AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Alan Hirsch

Bass Connections

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PREFACE

The following Oral History is the result of a recorded interview with Alan Hirsch conducted by Kate Karstens on March 30, 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: Maria Paz Rios	Session: 1
Interviewee: Alan Hirsch	Location: By phone
Interviewer: Kate Karstens	Date: March 30, 2020

Kate Karstens: I'm Kate Karstens, an undergraduate student at the University of North Carolina at Chapel Hill and a member of the Bass Connections team for American Predatory Lending and the Global Financial Crisis. It is Monday, March 30, 2020. I'm speaking with Alan Hirsch, former North Carolina Deputy Attorney General and Chief Policy Advisor to the former Governor of North Carolina, Mike Easley. Alan, thank you for joining me today.

Alan Hirsch: I'm glad to be here.

Kate Karstens: After graduating from the University of North Carolina at Chapel Hill in 1971 and graduating from Columbia Law School [with] your Juris Doctor in 1974, where did you begin your career?

Alan Hirsch: Well, I started in-state with the North Carolina State Attorney General's office, Department of Justice, for I think almost 30 years; I haven't counted up exactly, but for the longest time, in various positions: environmental protection, consumer protection, and by the end of my time, generally speaking, doing miscellaneous important, what I thought were important, tasks for the then Attorney General Mike Easley. A Jack of all trades, I suppose.

Kate Karstens: Could you elaborate a little bit more on your time focusing on consumer protection within the AG's office?

Alan Hirsch: Sure. Well, I actually had two different stints as a very, very young lawyer from the time I was 25 years old, fresh out of law school, one year out of law school. I did that for, actually I'd have to go back and count, but six or eight years learning the trade – it was great. It was a very small operation at the time. So there was an awful lot of independence for a young lawyer just learning his way. Then with the change in administration, I was assigned to an environmental protection group where I stayed for about eight additional years learning how to litigate, how to make deals, how to fight to protect the environment. And then when Mike Easley was elected Attorney General in 1992… [and] he took office in 1993, he asked me to come back and I was in charge of the consumer protection division at that time for eight years until he was elected governor.

Kate Karstens: So, within that role of consumer protection, how concerned were you with mortgage lending starting from the beginning of your time in the office going all the way up to Mike Easley's [time as Attorney General]?

Alan Hirsch: Well, I think the best way that I can describe it is that responsibilities for taking care of the consumers in North Carolina was a whole gamut of problems. And mortgage lending was part of that, but probably not a terribly important part.

Or put another way, probably not a part that took a whole lot of our attention. I was especially interested in lending myself, and in fact, specialized in credit work even from the beginning, but typically it wasn't mortgage work. It tended to be the kinds of small loans and high interest loans that would trap folks in a cycle of debt — poor people in particular or working-class people — high interest rates and so on. So, I was very much engaged with that. We did do some legislation on mortgage lending, but ultimately because of the pressure from the large lending institutions, rates were not regulated — in fact, are still not regulated for mortgage loans. And so there was less leverage to really make a difference for people. We did do some debt collection work. So, I'd say the short answer is: it was of course an important thing. Homeownership is so important in our financial world, and homeownership is for many people, I would say for most people, the largest source of wealth that they'll ever accumulate. So it's critically important, but there weren't a whole lot of levers in which we could really improve lives for the majority of people in mortgage lending. We just worked with the abuses.

Kate Karstens: Could you elaborate a little bit more on the pressure you received from the lending agencies? What did that look like on a day-to-day interaction?

Alan Hirsch: Well, I'm not sure it was day-to-day interaction. The pressure was not directed toward the Attorney General or toward the people we were trying to protect. The pressure was more legislative, little by little, the banks with their enormous clout that they were able to exert on members of the General Assembly. Banking is a very, very powerful institution, as you might imagine. They were always driving — not just the banks, but the banks and the various lending institutions, the small loan companies, the brokers and bankers of various sorts — …to revise North Carolina's laws more and more each session of the General Assembly to give financial institutions more ability to be flexible in the products they offered: higher interest rates, larger fees. And so we spent a lot of time, I spent a lot of time, in the General Assembly trying to resist that, and with some success, but more modulating their wishes rather than fighting them off entirely by and large.

Kate Karstens: In 1993, you were named the Director of the Consumer Protection Section of the North Carolina Attorney General's Office. In this role, what kinds of consumer protection measures were you most focused on? This could be mortgages or otherwise.

