

**REGULATING MORTGAGE LENDING:
WHAT'S WORKING, WHAT NEEDS TO CHANGE**

**Address to Charlotte Area Mortgage Lenders
Myers Park Country Club
Charlotte, North Carolina**

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North Carolina Commissioner of Banks**

November 4, 2004

It is a pleasure to be with you today to discuss mortgage lending. I am very grateful to Dee McCandlish and Lisa Dahlgren for their kind invitation and to all of you for being here.

In my remarks today, I will review my office's activities during the last year and then give you my views about some matters on which we can work together in the future. This talk will be wide-ranging, but so are the opportunities and threats that confront us.

As I hope you know, July 1, 2004, was the second anniversary of the Mortgage Lending Act (the "MLA"). I have recently sent Governor Easley my second annual report on how we are doing in implementing that important legislation. In general, the report is favorable, reflecting my belief that the licensing aspect of my office's responsibilities under the MLA is in good order and that our future emphasis will be on examinations and enforcement. The report is available to you on the Commissioner of Banks website (www.nccob.org), and I would encourage you to read it at your leisure.

The report reflects the surprising (at least to me) fact that the number of mortgage lenders, brokers and loan officers is roughly

the same today as it was before the enactment of the MLA. The report also reflects the unhappy fact that over two-thirds of the consumer complaints received by my office are mortgage related. (See Attachment 1.) I don't make any claim that our complaint data is scientific. I do believe it is important and troubling information from the marketplace, particularly in light of the FBI's recent release stating that mortgage fraud has reached "epidemic" levels.

I don't expect that there is much, if any, disagreement between us about the harm that fraud and unethical behavior do to the mortgage lending business and to the public. The question is: what are we going to do to prevent them? My report to the Governor outlines what my colleagues and I are doing. Let me suggest a few things that you can do to help us.

In the first place, my colleagues and I need your help in identifying cases of fraud and unethical conduct of which you are aware. Next to the victims themselves, market professionals are our best sources of information about who the "bad actors" are and what they are up to. Working together on this will not be easy. Our investigators need specific and attributed information to begin their work. Because of the volume of our case load, good

information may not be acted on immediately. In cases where a lender or broker has discovered bad conduct by one of its loan officers, awkward questions of derivative liability may present themselves. All that having been said, the cost to the industry and society of not providing this information far outweighs the cost of doing so. It is at least worth a try.

A second area of opportunity for the industry and my office is the development of a list of industry best practices. Talks on this topic during the last year have been frustrating and unproductive, for good reasons and bad. Optimist that I am, I persist in the belief that development of an agreed set of best practices is good for your industry and is in the public interest.

Rather than dwell on the shortcomings of the past, I suggest that we focus on what is actually happening in the marketplace and see if we can come up with some agreed principles of appropriate conduct for lenders, brokers and loan officers. I have brought with me today a breakdown of mortgage-related complaints received by my office during the last year. ([See Attachment 2.](#)) Here again, I don't claim that this information is pure science. I do think the subject matter of the claims can be the foundation for our working together to promulgate broadly agreed best practices, or rules

under the MLA, or both. I prefer voluntary best practices to rules; but if rulemaking suits you better, it's all right with me.

Let me turn for a moment to a couple of areas where experience over the last two years suggests that my office needs to alter its administrative practices under the MLA. The first of these is interstate coordination to allow mortgage lenders and brokers to operate across state lines more efficiently. Through the American Association of Residential Mortgage Regulators and the Conference of State Bank Supervisors, my colleagues and I are working with regulators from other states to develop a common licensing process, coordinated supervisory programs and a national database of mortgage lenders, including those with legal and regulatory problems. While these efforts are still in their early stages, I believe that I will have something specific and positive to report on this front in the near future.

Closer to home, representatives of the Mortgage Bankers of the Carolinas have asked for what they call "transitional relief" under the MLA to allow new hires who have experience in the banking industry to begin work under a temporary license pending the issuance of a permanent license when the necessary administrative review has been completed. Under the appropriate

circumstances, including undertakings from a transitional employer that complies with industry best practices, I believe that this relief can be granted. I will be working with MBOC on this issue in the near future.

