"THE MIDDLE CLASS AMERICAN DREAM OF HOMEOWNERSHIP: PROBLEMS, NEW SOLUTIONS & ITS DIRECT RELATIONSHIP WITH THE ECONOMY & RETIREMENT"

A MARKET NEUTRAL APPROACH – ALL SIDES (HOMEOWNERS, LENDERS, BANKERS, INVESTORS, GSES, ETC.)

STATEMENT FOR THE RECORD BEFORE THE HOUSE WAYS AND MEANS COMMITTEE, CHAIRMAN CHARLES B. RANGEL, HEARING ON ECONOMIC CHALLENGES FACING MIDDLE CLASS FAMILIES, FOURTH AND FINAL IN A SERIES OF HEARINGS ON THE STATE OF THE AMERICAN ECONOMY, JANUARY 31, 2007, COMMITTEE HEARING ROOM, 1100 LONGWORTH HOUSE OFFICE BUILDING, 2 P.M.

WITNESS/STATEMENT BY:

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ULTIMATE QUESTIONS NOT YET ANSWERED BY COMPREHENSIVE POLICY:

1. *The question is simple. Do we want to expand the American Dream of Homeownership and grow the Economy at the same time, or not?*

2. *Ultimately our children and grandchildren will sit back and ask, why did they punish the weak, and reward the strong – when they could have strengthened the weak and strengthened the strong at the same time?*

Mr. Chairman, Members of the Committee: I am pleased on behalf of Economic Justice & Policy Center to witness and submit this statement for the

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record of the House Ways and Means Committee on the "Challenges Facing Middle Class Families" limited to the problems and solutions concerning homeownership and its direct relationship to the economy and retirement. We think it is critical to take a market neutral approach without allegiance to any group or interest and present all sides: Homeowners, Lenders, Bankers, Investors, GSEs, Immigrants, Baby Boomers, Retirees, Builders, Brokers, etc.

STATE OF THE ECONOMY: AMERICAN DREAM OF HOMEOWNERSHIP, SOLUTIONS & ITS DIRECT RELATIONSHIP WITH THE ECONOMY & RETIREMENT / HOMEOWNERSHIP AS KEY ECONOMIC WEALTH BUILDER / 80% HOMEOWNERSHIP SUBPRIME SUCCESS RATE

Can We Expand Homeownership?

Yes we can. Look at the statistics. If "one in five (20%) subprime loans ("made in the last 2 years") result in foreclosure" [1], then 80% of that revenue stream was a good risk after all. If 80% of subprime loans are performing, expanding homeownership through weaker buyers has worked. Homeownership adds a significant tax revenue base and equity wealth to borrowers, local towns and strengthens the national economy as a whole. To achieve a better success rate, we must support policy that:

(1) Expands homeownership across the board, and

(2) Fashions incentives or controls necessary to lower the 20% subprime foreclosure rate by refining the market risk-pricing structure, and adding intelligent refinements and risk mitigation devices and techniques to the bargain.

Should We Expand Homeownership?

Yes we should. The argument against such expansion includes the idea that not all Americans can afford homeownership, and we are entering a period of continued deficits and mounting baby boomer entitlement costs that preclude America from engaging in such growth. Both arguments fail. The former because the 80% subprime success rate proves it can work, but is in want of refinements as discussed in this report. The latter because the authoritative study quoted by Chairman Bernanke [2] testifying at the Committee on the Budget, U.S. Senate January 18, 2007, concerning the risk of weakness in the U.S. economy over the next decade or two, fails to take into account "new immigrant and increased subprime homeownership" - and its positive effect on the economy. Frankly, the study hypothetical dealing with the relationship of both increasing immigration from 1 million to 2 million (per year) and entitlement costs, must be revisited with offsetting economics from both homeownership from new and existing immigrant family members, and increased subprime homeownership. Housing creates jobs and tax revenues. We must remember that about 20% of GDP is related to housing.

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[1] Ron Nixon, New York Times, Center for Responsible Lending.
[2] COB Budget Outlook 2005.