Alan Hirsch: Well, because I had the responsibility for everything, I won't say that there was a particular focus at all. I think I'd have to go back and look at the documents to give you a really more precise answer to that. But generally speaking, there were dozens and dozens of different issues that consumers faced. Everything from problems in buying goods, automobiles, for example — which, other than homes, are the largest purchase that anyone makes — were always lots and lots of problems with that. There were telemarketers that were scamming senior citizens, a variety of false advertising issues. People would respond to an ad and get something entirely different than what they were asked, bait and switch type problems; a whole gamut of the problems that individuals face in the marketplace. Large businesses have a lot more clout than individuals. So the office would receive tens of thousands of consumer complaints a year. We had a large staff… whose job was to handle all those complaints, all broken into the different subject areas in which people could be taken advantage of. And a staff of, at the end, I think we had 14 lawyers, everything from utilities regulation, trying to keep rates appropriate in the rate setting process, to every commercial transaction you can imagine. So my responsibility ultimately was to help make the choices about the kinds of things that we would focus on. And it was a pretty constant job, every day there were new problems to face.

Kate Karstens: As time moved on into the decade preceding the housing crash, could you walk me through any key changes that you or other members in your office noticed that was happening in the North Carolina mortgage market? Say, from the late '90s onward?

Alan Hirsch: … We did have one of our lawyers who was specifically assigned to the credit markets and watched that industry very carefully, and of course, I consulted with him quite a bit as we would make various decisions about what to focus on and how to pursue those actions. But the awareness of true predatory mortgage loans did not come to me until I had a visit from Martin Eakes at Self-Help Credit Union. Martin, because he has a credit union of course, was truly focused on mortgage lending. His institution made lots and lots of mortgage loans to people who might not otherwise have the capacity to own a home. And he came to visit one day and began describing circumstances to me that I had not at that point ever known existed. And I can talk more about that.

Kate Karstens: What year was that conversation, and could you talk about it a little bit more? What were some specific examples he was giving you?

Alan Hirsch: I'm chuckling because Martin had a whole speech ready, which I subsequently, after he made that speech to me, I subsequently heard him make it to a number of others as well. As a matter of fact, he would travel around with a videotape, …which he had recorded news segments done on various TV stations, particularly in Atlanta, [where] apparently there was a great deal a problem, more so than we had in North Carolina. And that presentation that he made was pretty shocking. I wasn't even sure really that I believed it, it was so shocking. It was so unlike anything that I had actually seen.

Now that's not to say that it hadn't — and I'll describe what it was in a moment — but it's not to suggest that it wasn't happening in North Carolina. I think certainly to a lesser extent it was happening here than in other places, but it was unlike anything I'd ever seen. Some of the descriptions of these circumstances, these particular cases, it was essentially a lender, a broker, coming to a homeowner typically very low income, often minority, people that may have lived in their home for twenty or thirty years and either paid off their mortgage or more likely were getting near to paying off their mortgage, and they would offer to refinance this mortgage for them, and guaranteed — what they said — were very low monthly payments. And what was hidden in the documents were enormous fees, sometimes $10,000 or $20,000 worth of fees that were taken out of the loan. And because these were relatively unsophisticated homeowners, they did not understand that these fees were coming out of the equity of their home. It was a pretty shocking kind of circumstance. So Martin's education [to] me and the folks that work with me, but also subsequently to all kinds of other people, was the motivating factor for us to move forward on the predatory lending circumstance.

Kate Karstens: Could you keep going and talk about how from your position in the AG's office, you started to take action against this “shocking” information?

Alan Hirsch: Well, after the visit from Martin, I called Paul Stock, who represented the North Carolina Bankers Association, and I knew him well because Paul and I used to fight. Not literally fight, but I mean he represented the bankers and was trying to make things better legislatively for the bankers. And so he and I were often opponents, friendly opponents. He was a kind and good man, but he was doing his job for the banks. And of course he didn't know anything about this either. We organized a meeting at his place and Martin came over and brought the videotape and then invited some other folks to come to the meeting too. And of course Paul was shocked as well. And the legitimate banks, the major banks that he dealt with, never, never would make loans with extraordinarily high interest rates and certainly wouldn't do equity stripping, and I haven't even talked yet about the various hidden fees that were in these loans. His banks were much more mainstream and were competitive with one another.

