

#8 #50

Tom Stanton

[ Margot Saunders } via 9/10/10  
Diane Thompson } phone  
Nat'l Consumer Law Center

LOAM

> 30 yrs - legal services in consumer law -

joined Margot 1991

Expanded to include - utility law -  
Survived in manuals - selling

1996 lost fed'l funding -

Keep orientation + legal status - rep.

Low income consumers -

Successful - in quest to rep. low-income consumers.

Write compreh. manuals to keep up w/ new law

(18) - manuals

Ext. training -

Extensive speaking

Lead in past 2 decades in Congress - details

of consumer law as they impact low-income people -

joined 2005 2006

Diane + I consult to attys. across country

rep. consumers & low-income

They don't deal w/ them directly - only their lawyers  
LOW-INC. pe

\* Margot - when did you both bec. aware of problems in the mortgage arena

passed  
1995 - knew HOEPA - wld not be  
able to handle all the problems we saw

① MARGOT - (①) FCIC - your test. in 2003 in subprime  
market)

↳ 1994 - Testimony for Nat'l Consumer Law  
Center - what HOEPA could + shld do

Blamed problems on:

- 1) Dereg. of interest rates
- 2) preemption of states' abil to limit  
alternative mortgages + balloon  
(AMPFA)
- 3) 1986 Tax code changes - take non-home  
secured debt w/ Home
- 4) New securitiz. of lending - creating  
a "push market"

"we were  
politely ignored" HOEPA - protections only  
on certain \$ lending

It put a cap on the most abusive loans  
but cap was high (10% - 8%) over prevailing  
Treasury rate

Arbitrarily set by Congress. It was a polit process  
It didn't stop.

( Last 1995-2010 )  
Consumer law passed

Diane 1994-2007 she repr. consumers  
appeared by 1998 (1996) on the ground  
market being flooded w/ inapprop. products'  
Hybrid ARMs  
teaser rate 9-10% CAP = 21%

Clients did not understand -

fraudulent appraisals - & lenders had  
knowledge of fraudulent appraisals

unifamily coming in @ \$60,000 -

Discovery revealed that lenders knew it  
was prob. not worth \$60,000.

"A real recklessness" valuation  
documentation

It was apparent - signatures not matching  
names inconsistent

faxes - "Adjust the income"  
(Lender to broker)

Grossly falsified earnings statements -

Q Tom - HOEPA - didn't apply to purchase  
money mortgages?  
(Right)

Diane - By 1998 most abusive loans  
(HI) were in purchase money markets

Q Tom - prevalence regionally -  
Diane - endemic in low income communities  
Concentrated in communities of color -  
inner cities → older suburbs

One of tragedies - Chance as Af.-Am increased  
chances of toxic product the higher  
your income level

Communities of color - RACE - MINORITY ISSUE

10m  
1968 - 1972 - fraud - loans to inner cities - Section 235 mort.  
Continuation of a trend?

Diane - East ST. Louis (Af. Am. > 90%)  
initially white + Black clients  
EX. mid-1990s  
Crisis - stopped seeing white homeownership clients, which reflected the trend

History of Redlining -  
never got <sup>"decent"</sup> ~~consistent~~ credit into these markets -

Q why, what? Decent - credit the consumer has some hope of repaying.

MARGOT - when the risk gets too great + price goes up - that becomes destructive credit. Credit not worth happening.

Diane - could have been homeowners  
80 yr old - free + clear owner -  
Used contractor for purch - lost \$10,000 @  
12% - (should have been 7.75%)  
~~we were~~

Margot Winston Salem, NC - (1978) \$1,000 / window paid - older man

Q Consumers not shopping -  
Stella Adams -

When they did shop, they were steered toward less desirable credit.

Some ppl getting credit they didn't want

Ple thought they were signing papers thinking insurance, and it was a \$30,000/loan

lonely little old ladies

Diane - when ppl <sup>so</sup> in bank - ple of color steered to subprime lenders

Tom - when borrowers disappeared in 1990s - where did they go?

Diane - By early 2000s, foreclosure docket - everyone being foreclosed on was Afr. Am. It flooded out - obscured all other reasons for foreclosure (divorce) - toxic loans took over the landscape

Tom  
HUD - Counseling agencies - ppl who get pre-purchase counseling do better.

Diane - Ppl are not always able to access pre-purchase counseling.

MARGOT - There was no pre-refi counseling or for reverse mortgages

↳ in N.C., we saw ridiculous absurd loans made to elderly - affordable then ballooned into bad loans (refi)

MARGOT - problems in 1990s - the problems were with unsophisticated consumers

look @ testimony wr. [2001] - Senate Banking  
Comm - she described how she owned home -  
almost lost it, if not for consumer help.  
(They didn't get any benefit)

[2000s - loans - some benefits were seen from  
the borrowing]

1999  
Tom - 1990s - predatory lending -  
Margot - 1998 - Mike Calhoun + she  
wrote a model state law + NC  
got it enacted.

