage brokers to generate originations; and
- Paying off low cost or forgivable mortgage loans.

It is crucial to understand that the profitability of the sub prime mortgage lending business is derived not just from overcharging on interest and points as set out in Category I, but also from engaging in the above listed abusive lending practices set out in Category II and Appendix A [of the report]. The profitability is inextricably intertwined with the perpetration of these abusive lending practices.

Moreover, in this instance the sub prime lenders cannot legitimately argue that risk justifies their practices. While the price of the loan product should be related to actual risk, the abusive practices listed in Category II and Appendix A have nothing to do with risk and cannot be justified on the basis that many sub prime borrowers have less than perfect credit ratings.

III. They target groups based on age, race, income, and sex.

Predatory mortgage lenders purposely target vulnerable elderly, minority, low and moderate income, and women homeowners with high cost abusive mortgage loans.

Elderly homeowners, who tend to have substantial equity but live on fixed incomes (social security and retirement benefits), are perhaps the principal targets. Their homes may be in need of expensive repairs (often roofing work) or they may have fallen behind on their property taxes, incurred substantial medical bills not covered by Medicare, Medicaid or health insurance, or suffered a loss of income after the death of a spouse. The common characteristics of these victims are a need for money (either real or suggested by the lender) combined with a lack of financial sophistication, often exacerbated by diminished mental capacity as a result of Alzheimer's and other dementia-related diseases.

Minority groups are disproportionately targeted by predatory lenders because their access to legitimate sources of loans and other financial services is disproportionately denied. Some banks and other conventional mortgage lenders engage in redlining by designating entire communities as bad financial risks and refusing to make them prime rate loans. Redlining creates a credit vacuum filled by the predatory lenders (many of which are owned by the same banks which redline communities). These predators target these same communities with overpriced loan products, knowing that the residents are a captive market with no access to reasonably-priced credit. This is called reverse redlining.

In Atlanta, sub prime loans are almost five times more likely in black neighborhoods than in white neighborhoods. In addition, homeowners in moderate-income black neighborhoods are almost twice as likely as homeowners in low-income white neighborhoods to have sub prime loans. See HUD Report, "Unequal Burden in Atlanta: Income and Racial Disparities in Sub prime Lending," April 2000. See also Appendix B, map of Atlanta metropolitan area showing a high concentration of sub prime lenders' market share of refinancing loan originations in 1998 in minority census tracts, and very low concentration in non-minority areas. By comparison, see Appendix C, map of the Atlanta metropolitan area showing a high concentration of Fannie Mae and Freddie Mac support for the conventional (low cost, non-abusive) home mortgage loan market in non-minority neighborhoods, and a dearth of Fannie and Freddie support for conventional mortgage lending in minority neighborhoods. For similar findings of disparities in lending based on race in Chicago, see "Two Steps Back: The Dual Mortgage Market, Predatory Lending, and the Undoing of Community Development," Woodstock Institute, November 1999.

Low and moderate income homeowners are also targets when they have or appear to have less than perfect credit ratings. Conventional lenders tend to deny loans to these individuals and often steer them to predatory lenders. In Atlanta, sub prime loans are three times more likely in low-income neighborhoods than in upper-income neighborhoods. See HUD Report.

Finally, a disproportionate number of my clients are women. Most of these are elderly, African American, and widowed. I believe that in many instances women are targeted because they are deemed by lenders to be vulnerable.

Expansion of Predatory Lending

Over the past 12 years, I have seen a dramatic increase in the number of predatory mortgage loans in the Atlanta area. The number of sub prime refinance loans originated in Atlanta increased by more than 500% from 1993 to 1998. See HUD Report, "Unequal Burden in Atlanta: Income and Racial Disparities in Sub prime Lending," April 2000. In addition, the Atlanta metropolitan area saw a 232% increase in the number of foreclosures by sub prime lenders, while there was a 15% decrease in the number of foreclosures by nonsub prime lenders. See HUD Report.

