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March 13, 2012

Mr. Richard Corday
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20006

Re: Small Business Review Panel

Dear Mr. Cordray,

Thank you for allowing me to serve on the Small Business Review Panel and for taking the views of a small business person under consideration in your rule making.

By way of background, I am a small business woman from Texas who owns and operates a number of small title agencies in East Texas. I have been in the land title business for over 30 years and have been a small business owner for nearly 20 years. Additionally, I am a former President of the Texas Land Title Association. I think I can speak for the 500 or more title agents who represent small business throughout Texas. We serve the consumers of Texas by acting as a neutral third party to make their home purchase function smoothly and fairly.

I agree with the goals of the CFPB to make it easier for the consumer to understand the home buying process, keep costs reasonable, and to reduce surprise fees at closing. However, I would strongly urge you to proceed cautiously so that you do not have the opposite result in your final rule making.

When integrating TILA and RESPA, I am very worried that a zero tolerance, even for affiliates and especially for third party providers listed on the "provider list", will drive the few and largest mortgage lenders in the U.S. to vertically integrate settlement services. This will eventually drive small and independent title agents, underwriters and many lenders out of business, and prices will increase over time due to a lack of competition. Zero tolerance will eventually mean zero competition. This would be a terrible result for your typical American consumer and home buyer. Also, overlooked in this process is the interest of the seller who may be forced to use the buyer's lender or affiliated settlement agency and will not have any independent voice at the settlement table. The tolerance provisions implemented in the 2010 RESPA changes are reducing (if not eliminating) significant variations in funds due by the borrower at the closing table. Thus, any tightening of these tolerances are not necessary and could significantly change the business to the detriment of the consumer and small settlement agents.

The same can be said for the proposed lack of a bi-furcated process in preparing the settlement disclosure document. I believe the party whose job is to perform the settlement ("closing") of the transaction (whether it be a title agent, settlement agent, attorney or even a lender) must be responsible for preparing the settlement portion of the Settlement Disclosure. This form should be promulgated and mandated. The proposed rule should not take the neutral settlement agent out of the process and put this function in the lender's hand. Due to CFBP's proposed merger of the loan information and settlement statement in the Settlement Disclosure, if the lender is actually designated to prepare the entire form, it will reduce the role of independent settlement agents. This will lead to the lender controlling the entire settlement process, and I fear, raise costs and fees, exactly what the Agency is trying to avoid.

In closing, your agency arose from the crisis we had in mortgage lending. Small title agents, settlement agents and community financial institutions did not play a role in that crisis. In fact, the steering of lending and settlement away from small business helped create greater problems. For decades, the modern title industry has been the neutral third party at the closing table. Moving away from the neutral third party at settlement into the hands of the largest lenders in the U.S. is bad public policy and will increase costs to consumers. CFPB needs to do everything it can in crafting new rules to avoid this result.

So that you are aware that the small businesses in the title industry are united in their recommendations, I am also attaching for your review a letter signed jointly by all of the title industry participants on the small business review panel.

Thank you for your consideration of these recommendations.

Celia C. Flowers