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1           Our first person to testify today will be  
2           Mr. William McCloskey, president of WJM  
3           Commercial Lending. Will he, please, come  
4           forward.

5           We have a copy of Mr. McCloskey's  
6           testimony and if anyone needs it, we have  
7           copies, I think, in the back.

8           Please use the microphone and pull it  
9           close to you and you may begin.

10           MR. McCLOSKEY: Thank you Chairman Daley.

11           I was employed in the residential mortgage  
12           industry from late 2002 to late 2005. I worked  
13           at a large national conforming lender, various  
14           mortgage brokers and mortgage banks and two  
15           large national direct lenders that dealt  
16           primarily with subprime mortgages.

17           To my dismay, I found that it was  
18           impossible to make an honest living at the two  
19           national subprime lenders. I can give an  
20           honest account of how unspeakative lenders  
21           operated due to my experience at these two  
22           companies. One of my companies, a non-publicly  
23           traded, a national mortgage lender, fired me in  
24           early 2005 after I reported the fraud I

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1           witnessed at government agencies. The fraud  
2           that I witnessed included: blatant kickbacks to  
3           appraisers, forgery of documents during the  
4           origination process and underwriting, the up  
5           selling of loans with exorbitant origination  
6           fees, the doctoring of title reports, the  
7           placement of customers into unsuitable loans,  
8           overstating customers income for stated loans,  
9           whisking customers to the closing table as  
10          quickly as possible.

11                 Subsequent to my termination, I filed a  
12           complaint with OSHA and the Department of Labor  
13           under the whistle-blower provision under the  
14           Sarbanes-Oxley Act of 2002 and I won a judgment  
15           before an administrative law judge. In spite  
16           of the fact that my former company was not  
17           publicly traded, I am currently appealing my  
18           award for damages.

19                 Because of my abrupt termination in 2005,  
20           I had to immediately find work. Two weeks  
21           after my termination I was hired at a  
22           legitimate mortgage banker in New Jersey. It  
23           was a good company, but it was going through a  
24           transition period and it would have taken me at

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1 least a year to obtain a substantial income.

2 Because of this, I forwarded my resume to  
3 several national lenders and I was eventually  
4 hired at a national lender that was a division  
5 of a huge publicly traded company.

6 In my interview with this company, I was  
7 told I would be originating subprime loans.  
8 After about two weeks on the sales floor, I  
9 realized that a large percentage of my  
10 customers fell into the Alt-A range. However,  
11 the company priced the loans with a proprietary  
12 pricing module, which was a rate-driven tool  
13 consisting of about 8 to 10 subprime lenders.  
14 Hence, the company priced all of their loans as  
15 if the customer fell into the subprime category  
16 because they did not have an Alt-A pricing  
17 module.

18 The only way that I could have kept my job  
19 at this company was to price most of my loans  
20 with three or four points and a five year  
21 prepayment penalty, or place customers, some  
22 with a middle credit score above 540, into a  
23 2/28 ARM with a prepayment penalty.

24 At one point I was attempting to price a

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1           refinance loan for a customer with a middle  
2           score credit around 640, a low debt-to-income  
3           ratio and a 90 LTV. The customer did not have  
4           any late payments on his mortgage, so I  
5           attempted to put him in a 30-year fixed. I  
6           asked the senior loan officer for advice. His  
7           exact words were, "You don't want to put this  
8           guy into a 30-year fixed. If you want to get a  
9           customer a great deal, then go work for a bank.  
10          If you want to make money here, you are going  
11          to have to sell people on a 2/28 ARM with a  
12          3-year prepayment penalty."

13                 This particular loan officer had awards  
14                 for good salesmanship on his desk. I was  
15                 appalled by this because a 2/28 ARM is strictly  
16                 reserved for a customer with a credit score  
17                 below 540 and on the verge of bankruptcy and  
18                 without a 3-year prepay, which defeats the  
19                 purpose of the loan.

20                 Because this company was, essentially, up  
21                 selling the majority of the customers, I  
22                 abruptly resigned after a full week tenure.  
23                 Subsequent to my resignation, I filed a  
24                 complaint with the State Attorney General and

1 the Department of Banking. I did not register  
2 a complaint with OSHA and the Department of  
3 Banking (sic) under the whistle-blower  
4 provision of Sarbanes-Oxley because I resigned  
5 and because I was already involved in a major  
6 SOX case against my former employer.

