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# Appraisers and The Mortgage Mess

If you are a real estate wonk like me, you have been following what I call the “Mortgage Mess” for the past three years like a the real estate reality show that it truly is. It doesn’t matter whether you are Eric Schneiderman the NY Attorney General, who is aiming to blow up a pending multi-state settlement with lenders regarding their liability for the Mortgage Mess. Or, whether you are a grunt-in-the trenches Realtor or appraiser who is hustling to make a living in its shadow. I think that you will be interested in how appraisers are still in the middle of the Mortgage Mess,



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No, I’m not talking about putting responsibility for the Mortgage Mess at the feet of the appraisers. First, there’s not enough room there for any more feet. Second, if Lehman and Merrill and almost everybody else on Wall Street could not forecast that balloon was ready to burst, then no single family appraiser should have been expected to make the call.

But, hindsight is 20-20, particularly if you are holding a portfolio of bad paper as a result of the Mortgage Mess.

Fannie & Freddie are holding a

reported \$400 billion of that paper. Private investors apparently hold approximately another \$500 billion. About half of the loans are estimated to be non-conforming for one reason or another. One study indicated that over 40% of reasons are non-conforming appraisals. Thus, there may be almost \$200 billion on the table that could be recaptured if someone could prove there was a bad appraisal in the loan file. That was enough of an incentive to hire consultants, fee appraisers and review appraisers to find any non-conforming appraisals.

Once the non-conformity is identified, demands are sent down the food chain demanding repurchase of the affected loan. As a result, lenders who sold the loans to GSEs and investors also “appraised-up”.

Such lenders include the intermediaries, who are typically nationals. On the way back down, these conduit lenders then typically send those demands to the mortgage broker who originated the loan. The big question becomes whether the origination appraisal conformed to the Uniform Standards of Professional Appraisal Practice (USPAP) and whether the origination value was a credible opinion of value..

USPAP is the “standard of care” for performance of a real estate appraisal, by virtue of its endorsement in federal

and state law. Unlike medicine, law, engineering and other licensed occupations/professions, there are few treatises, journal articles or think tanks, funded by mega corporations, opining on USPAP as the standard of care. Instead, the standard is primarily anecdotal. In other words, it’s generally up to an appraiser’s peers to determine the fine points behind written USPAP Standards.

A repurchase demand may, therefore, be based on a review appraisal that may or may not be more credible than the origination appraisal. It doesn’t matter. Either way, the review appraisal enables Fannie, Freddie or the investor to make a demand for the conduit lender to repurchase the mortgage.

Over the past few years of intense repurchase demands, the upstream lender has typically sent a review appraisal to the downstream lender, along with the repurchase demand. Sometimes the review appraisal got as far as the origination appraiser. The downstream lender had the opportunity to review the review appraisal and to respond. The downstream lender often sent back a “rebuttal appraisal”, essentially a review of the review appraisal. Sometimes, they hired a new appraiser to perform that review. Sometimes, they used the original appraiser. In the cases where I have been involved, the

review appraisal behind the repurchase demand was usually not as defensible as the origination appraisal.

Perhaps as a result of successful rebuttal appraisals, one conduit lender has decided to hire local appraisers on the cheap (reportedly \$150-\$175) to perform a quick and dirty review of appraisals performed at the market peak. That review information is sent out in an unsigned letter to the origination appraiser, with a threat of removal from the approved appraiser list, in an apparent attempt to get the appraiser to “cop a plea”. Presumably, the lender then goes to the origination mortgage broker with that admission and strong-arms them into buying back the mortgage. The appraiser gets a double smack down since they are likely in violation of the USPAP standard of confidentiality when they cop the plea because the conduit lender is not the original client.

And you thought that this kind of action only took place on Boardwalk Empire.

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