AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Stephanie Johnson

Bass Connections

Duke University

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PREFACE

The following Oral History is the result of a recorded interview with Stephanie Johnson conducted by Clare Holtzman on August 11, 2020. This interview is part of the Bass Connections American Predatory Lending and the Global Financial Crisis Project.

Readers are asked to bear in mind that they are reading a transcript of spoken word, rather than written prose. The transcript has been reviewed and approved by the interviewee.

Transcriber: Clare Holtzman
Interviewee: Stephanie Johnson
Interviewer: Clare Holtzman

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Clare Holtzman: I'm Clare Holtzman, a J.D. Candidate at the Duke University School of Law. I'm also a research assistant for the Global Financial Market Center's, American Predatory Lending Project. It is Tuesday, August 11th, 2020. I'm conducting an oral history interview with Stephanie Johnson, currently Managing Partner with Khoury Johnson Leavitt, who has joined me through Zoom. Thank you for joining me today.

Stephanie Johnson: You're welcome, thank you.

Clare Holtzman: I'd like to start by establishing a bit about your background. Could you tell me about your educational background?

Stephanie Johnson: I have a business degree and a minor in marketing. [I] did a semester in London [I was a] foreign exchange student there, and studied corporate finance, and pretty much went directly into lobbying from school.

Clare Holtzman: And where did you go to school and when were you attending?

Stephanie Johnson: Davenport University, and I attended boy, when did I graduate? . . . [T]wo thousand.

Clare Holtzman: . . . And in the context of your work life, when and how did you first become involved with residential mortgages?

Stephanie Johnson: I was the lead lobbyist for an organization called the Michigan Advocacy Project; . . . part of their charge was consumer advocacy in Michigan. And, it included a number of attorneys that were employed by the Michigan Poverty Law Program. And so that's how I got into the whole issue of predatory lending. [O]bviously legislation had been introduced, and [predatory lending] was a real problem in Michigan during those times. During the mid to late nineties, the banks were giving loans like they were candy, and they started seeing the effects of that during that early two thousands, 2004, ‘05, ‘06 period of time; [that] was when it really started and seemed to hit Michigan really hard, [the] economy obviously tanked. Here, we are—at that time, much more so than now—very heavily dependent on the auto industry. And as factories were shutting down, and layoffs were occurring more and more, people were either underwater in their mortgage based on the housing market crash, and, or simply lost employment and were not able to maintain their mortgage.

Clare Holtzman: Can you tell me a little bit more about the two organizations you mentioned, the Michigan Advocacy Project and the Michigan Poverty [Law Program]?

Stephanie Johnson: Michigan Advocacy Project . . . was a project formed out of the Michigan Poverty Law Program. Michigan Poverty Law Program is based at the University of Michigan in Ann Arbor. And they . . . had five legal issue area focuses. They had family law, public benefits, consumer law, housing law, and elder law. And so, they covered a range of issues, with the focus of how they impact the low-income community and those who are at the poverty level. And so, obviously from the consumer perspective, Lorray Brown was the individual that led the consumer law arm of Michigan Poverty Law [Program], and is a phenomenal consumer attorney here in Michigan, particularly with the focus on how things impact low-income consumers.

Clare Holtzman: Can you talk a little bit more as well about what you did with them specifically?

Stephanie Johnson: I lobbied for them, for the Michigan Advocacy Project, I was their lead lobbyist. I at the time was a multi-client lobbyist. I was a partner at a firm called Capitol Services. And so, I was their advocate in Lansing and helped navigate the political waters with them, on behalf of their interests, which was again, low income consumers in the issue areas that I outlined.

Clare Holtzman: How would you characterize . . . the key changes in the Michigan mortgage market between when you first became involved and 2008?

Stephanie Johnson: Well, obviously everything tightened up, the feds got more involved, the banks learned some hard lessons, the predatory lenders, the states in general cracked down on them. [W]e did pass a Mortgage [Loan Originator] Licensing Act[1] during that time[2]. I don't know exactly what impact that had, but I think it did help some. The concern I had, at the time, was it was just kind of a shift of blame, where the companies were really pushing these individuals to sell these products, and it was a way to kind of shift the blame to the individual selling the product, and not necessarily the company who was really employing these individuals, knowing the tactics they were using, and condoning the tactics that they were using.