In 1998, some 50% of all homeowners held 50% of their net worth in home equity. [3] Every 1000 homes built create 2,448 jobs and $79.4 million in wages and $42.5 million in federal, state and local tax revenues and fees. [4] Twenty percent (20%) of all consumer spending is linked to household wealth. Every $1,000 gain realized from a home sale boosts spending by some $150; $30-50 from stocks. [5] We can add 15.61 million homeowners over the next 14 years (approx. 1.2 million per year). Demand may require 1.7 million new homes and apartments per year, which could pour billions into the tax and wage base. Homeownership creates a backbone of wealth throughout America like no other financial product to date. "The American Dream" begets hope, confidence and success. Greater homeownership can help balance the budget. On January 20, 2001, President Bush indicated that poverty was unworthy of our citizens, and that we all have a duty to help eradicate it. Now let's work on lowering that 20% figure.

PROBLEMS & SOLUTIONS CONCERNING THE 20% - SUBPRIME HOMEOWNER DEFAULTS, FORECLOSURES

Although the general economic indicators appear positive, the economy may not be stable if the mortgage banking industry experiences significant defaults or foreclosures from homeownership. Residential real estate is losing power. [6] Wages have not caught up to home prices. Home inventories are growing and prices are falling but prices are still historically high. [7] However, if Chairman Bernanke returns to fighting inflation with interest rate hikes during periods of declining home values, homeowners will become locked-in with no way out, creating a bigger foreclosure industry and additional social problems. Worse, if Congress, the government or industry simply implement solutions that tighten markets and eligibility, growth in homeownership and the economy will stall. Homeownership will continue to play the most significant role in wealth creation for the middle class American [family] than any other financial vehicle. The effective "saving" of money for a down payment is <u>not</u> a realistic policy for a newly defined middle class thrown into a new American economy mixed with historically inflated home prices and lagging wages. Demographics prove that the current and future middle class will not be the same as it was after WWII. This new middle class homeowner will be largely new immigrants, non-family or singles, and women. [8] <u>"Affordability" and "eligibility" of homeownership will become more important to the national economy, if not critical.</u> We must also realize that expanding the dream of homeownership in the near- and long-term, will strengthen a soon to be vulnerable economy under unique pressure from the aging baby boomers, growing entitlement demands, deficits and changing demographics.

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[3] The State of the Nation's Housing, Harvard "JtCtr" 2002.
[4] JtCtr citing National Association of Home Builders 2002 (NAHB).
[5] JtCtr citing Federal Reserve Board.
[6] Grubb & Ellis Multi Housing Report 2007, *available at* www.grubb-ellis.com.
[7] Central Valley Business Times, reporting PMI, Jan. 2, 2007.
[8] JtCtr.

We now see over 100,000 home-foreclosures per month (for the last 5 months).[9] On January 24, 2007 the Central Valley Business Times (CVBT) reported on the latest PMI Group study entitled Economic & Real Estate Trends (Milner, Henry), saying:

> There's a greater risk of price declines in 34 of the nation's 50 largest metro areas, PMI says. That translates into a 34.2 percent chance that home prices will decline in two years, according to PMI's formulas. Nineteen MSAs face a greater than 50 percent chance that home prices will decline, up from 18 last quarter, it adds. While year-over-year appreciation remained in the double digits in 14 of the 50 largest MSAs, the rate of appreciation slowed in 43. The risk of price declines continues to be concentrated in California and along the eastern seaboard. Of the 19 MSAs facing a greater than 50 percent chance of a price decline, eight are located in California, eight are in the Northeast, and two are in Florida.

In high-price areas such as California, "foreclosures were up nearly seven-fold in the fourth quarter of 2006 and the number of notices of default, the first step in the foreclosure process, was up 145 percent compared to the figures from a year earlier, according to real estate information company DataQuick Information Systems of La Jolla." Recent reports of increases in loan applications don't necessarily show a healthy homeownership market, but reveal possible panic to replace adjusting Option A.R.M.S. as values and appraisals fall. Millions of homeowners are about to lose their homes from default or foreclosure over the next few years in waves, as adjustable loans and HELOCs reset. One of five subprime mortgages over the last two years will end in foreclosure, nearly double the projected rate from 2002. When distressed prepayments are added in, total "failure rate" approaches 25 percent. Of the subprime loans, over 50% went to African-Americans, and 40% to Hispanics.[10] The foreclosure sub-culture is now gearing up (for the kill) and growing rapidly. Foreclosures are here and about to break the dam with dramatic numbers each and every year over the next few years corresponding to the reset dates of adjusting mortgages. Homeowners are already becoming locked-in with no way out. The negative consequences to the economy will be devastating when compounded by the strain of changing demographics.

