Jeff Schlesinger
Mortgage Banker, Priority Financial Network
NMLS 316097 CABRE 01738366
5016 N Parkway Calabasas Suite 200 Calabasas, CA 91302

Office: (818) 936-3899
Mobile: (818) 522-4757
Jeff@JeffSchlesinger.com
View My Website

Objective Recap of Accusations Levied at 'Big Banks' and MBA

The *New York Times* has fired the first salvo in what already looks like a **battle of words** between it and the mortgage finance industry with the Mortgage Bankers Association (MBA) leading on defense. *Times* reporter Gretchen Morgenson on Monday published a mammoth report - over 5,000 words, on what she claims has been a long-term campaign by big banks to end the role Fannie Mae and Freddie Mac (the GSEs) play in mortgage lending. For its part, MBA called the newspaper's allegations "inflammatory and unfounded."

None of the objective details should be a surprise, considering the administration's and the MBA's efforts on risk-sharing and common securitization are well-publicized. The surprise, or "news," in this case, is the **accusation** of wrongdoing.

Morgenson does indeed make a number of allegations in her article - so many in fact we will bullet point them - but chief among them is that big banks have long desired to "unseat ...the mortgage finance giants and capture their share of the profits in the country's $5.7 trillion home loan market" and that a **revolving door** between government and industry interests may be close to getting them there. She, in fact, suggests that the influence has been undue and may in some instances have constituted a breach of ethics.

While the big banks' efforts to replace Freddie and Fannie have so far failed, she says, they are very much alive, the Obama administration has largely embraced the idea, and government regulators are being pushed to put crucial elements into effect.

Among those who have slipped back and forth between government and the private sector in this drama are:

- Michael D. Berman who was chairman of MBA at the time of the housing crash and then became a senior adviser to Shaun Donovan, secretary of Housing and Urban Development from 2009 to 2014 before returning to the private sector as principal of Michael Berman Consulting, serving real estate lenders
- David H. Stevens, current president and CEO of MBA who was recruited by Berman to the lobbying group from his position as an assistant HUD secretary and commissioner of the Federal Housing Administration. Morgenson describes him as one of the lead architects of the administration's proposal to phase out the two GSEs.
- Jim Parrott, currently a research fellow at the Urban Institute and a

Recent Housing Data

		Value	Change
Mortgage Apps	Jul 10	206.1	-0.19%
Building Permits	Mar	1.46M	-3.95%
Housing Starts	Mar	1.32M	-13.15%
New Home Sales	Mar	693K	+4.68%
Pending Home Sales	Feb	75.6	+1.75%
Existing Home Sales	Feb	3.97M	-0.75%
Builder Confidence	Mar	51	+6.25%

principal in Falling Creek Advisors, a financial consulting firm. Parrott is described as a "confidant and colleague" of Stevens at HUD and a counselor to Donovan from July 2009 to December 2010. He then moved to the National Economic Council at the White House, where he led housing finance policy until January 2013.

These three individuals, Morgenson contends, had central roles inside the Obama administration in developing a new policy that would phase out the GSEs. After leaving office, all three, now with connections to large financial institutions, met several times with government officials to discuss issues related to the GSEs. Her primary allegations:

- The two GSEs were placed in government conservatorship in September 2008, about a week before Lehman Brothers collapsed and the Treasury Department started scrambling to rescue the banks. "The ink was barely dry on the Fannie and Freddie bailout when the Mortgage Bankers Association got busy. Berman, then vice chairman of MBA and founder of CWCapital, a commercial real estate lender and management firm specializing in multifamily housing projects, was tapped to organize a campaign to privatize the nation's broken home mortgage system."
- With the housing market in collapse and the GSEs in financial trouble and publically reviled it was the perfect time for banks to push to eliminate their two rivals and divide up their assets. "But with banks' popularity plummeting after the financial crisis, their proposal had to be carefully framed as a way to protect taxpayers from future bailouts."
- The new administration however had other priorities and didn't pay attention to the matter until 2010. The industry-sponsored coalition was ready" with a plan from a 22 member Council on Ensuring Mortgage Liquidity to create new privately backed mortgage guarantors to replace the GSEs. The council, overseen by Berman, was made up of mostly large banks and mortgage insurers. It also recommended that assets belonging to Fannie and Freddie, chiefly their mortgage underwriting systems, "be used as a foundation" by the new entities.

At first, the industry's views gained little traction. The economy was in tatters, and lawmakers were not yet ready to tackle the nation's enormous and complex housing finance system. Besides, Fannie and Freddie were virtually alone in providing Americans with mortgages. While they might still be supported by taxpayers they were financing loans while big banks were disappearing from the market.