Examples of Cases

Examples of cases which have come into our office over the last few years include the following. A 62-year old African American widow borrowed $88,900 from a bank owned sub prime lender with a 13% annual percentage rate (APR). The $88,900 borrowed included approximately $10,000 in single premiums for credit life, disability and unemployment insurance coverage. The premiums were financed over the term of the 15 year loan at 13% APR. The life insurance provided coverage for only the first ten years of the loan term. The disability insurance covered only the first five years of the loan. Thus, the lender packed in $10,000 in expensive credit insurance which dramatically increased the balance and was financed over the term of the loan, though actually covered less than the term of the loan.

Another client is a 71-year-old, retired African American long time homeowner and her elderly, ill husband. They were living in a paid for house when she answered a newspaper advertisement offering home repairs which they needed. The home improvement salesman arranged financing through a bank-owned sub prime mortgage lender for the $13,780.00 price for the home improvement work. The loan was for $21,612.59, and included payoffs of some other debts they owed. The APR was 10% and the term was 15 years. The home improvement company drew down a check for $6,899.00, installed a hot water heater, and disappeared. An expert valued the work performed at about $500.00. When the homeowner complained to the mortgage lender that the work had not been completed, the lender mailed her a check for the remaining $6,890.00 made out to her, her husband (who had since died), and the home improvement company (which was long gone). Although she cannot cash the check, she has continued to make the payments on the mortgage. In this case, a sub prime lender used a scam home improvement company to aid it in generating a high cost sub prime mortgage loan.

An African American couple in their 40s purchased a home with a $121,366.90 mortgage loan from a large national sub prime lender (not bank owned). The prepaid finance charge was $3,534.96. The APR was 14.39%. The loan had a balloon payment provision requiring that $106,320.28 be paid as the last payment on the 15-year mortgage. Although the balloon feature was disclosed, the purchasers did not know about it until six months after the loan closing, when the lender called and told them about the balloon feature, and suggested they come back in to obtain a new loan without a balloon. Although they hesitated to do so at first, they finally agreed to the refinancing to rid themselves of the balloon payment requirement. The new loan was for $133,583.37. The prepaid finance charge was $9,850.63. The APR was 13.58%. The new loan was for a 30-year term. In this case, the lender employed the balloon feature to trigger a refinanced (or flipped) loan which included about $10,000 in points.

I could provide dozens of other examples of high cost, abusive mortgage lending cases. I have omitted the names of the homeowners and lenders here because these cases have either been settled or are in settlement discussions.

History and Role of the Banks in Predatory Lending

When I started at Atlanta Legal Aid Society almost 32 years ago, the few abusive mortgage lending cases we saw involved local individuals and companies. In the mid to late 1980s, national finance companies started getting into the sub prime mortgage lending business, and we saw an increase in the proliferation of abusive lending practices. In the early 1990s to the present, other large national corporations and national banks got involved in the sub prime market. Ford Motor Company acquired the Associates, a large sub prime mortgage lender. Chrysler Motor Company created Chrysler First, Inc., a consumer finance and second mortgage company.

Although most banks have played no role in the sub prime lending business, some banks have played a very significant role in the expansion of sub prime lending and the abusive practices that are so much a part of it. That role is played out in a number of different ways.

A few banks own sub prime mortgage companies. Banks now control five of the nation's top ten sub prime leaders. Among the top 25 sub prime lenders in the third quarter of 1999, ten are owned by either a bank or thrift. A year ago, just three of the top 25 were owned by depository institutions. "Banks Take Over Sub prime," National Mortgage News, November 15, 1999, p.1.

The recent history of Bank of America is illustrative. NationsBank acquired C&S National Bank which owned C&S Family Credit. In November 1992, NationsBank Corporation purchased Chrysler First. NationsBank combined C&S Family Credit with Chrysler First and called the new company NationsCredit. Later NationsBank acquired Barnett Bank which owned a subsidiary, EquiCredit. NationsBank then merged with Bank of America and is now known as Bank of America. It engages in sub prime mortgage lending through NationsCredit and EquiCredit.

Several years ago, First Union Bank purchased The Money Store. Thus, First Union is now in the sub prime mortgage lending business through The Money Store. CitiBank merged with Travelers Insurance Company which owned Commercial

Credit. CitiBank, now known as CitiGroup, engages in sub prime mortgage lending through CitiFinance (formerly Commercial Credit).