IMMEDIATE SOLUTIONS: WE CAN HELP STOP DEFAULTS AND FORECLOSURES NOW - WITH WHAT I CALL INTERIM LOAN MEASURES ("ILM")?

We must help keep people in their homes, and offer immediate remedial measures and relief from default or foreclosures; but we must pay for such risk with mortgage insurance type devices or risk mitigation techniques. The conceptual solutions are also found in the long-term solutions recommended below, but applied in the short-term by law, policy and incentives. Lender and investor Loss Mitigation departments must be more receptive to quick and orderly loan workouts with borrower relief from certain negative credit damage, costs,

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[9] RealtyTrack, Jan. 2007.
[10] Center Responsible Lending, Dec. 2006.

(refinance) deficiency judgments and tax debt or tax uncertainties. Recall most loan workouts leave the borrower with negative credit and more burdensome terms; and most foreclosure market workouts leave the borrower with "nothing" – not even "relocation expenses"! The foreclosure industry attempts to give the borrower relocation expenses (against Bank policy or law) under the guise of a separate transaction by purchasing the borrower's personal property. Since an old picture or stove will not truly be worth $15,000, the legal or banking prohibitions on giving the borrower any money whatsoever create yet another quagmire in the system for helping a person in need. *The current system helps create a growing foreclosure market, and the current system helps restrict or preclude helping the unfortunate who find themselves in the system*. Meanwhile we need to help the people now. We need education and real joint venture assistance with business, media and homeowner groups (like NeighborWorks, National Urban League, GM, GE, Bank of American, WFB, Washington Mutual, Countrywide, Lilly Endowment, Gates Foundation, Goldman Sachs, Merrill Lynch, CitiGroup, CUNA (CU360), etc.).

Long Term Solutions: Additionally, in a comprehensive fashion, we must also expand the homeownership market for the betterment of that social public policy and for the national economy. We must do this by adding risk mitigation devices and techniques to our mortgage banking system. We need to add more affordable and flexible *shared-costs and shared-benefits* mortgage insurance devices (and funds) along with our newly created refinements such as:

"Truly Intelligent Disclosures" ("TID")

"Safe Harbor Intelligent Loan Options" ("SHILO")

"Shared Mortgage Insurance" (Government, Borrower, Lender, Investor, Insurance Company) ("SMI")

"Foreclosure Mortgage Insurance" ("FMI") ("GFMI")

"Default Mortgage Insurance" ("DMI") ("GDMI")

"Investment Mortgage Insurance" ("IMI") ("GIMI")

The Stage is Set For Change: The stage is uniquely set (in 2007) for positive change for increasing the dream of American homeownership as starting in 2007 mortgage insurance will be tax deductible, and F.H.A. is offering new no or low down loan programs. We need to expand creative loan programs by using risk absorption devices, make mortgage insurance a permanent tax break, and add tax relief from "forgiveness of debt" with simple clarifications to such tax laws. The present tax laws breed uncertainty in a time which requires certainty and confidence. We must not tease mother-economy any longer. Moreover, Congress, the administration, industry and the American public must consider a reallocation of the risk-pricing formula in the mortgage banking loan industry. Inherent in this relationship is what I call "RAhD" **(**randomly activated hidden debt**)** and "RAhC" **(**randomly activated hidden contingencies**).** We must mitigate RAhD and RAhC in our long term solution to homeownership and the current mortgage banking foreclosure challenges. Although foreseeable to some extent, its quantification is uncertain, but some price must be paid for such risk mitigation. Such is the market price of confidence.

As such, Congress must consider the growing economic strain from mounting baby boomer entitlement programs, and the looming deficit. If legislation causes the shrinkage of eligibility and homeownership, its effect will help spoil the economy, especially if we are entering into a period of new uncertainty and inherent weakness due to changing demographics. Chairman Bernanke testifying at the Committee on the Budget, U.S. Senate January 18, 2007 warned us that the near future is riddled with economic uncertainty or weakness (RAhD and RAhC), stating:

> Although the retirement of the baby boomers will be an important milestone in the demographic transition—the oldest baby boomers will be eligible for Social Security benefits starting next year (2008) —the change in the nation's demographic structure is not just a temporary phenomenon related to the large relative size of the baby-boom generation.