And so Paul immediately believed that this was a stain on the banking industry as well as hurting these consumers. So he was fine about it. I left that meeting and I came back to see then Attorney General Easley, my boss, and I explained this to him, and how shocking it was, and how it preyed on low income people and the minority community in particular. And, I said, "I think we should go for this." And he just looked at me and said, "Go, do it!" So that was how we began [drafting the 1999 North Carolina Predatory Lending Law].

And from there we organized meetings not only with Paul and Martin, but with other members of the industry group. Paul brought in a fellow named Jim Creekman who worked for First Citizens Bank. And Jim is a real detailed lawyer. He knew every little bit of federal and state regulation. I brought with me the lawyer on my staff that was an expert in credit. His name is Phil Lehman. Phil subsequently had quite a career. He was, for a time, state representative after he retired from the Attorney General's Office, and I believe he's now Chair of the Durham Elections Board. So in his retirement, he's never quite retired, he's a very, very talented lawyer.

We brought in representatives of mortgage bankers, the people that actually fund many of these loans, mortgage brokers, the group that sells loans and takes a commission on behalf of various folks, various lenders. … It was a group that covered almost all the major mortgage lenders. It did not include the representatives of what are known as consumer finance companies, also known as small loan companies. We just made that choice because they tended to do the highest interest rate loans. And my judgment was that it was best to work with the other groups first and bring them in at the end.

So, we began a series of meetings and negotiation sessions and Martin made all kinds of proposals which would have sharply limited what lenders could do. Paul was a moderating influence knowing that his banks didn't want to be regulated any more than necessary. In fact, they didn't want to be regulated at all. And part of Paul's magic was making his leadership understand that by controlling the outrageous practices, it was actually benefiting the banks. But of course the banks are full of lawyers, and lawyers never want to raise any new impediments. As a lawyer myself, I can tell you I understand that, but that was probably the toughest thing we had to overcome. And there were other impediments too, federal law would not allow us to regulate interest rates. And so Martin had the brilliant idea of not prohibiting these high cost loans, but instead adding certain requirements to the law so that if a lender made a high cost loan, one that we would think is outrageous, then they would have to go through other steps, the most important being the consumer would have to be counseled first, and of course by a professional finance counselor. And of course, no counselor would suggest to a borrower that they have equity stripped out of their house or pay outrageous fees. So as a practical matter, we were able to prohibit this. [It was] Martin's idea, even though, we weren't able to specifically make it illegal under the law.

And then we would go to draft, and then we would negotiate, and then Martin would ask for more, and the banks would ask for less, and the brokers would ask for less, and the negotiation went on for several months, about a dozen people around this large table. It was actually a lot of fun, and little by little, we began to come to a consensus, and each of us played our role. Martin fighting hardest for the low income borrowers, Paul trying to balance the needs of the banking industry, the legitimate banking industry, the brokers trying to be sure that they maintain their ability to survive, to make loans and survive. They were the hardest folks because big banks don't need brokers to make their loans. But the smaller institutions who tended to be the ones that charged the higher rates did. So that was hard. I'll talk about that in a moment.

The mortgage bankers were represented by a very, very effective lawyer, a fellow by the name of George Teague. And they were deeply instrumental in getting a good law. They were balanced and thoughtful and understood exactly what the problem was. And we managed to meet all their needs, at the same time, not having to modify or reduce the consumer protections at all.

And let me go back to the brokers. They were represented by an extraordinary lawyer. His name was John McMillan. John is no longer with us. He passed away a year or two ago. But he saw the big picture, and he was able to keep them at the table at times that they wanted to leave. And of course from the Attorney General's perspective, I brought the political power, I say "I," I mean obviously it was the Attorney General's clout that made this happen. And behind the scenes, Mike Easley himself was enormously helpful. There were at least two or three occasions, three that I can think of right off the top of my head, so maybe there were even more than that, where we were hitting a wall with someone or other, and he would pick up the phone and in an hour fix the problem. It was pretty, pretty dramatic. I mean, everybody played their role, including the main legislative sponsor, who was Senate Majority Leader Roy Cooper, who subsequently became Attorney General, and of course is now governor. And Roy was just great. Just great. in fact, this is oral history, right? So you want to hear a story?

Kate Karstens: Yeah, sure!