We have numerous cases involving these bank-owned sub prime entities. In these cases, we have seen countless examples of abusive lending practices, including high interest rate and points, loan flipping, home improvement scams, credit insurance packing, high prepayment penalties, etc.

Some banks make capital loans to support the operations of sub prime mortgage companies. For example, 22 banks led by First Union National Bank made an unsecured $850 million line of credit loan to now-defunct sub prime lender United Companies Financial Corporation. Incidentally, those banks lost at least $300 million on the deal. "Banks on United Cos. Line Taking $300 Million Loss," National Mortgage News, April 5, 1999, p. 1. United is now in a Chapter 11 bankruptcy. (The irony here is that most banks will not make fully secured low cost mortgage loans to low and moderate income homeowners with less than perfect credit who need loans for legitimate purposes, such as to replace a roof, and can repay the loan in full. These would be profitable, fully secured loans. Apparently, the banks involved with United felt an unsecured $850 million line of credit to this company was a safe investment.)

Other banks support sub prime mortgage lenders by purchasing mortgage loans originated by sub prime mortgage companies or by acting as trustees in the securitization process. For example, The New York Times reported the following about Bankers Trust and sub prime mortgage lender Delta Funding.

High-interest lending in poor neighborhoods has long produced high profits for lenders and, often, equally high burdens for homeowners. But the entry of big banks like Bankers Trust is part of a growing trend in such lending and has changed the equation.

Over the last several years, Delta has converted hundreds of millions of dollars' worth of its mortgages into securities much like bonds, which it sells to investors through Bankers Trust.

In turn, Bankers Trust has provide Delta with hundreds of millions of dollars from the investors, allowing it to make more and more loans and become a major player in high-interest lending in New York and in 21 other states.

But there is a problem: a high percentage of the homeowners can't afford Delta's mortgages. Many say they were duped into taking the loans and now may lose their homes as Delta and Bankers Trust try to reclaim the money for their investors.

"Suit Says Unscrupulous Lending Is Taking Homes From the Poor," The New York Times, January 18, 1999, p. 1.4

Banks face the same incentives as other lenders to take advantage of sub prime borrowers. As a result, some banks down stream potential customers to their sub prime mortgage subsidiaries where they are subjected to high cost, abusive mortgage lending practices. These include mortgage loan applicants with less than perfect credit, as well as minorities and others with good credit who are steered downstream based on their race or national origin.

In addition, some banks engage in redlining practices. As described above, redlining creates a credit vacuum which is then filled by predatory lenders (many of which are owned by the same banks).

The involvement of these banks has resulted in the expansion of capital into the sub prime mortgage business, which in turn has resulted in the expansion of sub prime markets for the sub prime entities. The ultimate result is that many more homeowners have been and continue to be subjected to predatory lending practices, which puts them in a position of struggling to make their mortgage payments, with many eventually losing their homes to foreclosure.

I was handling predatory mortgage lending cases when the banks first became involved in sub prime lending. I vividly recall that when NationsBank purchased Chrysler First in 1992, the bank went out of its way to assure local communities that alleged predatory mortgage lending practices engaged in by Chrysler First would cease. In fact, when asked about homeowner lawsuits that had been filed against Chrysler First, a bank spokesman said that if "there had been problems with prior business practices, this acquisition may well be the most effective way to fix them." "Complaints Arise Over Finance Firm: Chrysler First Faces Lawsuits, The Charlotte Observer, January 10, 1993, page 1A. See Appendix D for a copy of this news article.

Before these acquisitions, we had clients who had mortgages with Chrysler First and EquiCredit where we saw abusive practices. Since NationsBank (now Bank of America) took over Chrysler First and EquiCredit, in my opinion the problems have gotten worse. We have more clients and more abusive practices in connection with these loans.

In sum, the involvement of these banks with sub prime lending has been a devastating development in terms of the expansion of abusive, predatory mortgage lending practices in low and moderate income and minority communities.