He went on to say: "Unfortunately, we are experiencing what seems likely to be the calm before the storm." The Federal Reserve Chairman made clear that:

> The only time in U.S. history that the debt-to-GDP ratio has been in the neighborhood of 100 percent was during World War II. In contrast, under the scenario I have been discussing, the debt-to-GDP ratio would rise far into the future at an accelerating rate. Ultimately, this expansion of debt would spark a fiscal crisis, which could be addressed only by very sharp spending cuts or tax increases, or both.

<u>However, another solution</u> would be to add new and growing homeownership to the economy from new and existing (or even from an increased rate of) immigrants and the ever-changing family structure. Homeownership will be a positive offset to mounting entitlement and budget deficits. Chairman Bernanke also warns us to act comprehensively. He stated:

> [However], the unified budget deficit does not fully capture the fiscal situation and its effect on the economy, for at least two reasons. First, the budget deficit by itself does not measure the quantity of resources that the government is taking from the private sector. An economy in which the government budget is balanced but in which government spending equals 20 percent of GDP is very different from one in which the government's budget is balanced but its spending is 40 percent of GDP, as the latter economy has both higher tax rates and a greater role for the government. Second, the annual budget deficit reflects only near-term financing needs and does not capture long-term fiscal imbalances. To summarize, because of demographic changes and rising medical costs, federal expenditures for entitlement programs are projected to rise sharply over the next few decades. However, if early and meaningful action is not taken, the U.S. economy could be seriously weakened, with future generations bearing much of the cost.

If we are to be true to our social public policy of bringing the American Dream of homeownership to the masses and if expanding homeownership can help secure the national economy over this historically unique and vulnerable upcoming decade, then we must expand opportunity, not restrict it to only "prime" or quasi-prime borrowers. The solution is in the problem. Let's refine it now before it's too late.

SECRET OR SILENT RISKS / OVERBURDENED BORROWERS / NAKED LENDERS AND

NAKED GOVERNMENT BACKED SECURITIES / "RAHD" (RANDOMLY ACTIVATED HIDDEN DEBT) / "RAHC" (RANDOMLY ACTIVATED HIDDEN CONTINGENCIES)

RAhD is randomly activated hidden debt**.** RAhC is randomly activated hidden contingencies**.** RAhD and RAhC are a part of risk. They are risk contingencies, and as such they are a critical part of the risk-pricing bargain. They are like free radicals. They are a foreseeable contingency with unknown ramifications, unknown activation date(s), or an unknown contingency with unknown ramifications – all due to insufficient disclosures or failed market bargains. I first coined the phrases RAhD and RAhC on my review of the Enron debacle. Enron had numerous special purpose entities (or "SPEs") holding debt or contingency type commitments hidden "off-balance sheet" and not disclosed or understood on the public financials used by investors. When random or inevitable events caused Enron to make good on such debts, the world became aware of the true state of its financial sickness. If you're as sick as your secrets, and unknown, over-priced, mis-priced, or unmitigated RAhD and RAhC are the secret, the economy will become sick. We must fairly reallocate risk-price mitigation. Micro RAhD and micro RAhC are also contained in the risk-pricing of each market participant's deal. If disclosures are insufficient, whether to the borrower or government sponsored entities (GSEs) or investors, then risk is not accurately defined or mitigated. The market "bargain" between price, risk and return is then corrupted. Thus the risk pricing paradigm is faulty. True market risk-pricing has failed. This discrepancy in market risk-pricing becomes a contingency in itself infused into the market in unknown proportions with untold consequences. This is the threat of RAhD/RAhC. This is where we are in history concerning our homeowner mortgage banking system. RAhD and RAhC are infused into the risk-price bargain inherently, but unnecessarily because of three forces:

1. failed disclosures to or risk pricing by GSEs or investors
2. failed disclosures to the borrowers
3. failed historical bargaining positions of market participants

