APPRAISER PROSPERITY COALITION

July 31, 2014

To: Members of the Appraiser Prosperity Coalition
From: The Appraiser Prosperity Coalition and Federal Advocates, Inc.
Subject: July Monthly Report

Thanks to your support, and the support of several hundred other appraisers across the country, the Appraiser Prosperity Coalition is now up and running, and fighting for you. This month we made significant first strides towards achieving our long-term goals.

This is the first in a series of monthly advocacy reports in which we will detail the actions we have taken in the previous month. Interim reports will also be provided and/or conference calls will be scheduled as necessary.

Issues and Solutions

Un-Bundling Fees

To recap, the first goal and focus of the Coalition is to fight for the "un-bundling" of fees. We believe that AMCs must be required to profit by successfully competing against one another, not by squeezing down appraisal firms' fees. The appraisal firms' fees and the AMC's fees must be clearly billed as separate items for all purposes, including on the HUD statement, and they must no longer be permitted to "bundle" their services with the services of the appraisal firm. All parties to the residential lending transaction must be made fully aware of the exact amount being paid to the appraisal firm, and the exact amount being paid to the AMC. We believe that having a federal requirement on this separation is consistent with the requirements enacted by a number of states as part of their Dodd-Frank mandated AMC registration and oversight laws. This policy update alone will bring more transparency and accountability to the process. Consumers, advocates, legislators, and regulators alike will be able to see with their own eyes how much of a "cut" an AMC takes from appraisers, and this will raise the question to all parties of what is fair – or "customary and reasonable." Because of the "snowball" effect that we anticipate from achieving this change, this is our primary goal, and each action that we take in the near future will be focused towards achieving it.

Breaking Up Power / Appraiser Independence

As lenders and AMCs continue to consolidate, immense power over appraisers has been consolidated. Without sweeping legislative changes, the powerful will only continue to build their power as the days go by. This ongoing power grab provides those with it the ability to "bully" appraisers in many different ways. Many of them are currently using their power to drive down appraiser fees in order to rake a maximum amount of profit off of the backs of appraisers. Many are using their power to influence appraisal values (as the ultimate goal of most appraisal clients is to originate a loan), and of course loans can only be originated if appraisal values fall in line. We believe the only way that appraisers can be truly independent, and able to freely report unbiased opinions of value, is to be free from many of the pressures that exist in the current business scenario. To this end, we are in the process of drafting **Declaration of Appraiser Independence** for dispersing to appraisers across the country in order to garner signatures. This show of support will demonstrate appraisers' dedication to the strengthening of the profession. Please keep an eye out for this in the weeks to come. The bottom line is that by removing lenders from the appraisal process, and placing the appraisal ordering decision freely at the local level, the bullies will immediately lose their power to abuse appraisers. By allowing local people to choose a licensed and regulated 3rd party that must convince them with each and every order that they are providing the best practices; and by giving appraisers the ability to communicate to local people about how they are being treated by those whom have been hired; we can go a long way to prevent appraiser bullying. By fighting to make these big changes, we can do a world of good to restore lasting prosperity to our beloved profession.

Improving Accountability

Additionally, improving oversight, transparency and accountability is a key goal of the Coalition. This includes licensing all AMCs without discrimination against small ones; mitigating lender ban lists; correcting lender/AMC requirement creep; requiring AMC principals and appraisers to be vetted via reasonable background checks; and removing AVMs and BPOs as the basis for residential lending.

Initial Strategy

Background Information

We completed an extensive research of the fee disclosure issue in Dodd-Frank, culling through the legislative history of both the House and Senate bills, and the conference report thereon, and reaching out to Members of Congress and staff, both current and former ones, to understand better the rationale behind the final language, the key players in the legislative process, both within the Congress and from outside, and the positions espoused by them, stakeholders, etc. In part, what we learned with respect to the actual legislative language was that as passed by the House of Representatives in 2009, H.R. 1728 included the following:

> "The standard form described in subsection (a) **shall** include, in the case of an appraisal coordinated by an appraisal management company ... a clear disclosure of — (1) the fee paid directly to the appraiser by such a company; and (2) the administration fee charged by such a company."