I know why these banks got involved: profitability. Remember that profitability is inextricably intertwined with the Category II and Appendix A abusive lending practices described above. I would argue that these banks use the profits from the sub prime mortgage lending business to keep the costs of their prime mortgage lending business at the lowest possible levels. These banks target their low cost mortgage loan products primarily into middle income and wealthy, white homeowner communities and target their sub prime, abusive mortgage loan products into low and moderate income, minority homeowner communities. The result is a shifting of home equity wealth out of the low and moderate, minority neighborhoods into middle class and wealthy, white neighborhoods.

The Entry of Fannie Mae and Freddie Mac into the Sub prime Mortgage Lending Business

I have been greatly disappointed that the entry of many prominent national banks into the sub prime mortgage lending business has resulted not in reform, but in the expansion of the abusive practices. The fact that these banks are federally regulated has made little difference. So far, the bank regulators have done little to stop the overcharging on cost and the other abusive practices.

Now, to my dismay, Fannie Mae and Freddie Mac have announced they are getting into the sub prime mortgage lending business. This is their response to HUD's mandate that they expand their affordable housing goals into low and moderate income, minority neighborhoods and rural communities. Like the banks before them, Fannie and Freddie claim that their involvement will effectuate positive change and reform in the sub prime market. I beg to differ. Freddie recently revealed that it has purchased 70 HOEPA loans which are by definition very high cost mortgage loans. "Freddie Makes Sub prime Moves," National Mortgage News, February 22, 2000.

If Fannie and Freddie get involved in the sub prime mortgage lending business, I cannot see how the results would be any different from the results of the banks' involvement. The results most likely will be the same. In fact, the results likely will be even worse because even more capital will be infused into the sub prime business by Fannie and Freddie than has been the case with the banks. As a result, predatory mortgage lenders' penetration into minority communities with their poisonous, abusive, high cost mortgage loan products will likewise greatly increase. I would argue that Fannie and Freddie will use the profits from the sub prime mortgage lending business to keep the costs of their prime mortgage lending business at the lowest possible levels, just as the banks have done. Again, in my opinion, the result will be a shifting of home equity wealth out of the low and moderate income, minority neighborhoods into middle class and wealthy, white neighborhoods.

Some argue that Fannie and Freddie's involvement in sub prime lending will tend to eliminate the abusive lending practices. Proponents cite their huge capital base and uniform underwriting standards for the loans they purchase. In theory, the potential for reform is great. However, the promise of reform seems empty given recent developments.

In response to recent expressions of concern about Fannie and Freddie getting into the sub prime mortgage lending business, Fannie announced that it will not buy HOEPA loans, mortgage loans where single premium credit life insurance has been sold in connection with the loan, or mortgage loans where the points and fees exceed 5% of the amount borrowed. Fannie will only allow prepayment penalties under certain circumstances. Freddie has announced that it will not buy HOEPA loans or mortgage loans with single premium credit insurance policies. Freddie also announced it will not buy mortgage loans from companies that refuse to report to the credit bureaus timely payments by borrowers.

Our concern is this: what about all the other abuses set out and described in Category II and Appendix A? What about loan flipping? Home improvement scams? Paying off low cost and forgivable loans? I am certain that many if not most of the companies would simply expand into these other abuses because they are so closely tied to profitability, even as they might stop the few practices prohibited by Fannie and Freddie.

Why have Fannie and Freddie not undertaken policies to stop all the abuses? Profitability. Fannie and Freddie are beholden to their stockholders. Like other corporations, they need to report increases in profits. Lately, the overall volume of mortgages purchased by Fannie and Freddie has been down. Getting into the sub prime lending business would increase profits substantially, but prohibiting the abusive practices would cause a substantial decrease in profits. Thus, there would be tremendous pressure on Fannie and Freddie not to prohibit the abuses.

There are other good reasons why Fannie and Freddie should not enter the sub prime market. If Fannie and Freddie enter the sub prime mortgage lending business, any downturn in the economy would result in a massive increase in foreclosures because one of the hallmarks of abusive lending is setting the payments at amounts the borrowers can barely afford. Fannie and Freddie, as government sponsored enterprises, might very well turn to Congress for a financial bailout, similar to the bailout of the savings and loan industry in the 1980s which cost taxpayers billions of dollars.