Alan Hirsch: … Okay. So, after months of negotiation, including a number of times where it almost all fell apart, remember the power of the banks was very important. … What the banks were most afraid of was that we would write a law which would they would then inadvertently violate, it would be some technical requirement, which they would not intend to do anything of this high cost nature, of the predatory nature, but because there were technical requirements, they would inadvertently violate them and then they would be subject to huge penalties. So from a lawyer's perspective, that's where the banks, I mean the banks legitimately were concerned about that, even though I think we had crafted this legislation to avoid that problem. We were done. We were done, we thought, but then all the biggest banks, Bank of America, Wachovia was a bank at the time, First Union — Wachovia and First Union no longer with us — but at the time, they were very important North Carolina banks all located here, called the Attorney General and said we had to stop, that this was not going to work.

And so we had a large meeting with the major banks and the Attorney General. Now this was just, this was not with, I mean Paul was there as a banking representative, but none of the other members were there. This was just the big banks and the Attorney General and I, and through several hours' worth of conversation, I think we convinced the banks that it was okay, that they should go along with this deal that we had made. It was all completed at that point; they were just getting cold feet at the last moment. And I think the reason that happened was that now that it was about to be signed, it got up to the highest levels of the lawyers at the banks, the general counsels of the banks, these big banks, and they hadn't been fully briefed. So, all of a sudden, they got cold feet on behalf of their banks, but we got them convinced, and Attorney General Easley, Governor Easley soon to be, did a great, great job of getting them calmed down.

So we were set, and the bill was ready to be introduced, and we found three of the most powerful [state] senators to introduce this bill. The judgment was made that it would go in the Senate first. It was Senate Majority Leader Tony Rand, a fellow named David Hoyle from Gastonia who was a powerful representative of business interests in the General Assembly, and Roy Cooper. And as it happened, Roy really wanted this bill, he thought it was the right thing.

He believed it. I think Tony Rand and David Hoyle were doing it because Attorney General Easley called on them and said, "This is a consensus bill, we'd like your power to do it." And as it happened, Hoyle and Rand introduced one bill, and Roy Cooper introduced the second bill. They were identical. They were both our bills, but it was really unusual to have two separate, identical bills, introduced by different sets of senators. But, neither here nor there, we were going to work that out.

Well when the bills were introduced, … a Senator would literally take a bill, a typed up copy, take it to the Senate clerk's office, and it would be assigned a number stamped in, a consecutive number, and then placed into the computer. And then it would be formally introduced at the next Senate session the following day. So, I don't remember what the specific numbers were, but let's say it was number 668 and 669. So those two bills were assigned those numbers and put into the computer and you could see it published. Well, one of the banks, First Union Bank as I recall, and their chief lawyer had not been in that meeting with Attorney General Easley, and he immediately called Rand and Hoyle and said, "What are you doing? We don't want this. They've gotten out ahead of ourselves. I mean, I know it's a problem, but this is not the right solution." And Hoyle and Rand withdrew their bill. I'd been following the General Assembly for 20 years at that point, I had never seen a bill disappear, but Senate Bill 668, or whatever number that was, all of a sudden didn't exist anymore. It just was gone.

And that night, I got a call from Roy Cooper at home, and he told me what happened, and he said they'd called him as well and asked him to withdraw the bill. [He said,] "What's wrong? I thought there was a deal." And of course this is the first I'd heard of it, so the first thing I did was I called Mike Easley at home. I told him the story, and he said, "Hang on, I'll be back in a little while." He called the First Union Lawyer and half an hour later he called me back and he said, "It's all taken care of. Don't worry about it. It's fixed." And sure enough, I was able to call Roy back and we were back on track again.

But here's what I'll say about Roy Cooper — and here's why this story is important — is that the other two senators, when they saw there could be opposition, they withdrew their support. Roy was with it all the way. He didn't care. He was going to do it regardless. And the magic of that, I mean, that's when I saw for myself for the first time what an extraordinary leader this guy was. He had the major banking institutions in North Carolina perhaps going to be his enemy, but he knew it was the right thing, and he stayed with it. So the answer to that story is Hoyle and Rand were now gone, not withstanding, and on we went, and Roy carried that bill through, and every time there was a glitch, he was standing there ready to fix it. There were even examples where Martin and I would disagree, we would get to a certain point and he would want more, I would see it more practically, that if we wanted this thing to survive his point wasn't really important enough, and we'd go to Roy and we'd talk it through. And Roy just had a lot of wisdom to him. I was his guy for life after that.