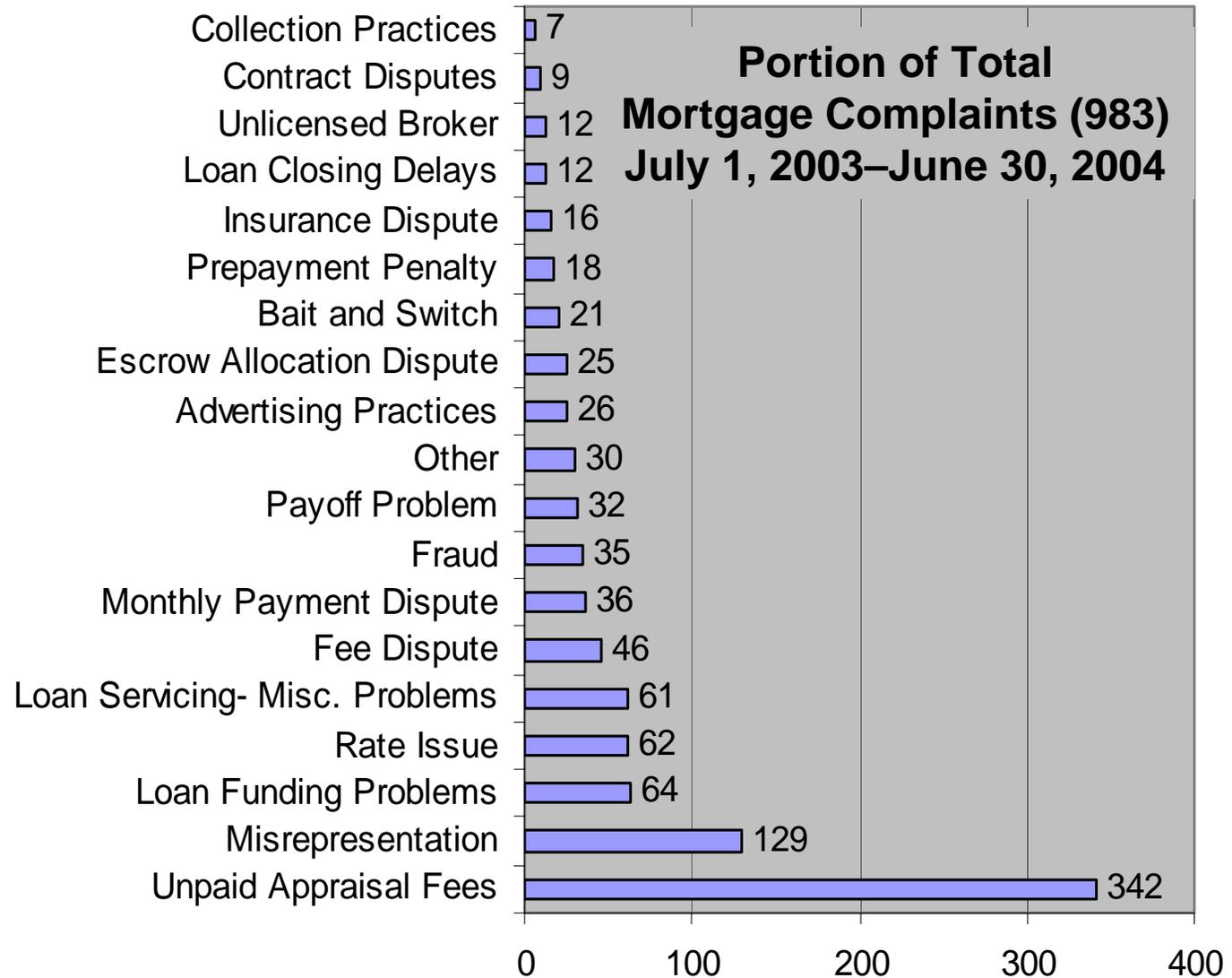
Before closing, I must say a word about a recent critique of North Carolina's anti-predatory lending law in a study sponsored by the Mortgage Bankers of America. This study is said by some officers of MBA to show that our law has resulted in a denial of credit to low income and minority people, infelicitously referred to as "redlining." I have read the study and find its conclusions to be much more careful than the press release that accompanied it and not necessarily in conflict with studies that show that the law has achieved the goals originally set for it. Further, evidence from the North Carolina we actually live in – as opposed to the "virtual" North Carolina concocted in Cambridge, Massachusetts or Washington, DC through manipulation of HMDA data – is: (i) that I have yet to hear one single complaint about the unavailability of credit to anyone (what happens when people actually get credit is another matter); and (ii) as noted above, the number of market participants here is the same after MLA as it was before.

The purpose of the MBA study was, of course, to influence the coming debate on national predatory lending standards. I believe that this debate is desirable and hope it will result in sound national public policy. North Carolina's experience is relevant to that discussion; I hope that our record, which is a good one, will be discussed in a fair and reasoned way.

In closing, may I once again say how glad I am to be with you today to discuss matters of mutual interest and concern. These are important times for the financial services industry generally and for mortgage lending in particular. I value very highly the continuing dialogue that I have had with your leadership – both when we have agreed with each other and when we have not – and look forward to continuing it in the future.

Thank you very much for your hospitality.

Mortgage Complaints are varied.



Commissioner's View of the Market Today

*There are still problems in the residential mortgage market.
Total Complaints (1446) July 1, 2003 – June 30, 2004*