Finally, entering into the sub prime mortgage lending business may subject Fannie and Freddie to civil liability for predatory mortgage lending practices. Just a few weeks ago, homeowners filed a class action case against Lehman Brothers for its involvement in alleged predatory lending practices of First Alliance Mortgage Company. Fannie and Freddie's involvement in the sub prime mortgage lending business with the inherent abuses similarly may result in extensive litigation against both of them.

Non-Legislative Solutions

There is a non-regulatory, non-legislative solution to the problem of predatory mortgage lending. The financial services industry could easily agree to tear down the artificial wall that has been erected between the A borrowers and the B, C, and D borrowers. Lenders could make fairly priced, profitable loans based on accurate analysis of risk. They could also stop the abusive practices.

Models for this are emerging around the country. For example, the Boston based Neighborhood Assistance Corporation of America (NACA) has entered into a series of innovative agreements with major national banks to provide no cost, below market rate home purchase and refinance mortgage loans (currently less than 8% fixed) to persons who have less than perfect credit but have demonstrated an ability to make current payments on their mortgages. The program is a major success. Here the artificial wall was torn down. The result has been that thousands of people who formerly would have been denied access to low cost credit are now enjoying the benefits of home ownership, and the banks can take credit for positive community reinvestment. This movement has culminated in NACA's agreement with Bank of America to provide $3 billion in home purchase and refinance funds to low and moderate income persons with less than perfect credit in 21 cities across America. Unfortunately, despite the success of its program with NACA, Bank of America continues to engage in sub prime, abusive mortgage lending practices through its subsidiaries, NationsCredit and EquiCredit. "The Two Sides of Lending: Does NationsBank Play Good Cop and Bad Cop With Borrowers?" U.S. News and World Report, December 9, 1996, p. 74.

Here is a suggestion. Banks and large private mortgage companies could and should undertake a leadership role and follow this example. They could expand their fairly priced, non-abusive mortgage lending practices into the same communities now suffering under the burden of predatory mortgage lending. Banks with subsidiaries engaging in predatory lending practices should cease those practices. This expansion of conventional credit will lead to competition, and result in lower costs and the elimination of abuses, which would drive many of the predators out.

Regulatory and Legislative Solutions

Unfortunately, self-reform does not seem to be occurring. Sub prime, predatory mortgage lending is expanding. Bank of America, First Union, CitiGroup and others still operate sub prime mortgage entities with the attendant overpricing and abusive practices. Accordingly, legislative and regulatory responses are desperately needed.

The trend toward prohibiting some but not all of the abusive mortgage lending practices as a solution is grossly insufficient. Lenders might very well refrain from the few prohibited practices, but would simply expand into the permissible abuses because they are so closely tied to profitability. All the abuses must be stopped. It is simply bad public policy to prohibit some egregious abuses but to allow the others to flourish.

Therefore, I propose that the Home Ownership and Equity Protection Act (HOEPA) should be amended in the following ways. First, the interest rate and points and fees triggers should be substantially lowered. Setting the triggers too high allows lenders to set their rates just under the triggers so they can engage in the prohibited practices. Second, all of the abuses set out in Category II and Appendix A should be prohibited.

In addition, HUD and/or Congress should require that Fannie Mae and Freddie Mac expand their support for conventional mortgage lending in minority and low and moderate income communities, and prohibit them from entering into the business of sub prime mortgage lending. Allowing Fannie and Freddie to get into sub prime lending would enable another explosion of predatory lending practices, which will result in millions of homeowners struggling to make their mortgage payments with many inevitably losing their homes to foreclosure. Any assurance that their involvement will lead to a decrease in predatory practices rings hollow. We should learn from the history of the banks' entry into sub prime mortgage lending and the resulting damage inflicted on our communities. As a matter of public policy, Fannie and Freddie should not to get into this pernicious, predatory business.

Thank you for your consideration of these comments.

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There are many other things a freedom awakened person can do to truly be free. For more information, please call or email us.

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