1. Failed Disclosures To GSEs or Investors

So called "exotic" loans are not so exotic at all. They are purpose driven. They fulfill specific market needs. They are however the 2007 Congressional tell-tale of a pending unmet need of the borrower. Of course, in the wrong hands a misused loan product or a misinformed borrower can result in devastation. What I think is exotic is the possible infusion of unnecessary **"RAhD" and "RAhC"** into the mortgage banking market system. The sad truth is we may have naked lenders and naked government backed securities. Ginnie Maes are guaranteed against principal loss by the full faith and credit of the federal government, but Fannie Mae and Freddie Mac are not. Fannie Mae and Freddie Mac have to absorb the foreclosure fallout if borrowers default. These mortgage pools are not rated. Are the triple-A corporate sponsor bonds able to support the risk? We have a large volume of high loan to value loans (with a high risk of default) that will reset to even higher rates compounded by a period of lowering property values, without mortgage insurance. This is critical because the lowering property values will create borrowers with no exit capabilities. These factors have the potential to feed upon themselves, and create broad economic trouble and loss of market liquidity. Lenders created and brokers sold non-insured loans (especially high ratio piggyback first liens with high variable rate revolving home equity line of credit ("HELOC") second liens) to meet the market demand and rapid growth of homeownership. But did the GSEs (such as Fannie Mae and Freddie Mac) understand the risk of a first "conforming" (80%) lien <u>without mortgage insurance</u>; tied to the same borrower who had a piggyback <u>overpriced</u> 20% silent or secret second <u>without mortgage insurance</u>? Did the market properly price this risk? Did investors overcharge borrowers for this risk by overloading the borrower's monthly cash burden? Worse yet, many of these secret seconds are not closed ended seconds, but revolving credit (card) type HELOCs. The GSE regulatory reporting guidelines were developed before the avalanche of piggybacks.[11] Whether the market truly understands these risks or not, the risk therein must be truly mitigated by mortgage insurance type products that are shared in costs <u>and</u> benefits by all market participants, including the borrower.

2. Failed Disclosures To The Borrowers

We know any loan may go into default or foreclosure due to known or unknown reasons. A borrower may lose a job, get sick, become disabled, die, get divorced, lose a lawsuit, incur an underinsured or uninsured event from a hurricane, tornado, water damage, auto accident, environmental and mold burden, etc. Creative or adjustable loans have added another layer of risk (RAhD, RAhC) to the borrower especially if the borrower didn't understand or can't afford the risk of paying the monthly burden as loans adjust or reset. These loans may in fact hold the answer, but we need better disclosures.

a. "Truly Intelligent Disclosures" ("TID")

Creative or exotic loan products and easy credit are not the problem per se, but in fact may be part of the answer per se. However, in any case, a truly uninformed borrower or misinformed borrower is truly a problem. If the system of fulfilling the American Dream includes a broker gatekeeper who holds all of the cards by virtue of the borrower's non existent relationship with the "unknown lender" who is motivated to keep costs, fees, and more shockingly interest rates, higher,[12] then the borrower has little chance to obtain the most effective or "suitable" loan package for his/her needs. Effectively, market competition may not have fully prevailed in this round of mortgage lending. In such event, we all suffer. We must refine the relationship, and better share risk and price. We should expand, not limit creative loans and available credit. However, creative loan products should require what I call: "truly intelligent disclosures" ("TID"). <u>However, we do</u>

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[11] C.A. Calhoun, PhD, *The Hidden Risks of Piggyback Lending*.
[12] *Losing Ground: Foreclosure Sub-prime Market/Cost to Homeowners*, citing Jackson, Berry, Kickbacks or Compensation: Yield Spread Premiums, Harvard, Jan 8, 2002.

not need more disclosures for disclosures sake. We truly have enough paper for paper's sake. Maybe we need less of that. We need (1) more accurate, meaningful and easy to understand disclosures, and (2) additional borrower disclosures with intelligent "underwriting business type analytics" (of the borrowers' risks and analytical probabilities in changing and projected conditions such as the effect of declining property values on his particular loan especially with rising interest rates). Those risks need to be clearly disclosed to the borrower in a summary format. Over the last 10 years numerous third party computer information services have gathered and computerized relevant information needed to supply the borrower with an intelligent short summary form disclosure (in real time) sufficient to enhance real issue warnings and "suitability" concerns (First American, Experian, Equifax, TransUnion, PMI Group, CUNA Mutual/CMG, Mortgage Bankers Association, DataQuick, DataTree, RealtyTrack, DataPlace, Risk Profiler, GAO, FDIC, CRL, HUD, Fannie Mae (GSEs), MassHousing, BankRate.Com, HSH, etc.). If Congress or the industry mandated truly intelligent numeric summary disclosure formats (TID), I would estimate that the industry could be ready to operate with same within 18 months or so. The partial (summary) list below is a list of disclosures that were commonly insufficient in the last lending cycle (also couched as TIDs), in addition to newly suggested TIDs:

1. Lack of TID regarding accurate (or industry consistent) calculations of loan characteristics such as ANNUAL PERCENTAGE RATE (APR), and relevant instruction or examples on how to use or evaluate such information.