Obviously with the housing bubble, a lot of banks were left holding the bag. They couldn't unload these foreclosed homes. I witnessed where when . . . a home was foreclosed on, obviously the utilities got shut off, sometimes the banks didn't have the best property managers, so the homes would get destroyed by water. If the sump pump wasn't working anymore, the basements would flood, and then . . . there was even more substantial damage to the home, which made it even more difficult to unload. So, I think there was a whole host of things, not just legislation or law. And in Michigan, we were not very successful in passing the strongest predatory lending legislation. And we really got tremendous resistance, and we didn't have a political climate that was

[1] Mich. Pub. Act No. 75 (2009), http://www.legislature.mi.gov/(S(r1tov3pdc4ehjbkendqbbahw))/mileg.aspx?page=GetObject&objectname=mcl-Act-75-of-2009#:~:text=AN%20ACT%20to%20provide%20for,and%20officials%3B%20and%20to%20provide.

[2] 2009

really helpful to us on this. So, we were able to get some minor things implemented, but not the broad sweeping change that we were really advocating for at the time, but because of other economic dynamics, the noose tightened on a lot of these bad practices, and they went away a lot, without the legislation, frankly.

Clare Holtzman: I believe you were involved as well with the Center for Responsible Lending. Can you talk about when you became involved with them?

Stephanie Johnson: Well, I wasn't involved with them per se, only to the point that, Lorray Brown, the woman who was the lead consumer attorney here in this state, she reached out to them and they provided a lot of additional support to us. A lot of data, a lot of studies. [W]e would have several phone conversations, I know that much, and if I'm not mistaken, they did provide testimony, in the state as well. So, they were a huge resource for us in going down this road in trying to craft legislation that had some teeth behind it, frankly. You know a lot of states—and Michigan was no different—[were] very interested in passing predatory lending legislation, but not necessarily legislation that did anything. And so, we were really pushing hard to have something with some teeth to it. And . . .that was a very difficult fight for us. Hugely difficult.

Clare Holtzman: Can you talk a little bit more about that? [S]pecifically the difficulties.

Stephanie Johnson: Well, we wanted to hold these lenders accountable. We wanted to provide longer notice requirements. We wanted to provide longer redemption processes, for individuals who were going through a foreclosure. We wanted to tighten up what banks could and could not do, and what they should provide to the consumer. We were having people foreclosed on and they didn't really even know, I mean, they knew that there was trouble, but they had no idea [that] there was going to be a sheriff sale in three days, until they had a notice pounded on their door. [S]ome of these companies in Michigan—. . . we have a requirement where you have to advertise the foreclosure in the paper, and they would pick obscure papers that nobody was reading, and . . . that would meet the requirement of a notice requirement for some of these individuals.

So, we really worked hard on a number of things, and to allow consumers an opportunity to enter into repayment agreements that were sustainable long term, and that would give them an opportunity. Because again, this was something that really impacted communities in several ways. It took property off tax rolls for local governments that were struggling in trying to provide police and fire protection and everything else. It degraded neighborhoods when a property was abandoned, and it was no longer being cared for. And so, the appearance and everything created some real issues. Having a city like the City of Detroit, for instance, [that] had a huge foreclosure problem, having so much vacant property just really hurt the community…. And so, we were trying to—the goal was . . . to allow for opportunities to give people a chance to stay in their home, not to renege on a mortgage obligation, that wasn't the problem—people . . . had a mortgage that needed to be paid—but to negotiate with the lender in a way that would allow . . . both parties to win to some degree, where the lender was still getting the money, but the individual property owner still had a chance to make the payments at a different rate, so they could stay there.

Clare Holtzman: …[H]ow [did] the Michigan Advocacy Project … find out about some of these issues?

Stephanie Johnson: Well, again, we were heavily tied to the Michigan Poverty Law Program, and so they had cases, they had individuals, we worked in coalition. We would team up with other housing and community advocates as well, who had stories…. We had people come to Lansing and testify to their . . . situation firsthand. But . . . it was not enough, you know, it's hard to get people to come forward and talk about that, it’s hard to get people in Lansing if they're coming from a distance away, it's hard to get them to come to Lansing at ten in the morning, when they have a job. So, there's all kinds of obstacles in getting individuals to come and testify to their personal experience. But we had those cases, we had the numbers, . . . from the Center for Responsible Lending we had further data. [W]e had a lot of the background that we needed in order to provide a story and to show something tangible about the problem.

Clare Holtzman: What stakeholders did the Michigan Advocacy Project see itself as representing?

