RECEIVED
2007 AUG 22 AM 8:39
INDEPENDENT REGULATORY REVIEW COMMISSION

#2620

TRISTATE CAPITAL

A. William Schenck III
President

RECEIVED
AUG 20 2007
DEPARTMENT OF BANKING
LEGAL SECTION

August 20, 2007

Office of Chief Counsel
Department of Banking
Attention: Public Comment on Regulation 3-43
17 N. Second Street, Suite 1300
Harrisburg, PA 17101-2290

Ladies & Gentlemen:

The Department of Banking has proposed regulations concerning the mortgage business in Pennsylvania. The regulations require that State licensed mortgage providers document an effort to determine their customer's ability to repay the mortgage being granted to them.

Understanding the borrower's ability to repay has been fundamental to the lending business for generations. But in recent years, experts on Wall Street have used financial engineering to develop mortgage loan products which require little or no documentation regarding repayment ability. This is now the crux of the nation's subprime crisis.

TriState Capital Bank
One Oxford Centre
301 Grant Street
Suite 2700
Pittsburgh, PA 15219

T: 412-304-0333
F: 412-304-0334
C: 412-860-3242
E: bschenck@tscbank.com
www.tristatecapitalbank.com

There has been, and continues to be, lengthy commentary about reasons for the subprime meltdown. But the basic cause is straightforward: Loans were advanced to borrowers who are unable to make their payments. America's subprime problem is simple: There are too many borrowers who cannot pay.

To understand why implementation and enforcement of the Banking Department's regulation is important, it is necessary to discuss three primary parties involved in today's mortgage business: The borrowers, those who sell the mortgages to the borrowers, and those who provide the money for the mortgages.

The borrowers, in most cases, are undertaking the largest and most important financial transaction of their lives. They are providing safe shelter for their families; and, in the minds of many, they are achieving the American dream. It is often a time of nervous excitement, and not a time to focus on the details in each of those documents piled up on the closing table. It is a time when a skilled mortgage sales person has an advantage.

The majority of mortgage sales people have no responsibility for, or involvement with, the loan after the money has been advanced to the consumer. The sales person is paid to structure the loan, complete it, and move on to the next transaction. In today's world, as long as someone is willing to provide funding for the loan, the sales person needs to be concerned only about convincing the borrower to agree to the financing. The more liberal the funder's terms, the easier the sales person's job.

Over the past several years, financial engineers on Wall Street have developed mortgage loan products which help the sales person: loans with low payments in the early years, loans requiring minimal down payments, and loans where questions are not asked about the borrower's ability to make the payments.

The financial engineers recognized that these were higher risk transactions but believed that by mixing them with less risky loans in large portfolios, the investor holding the portfolio would not lose money. The engineers also believed that the national trend of increasing home values would continue, thus offering further protection to investors should foreclosures become necessary.

The mortgage sales people are motivated by commissions. Those funding the loans are motivated by return on investment. The borrowers are on their own.

There are people who argue that a market correction has now occurred. A number of mortgage companies have gone out of business. One of the country's largest firms has announced that it will no longer sell 50% of its loans to

Wall Street. Instead, it will sell 90% of its loans to Fannie Mae and Freddie Mac, conservative institutions which expect assurance that the borrower has the ability to repay.

So we have come through a period of easy credit. Aggressive mortgage companies have extended loans that never should have been made. And now the companies are paying the price. That is the way our economic system works.

But have the companies learned their lesson? Memories are short in American business.

And what about the families who reached for the American dream, believed the salesperson, took one of those easy loans, and found themselves on the street? In the first six months of this year, nearly 13,000 Pennsylvania families were in some stage of foreclosure.

By implementing the Department of Banking's proposed regulations, the Commonwealth of Pennsylvania has an opportunity to prevent recent financial history from repeating itself. The Commonwealth also has the opportunity to demonstrate to consumers its belief that sophisticated financial services organizations bear responsibility for the fairness of the products they sell.

I urge the IRRC to act swiftly to approve, and the Banking Department to move aggressively to enforce, these regulations.

Sincerely,

Bill Schenck

TRISTATE CAPITAL BANK

Fax

To:	Lisa Ketrick	From:	Bill Schenck
Phone:	(717) 783-7151	Phone:	412-304-0333
Fax:	(717) 214-0608	Fax:	412-304-0334
Date:	6/20/07	# Pages	6 including cover
Re:	Letter	CC:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Lisa,

Attached is the letter regarding public comment on Regulation 3-43.

Thanks,

Bill

TriState Capital Bank
One Oxford Centre
301 Grant Street, Suite 2700
Pittsburgh, PA 15219