AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Daniel Berry

Bass Connections

Duke University

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PREFACE

The following Oral History is the result of a recorded interview with Daniel Berry conducted by Maria Paz Rios on April 17, 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
Interviewee: Daniel Berry
Interviewer: Maria Paz Rios

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Maria Paz Rios: I'm Maria Paz Rios, an undergraduate student at Duke University and a member of the Bass Connections American Predatory Lending and the Global Financial Crisis team, and it is April 17, 2020. I'm on the phone with Dan Berry, CEO of the Duke University Federal Credit Union, for an oral history interview. Dan, thanks for joining us today.

Daniel Berry: You're welcome.

Maria Paz Rios: I'd like to start by establishing a bit about your background. I believe you went to the College of William and Mary for your undergraduate studies and completed a Master's in Business Administration at Duke's Fuqua School of Business. Is that correct?

Daniel Berry: That is correct. My degree was in accounting. I was in public accounting, and then I've been working at the credit union for the past— little over 18 years now.

Maria Paz Rios: When and how did you first become involved with residential mortgages?

Daniel Berry: Well from a consumer perspective, I wanted to purchase a house and my first exposure was actually as a consumer buying it, and then trying to figure out – there's a lot of forms; there's a lot of legalese; fees; among the, shall we just say, legal considerations; financial considerations; personal considerations. From the other side, when I came to the credit union, that's when I started seeing the other side of it from the lender's perspective.

Maria Paz Rios: How would you characterize the key changes in the North Carolina mortgage market in the decade preceding the crisis?

Daniel Berry: Can you explain what you mean by changes?

Maria Paz Rios: How would you characterize the changes perhaps in the way that lenders were associating to the borrowers, maybe in terms of the products that were being offered or the practices themselves?

Daniel Berry: In kind of what led up to the crisis then?

Maria Paz Rios: Yeah, that's correct. In the decade preceding the crisis.

Daniel Berry: I personally think the issues started much earlier than the decade before. I personally believe, and this is my personal opinion, not the credit union, not

Duke, this is my personal opinion; I think that the seeds were sown back in the early '80s. And I think it was around 1983 or so, was when Wall Street started—it's called a collateralized mortgage obligation. It's basically where they had an investment where the security was a mortgage, and I think that started the seeds for the issues that we had a decade ago. And what I mean by that is, people who sold mortgages, if somebody sold 100% of the mortgage, they were done. So if I got origination income, I was happy, the real estate agent got their commission, they were happy, the appraiser got paid, they were happy. The person at risk would be the person who bought that investment. And as those type of investments became more and more popular, then for the people that were more and more greedy, knowing if somebody couldn't necessarily afford it, it wasn't my issue, it was somebody else's issue. I also think that there's kind of a recency bias. When you look at real estate, the value has tended to go up, and there was an old rule of thumb that real estate would go up 3% a year. People thought it was a good investment and then some people would take on more risk for that saying: "Wow things are tight, but if I did have to sell it, I could sell it at a profit and cash out on the equity," which is fine as long as the value kept going up. But a decade ago, the values went down and the house of cards collapsed, and people lost a lot of money over it.

Maria Paz Rios: To what extent did you and others in your organization see those changes as they were occurring—the changes you mentioned regarding perhaps incentives within the lending process and such.

Daniel Berry: It's always easier to see a trend after the fact than during. But what you saw leading up to the crisis is home ownership was increasing and from a society point of view, people thought that was a good thing. You saw that real estate was stable [in] pricing and increasing. Again, people thought that was a positive trend. You did not see some of the greed. And I don't think North Carolina had some of it, like Georgia. Georgia actually had some where appraisers were giving higher inflated values to support higher prices and that exacerbated the problem for Georgia. But since this is specifically for North Carolina, I did not notice that in the markets that we deal with. The appraisers and the appraisals, when they give comparables, etc., looked appropriate for the time period in which you got it.

Maria Paz Rios: You mentioned a bit about Georgia there, how did you notice what was happening in Georgia?

Daniel Berry: I read trade magazines and so this was actually kind of after the fact, kind of dissecting what went wrong, that there were actually, I'd say pure fraud that went on in Georgia. Person number one sold real estate at a higher price to person number two who sold it for a higher price to person number three. You do that four or five times, and then number five defaults. But look at how much cash they got out over the process. And that went on in the Georgia market. For North Carolina, I did not really see that blatant kind of fraud going on around here.

Maria Paz Rios: Could you describe the nature of your role within the mortgage sector? What elements of the origination process were you responsible for, perhaps the lending process, and how did that change over time?