Stephanie Johnson: Well, we represented low-income consumers. We were the consumer advocacy arm. We were probably one of the only—other than maybe CEDAM [Community Economic Development Association of Michigan] . . .. [T]hroughout the course of the advocacy on this, other groups formed, they were kind of loosely formed. And again, they had more stories and more personal pieces to share. None of them lasted very long and they were sort of loosey goosey as far as their organization structure. But other people did get involved, but . . . our focus was always on the low-income consumer, the individual who may have entered into one of these loans without all the information, without all the facts, maybe [they were] even purposefully misled into thinking that these were good loans. And then the underwriting processes that were nonexistent, frankly, at the time. So, we represented the individuals, consumers.

Clare Holtzman: In what ways did you engage with decision makers within state government?

Stephanie Johnson: Well, I was a lobbyist, I was directly [involved]. Meeting, after meeting, after meeting, distributing reports, all the processes that you would go through when you're . . . doing legislative advocacy and hardcore lobbying, so to speak. I mean, we were present at all the committee hearings. We were there to testify and there were numerous work groups, which are processes that take place behind the scenes that are just shorter committees, where all the stakeholders get in a room and try to negotiate agreements on legislation. We did it all, we talked with the Michigan Bankers Association almost on a daily basis, we were always trying to find common ground with them and figure out a way to get the results we wanted. You know, the legislative process is give and take, and we were right in the middle of all of that, throughout the whole process. We worked with both state representatives and state senators, as well as the Governor's office, as well as the department within the state that deals with insurance and financial services.[3] We did it all.

Clare Holtzman: Can you talk a little bit more about how your organization was responding to the changes in the mortgage market during the two thousands?

Stephanie Johnson: Well, we didn't see any changes for a long time, right. The bubble burst, and we were trying to clean up the aftermath. And again, that was trying to create some better notice requirements for when a property was being foreclosed on, trying to require lenders to negotiate alternative payment plans with mortgage holders, giving them a structure in order to do that under, so it was fair and uniform, all of that, those redemption plans, all of that, we were in the process of. Obviously, we came to the table when we all found out this was a problem. I think in the mid-nineties and late nineties, there were people who were forecasting some future issues with that, but the loans were happening, and people were in on them and they were accepting them.

And, it wasn't until the two thousands that . . . everything came to a head. So, we were constantly responding to the here and now, not necessarily preparing or not necessarily, well, we didn't have the advantage to do anything to stop it, it had already happened by the time we were involved. So, we were trying to clean up the mess and figure out ways of how we can keep the property in the purchasers hands, allow them some flexibility in how they can pay it back, and keep the property with a resident in it [so] that [it] was being cared for, and that the communities would get the property tax based off of it, so they can also provide the services they need to provide that everybody depends on.

Clare Holtzman: Just for clarification, what was the period of time that you were working with the Michigan Advocacy Project?

Stephanie Johnson: I worked with them from . . . early in 1999 to about 2014.

Clare Holtzman: [C]ould you talk a little bit more about the specific policy adjustments you were pursuing whether involving monitoring, enforcement, or changes to regulations?

Stephanie Johnson: All of the above. We tried to create some enforcement mechanisms. Again, that was one of the real challenges, that was one reason I believe the response to having the mortgage brokers license came about, was that it was a way to appease us on the enforcement piece of it, even though that's not really what we were targeting; it was the companies, and we wanted to hold them financially responsible when they did not follow the protocol that we were advocating for. We wanted to require them to enter into some sort of mitigation process with the mortgage holder. We were working on steps that the mortgage holder needed to take in order to qualify for a mitigation process.

[3] Michigan Department of Insurance and Financial Services

We were trying to set up criteria for the mortgage companies to adhere to. One of the challenges we had with all of that though, was these mortgage companies were bundling and selling these loans so fast, sometimes it was really hard to hold them accountable on that front, there were a lot of complicating factors involved in that. But you're asking me to think back 10 years ago and I'm having a hard time, but yeah we tried to do all of the above and then some, I mean, there was no stone unturned. And this was man, we advocated on this for probably three or four years. It was a long time, very long time.

Clare Holtzman: Did you mean [you worked three or four years] on that specific bill?