Kate Karstens: How did you and the other stakeholders in the room or in these meetings set out to define things like what is a high cost loan and what is predatory lending?

Alan Hirsch: All right. I mean, there's a lot of ways to answer that. I was not a technical person. People like Phil Lehman and Jim Creekman and Martin, of course Martin brought Mike Calhoun with him, and so, Mike was the great technician of all this. So those folks, the real hands on lawyers, would dig in and try to figure out what the right ways to craft these problems were. What is a high cost loan [and] the principals involved? Martin and I and Paul, and the mortgage bankers and the mortgage brokers, were looking at was what's going to really hurt and take advantage of people, what's fair, and try to think about it in those global terms. It's both easier and harder. It's much, much easier because we don't have to know the detail. But you have to think sort of globally about, I mean, we do live in a capitalist society here where competition and profit are part of the fabric. Banks aren't going to make loans unless there's a profit involved. So you can't cut it so close so that they don't make the loans at all. On the other hand, charging someone 10% a year on a mortgage loan and taking out tens of thousands of fees is obviously unfair. So how do you find the balance where it's enough but not too much?

And so it was very subjective. We debated, and thought through, and changed each other's minds as we went through the process. But little by little, with people of fair minds, we were all looking for a solution. Some people, like the brokers, would have liked the whole thing to go away and were just doing the best they could under the circumstances, knowing it wasn't going to go away. But the banks and consumer advocates and the Attorney General, we were all looking for that appropriate balance, or maybe put another way, what a reasonable, an educated consumer would be willing to accept. We wanted to be sure it was also offered to those people who are maybe not so educated, or in dire straits and therefore didn't have the ability to drive their own bargain fairly. Those people that for economic reasons, or reasons of education, or reasons of culture, didn't have the wherewithal to fight for themselves. It was our job to fight for them. It was very, very subjective. But we did the best we could.

Kate Karstens: After the law was passed, how did you feel your focus on mortgage lending changed, if at all?

Alan Hirsch: Well, we spent, I'd have to go back and look at the calendars, but I'd say a good six months doing this 80% of the time. And for some of them it was probably 100% of the time, I don't think Martin did anything else for those six months working on this bill. So you couldn't help but have your perspective changed. We were able to do something, make it up from scratch just by debating with one another and looking for solutions. So we were all, at this point, very, very excited by this.

Oh, I just thought of another story. I'll just tell this real quickly. So the bill passed the Senate essentially unanimously, it got to the House and those consumer finance folks, the small loan companies I told you about before, came back in.

They were working as hard as they could to defeat this bill. They were really the only opponents of it at that point or the only opponents who were willing to show publicly that they were against the bill. And their main concern was something called "single premium life insurance." In other words, when they made mortgage loans, they would sell people very, very expensive and unfair life insurance which they didn't need and wasn't required, and they would just sort of stick it in the paperwork and they would make thousands and thousands of dollars per loan at the expense of the consumer. And they came in to fight to try to save that provision. We made that illegal in North Carolina, in this bill. And finally I had to make a deal to get them to go away. And that is we delayed it, the implementation of the single premium life insurance for a year. It was too bad because I hated to have people suffer through that one more year. But on the other hand, we knew then that we'd never let them change it. So in the long run we were going to succeed.

And I tell that story in particular because this was all prior to the crash. And when the crash came, new mortgage loans could not be made this way any longer. We had prohibited it. And so, it was clear enough that we… just saved a lot of people's financial future, thousands and thousands of people's financial future, maybe more than that. And as I'm sure you know, the bill was then adopted all across the country and other states and localities. And so as we watched other people getting the idea, there's a measure of, well you're always happy to do work that you believe in, you think that matters. But then seeing that it's touched other people too, and then they want to do it in their communities, is enormously rewarding.

We began bringing cases. There was a case against a group called Associates [First Capital]. So remember I'm in the Attorney General's office, it's still a law office, so we brought in one of the largest lenders in America, and I don't remember the size of the settlement, but it was tens of millions of dollars back for consumers that had been taken advantage of by this group. I remember there was a group called Countrywide [Financial], … that said if we passed this law that they would leave North Carolina. And I remember Martin laughing. We were walking on the street one day and saying, "Good, I hope they leave." And sure enough, Countrywide was a group that fell apart afterwards because of these mortgage loans. They were ultimately taken over by Bank of America, and I think Bank of America probably took a great loss, because many of those loans were also not good. But thankfully, we prevented that from happening in North Carolina, because they did leave. They didn't want to operate under those circumstances. They wanted to make high cost loans.