Daniel Berry: The credit union would be the point of originating a loan. So, we helped people borrow money to get into a home. Then the question of change over time, when the market changed roughly a decade ago, the federal government changed some of their requirements and regulations, and to be in compliance you needed to adopt such practices. And I'll give you an example, they have , what they call debt to income, and it was a factor of 43%. You needed to be that or below if you were going to have a loan supported by the federal government. Beforehand, there was some discretion. And one of the concerns I have is any one ratio can be skewed. Let's just take that debt to income ratio. Say you have two people both get a car loan and say the car's worth $10,000. Well, if one person gets it for four years and the second person gets a six-year loan, the person with the four-year loan would actually look worse on a debt to income ratio because they are obligated to make those payments on a monthly basis. But when you look at a ratio of debt to income, you're looking at, is it reasonable to get repaid? It doesn't really tell you how well people manage their money because it could be the person that had a shorter loan pays off their debts quicker and is actually a better risk. But to make everything systematic, you don't want to be accused of discrimination. You have to say, well, that ratio was actually worse than if the person got a six-year car loan. And so one of the things that happened after the market went down is you had to rely more on the regulatory environment and a little bit less on your understanding of individuals and who was actually a better risk than somebody else.

Maria Paz Rios: Regarding this debt-to-income phenomenon, how do you think the understanding of this concept from the borrowers was? Did they understand it, or do you think the borrowers did not have such a great understanding of this aspect?

Daniel Berry: I think that it was more of a financial institution computation. I think the average consumer did not understand that. And really when somebody looks at the house, what they're looking at [is], can I afford it and can I get the loan? I'm not sure that they understand, nor do they care, how we come up with the answer. It was just, if you say yes, I'm excited. If you say no, I'm disappointed.

Maria Paz Rios: Within the lending process, how was the impact felt with the rollout of automated underwriting systems? Beginning with, for example, Loan Prospector at Freddie [Federal Home Loan Mortgage Corporation], and Fannie's [Federal National Mortgage Association] Desktop Underwriter? How did the introduction of this technological innovation of automated underwriting impact the lending process?

Daniel Berry: Well, the automation process efficiency-wise, helps get an answer quicker, helps people close quicker. And from that point of view, the people who go through that process that are approved are pleased. On the flip side, you have some people say that it doesn't understand the individual because you've got to put in rules of thumb and other things to say: “These are the people that will be accepted, these are the ratios we don't like,” without an understanding. And I'll give you an example, you take something like a credit score. Two people could have the same credit score, but they could have different scenarios. One person could have had medical collections that hurt them and over time their score has improved. And another person could have had a higher score, but they're taking on more and more debt. Their number could be declining. But if those scores are exactly the same, in a technology efficient way, it would look the same. In reality, one person has more risk than the other.

Maria Paz Rios: And that brings me to another interesting point. Previously in oral history interviews, we have heard that, sometimes, two different borrowers with the same credit score, but from different communities, perhaps a minority versus a white community, would be perceived differently within the lending process. How has your experience been within this lending process when dealing with different communities, maybe minority communities, white communities, elderly communities, do you think there were any differences from the [credit] union’s perspective?

Daniel Berry: From the credit union's perspective, no. For us, we treat people as people, so we do not in any way, shape, or form, consider race, sex or anything like that. We truly are equal opportunity. As far as communities go, I cannot really speak for a realtor, is it possible that they showed some people certain homes and other people with equal credit they did not? I just do not have the background for that knowledge.

Maria Paz Rios: Let's take it back a little bit. What was it like to work for a Cherry Bekaert & Holland [a certified public accounting firm] and how would you compare your experience there to your experience at the Duke University Credit Union?

Daniel Berry: For public accounting, you're working on auditing tax returns and the like. The difference for me is kind of what your goal is as an individual. In the accounting world, I felt like the goal was to make money. At the credit union, I feel like our goal is to help people. For me, at the credit union, you help somebody get a car, get a house, maybe save for something they weren't sure they could afford and they've saved money over time to do it. There's some self-satisfaction in that for me personally. Whereas for public accounting, the goals tended to be more on a financial nature, how many dollars did you bring in and the like.

Maria Paz Rios: And why did you decide to make that transition from working in Cherry Bekaert & Holland and then in the Duke University Credit Union?

Daniel Berry: The biggest decision was a personal one. My wife was pregnant and in public accounting you traveled more and you tended to work on weekends. And so from a quality of life, I could work all the hours Monday through Friday, but keep the weekends free for my family, and I wanted to be with my— I now have two daughters— be with my daughters as they grew up.

Maria Paz Rios: How would you describe the key goals the credit union had in the years when the housing boom really took off? And did these goals change in any way during the boom?