2. Lack of TID of CLEARLY LABELED FEES AND COSTS including broker yield interest rate spread compensation and junk or inflated loan costs including points or buy downs. These figures should be shown alongside applicable industry norms or legally permissible charges so the borrower can make intelligent decisions concerning the cost/benefit bargain of the loan offer.

3. Lack of TID regarding the lender's ACCEPTABLE MINIMUM INTEREST RATE REQUIREMENT PER APPLICABLE CREDIT SCORE for this particular loan. This would allow the borrower to know and negotiate to avoid (abusive) interest rates hikes caused by broker yield-rate spread compensation. This is not a suggestion to totally eliminate such compensation, but such compensation must be justified, the effect on the borrower must be disclosed, and it must be subject to the borrower's rejection of those terms (or the loan offer based on those terms).

4. Lack of TID regarding BORROWER'S CONSENT ON SUITABILITY based on a numeric summary sheet disclosure including the EFFECT ON THE BORROWER AND PROPOSED LOAN PROGRAM(S) WHEN THE MARKET AND PROPERTY VALUATIONS CHANGE (i.e. decline) as related to INTEREST RATE CHANGES (i.e. rise), including but not limited to the change in monthly payment amounts, potential (non)eligibility of alternative loan payment options, loan modifications or common market loan programs, all indicating applicable Loan to Value (LTV, CLTV) and Income to Debt ratios, prepayment penalty burdens, negative amortization loans, the effect on other key eligibility barometers and LACK OF (EXIT, SALE or REFINANCE) OPTIONS over a projected 1, 3, 5 and 15 year period. Many borrowers may have a perfectly good reason to choose a negative amortization loan, interest only loan, option arm loan

or other variation of them, and may in fact realize true financial and related benefits there from. But the borrower needs to understand them to make a proper suitability decision. <u>Lenders and brokers must have a duty to disclose and obtain the borrower's consent on suitability</u>.

CRITICAL: Loan Comparison Summary Sheet Disclosure With All Common Or Applicable Loan Programs, With Mortgage Insurance & Tax Analysis: <u>The TID regarding "BORROWER'S CONSENT ON SUITABILITY"</u> must include a COMPARISON OF ELIGIBLE LOAN PROGRAMS WITH AND WITHOUT MORTGAGE INSURANCE including a COSTS/BENEFITS/LOSS analysis with PRE-TAX and AFTER-TAX EXAMPLES (showing legally deductible amounts based on tax assumptions developed by the actual numbers reported to underwriting of the borrower. For example the borrower should be able to quickly look at a summary sheet and see the estimated total loss to borrower and lender due to limited default and foreclosure, MI coverage and projected payout amounts, lender exposure and other projected Need-To-Know and What-If relationships. More importantly the borrower would be able to confirm or object to the broker's representation that a Piggyback (80/20) loan is less expensive than a single loan with MI. Now these loan programs and concepts can truly compete because the borrower will have intelligent summary comparisons to use in making his/her decisions. Note – PMI GROUP has a computerized disclosure model that I have tested. Other mortgage insurance companies may as well. It does much of what I am concerned with, not all however. Also we need a more advanced version for professionals and a simple summary version for consumers to enhance understandability and allow a meaningful decision to be made by the borrower on "suitability".

5. Lack of TID to the borrower concerning the HISTORY OR DESIRABILITY OF THE LOAN SERVICER

6. Lack of TID on the truth that certain GOOD FAITH ESTIMATES may not at all be accurate and the reasons why. The industry must move to more comprehensive and automated information system with accurate estimated TIME TABLES in the loan processing itself and related parties must respond with info (payoff demands, etc.) within short legal deadlines.

7. HUD AMENDMENTS: Lack of TID on the HUD-1 disclosure forms reflecting and incorporating the above TIDs. The GOOD FAITH ESTIMATES and the HUD-1 disclosure should be amended to include the appropriate TIDs or appropriate summary material there from.