Center for Responsible Lending - went  
around country to get "mini-Hoeps" enacted  
(8%  $\downarrow$  5%)

Or Purchase # or refi's?

MARGOT - BOIT

HUD + Treasury came out w/ reports  
2001 - proposing a cap of 5% fees + fees.

Fannie + Freddie said would not take loans  $\uparrow$  5%  
(New default cap.)

Spawned new products as result.

New yield spreads + prepayment fees. "2/28"  
"3/27"

(Volume, Repeat biz was goal for the  
lender)

The loans were not affordable -

Tom - from investors' pt of view -  
prepayments were seen worse than defaults

Taking long-term asset into short-term asset

Drone - end of 1990s - prepayment penalties  
became ubiquitous -  
70-80% by 2000  
predominant in subprime market -

They <sup>stre</sup> became  
"a special franchise" - These were investors -  
who got income stream  
from the prepayment

MARGOT - The existence of prepayment penalty on loan will  
send msg. to consumers not to pay.  
Another form of income to the investors.

No positive incentives.

Interest rate higher for prepayment penalty.

lenders

Brokers - sell prepayment penalties + higher int. rates  
bec. they get \$

MARGOT - draw a line between  
"prime" + "subprime" borrowers -

"It was a sucker price market"

MARGOT - <sup>EX</sup> Quicken LOANS - she testified in court  
that material - told personnel -  
Quicken - fraud found in court

1990s -

Reports - late 1990s - rising foreclosure rates  
then (now look laughably low)

Drane - 2003 - 2005 Fed Adv. Council

I remember discussing loans to Bd. of Fed. Reserve

MARGOT - <sup>Fed said</sup> - "These are isolated instances."

[Larry Lindsey]

[Ned Gramlich]

Greenspan - would come

then for. Bernanke came to some of  
these mtgs.

MARGOT ~~DRANE~~ - Brought them w/ legal service attys. w/ files  
STATS from industry

Mort. Bankers Assoc. - rising foreclosures

"This didn't matter"

Bd - Ned Gramlich - could feel conversations  
& he was in there fig.

The Fed always had the authority

1999 - 2000 - <sup>Drane</sup> was @ informal mtg @ the  
UHAP auth - unfair trade practice use  
Fed Teel -  
40-50% income debt to

Chief of staff of Fed - 99% debt to income Ad. Ret. Huet  
She was pushed out bec.  
She was too



DIANE - Greenspan - as long as home values cont. to go up - that housing bubble or boom was a may

MARGOT - "what we didn't know, see the security" -

" These things ~~are~~ <sup>would</sup> <sup>be</sup> still going on - "

Wall Street

(Adrian Hurr) - seemed to be a friend to consumers -

MARGOT - Industry influence -  
we go in a meet w/ Fed Staff -  
> we have impression - meet w/ Fed even more -

DIANE - didn't compare w/ their world view frame -  
Consumer ADVISORY PANEL -  
industry has seats - they had predominance of seats -

3 consume  
Law says 5 comm dev't  
10 indus  
10 consumer reps -  
10 "academics + journalists"

Q Tom - 2000 - "Jim Michaels -" -  
Margot - head of Fed truth + leading -  
Diane + J + some others -  
mtgs @ Fed 3x in last year -

Pushing

out 11

all

MARGOT - market cont. to find ways to avoid

Comptroller - guidance -

preemption - GA, NC law - & all laws all preempted

- applied to banks & subsidiaries -

Banks weren't making the bad loans anyway (not true - look @ FDIC)

early 2000s - mushrooming of bad loans

Option / ARM loans - we couldn't believe.

Drane -

Thought these were in FL, Nev, CA, where high home values

2007 - saw them being made to inner-city homeowners - (refis, a lot)  
made to elderly ppl for reverse mortgage -

Originator [Wells Savings Bank] -

did not lead to a lot of losses @ first, but then expanded the market & had huge materializations - pushing to elderly fixed-income borrowers

Not a mistake in market.

It was a design in market - rewarded Brokers for mkg these loans -

Banks make more \$ -

Extra interest they could - sell more  
collect more interest

Lack of teeth in leaders

MARGOT - They wouldn't have lost \$  
DIANE - if home values would have  
kept going up.