However, during the Conference on the bill, the Senate Committee on Banking requested that the word "**shall**" be changed to "**may**," reasoning that additional line items on the HUD could confuse consumers. Unfortunately, the net effect was that the question of whether to disclose the AMC fee to consumers was left up to the Consumer Financial Protection Bureau (CFPB).

Unfortunately the CFPB has chosen to make this disclosure optional. Thus this apparent subtle change within the law permitted AMCs to continue to conceal and bundle your hard-earned fees with their profits on the HUD statement.

Prior to the HVCC / Dodd Frank, over 50% of appraisal assignments in our estimation was facilitated directly between loan officers and appraisal firms. In the midst of the real estate bubble burst, it became vividly clear that loan officers were abusing their power to order appraisals by using their financial leverage as a tool to force appraisers to bend appraisal values to fit their loan requirements. It was common place for loan officers to call appraisers and say, "I have an appraisal order, but I only want you to do it if you can get at least a value of X. If you can't get that value, please cancel the order. Oh, and we'll pay you $50 more if you can get that value!" Many appraisers folded to the pressure, cherry picked comps, and got values in order to get paid. Regulators identified this disease, and made it illegal for those in the "loan production process" to order appraisals.

However, in doing so they failed to realize or mitigate the devastating unintended consequences. Those changes moved the bulk of appraisal ordering into the hands of Appraisal Management Companies (AMCs), many of which are owned by the largest lenders. However, appraisers typically preferred working for loan officers were because they paid them more, and bullied them less than AMCs. This is because loan officers held the least amount of personal power over the appraisal firm, and because loan officers didn't make more money by paying the appraisal company less – a huge problem that has been going on for a long time.

To solve the bullying problem AND the value pressure problem, the Coalition believes that local representatives of the financial institutions need to be completely in charge of deciding which state licensed and regulated 3rd parties their appraisal order will travel through. These local representatives will be tasked with hiring the 3rd party that offers best practices, including treating appraisers the best. Appraisers will be able to communicate any grievances to these local representatives and encourage them to direct future orders in a different direction if they are being harmed in any way. This market structure change will restore a level of health to the appraisal profession that has not existed in the past.

Education

We began the process of educating key Members of Congress, personal staff and committee staff of both Houses and both political parties about the Coalition, its issues, goals, strategy, etc., with a view toward identifying key congressional players, potential champions, allies and adversaries, many of whom were not in Congress when Dodd-Frank passed and/or were in different majority and minority roles at the time and/or were not aware of the fee disclosure issue at the time or currently.

Building Relationships

In addition to key stakeholders noted following, we also began the process of building relationships with key Members of Congress and staff with the intent to build upon these initial relationships, recognizing the importance of connecting or binding various participants to our cause, as the Coalition pursues its goals over the months ahead.

Assessing opportunities

Given the pending August recess that will extend until after Labor Day, the upcoming November election that will also impact the congressional legislative schedule, the uncertainty of the duration of the lame duck session etc., we are in the process of assessing what is viable in terms of a strategy both for the rest of this calendar year/congressional session and as we look toward a new Congress in January, with possible significant changes in the majority-minority structure especially in the Senate, new Members, new staff, new committee assignments, etc.

Stakeholder Relationship Building

We are in the process of introducing the Coalition to, and building relationships with, GSE's, state appraisal boards, appraisal groups, and consumer and small business advocacy organizations.

Why are consumer advocacy groups important stakeholders?

Because as consumers, soon-to-be homeowners deserve to know how much of their hard-earned money is going to their real estate appraiser, and how much is going to the AMC -- in plain sight on the HUD. The support of consumers allow us to tap into a huge number of resources beyond the appraisal profession. And, for political reasons, consumer interests are of high importance to Democrats.

