



The Banks and Lenders that “prey” together, stay together.

An open letter to the President of the United States.

February 11, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear Mr. President:

I represent tens of thousands of small business mortgage professionals who are being forced out of business by some of the nation’s largest national banks, lenders and mortgage insurance companies.

As you are well aware, this country is experiencing the worst financial crisis since the Great Depression. While your Administration and Congress search to find a solution to our economic troubles, others are conducting a campaign of blame, with the goal of eliminating competition and controlling all aspects of mortgage financing.

From the very moment mainstream media first used the words “mortgage meltdown,” mortgage brokers were labeled as the group that inflicted the predatory practices that gave rise to record foreclosures. As a result, mortgage brokers have been subjected to intense scrutiny and consequently over-regulation. Moreover, some of our former wholesale lenders and private mortgage insurance outlets have cut off our source of funds to operate, all under the guise of consumer protection. Make no mistake about it; this campaign to eliminate our profession has absolutely nothing to do with consumer protection. It’s all about market share!

Let’s examine the facts. Brokers have been blamed for putting consumers into predatory loan programs. False! Mortgage brokers never developed one single loan product or program. However, some lenders and banks did, aided by Fannie Mae, Freddie Mac and Wall Street. These same institutions set the guidelines for such programs, without any broker input. Most importantly, mortgage brokers did not underwrite or approve any of these loans. The responsibility for approving loans was that of the banks and lenders.

If we didn't develop the programs, set the guidelines or approve loans, how could this be our fault?

Another favorite target of the media is the "Yield Spread Premium" (YSP). This form of legal and legitimate industry compensation has been labeled a kickback and a bribe. YSP has been vilified when it should be praised for helping homeowners. For example, most consumers today seek financing without "points." YSP allows them to finance all or part of their origination costs. This practice has existed for years and is used by many State Housing Agencies, as well as by banks, lenders, credit unions and others who call it a "Service Release Premium" (SRP). It's the exact same type of compensation, other than having a different name. The only difference between a broker's YSP and a lender's SRP is that brokers fully disclose this compensation to consumers. Besides not having the same disclosure requirement as brokers, lenders have often denied receiving this payment.

The media has often depicted YSP as a fee brokers receive for increasing a consumer's interest rate. The truth is consumers are always given a choice with rates and points. They may elect to pay a discount point(s) and receive a lower rate, or pay no points and finance their origination costs by a slightly higher interest rate. Most consumers choose the latter.

In this climate of full disclosure and transparency, Congress should replace the terms YSP and SRP with "indirect compensation" and require all originators to disclose this compensation to consumers. Brokers have been disclosing every dime of compensation for the past 17 years. It's time for lenders and banks to do the same and level the playing field for consumers.

It has also been reported that brokers are unregulated. Once again, false! Brokers are regulated in every state. Furthermore, we supported passage of the S.A.F.E. Act as contained in the Housing Economic Recovery Act (H.R. 3221) in July 2008. This Act establishes uniform federal licensing standards for mortgage originators and a national registry of originators. The National Association of Mortgage Brokers first proposed these standards in 2001. Unlike brokers, loan officers that originate for banks and lenders are unregulated. It's time to regulate bank employees too.

The final push to eliminate competition and control the entire housing market is now underway. Lenders and banks are exiting wholesale lending; claiming brokered loans perform worse than their retail branches. **Again, who developed the programs, set the guidelines and APPROVED every loan?**

Mortgage insurance (MI) companies are now joining the banks and lenders. Some have completely cut off brokers, while others have set different guidelines for banks and brokers. The reason is simple: banks and lenders call the shots. For years, some banks and lenders have intimidated mortgage insurance companies to insure loans they knew would eventually have a high default rate. The MI companies had a choice: insure the loans or risk being cut off.

Until approximately ten years ago, brokers and other originators would submit loans for underwriting (approval), to both a wholesale lender and a mortgage insurance company. This long established practice gave every file with less than a 20% down payment a second set of eyes. Having two underwriters independently examine every submission for approval protected both consumers and industry. In my opinion, this practice was eliminated out of greed. Some banks and lenders saw an opportunity to increase their profits at the expense of quality control. Some banks and lenders made “deals” with mortgage insurance companies. The agreements called for the lenders to take control of underwriting. Once a lender approved a file, that file was also considered approved with an MI company. The second part of the deal consisted of a kickback. Since lenders and banks were in control of who ordered the private mortgage insurance, they could steer business and demand a percentage of the consumer’s premium. These kickbacks averaged 25% of the premiums. They were also never disclosed to the consumer.

This type of lender control is also taking place with appraisals. Lenders have established their own Appraisal Management Companies (AMCs), which allow them to have complete authority over all aspects of the “independent” appraisal process.

It’s important to note that not all banks and lenders have engaged in these practices. Many are honest and reputable institutions. However, the fact remains that many are preying on the consumer and small business.

Mr. President, if the actions outlined in this letter are permitted to continue, the costs of mortgage financing will increase as a result of less competition. State shortfalls will increase, as well. Furthermore, the country will see a continuation of sharp and prolonged unemployment and foreclosures, due to the elimination of our profession.

Every day, more and more small business brokers and their support staff are going out of business. We urgently require your guidance and support. I would appreciate meeting with you as soon as possible to discuss this ongoing tragedy and means by which improvements can be made.

Respectfully,



Marc S. Savitt, CRMS
President
National Association of Mortgage Brokers