7 I did, however, inform both government  
8 agencies that my former company was violating  
9 Section 404 of Sarbanes-Oxley. Because  
10 securities fraud was out of the Attorney  
11 General's jurisdiction, my complaint was  
12 forwarded to the SEC.

13 Because of my two negative experiences, I  
14 decided to temporarily leave the mortgage  
15 business at the end of 2005 to start my own  
16 business. I attended classes, including the  
17 class of business plan writing at the Wharton  
18 Small Business Development Center, which is  
19 sponsored, in part, by a grant by the  
20 Commonwealth of Pennsylvania, Department of  
21 Community and Economic Development.

22 I now own a commercial brokerage and I am  
23 an executive partner with the direct lender. I  
24 am backed by over 25-years experience through

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1 my lending partner and they give me all the  
2 training and support that I need to be an  
3 honest commercial broker. I also obtained  
4 additional training in order to be a competent  
5 commercial originator.

6 Over the past seven months I have written  
7 articles for mortgage industry publications,  
8 such as Scotsman Guide and Broker Magazine. I  
9 am also involved with Mortgagetrapped.org, a site  
10 collectively constructed by residential  
11 mortgage advocates committed to putting  
12 professionalism, integrity, honesty and  
13 education back into home lending.

14 In my articles, I have written about the  
15 lack of professionalism throughout the subprime  
16 industry. Because I established a prima facie  
17 case of discrimination under the Sarbanes-Oxley  
18 Act of 2002 against a national subprime lender,  
19 I have written about using the act as a  
20 regulatory tool for the industry.

21 I am not a proponent of the act as a whole  
22 because it was, in many ways, an overreaction  
23 to the Enron scandal. However, I did become a  
24 quasi-expert on the whistle-blower provision of

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1 the act because I initially represented myself  
2 before the Department of Labor. I had to do  
3 most of the research on my own.

4 By using due diligence to research the  
5 whistle-blower provision of SOX, Section 806, I  
6 discovered that companies that issued  
7 asset-backed securities have a reporting  
8 obligation through, either, 13(a) or 15(d) of  
9 the Securities and Exchange Act of 1934, at  
10 least for a period of time. All subprime loans  
11 are pooled as, either, asset-backed securities  
12 or mortgage-backed securities, which are a type  
13 of asset-backed securities.

14 If a mortgage company issued asset-backed  
15 securities on the open market and remains the  
16 master servicer of the loan pool, the company  
17 does not have a suspension of duty to file  
18 reports under Section 13(a) and 15(d) of the  
19 Securities and Exchange Act of 1934.

20 Because of this, an administrative law  
21 judge and the Department of Labor ruled that I  
22 established a prima facie case of  
23 discrimination. It is my hope that my case  
24 sets a precedent for the mortgage industry.

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1 I reviewed House Bill 1079 through 1084  
2 and they do not contain anything about  
3 suitability standards.

4 In the January edition of Scotsman Guide I  
5 wrote, "The federal government has been trying  
6 to get mortgage companies to tighten their  
7 lending standards for years. But instead of  
8 cracking down with tough rules, they chose to  
9 use guidance, which many lenders ignored.

10 "Weak federal laws could preempt strong  
11 state laws against predatory lending.  
12 Therefore, the first line of defense consists  
13 of honest employees of mortgage companies who  
14 have witnessed fraud and predatory lending and  
15 who are willing to take action.

16 "When stockbrokers pitch a security,  
17 industry rules require them to consider if it  
18 is suitable for the customer. When loan  
19 officers pitch a mortgage program, however,  
20 they do not have to abide by any real industry  
21 standard.

22 "When the Sarbanes-Oxley Act was signed  
23 into law in 2002, it essentially transferred  
24 the concept of suitability from the securities

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1 industry to the mortgage industry, because the  
2 two industries are intertwined (i.e.,  
3 mortgage-backed and asset-backed securities)."

4 I have sent copies of my article to  
5 Congressman Barney Frank. Congressman Frank is  
6 proposing a bill that would, essentially, shift  
7 legal liability to the investors who buy  
8 mortgage-backed securities. Investors have  
9 limited control over what goes into the  
10 mortgage pool. When pension funds buy  
11 mortgage-backed securities, they can analyze,  
12 to some degree, the default risk. But how can  
13 they analyze the appropriateness of the  
14 purchase or refinance of the homebuyers? This  
15 is, essentially, up to the originators,  
16 processors and underwriters at mortgage  
17 companies.