- Throughout 2009 and 2010 Berman and his colleagues pitched the mortgage bankers' ideas, on the basis it would prevent future bailouts and keep lending available.
- As. Berman pitched, administration officials began working on their own plans regarding Fannie and Freddie. Stevens, then at FHA was a primary participant in these discussions and was also interacting with high-level executives in the mortgage industry. While there is nothing unusual about government officials meeting with interest groups Stevens's calendars show far fewer meetings with other groups in the mortgage arena, such as advocates of low-income housing or those representing middle-class borrowers.
- Stevens was not the only official meeting with big banks and their advocates about Fannie and Freddie. Executives were fanning out across Washington to educate and influence members of the government charged with devising the administration's new housing policy.
- After all the meetings and discussions the administration laid out three options for housing report in a 31 page report to Congress on February 11, 2011. "The message was clear: Fannie and Freddie's days were numbered. Working with the Federal Housing Finance Agency, the administration would reduce their role in the mortgage market and wind them down."
- "The policy to eliminate Fannie and Freddie was a page out of the mortgage bankers' playbook:" the administration emphasized that taxpayers would be protected and that a new, level playing field would benefit all participants in the housing market. In private, however, officials cited another group of beneficiaries under the plan: big banks with one internal Treasury memo characterizing the administration's first option to wind down Fannie and Freddie as "a bank-centric model" that "benefits larger institutions" with the capacity to hold mortgages on their books. This raw assessment didn't make it into the final report. While the report acknowledged that "smaller lenders and community banks could have a difficult time competing for business," the "bank-centric" nature of the plan was for internal consumption only.

- Stevens appointment as MBA head came on March 15 2011 but he did not leave his job at HUD until March 31 during which time he continued to meet with government officials including Edward J. DeMarco, acting head of the Federal Housing Finance Agency and conservator of the GSEs and other government officials. At MBA he continued to argue for a smaller role for the GSEs and a larger one for private capital companies. "Although the mortgage bankers group represents both large and small lenders, smaller members say that under Stevens it has been an advocate more for big institutions.
- In November 2012, Berman signed on as a senior adviser to Secretary Donovan with a major focus on GSE reform. While he returned to the private sector in February 2014 he continued to informally consult with FHFA.
- After leaving their government posts, Berman, Parrott and Stevens all continued to work on housing finance. Materials obtained by the *Times* under the Freedom of Information Act indicate that Stevens met or talked with housing policy officials 19 times between February 2012 and April 2015. Stevens met 13 times with officials at the White House working on Fannie and Freddie policy and had five meetings and one phone call with FHFA head DeMarco. Since leaving the government, Parrott has had six meetings with housing officials at the White House; Berman has had two since starting his own firm, including one this past June.

Under federal law governing **conflicts of interest**, a violation could occur if a former official who worked on a particular matter circled back to the government on behalf of another person or organization to try to influence policy on that issue.

University of Minnesota law professor Richard W. Painter is an authority on this section of the law. He was provided a list of the housing finance meetings and told the paper, "With respect to Stevens, Parrott and probably Berman, it appears that these officials participated personally and substantially in the administration's decisions about resolving the financial difficulties of Fannie and Freddie," Painter said. "This means that they each have a lifetime ban on representing back to the United States government on either of these two particular party matters involving Fannie and Freddie." Stevens and his lawyer, Berman and Parrot all disagree, contending their work in government and/or advocacy afterward were on **general matters rather than the law's definition** of a particular matter.

Painter said it was hard to know what was said at the meetings, but if Stevens, Berman and Parrott, "made statements at these meetings that were intended to influence government decisions in these two particular party matters involving Fannie and Freddie," he said, "they violated the statute."

Morgenson says that even though Fannie and Freddie are still dominating the American mortgage market, have returned the $187.5 billion they received in the bailout and are **still paying dividends** to Treasury an array of administration officials have recently said they should not be allowed to recapitalize and emerge from conservatorship.

The banks are **continuing their push for access** to Fannie and Freddie's assets and profits and in addition to urging new legislation they have recently asked FHFA director Melvin L. Watt to put at least some of their recommendations in place administratively. They are, the author says, making inroads. The design of the new mortgage securitization system being built by Fannie and Freddie at significant expense - $146 million so far - allows for future access to outside institutions like the big banks. And Fannie and Freddie are being increasingly pressed to sell off portions of their securities to private entities. Big banks will benefit most from both arrangements.

The MBA press release refuting the *Times* article reads as follows:

"This story lacks substance and merit and thus is completely pointless. MBA advocates tirelessly on behalf of all of its members, both large and small, who represent the entire real-estate finance industry. At no point during David Stevens' tenure in the government and now as president and CEO of the Mortgage Bankers Association, did he ever violate any ethics statute. MBA will be putting out a more detailed response to specific points in this story later today."

Bill Cosgrove, CMB, immediate past chairman of MBA added:

"MBA, and Dave Stevens in particular, have been staunch advocates for Independent Mortgage Bankers and the allegations in this storybook view could not be further from the truth. As the owner of a small independent mortgage bank, and having been involved in MBA leadership for over a decade, I have watched as MBA consistently fights on behalf of all of its members, regardless of size or business model."

I answer all my own calls and my service is EXCELLENT!

Jeff Schlesinger