Why are small business advocacy groups important stakeholders?

Because appraisal firms <u>are</u> small businesses – known as "the backbone of America" – and, for political reasons, small business interests are of high importance to Republicans.

These key groups include:

- Appraisal Subcommittee (ASC)
  - The ASC of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). Title XI's purpose is to "provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision." The statutory amendments in Dodd-Frank expanded the ASC's general responsibilities, including the registration and supervision of the operations and activities of appraisal management companies.

- The Appraisal Foundation
  - The Appraisal Foundation is dedicated to promoting professionalism and ensuring public trust in the valuation profession. This is accomplished through the promulgation of standards, appraiser qualifications, and guidance regarding valuation methods and techniques.

- GSE's (Fannie/Freddie), FHA and the VA

- All state appraisal boards

- National Association of Consumer Advocates (NACA)
  - NACA is a non-profit association of attorneys and consumer advocates committed to representing consumers' interests. NACA's mission is to promote justice for all consumers by maintaining a forum for communication, networking, and information sharing among consumer advocates across the country, particularly regarding legal issues, and by serving as a voice for its members and consumers in the ongoing struggle to curb unfair or abusive business practices that affect consumers.

- Consumer Federation of America (CFA)
  - The CFA is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.

- Consumer Action
  - Through multilingual financial education materials, community outreach, and issue-focused advocacy, Consumer Action empowers underrepresented consumers nationwide to assert their rights in the marketplace and financially prosper.

- National Consumers League
  - The National Consumers League is a private, nonprofit advocacy group representing consumers on marketplace and workplace issues. It is the nation's oldest consumer organization.

- Consumer Financial Protection Bureau (CFPB)
  - Congress established the CFPB within the Dodd-Frank Act in order to protect consumers by writing rules, supervising companies and enforcing federal consumer protection laws; restricting unfair, deceptive, or abusive acts or practices; taking consumer complaints; promoting financial education; researching consumer behavior; monitoring financial markets for new risks to consumers; and enforcing laws that outlaw discrimination and other unfair treatment in consumer finance. As the interpreter and enforcer of the fee disclosure rule within Dodd-Frank, the CFPB is no doubt an important player with which to form a strong relationship. Thankfully due to their work on CFPB issues for other clients, Federal Advocates, Inc. already has great working

relationships with a number of key individuals inside the Bureau, on which the Coalition can capitalize. However, often other appraisal advocacy organizations put too much of a focus on the CFPB while forgetting that Congress is even more important, for they created the Bureau, and can amend the rules that Bureau was created to enforce.

- National Small Business Association (NSBA)
  - Celebrating its 75th Anniversary in 2012, NSBA advocates on behalf of America's entrepreneurs. A nonpartisan organization, NSBA's 65,000 members represent every state and every industry in the U.S.

- National Federation of Independent Business (NFIB)
  - NFIB is a leading small business association, promoting and protecting the right of Americans to own, operate and grow their businesses.

- United States Association for Small Business and Entrepreneurship (USASBE)
  - The USASBE is the largest independent, professional, academic organization in the world dedicated to advancing the discipline of entrepreneurship and the development of outreach and public policy.

Long-Term Planning

Our goal is to "hit the ground running" with the inception of the new Congress in January. Toward that end, we need to complete the initial education process by producing for distribution to all key players a "white paper" that includes background information on the Coalition, identification and explanation of the issues, the legislative "asks' with underlying justification, etc; continue interaction with key Members, staff and stakeholders; identify and explore possible legislative opportunities for the rest of this year/Congress; assess the results of the November elections; target potential congressional champions in the new Congress (ideally a member from each political party in both Houses); and, continue to grow the Coalition as an effective and viable grassroots entity committed to preserving small business and consumer appraiser interests.