3. Failed Historic Bargaining Positions Of Market Participants

Borrower's Risk Pricing: The borrower is carrying too much risk and paying too high a price for such risk. The borrower's monthly cash burden is too high. The borrower's RAhD and RAhC are much too high. The risks of failed exit options for the borrower are too high. The market participants have attempted to mitigate this risk by simply charging the borrower, but the borrower simply cannot afford the price. We are at a time in history where the price for risk has been proven to be too high for the borrower – if we want to continue the public policy of increasing homeownership. Risk must have a price and someone, or something, must pay for that risk. Who or what pays for the risk and how it is paid for are the key questions etched in the fabric of the solution. Answer them and you will have a refined solution.

Risk can be paid for with risk mitigation devices and risk mitigation techniques. The solution will require an integrated combination of both.

A. RISK MITIGATION TECHNIQUES

"**Safe Harbor Intelligent Loan Options" ("SHILO")**. We can and should foresee delinquency, default and foreclosure contingencies and handle them in the loan agreements at origination. Why wait for the effect of costly defaults and foreclosures until we handle the solution? We are creating a sub-industry based on failed attempts at the American Dream which cause further economic market uncertainty, economic ruin, and human disgrace. Is that what we want? If not, why not build in some contractual remedies to enhance certainty in the marketplace and help save people at the same time? I recommend that we consider contractual risk mitigation techniques in the loan agreements at origination. I call this concept:

Safe Harbor Intelligent Loan Options or "SHILO"

"SHILO" is a minimum set of borrower (lender, insurer, or government) loan option rights concerning issues of payment, default, and foreclosure including forbearance or deferment options, loan modification or conversion rights, refinance rights, short refinance rights, short sale rights, and/or exit options contained in the loan agreements that may or must be used in the event of pre-default or foreclosures circumstances. The Lender and the Borrower may also negotiate for additional SHILO. These provisions directly benefit the borrower, but on many levels also directly and indirectly benefit the lender, the local State and Federal governments, investors, and the economy. Presently, the borrower in trouble has a lack of exit options available. This causes "liquidation type forced sales" and creates a feeding frenzy in the foreclosure markets. This often causes great loss to the borrower, lender, local State and Federal government, investors, and the economy. When a borrower is in trouble and in need for loan modifications, he is generally experiencing financial, medical or market distress, or has a specific economic or other reason for wanting same. We need contractual remedies that offer relief from the foreseeable financial and personal problems that we know will occur and unforeseeable contingencies as well. Obviously persons in financial trouble will not be able to qualify for many of the current extra-contractual options. It creates another set of problems. The current loan agreements create RAhD and RAhC risk. Substituting predefined contractual solutions (SHILO) for those unknown and known potential problems would reduce the size of the foreclosure marketplace and help stabilize the risk benefit pricing structure. SHILO would cause real estate markets to experience or realize less extreme risks. This would reduce the risk, costs and losses to all participants in the marketplace. The SHILO solutions are the current concepts used by the foreclosure industry including, but not limited to:

(1) Forbearance with Reinstatement Or Repayment Plan Agreement, (2)

Loan Modification, (3) Short Refinance, (4) Short Sale, (5) Market Sale, (6) Investor Sale, (7) Investor Sale And Lease Back, (8) Deed In Lieu Of Foreclosure (9) Reverse Mortgage, (10) Bankruptcy, (11) Hand In Keys & Walk Away Clean, (12) Walk Away Dirty, (13) FHA Partial Claim (14) Gift Equity Transfer, Etc. The key is to allow a borrower in financial trouble to access prescribed contractual payment or exit solutions without requiring good credit standards. We must stop kidding ourselves; we all know that the borrower who is in trouble will not have good credit or feasible foreclosure market solutions. We may see $164 billion in equity loss over the next few years. In an optimal or evolving economic society, we must refine this market inefficiency with non-cash substitutes or equivalent risk-pricing ("ERP") with MI.

B. RISK MITIGATION DEVICES

There must be a price paid for risk absorption, but it doesn't have to be "cash upfront", nor paid for by the borrower. The problem to solve now for the future, is can we mitigate risk inherent in the middleclass or subprime rated borrower without creating unrealistic "cash" carrying burdens? We can, and must, by using risk mitigation devices such as mortgage insurance or funds, with TID and SHILO.