So it's great. I mean, you do your bit. I saw — a few years later while I was in the governor's office — a chart about foreclosures across the country as a result of the financial crisis, and what we found was that North Carolina had the second lowest foreclosure rate of any state in America, second only to Idaho. And of course our demographics are entirely different than a state like Idaho. So it was enormously rewarding seeing that the work that we had done a few years earlier —the work was the bill of 1999 — if I recall correctly, you see that in

2008, we were able to protect our homeowners because they didn't have these outrageous loans.

Kate Karstens: Can you talk a little bit more about your interactions with Attorney Generals' offices in other states? How did you collaborate, or coordinate and share information across state lines?

Alan Hirsch: Well, the Attorney Generals' group, The National Association of Attorneys General consumer protection meetings were twice a year. And we had many, many multi-state groups on virtually every subject that you can imagine across state lines. So there was a great deal of cooperation because [of the failure of] the federal government. That was true especially during— began during the Reagan and Bush years because federal agencies, we believed, cut back on their consumer protection enforcement, leaving it to the states. So we had cooperative enforcement committees, and in NAAG, we called it — it's a great name — the National Association of Attorneys General. When I first started NAAG, I couldn't help but laugh, but then it becomes normal to use that phrase. We talked all the time. I must've had a conference call every day on one subject or another with other Attorneys General. So the word of it got out very quickly and, on our meetings, which we held twice a year, it was always a subject of conversation afterwards. I can't tell you how many states ultimately adopted laws like it, but I did hear numbers in the 30s and 40s for states and localities across the country adopting measures based on the North Carolina statute.

Kate Karstens: How did your office use the bill and the parameters set in the bill to protect consumers, particularly in the early 2000s?

Alan Hirsch: Well, in the very beginning, once the bill was passed, we adopted an outreach campaign to consumers all through North Carolina — even in the media, on radio and television — letting them know that this was the new law and to be wary, watch out for these kinds of loans. I can't speak to really what happened much after that because in 2000, Attorney General Easley was elected governor and he and I both left the Attorney General's Office at that point and passed our responsibilities on to the new Attorney General, Roy Cooper. And interestingly, I think it took about six months, but he brought in a new consumer chief, whose name is Josh Stein. And of course, Josh is now the Attorney General himself. So, all of these folks have moved up into new positions. And it then became Roy and Josh's responsibility and I guess you'd have to speak to them really. Because I began to have a new set of responsibilities that I had to deal with at that point. So we would help occasionally whenever asked. And of course, I still weighed in on phone calls. I remember the small loan companies at one point during Governor Easley's term managed to pass a bill that would increase the rates they charged. It wasn't even that much, but a little bit. But Governor Easley vetoed that bill. He was always a champion for consumers.

Kate Karstens: So shifting into your time as [Chief] Policy Advisor for Governor Mike Easley, what sort of policy changes or initiatives did you pursue, whether involved with monitoring or enforcement or changes to these mortgage regulations?

Alan Hirsch: I'd say probably the most important thing that we did was not so much the changes to mortgage regulations, as what happened after the financial crisis. Because when that happened, folks were losing their homes for reasons entirely unrelated to these high cost loans that we were dealing with before. We'd gotten rid of those, but not withstanding the fact that we did well relative to other States, many people lost their jobs. And when you, when you're not working and you don't have income, it's pretty hard to pay your mortgage. So we worked very hard to create a program to protect borrowers under these circumstances. In other words, changing the rules about mortgage foreclosure, to be sure that people had an opportunity to negotiate with the banks and or the lenders, whoever they might be, to try to extend payments or reduce payments or even defer some payments until they could become employed again.

We set up funding through the Housing Finance Corporation, which is a state agency, designed to make mortgage lending available to those that might not otherwise get it. But in this case, it was used as a rescue fund so that we might be able to tide some people over until they became employed. And we worked with the then [North Carolina] Commissioner of Banks to set up processes by which, these potential foreclosure problems could provide assistance to borrowers and help them know what it is they needed to do. So something just to modulate what was otherwise a pretty difficult circumstance. So the focus really was more on the process at this point rather than a predatory lending law. This was just trying to help folks in need.