Stephanie Johnson: No. Well, . . . there [were] pieces of things that were passed along the way, but never a whole package. And, well there was the first foray at it, it all fell apart. We were gaining some ground, we had some good champions on our side, as far as the legislature went. But at least in one chamber, and then another chamber, we didn't. So, they ran the clock out on us, and the bill died, so, we were right back at the table again. And all during this process, we were dealing with predatory lending, but we also had thrown into the mix, the whole payday lending piece. So, we were trying to work on the payday lending process, and create some rules and some accountability in that, because payday lending in Michigan was sort of the wild west, they could do anything they wanted. And then predatory lending came along, and we were spread pretty thin across the board on all of those issues.

Clare Holtzman: Can you talk a little bit more then about the predatory lending reform and about the challenges?

Stephanie Johnson: Well, obviously the banking industry was a huge challenge. The mortgage brokers, they had their own association, even bigger challenge. They, how do I put it— the fact that they had all that flexibility, they did not want to give [it] up. They did not want to give up any of the ground that they had gained by all of the curbing and the lessening of the restrictions over time that sort of opened the door for predatory lending. And then banks are also, there's a challenge between, there's state laws that they have to abide [by], but then there's federal laws that will trump state laws. So, . . . they would kind of go back on those federal laws quite a bit with us. But they didn't want any. . . restrictions placed on their business and their business model. And then the mortgage brokers were twenty times worse. And the banks were, sometimes, trying to give the impression that they were the clean ones in all this, it was after it was bundled and sold off that the real problems would occur, or it was these mortgage brokers and these mortgage companies that were the real problems. *They* weren't the problem. And in some ways, I don't think that that was necessarily wrong, but they were unwilling to place any restrictions on *them* that would impact the mortgage business, that would curb this. So even though they may not necessarily be doing it, they didn't want to have anything passed that would prohibit them from doing it.

And not because they wanted to, but because they just don't want regulation. They didn't want any more regulation. Everything was all about regulation. And, they argued a lot that these were intelligent people that entered into these mortgages, knowing full well what they were getting into. And they were clearly explained [to] what a balloon loan was all about. And that they ought to have the right to enter into these types of arrangements, if that's what's best for them. They made those arguments. We had a situation where there was a very large law firm, that specifically handled mortgage brokers and mortgage companies, that was a very high donor to a committee chair that we had to go through, which was a huge problem. And it was just basically consumers wanting more regulation, business entities saying no regulation. And we were in a Republican environment, with a Democratic governor. It didn't get any more complicated than that, frankly.

Clare Holtzman: What kinds of strategies were you utilizing to try to work through some of these challenges?

Stephanie Johnson: A lot of grassroots, lot of grassroots, a lot of data and statistics, a lot of trying to convince people the economic harm, not just to the individuals—everybody knew there was economic harm—but the community impact that these foreclosures were having, and to convince them that there were ways that we can mitigate this without breaking the bank, . . . without people not fulfilling their obligations under a contract. And in the process say, there are certain practices here that should never be done again, and we want to make sure that we have statutes in place that guard against that.

Clare Holtzman: What were the key stakeholders involved in working on the bills you were supporting and in lobbying for their passage?

Stephanie Johnson: Again, it was primarily Michigan Advocacy Project. We were the key stakeholder. Period. We had others—CEDAM—and there were other nonprofit groups that had formed around the issue. Again, they were all very loose. But we became, Michigan Advocacy Project was it, we were the cat's meow. It was really a David [and] Goliath type situation.

Clare Holtzman: Can you talk a little bit more about that?

Stephanie Johnson: Well, I mean, we were up against all the big business, right, all the big banks, we were up against the credit unions to a degree. I mean, they were a little less active because they're credit unions, right, they're so much better than all this. I said that sarcastically. But we were up against the big mortgage companies, the big law firms that represented the mortgage companies, the big mortgage broker associations, as well as the Michigan Bankers Association. And then it was us, essentially. And again, we had CEDAM . . ., sometimes AARP [American Association of Retired Persons], they'd jump in and out. Boy, those are the only ones coming to mind right now.

Clare Holtzman: And so, to what extent do you see the efforts in Michigan to accomplish anti predatory lending reform as successful?

Stephanie Johnson: Well, . . . for a short while we were able to get legislation passed that allowed for a mitigation process [90-day law][4]. It expired, it had a sunset on it, and we were not able to get that renewed. But there was a period of time where people had the ability to reach out to their lenders and work out an agreement on repayment. So that was huge, that was a big win considering the dynamics that we were under. And we worked that agreement out with the Michigan Bankers Association, we all came to agreement on that. We could not get an agreement to extend that, but it lasted for two years, and, that was the end of it. I think that was probably one of our bigger accomplishments.