18 As I wrote in the January edition of  
19 Scotsman Guide, "There can be negative effects  
20 on the secondary market as well as on pension  
21 funds. First, the value of those loans that  
22 are sold on the secondary market and pooled as  
23 asset-backed securities or mortgaged-backed  
24 securities could be lessened or become

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1 worthless.

2 "In addition, a large public or private  
3 pension fund may have billions in assets, but  
4 if it invests in mortgage-backed or  
5 asset-backed securities that are lessened or go  
6 belly up, the 'average American could get hurt."

7 It is my hope that another PA house bill  
8 would include a provision for suitability  
9 standards based on the whistle-blower provision  
10 of Sarbanes-Oxley. This could set a precedent  
11 for a strong federal bill, and, hopefully,  
12 Congressman Frank will take notice.

13 Thank you.

14 CHAIRMAN DALEY: That you Mr. McCloskey.

15 Questions? Representative McGeehan.

16 REPRESENTATIVE MCGEEHAN: Thank you very  
17 much, Mr. Chairman.

18 Mr. McCloskey, what was the outcome of  
19 your complaint to the Attorney General?

20 MR. McCLOSKEY: My complaint to the  
21 Attorney General was forwarded to the SEC.  
22 They informed me that it is not their  
23 obligation to inform me whether there is an  
24 investigation or not.

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1           REPRESENTATIVE MCGEEHAN: That is part of  
2 the problem.

3           MR. McCLOSKEY: Part of the problem, yes.

4           REPRESENTATIVE MCGEEHAN: Thank you.

5           CHAIRMAN DALEY: Members with questions?  
6 David Callen.

7           MR. CALLEN: Thank you, Mr. Chairman.

8           Bill, just for the sake of the members, I  
9 wonder if you could explain a little bit about  
10 what an Alt-A mortgage is?

11          MR. McCLOSKEY: Alt-A would be somebody  
12 who was in the B paper range.

13          So, essentially, what the direct lenders  
14 were doing, that I worked for, they were  
15 placing the customers into D paper, and that  
16 was mainly because it generated more revenue  
17 and it would help the loan officer make their  
18 commission for the month, and it also -- they  
19 were also more appealing to the investors on  
20 the open market because they generated more  
21 revenue. So, they generated more cash for the  
22 company, more commission for the originator and  
23 they were more appealing to the investor.

24          So, that is why I feel suitability

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1 standards should exist in the industry. That  
2 is part of the problem.

3 MR. CALLEN: So, what you are saying, if I  
4 can translate that, is, Alt-A is between prime  
5 and subprime.

6 MR. McCLOSKEY: Yeah. Somewhere in  
7 between there, prime and subprime.

8 For instance --

9 MR. CALLEN: But people would be pushed  
10 down into the subprime?

11 MR. McCLOSKEY: That's correct. They were  
12 placed in subprime programs and they didn't  
13 belong there. So the entire issue isn't  
14 whether or not people couldn't afford their  
15 house, I think a bigger issue is that a lot of  
16 people who had decent credit were placed into D  
17 paper and it made their situation worse.

18 The goal of the loan officer is to act as  
19 a consultant and put the customer into a much  
20 better financial situation than they were  
21 before they did a refinance. Which wasn't the  
22 case of the two direct lenders where I worked  
23 at; it was all about generating the most  
24 revenue.

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1           CHAIRMAN DALEY: Any other questions?

2           Mr. McCloskey, thank you for your  
3 testimony, it is quite interesting, to say the  
4 least, of your personal testimony and how it  
5 has affected your life and how it has affected  
6 many people in this country, not only in  
7 Pennsylvania.

8           We will be talking to you in a more  
9 private setting to get further details from you  
10 in terms of the possibility of introducing  
11 other legislation regarding this issue.

12           Thank you very much.

13           MR. McCLOSKEY: Thank you very much  
14 Chairman Daley.

15           CHAIRMAN DALEY: The next group to testify  
16 will be Mr. John Dodds and George Gould,  
17 Esquire and he is with the Philadelphia  
18 Unemployment Project and Mr. Ian Philips of  
19 ACORN.

20           As we've stated before, pull the  
21 microphone close so the whole audience can  
22 hear.

23           It is up to you whoever starts; it is up  
24 to you.