Loans - never actually be repaid -

most outrageous -

2007  
Guidance - FFIEC underwriting 2007 - only underwriting  
to the fully indexed rate

These loans - Blame on  
payments req.  
fully indexed rate - rate @ time loan made +  
rate ↑ -  
Index floats = (LIBOR 6 mo. index)  
+ MARGIN - Fixed

After 2 yrs - after loan adjusted Index @ 2yr. mark  
plus margin

Ex. Oct  
2006 = LIBOR 30%  
MARGIN = 7%  
Fully indexed rate = 10%

initial rate mt. be 7% Payments based on 7%  
interest rate

2009 - INDEX ↑ 5%

**DIANE** - CAP + timing of increasing.

Fed resistance - "it would discourage people from borrowing"

Fed economists -

Know max. payment is -

2003, 2004, 2007, 2008 -

**DIANE** → Some in writing -

**MARGOT** - Final issuance of guidance -  
summary of "max payment underwriting" value -

"(I forwarded all this to you Tom." MARGOT)

**DIANE** - Greenspan said this was imp for the economy - adj. Natl mortgages.

**MARGOT** - 1996 - OTS issued regulation that said  
AMPRA (OTS auth.) - rules for state law  
housing creditors -

are preempted - all the <sup>beg. of</sup> bad prepayment penalties

Who governed who? They were empirical bldg.  
OTS vs OCC

2006 - What led to guidance?

**DIANE** - there was starting to be noticeable  
uptick in foreclosures + exotic products -  
payment option ARMs - + advertising -  
often focused on deceptive advertising

Q DIANE - Banks Regulators - under ~~know~~ <sup>no</sup> pressure to follow guidance.

Banks

were taking a risk by undergoing examination.

Q TOM - Some allege that housing policy at root of crisis.

CRA -

Commitments under CRA - led banks to take risks -

Fannie &

Margot - it's laughable it's ridiculous.

low income - loans - to <sup>Banks</sup> comply

DIANE - These loans were not CRA-qualified loans.

Fannie & Freddie - entrance was good - per practices

" Subprime lenders were NOT regulated. "

CRA - HUMDA

" loans got worse the further they got from the CRA - onerous terms, foreclosure. "

Q Bank mergers - CRA-type commitments -

DIANE - " These were NOT the loans that ended up in foreclosure. "

MARGOT - Early 1990s <sup>threwed up</sup> 5 challenges to CRA -

" plea all looking for an excuse to get rid of the CRA " -

Ny Fed - 2 yrs ago study  
CPA -

See  
→ Chapter 14 - COST OF CREDIT - DIANE just updated  
Chapter 3 - preemption footnotes w/ cites

→ Reinvestment FUND - graphics  
Neighborhood - NYC NEPAD -  
mapping  
Ny Fed interactive page - when foreclosures -

MARGOT - Mortgage fraud -  
exorcising - can't be resolved -  
trial - requires ext. discovery  
D's prohibitions in many cases  
constant pushback -

Diane J - prosecuted by US atty. -  
hundreds of thousands of hours

Margot - minority of legal services -  
death of

Natl Assoc. Consumer Advocates - best list  
Natl Legal Aid + Defenders  
HUD -

DIANE - hundreds of borrowers -  
think of only one - knowledge of  
anything false

FED.

AAFP - borrower Hoffmas v. Stanger - MD case

Feder. Res. Bd - <sup>commissioner</sup> borrower - <sup>macro int'l</sup> HOEPA - 2008 -  
kickback - fee -  
TEST form  
Broker is NOT Your AGENT

DIANE - investor borrowers -  
vs. ppl who live in home -

MARGOT - whether you give app. to read  
thru all materials - Did you understand  
everything - ?

Closing -  
in broker's house -

MARGOT - 1990s - securitization -  
getting loan - used to be  
banks made loan to borrower -

Wall Street pushing bad loans -

Wall Street - hiding behind legal theories -  
they were not liable for fraud -  
when loans originated

You wouldn't be having FIC if  
Wall Street hadn't had a meltdown -  
CDO - CDS - products -

OTS - 2004-2005 gen'l counsel -  
gen'l counsel -  
Glenn Ann Fox -  
HUD - gen'l CASTER - Clinton

Treasury -

late 1990s early 2000s - Sen. <sup>Harvard</sup> Sarbanes - educ.  
Rhodes scholar -

Rep. LaFalce - called terrorist.

Margot

100% - "But for camp. contrib. the playing field wld have been fair"

> Fin. Services Comm -

If you had camp. Fin. Refen -

\* Diane - All this rulemaking  
Dodd-Frank - good - there's a  
huge amt of rulemaking -  
Really sorry.

\* TOM  
Wall Street was pushing bad loans -  
payment / option ARM loans  
Wall Street thought up  
not brokers -

DIANE

Brokerage houses were dictating terms -  
these are kinds of loans we'd

cited  
Cost of Credit  
chapter -

→ FAMCO ~~2003~~ 2003 decision - let's  
Lehman guilty of conspiracy

Some hearings done WACHARIA - similar  
links to Wall Street houses

Noon