Daniel Berry: Our goals tend to be to help members reach their personal goals. And during the boom you try to help people get that home that they wanted, or vice versa, tell them we don't think you can afford that much, but if you got a house that was a little bit cheaper, we could work with you. Our goals today are very similar. However, today, the number of people, what their concerns are, are a little bit different. And we are living in a pandemic, right as of the pandemic, people are a little bit more concerned about refinancing their current home at a cheaper rate than to purchase new ones. The pandemic has only been in effect for a month, six weeks, at least from a North Carolina perspective. As the pandemic goes on, obviously the economic environment will change. And then how we change with members will evolve based on what our members, or banks would call customers, would want for their personal goals. So we try to work with the members. So our ultimate mission has not changed, how we go about it has— trying to help people budget, help them understand credit scores, help them understand what kind of the financial considerations are. and let them know simple things such as when you buy a house, if the hot water heater goes, it's your expense, it's not the landlords anymore.

Maria Paz Rios: And during the boom years, did you ever lose members or clients when you told them that perhaps they couldn't afford a certain house? Like would they go somewhere else in Durham that would provide them maybe a risky loan, but that would provide them access to such an investment?

Daniel Berry: Sure. Sometimes when people are disappointed though, they'll go across the street or across town to see if they can get accepted someplace else. However, from our perspective, our goal – if you think of predatory lending, predatory lending is you're relying on the collateral to pay you back, and we don't do that here. We're looking for that individual to pay us back. The collateral is just kind of an insurance policy. So from that point, if we're not comfortable that you're going to pay us back, we would rather say no than allow that to happen and then foreclose a year, two years, five years down the road.

Maria Paz Rios: And how did lending practices change during the 2000s?

Daniel Berry: When the great recession hit, property values decreased. So that means some people who had a home, that thought they had equity in the home, [that] wanted say a second mortgage, could not get it. If they wanted to move, then the value of their property was less than what they thought it was. It impacted how much they could get for their home and depending on where they were moving to, it impacted the value of what they were trying to buy because real estate values – while everything did decrease after the great recession, some cities were hit harder than others and you take something like Miami, they were crushed – a lot of their values went way down. You look at something like Durham, yeah, some of the values went down, but not by half. And as those dollar values changed, it did change people's evaluation, if you will. How much can I afford on a home? Is this a good time to buy? Because sometimes after a crash you're like, "wow, I could afford a bigger house than I could have beforehand," assuming you had a stable job. And I don't care what the size of your home is, if you don't have a job, it's hard to afford your mortgage payment, and people would just have to reevaluate after the great recession, what my personal goals are and what my finances are, to what's reasonable for me as an individual.

Maria Paz Rios: And we've heard through other interviews the importance of mortgage counseling, especially in the years preceding the crisis. Did the credit union interact with any mortgage counseling groups in particular? And what is your perspective on the role of mortgage counseling groups within the mortgage market?

Daniel Berry: [At] the credit union, we have two financial guidance counselors and we also have two mortgage people., We actually try to counsel people through the process. And we did that before there was an economic downturn. And in fact, some of what we've experienced is people will come learn from us, but then if they can save a half a percent someplace else, we actually lose the loan. But from a mission perspective, we believe it's very important to help people make the best decision for themselves. Not us making a decision on what we would do or what we think is best, but give them the information to help them make the best decision for themselves. And so, from that perspective, we did it before the economic downturn, we did it during and then after — our goal is just to try to help people. But we do it internally, we don't reference it outside.

Maria Paz Rios: Did you and the credit union help people who became unemployed during the recession, how to keep their homes, and if so, how?

Daniel Berry: When people would become unemployed, they can't pay their debt, it just doesn't make sense. This is one of those scenarios where you have to treat each person independently on what makes sense for them. And we probably had one or two foreclosures because people just couldn't afford their house anymore. What you try to do is you try to work with them, you defer payments, you may adjust the interest rate. It's much easier to do when they get their next job because at that point they have a better idea of what their monthly budget is. And so, what we try to do is we try to have an ongoing conversation with what's your situation, what makes sense today? And then, if there is a hardship, how long will that last before things get better for you? [For] some people, it may be just, hey, let's defer six months, add six months to the end of the mortgage. And that gives them the breathing room that they need to get back on track. Other people, if they can't find a job, period, that isn't going to help them. And then you have to say, "can you truly afford the house?" Or is there some other way this can work out.

Maria Paz Rios: Moving forward a little bit, I believe you assisted in the National Association of Federal Credit Unions Regulatory Committee, and we're even granted the NAFCU Professional of the Year in 2008. Is that right?

Daniel Berry: Correct.

Maria Paz Rios: Could you describe your official responsibilities at the NAFCU and how they related to the market for residential mortgages?

Daniel Berry: The National Association of Federal Credit Unions assists all credit unions, well, federal credit unions across the United States, they have since added state [chartered credit unions]. So, it would be all credit unions across the United States. What they do is, they advocate on behalf of credit unions and from a real estate mortgage perspective, they can lobby Congress, FHA [Federal Housing Administration] or HUD [United States Department of Housing and Urban Development] or other areas on trends that they're seeing across the United States, on what regulations, shall we say, are challenges for consumers maybe unnecessarily. And vice versa, if there are default risks, etc., then what should be changed to try to mitigate such circumstances. They lobby Congress, they also help credit unions from a regulatory oversight [perspective] and on regulations or certain things that we need to have on each mortgage loan to be in compliance. For example, disclosures to members, you had mentioned counseling and so forth, to oversee that process.