Clare Holtzman: . . . Over the last decade, we've seen a number of different narratives emerge to explain the financial crisis. How do you understand what caused the crisis?

Stephanie Johnson: Well, I think that . . . the economy was going so well, the housing prices . . . were rising exponentially, the values of them were rising much faster than what reality was showing. But because we had the Dot Com era, and the stock markets were going so well, and unemployment was very low, everybody just started to keep going, going, going. So then as these values kept increasing, people had more equity and so they could borrow more and they would extend that equity, you know, they would borrow up to a hundred percent of their equity. There were a number of federal regulations and things that were lessened or laxed to allow for this, the basic general principles of history and background on income and everything. . . . [U]nderwriting processes . . . that were well established and generally followed, just all those kind of went out the window, right, because everybody was doing so well. Then, because of that, you also had . . . the opportunity for fraud to really play a significant role. Housing values were artificially increased so a person could meet the criteria needed to get that loan. Then the whole process, the balloon payments, and consumers were like, "Well, that doesn't sound so bad, I can now have the money at the end of the loan. Okay, that'd be great. I can do that." And it was really sold to them very aggressively. And again, I think probably fraudulently in many ways.

And then all of a sudden, a lot of things came to a screeching halt. And in Michigan, especially, I think you can see, we felt the effects of— if you look through other data points [and] researched it, Michigan was sort of disproportionately hit harder than other states because of our economy based largely on manufacturing, and manufacturing just went down the drain. And all of a sudden, a lot of people were in trouble. [Even] if they could make their mortgage payment, they were still upside down on their mortgage. So, you couldn't even unload your home for what it was [worth], what you owed on it. And it all came to a head, it all came to a head very quickly and it appeared to

[4] Brenda Long, "Changes in Michigan's Foreclosure Law," *MSU Extension,* February 3, 2014, https://www.canr.msu.edu/news/changes_in_michigans_foreclosure_law (accessed Aug. 24, 2020).

be pretty much at once. It was really sad. It was really, really, really sad. And the number of foreclosed homes was unreal. Something we had never really seen before.

Clare Holtzman: To what extent do you see your personal experience as adding something important to our understanding of what happened in the run up to 2007 and '08?

Stephanie Johnson: My personal experience? Well, you know, I guess I came from a fairly humble background. My dad worked in the auto industry and my mom worked in a factory, and they were always extremely careful with their finances and there wasn't a lot of extra finances. And I think that, although we never went through that as a family, thank goodness, I had a way I really related to the people who were facing these situations, and the anger and the desperation and the hopelessness, . . . where you work so hard all your life, and then you have the one treasure—most people their greatest, their most valuable possession is their home, no matter how big and how modest it is, it's usually their most valuable possession. And to see them struggle to keep it, and lose it, and have families that are displaced—it was, it was really sad, very hard, very hard.

Clare Holtzman: And can you talk a little bit as well about your personal experience, within the context of your work, and where you see that as adding to our understanding of what happened in the run up to 2007 and '08?

Stephanie Johnson: Well, it taught you that no one's immune from the circumstances, it happened to people that were, [in a] much higher economic situation than—it didn't just impact low income individuals who struggle, and kind of that paycheck to paycheck— well I guess it also showed that even higher income people are living paycheck to paycheck. It really hit home. There were engineers that were getting six figure salaries who were standing in line at the food bank and couldn't find work. They had master's degrees in education, and they were accepting jobs that were being filled by high school people just to get some money coming in. It really drilled home to me that nobody's immune and this could happen to anybody. And it did. It happened to people that you did not expect it [to]. And I represented the Food Bank Council—and still do—at the time. And these stories of people going to their facilities for help, for assistance, were crushing. And again, these were people who never had to go to a food bank before in their life. They had great jobs, they worked, they had nice homes, they had good cars—and they were losing it all.

Clare Holtzman: Looking back on the crisis over a decade later, what do you see as its most important lessons for state level policy makers?

Stephanie Johnson: Not to get lax on regulation. I mean, companies, businesses, there's regulation for a reason. And granted it can, you can overregulate, there's no question about it. But regulation is not bad. How it's applied, and is it regulation that makes sense? Those are fair questions, and those are things that always need to be examined and studied, but regulation is needed and it's necessary. And, sometimes, you do have to protect people from themselves. And that was a huge argument, where people ought to have the right to enter into these loans. Well, maybe not.

[END OF SESSION]