Mortgage Insurance (Funds) ("MI") Type Products: The costs of avoiding MI may be too high for market stability. The default and foreclosure rates prove that it is too high for the middle class, sub-prime borrowers and borrowers in high-priced market areas like California and the eastern seaboard. Is the investor and lending industry taking too much in fees without mitigating risk in the market, especially on non-conforming second liens? Should all market participants pay for risk mitigation or MI type products? The "concept" of private mortgage insurance or "MI" ("PMI") is a good one from a market standpoint because it insures and shares risk. Insuring or sharing risk is what makes markets work. It protects the mortgage holder (lender) from complete loss in the event of default. It hedges some risk inherent in the financial mortgage vehicle. Borrowers generally have a negative opinion about MI. They view it as too cash-expensive. Now that President Bush, in late December 2006, signed into law allowing tax deductions for mortgage insurance the comparison of using MI or using piggyback loans without MI will change. Borrowers must always remember that piggybacks with adjustable high rate HELOCs can be deadly. Piggybacks and non-piggybacks are in need of MI type risk mitigation, and an overhaul or intelligent refinement that takes into account the borrower's affordability. High rate second liens overload the borrower's carrying burden. MI should insure such second liens, or better facilitate one-loan programs. The GSEs will have to change policies to meet this need as well.

TID, SHILO & MI Integration: We must integrate TID and the SHILO solutions with the new and existing MI solutions. This will allow for more price risk alignment and enhanced stability in loan products. Joseph Thomas of Retirement Networks (Florida), and the author suggest the following risk mitigation conceptual examples at a no or low cash cost basis to the borrower:

Foreclosure Mortgage Insurance™ ("FMI"): FMI under certain conditions may cover certain cost burdens as well as return FRESH START money, credit or opportunities to the borrower. Remember, the wealthier the borrower, the less risk is introduced into the markets.

Default Mortgage Insurance™ ("DMI"): DMI under certain conditions, may cover missed payments; up to12 months or more.

Investors Mortgage Insurance™ ("IMI"): Second liens have been over priced from the borrower's perspective; especially certain adjustable rate piggybacks with high rate seconds (HELOC). If piggybacks are to continue, the cumulative risks inherent must be mitigated without simply charging the borrower more cash-burdened money. Investors in such loans must be offered risk mitigation insurance benefits as a "substitute" or "equivalent" for increased price burdens on the borrower. The borrower alone can not afford to pay the price for this risk.

Key Risk Benefit Pricing & Tax Reallocations: To effectuate a solution, risk and cost of risk mitigation must be shared more equally by all of the parties to the bargain. A comprehensive solution would also require:

New Tax Laws: Congress must extend and make permanent (beyond 2007) the new (2007) tax deduction for borrower paid MI. Congress must allow the borrower to deduct same if the cost of the MI was effectively transferred or absorbed by the borrower whether or not paid in cash by that party. New tax laws must allow borrowers to avoid forgiveness of debt on certain loan workouts, and the "uncertainty" of such taxes. Bulk rate MI should be implemented on a grand scale with shared tax deductions. Risk absorption should yield a tax deduction whether it's cash based or not. These tax breaks are paid for by the taxes and liquidity concomitant in increased market wealth through new homeownership.

CONCLUSION:

You're As Sick as Your Secrets / Sustainable Homeownership - Increasing "penalties" or shrinking the market will not prevent abusive lending or foreclosures. But if you preempt the transaction itself, which is subject to foreclosure abuse by allowing the parties to the relationship to invoke prescribed contractual solutions, you will remove the opportunity for others to violate the weaker party to that relationship, which is invariably the borrower. We must correct by refinement our "secret" market defects to achieve less sickness. If 80% of sub-prime loans have been successful, TID, SHILO, and new cash-affordable MI products will reduce defaults and foreclosures in the 20% high risk group, and by definition enhance "sustainable homeownership". Nothing will be 100%, and it shouldn't be. This risk of loss and risk of success create market opportunities - as long as price is fairly set with risk mitigation. Expanding homeownership will create more wealth and better local, national and international economies. Let's stop non comprehensive rules and laws; let's refine, expand and enjoy the ever changing new America, and the first historic period of American retirement – supported by homeownership wealth.