Kate Karstens: What were your thoughts on the future of the mortgage market when you were leaving the public sector?

Alan Hirsch: That's a fascinating question. I think the thoughts were really more global at that point. Fannie Mae and Freddie Mac, who were by far the largest financers of mortgage lending, had almost gone bust during that time, had to be rescued by the federal government. And there was a lot of argument… about what do people at the margins who would like to be homeowners, but whose income and credit history might otherwise keep them from homeownership, or from getting the mortgage they need in order to obtain homeownership. So you don't want to — from a public perspective, from the sort of the do-gooder side that my team and I always approached this — put people into a situation in which they cannot maintain. It doesn't do any good to give somebody a mortgage loan and put them in a home knowing that they're going to fail and they're just going to lose that home. On the other hand, you also want to get every single person who possibly could obtain homeownership into that position. So how do you balance? Where is the line? Once again, it's a very subjective appraisal.

Home ownership has been the American Dream. And for, I think I mentioned this earlier, for many people, for most people, their equity in their home is the vast majority of their wealth. You might go a lifetime of working and really not be able to save very much for retirement. But if you own your own home, either free and clear because you've paid it off over the years, or even substantially so that you've got a lot of equity, that can mean that in your older years you have something to fall back on. You have financial security. So it's enormously important. But the way in which to best encourage that is subtle and I think requires attention again and again and again as the economy changes.

I mean, look at, as we're speaking now, we were originally going to have this conversation in person. We're having it by telephone because we're in the middle of the COVID-19 crisis. What's that going to do to people who are employed or had been employed but are now losing their jobs? The federal government is providing a lot of assistance, but what's it going to do in the long run if someone loses their job and the financial assistance from the federal government eventually runs out, which presumably it will, are those folks going to become employed again? Are they going to make as much as they made before? How is that going to affect their homeownership prospects? We may be facing another long-term recession just as we did in the Great Recession of 2007, 2008, and 2009. And no one at this point knows what the long-term ramifications are. So, if you care about trying to protect the more vulnerable folks in our world, in our society, it's a constantly changing process, [and needs] attention all the time. So yesterday's answers may not be relevant for today's problems.

Kate Karstens: 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?

Alan Hirsch: Well, I'll tell you what my impression is, but I have to preface that by saying I'm not an economist. All I really know is what I read and understand as best I can. But it's pretty clear to me that the mortgage market was the fundamental reason for the Great Recession. And it was the ability of certain financiers in Wall Street to package loans in ways in which encouraged high cost loans, encouraged bad behavior, found profits in taking advantage of the more vulnerable, and then using leverage to exacerbate the problem.

And so when some of these loans began to go bad, as it was guaranteed they would be because of the teaser rates and all these horrible fees and so on, when folks couldn't pay back these outrageous loans, it triggered a series of waterfall events ending in cataclysm for the market. Again, I can't speak to whether as an economic matter, that is absolutely true. I believe it to be true, but I can say that some of these mortgages were just awful and were doomed to fail. I'll tell you a story, I looked at the Countrywide [Financial] stock when I was in the governor's office when all this began happening and because of what I'd learned through this process, if I were allowed, if I had thought that was ethically appropriate, I would have shorted Countrywide [Financial] stock. I knew they were going to fail. There's no way that could have kept up. And of course I didn't think it was appropriate, and so I didn't do anything. And sure enough, the stock had been at $60 and went down to $1, before Bank of America bought it at about $5.

Kate Karstens: What do you see as the most important lessons for today's state policy makers?

Alan Hirsch: I know that's one of your regular questions, but I don't think there's a good answer to that. I think that, instead, every problem, every circumstance, presents its own challenges. I mean, we're dealing with a pandemic now and that pandemic presents challenges that people may have thought about before, but nobody knows exactly what circumstances are going to bring. So what I think is it takes wisdom and hard work and thought, and being prepared to take every problem as it comes and just working hard to find the best solution that you can, imperfect as it will always be. That's the responsibility of public service, if that's what you care about. The way to do it is through gathering as much information as possible and making the wisest judgment you can based on the best information. It's a subjective, difficult, impossible, but amazingly rewarding job.

[END OF SESSION]