Maria Paz Rios: So I know you touched on this briefly, but, what other agencies, whether state or federal, did the NAFCU and you work with most closely on the issues related to the residential mortgage market, and if you worked with both state and federal agencies, did you ever see any kind of tension between the different kind of jurisdictions and relationships between these agencies?

Daniel Berry: Well, I've also served on a committee for the Consumer Financial Protection Bureau [CFPB]. That's a U.S. federal agency that's relatively new. And that came about because of the great recession and the issues in the mortgage market. I am more accustomed on the national than differences between the state, say North Carolina versus South Carolina versus Georgia. For me, I personally have seen where they, as a general rule, have worked together. I think that the different governmental agencies – [their] hearts are in the right place – that their intent is to try to help their constituents and to try to help people, as best they can in the real estate and mortgage market. And from that point [of view], are there differences? Sure. There's always differences, and I believe that 42% is a better rate than 43% and this and that, and who's right and who's wrong. But I do think that people have their hearts in the right place and that they're trying to help people obtain mortgages, but at the same time also protect them from some of the shady practices in the past. I'll give you an example. Years ago there was something called red lining and that's basically where banks would not lend to certain neighborhoods. And a lot of people thought that that was actually partially racial profiling, and that was determined to be illegal. But one of the things that still goes on, there are annual reports that go to the federal government and one of the things they review is, could there possibly be discrimination and they look for what are considered red lining trends; even though it's illegal, if somebody's still doing it. So from that point, I think the government provides a very valuable oversight to make sure that the consumer is protected.

Maria Paz Rios: You mentioned your role on a committee in the CFPB. Could you talk to me a little bit more about your duties within that role?

Daniel Berry: Well, the role of the committee, we do not make recommendations to the CFPB. What we do is we provide information to them. So they will, when they were drafting some of their rules and regulations, they would provide us a confidential draft ahead of time. We would review it. And then we would provide them feedback to help them tweak it and make it a better regulation when it was officially given out. So it was more an advisory role, if you will.

Maria Paz Rios: Okay, and circling back a little bit to Durham, you got a great national perspective, and after seeing this broader scope, do you think Durham was more or less impacted by the lending practices and the crash?

Daniel Berry: All right. This is a matter of degree. I do think that Durham was impacted. But I think our impact was much less than Miami, Las Vegas and some other localities. Now it is interesting when you think about it from an individual perspective. If I lost my job, if my home was foreclosed on, I would say it was awful and it was terrible. So if you're looking at an individual perspective, it would vary based on each person that was here in this community. But if you look at it from a global perspective, and the economic environment if you will, it was bad, but it was not as bad as Florida was.

Maria Paz Rios: I'm just going to go ahead with the concluding questions that we've been asking everyone that has participated in these interviews. So over the last decade we have seen a number of different narratives emerge to explain the financial crisis. How do you understand what caused the crisis?

Daniel Berry: To me it was greed, people trying to make more and more money.

Maria Paz Rios: Do you think this greed sourced from Wall Street, from brokers, from local lenders? And how did the greed interact between these different groups of people?

Daniel Berry: I don't think that you can pinpoint one person and say it was greed on Wall Street or a bank or something. I think it was a combination. That when you have an environment where the incentives were to sell a house and then if somebody could not afford it, that would be somebody else's issue later, I think there are multiple parties, that benefited from that environment. And from that point, it's always – it's, how do you say it – it's easier today because you say the pandemic is the fault of a virus. You can point to that, it's easier to swallow. It's a little bit more difficult to say that part of our issue was our system. And there are some changes in the system, the government has provided some frameworks on what they say is acceptable to try to keep loans being made for people who clearly could not afford it. You also have, when people sell loans now, they need to retain, for like selling a loan and on a participation, they have to keep 10%. Well if they have to keep 10%, that means if the loan goes bad, they lose a little bit of money. That gives them some incentive to be a little bit more upright in their dealings with others. So I do think some of the changes in regulations has made the system better. But there are still concerns in the system because a realtor, if they make a sale, and an appraiser, if they do an evaluation, if the loan goes bad in three years, they've got their money, they're gone.

Maria Paz Rios: And looking back on the crisis over a decade later, what do you see as its most important lessons for mortgage originators and state level policy makers?

Daniel Berry: For me, and this is just personal, I think we overestimate the value of a brochure pamphlet and underestimate the value of a conversation. Whether somebody truly understands the commitment that they're making and the reasonableness of the dollar amount that they're requesting.

[END OF SESSION]