

Real Estate Today

Paid Advertisement — Archived at www.JimSmithColumns.com

You, Too, Could Be a Victim of 'Predatory Lending' Practices

By JIM SMITH, Realtor®

With recent increases in the cost of gasoline, there has been a lot of talk about price gouging. When price gouging occurs in connection with a mortgage, the term we use is "predatory lending." The difference is that people of all economic strata tend to experience price gouging equally, but predatory lending tends to victimize only the lower economic strata — which, to me, makes it all the more despicable.

It's bad enough that the poor pay more in our society, but when they are taken advantage of, such as in the purchase of their first home, it is worse.

Recently I was privy to a closing in which the mortgage broker earned over \$6,000 on a \$235,000 80/20 loan. The figures on the settlement statement made me suspicious, so I asked my trusted mortgage associate, Shelley Ervin of Mortgage Capital (303-722-7345) to analyze this transaction for me. Here's what she told me:

The interest rates were 8% on the 80% loan and 11% on the 20% loan. Less than half of that amount was "paid" by the buyer at closing. Most of it was paid to the mortgage broker by the lender in return for the high interest rates on the two loans. This "Yield Spread Premium," or YSP, was revealed only at closing on the HUD1 form, but not as a debit or credit to either party.

The YSP is something the loan officer can manipulate by increasing or decreasing the interest rate offered to the borrower. For example, based on today's 30-year fixed rate of **6.5%**, a loan officer would receive a YSP of 0.75% of the loan amount. At an interest rate of **7.0%**, the loan officer would receive a YSP of 2.5% of the loan amount. (These amounts vary from one lender to another, but this is a good representation.)

The closing fees for this buyer were also on the high end of acceptability — a processing fee of \$650 (usually no more than \$450); an underwriting fee of \$985 (usually about half that amount); an origination fee of 1.25 points (enough to sat-

isfy many loan officers without any YSP).

Being new to the process, the buyers likely didn't know all that was going on. Their real estate agent had negotiated \$6,000 in closing costs paid by the seller, which made the higher loan costs seem "affordable." Hopefully they realized that their mortgage principal is simply \$6,000 higher, so they are, in effect, borrowing that \$6,000 at 11% interest.

I asked the buyer's agent, a Realtor, if he used this mortgage broker a lot, and the answer was "all the time."

As a Realtor myself, I wonder this: Is an agent's failure to recognize a "bad deal" on financing and to advise his client he can get a better deal a violation of our Realtor Code of Ethics, and is a buyer's agent who fails to counsel his client in such a situation violating his legal responsibility to serve his client with "utmost good faith, loyalty and fidelity."

In her report to me, Shelley Ervin said, "Some of my competitors will probably be upset with me for sharing the information on yield spread premium, as they prefer to keep the consumers in the dark. I know mortgage professionals who believe that the more mysterious we keep this business, the more money we can make. My way of doing business is to disclose everything, be honest, open, and direct, and educate the borrower to the extent they will allow me to do so. This way I sleep better at night, and my clients become my friends and referral sources."

I can identify with Shelley's statement because I upset many of my own colleagues with a recent column I wrote about negotiating lower real estate commissions. Let me take this occasion to say that I write this column, for which I buy the advertising space, to raise my own profile as a real estate professional, and I don't feel I'm going to accomplish that if I only write about what benefits me and my fellow agents and withhold information that benefits our clients. We can all make enough money with an educated public, just as mortgage brokers like Shelley can make enough money by being honest and putting consumer interest first.

In case it's not already obvious, I strongly recommend Shelley if you have any real estate financing needs.



Jim Smith

Broker Associate

RE/MAX Alliance

Each office independently owned and operated.

303-525-1851 (Front desk: 303-232-2244)

Find all of Jim's listings at www.JimSmith.com

