AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Anthony Polidori

Bass Connections

Duke University

2020

PREFACE

The following Oral History is the result of a recorded interview with Anthony Polidori conducted by Andrew O’Shaughnessy on July 20, 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: Sherry Zhang	Session: 1
Interviewee: Anthony Polidori	Location: By Zoom
Interviewer: Andrew O’Shaughnessy	Date: 7/20/20

Andrews O’Shaughnessy: My name is Andrew O'Shaughnessy. I am 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 Monday, July 20th, 2020. I am speaking remotely with Anthony Polidori to conduct an oral history interview. Mr. Polidori, thank you for joining me today.

Anthony Polidori: Very happy to.

Andrews O’Shaughnessy: I'd like to start just by establishing a little bit about your background. Are you from Idaho originally? Where did you go to school? How did you come to work at the Department of Finance?

Anthony Polidori: Yeah, actually I am a native of Idaho. I've lived in Idaho most of my life, except for some detours along the way. I was in the U.S. Army from 1987 through 1990. Served in Panama, and mainly was stationed at Fort Bragg, North Carolina. But after that, I moved to West Virginia [and] lived there for about nine months where I worked a Clerk or Assistant to the Parliamentarian and Assistant to the Speaker of the House of Delegates in West Virginia. After that, I moved to Texas [and] worked in Texas for about approximately a year, trying to find myself after the army. [I] already had some colleagues here at BSU, Boise State University, but hadn't finished my degree yet. So I was finding myself around life, came back to Idaho eventually and finished out my studies in Business Administration [for which] I received a bachelor's degree.

Anthony Polidori: I began working at one point in time with a securities broker-dealer, Dean Witter, which later became Dean Witter Morgan Stanley, worked for them about two years. And part of my business there was mainly stock sales and IPOs and management of portfolios. But I also became interested in the mortgage market during that period of time, because at that time, Morgan Stanley offered the opportunity for its representatives to broker mortgages. So I actually became a mortgage broker. [I] left Dean Witter Morgan Stanley [and] went to work with an independent company in Denver, Colorado approximately around 1996. I would say Colorado was the Wild, Wild West of mortgage brokering. They didn't have any specific laws related to mortgage brokering itself. They did have mortgage lending licensing laws, but I don't recall at the time whether they had any type of licensing laws for brokers or independent companies. They definitely did not [have any laws] for mortgage loan originators. I worked for them [for] a couple years and was very unhappy with what I was seeing in the mortgage market from that perspective, from that brokerage side.

Andrews O'Shaughnessy: … [W]hat upset you [about what] you saw?

Anthony Polidori: It probably goes along with this conversation. It's the wheelings and dealings to get any type of job or any type of mortgage done that you possibly can. The business that I did while I was there was all A paper[1] for the most part. Of course, I did [mortgages for] family members. [It's] the first thing you always do when you get a new job and you're [paid based on] commission sales. You try to put your own family into a prime deal in the company. The person who owned the company would say — I recall this the most — that if you can't get four points on any deal you do, then you probably shouldn't do it at all. So in essence, what the owner of that particular company wanted you to do is, at the time, [to] use yield spread premium to make up the difference on the commission you're going to lose because you can't charge points upfront on a prime deal.

So you'd be…selling somebody [a] prime [deal] to get an interest rate around… 6.75%. So you could pull… 2.5% yield spread off the back and you can get your own 1.5% on the front. Of course, I wasn't charging 1.5% on the front of anything, so I didn't work well with that particular company. I had to leave them and came back to Boise and then began working for, unfortunately, somebody who I think in a sense wasn't much better. It was an independent mortgage lender, a mortgage bank, basically. It was New Century Mortgage. And they actually went belly-up… because most of their business was in the subprime market.

Again, I was trying to sell their A paper, for the most part. After that, I went back to work in the securities industry for a little while. I was managing a securities broker-dealer shop here in Boise. And the job at the Department of Finance came up and it was actually everything I'd ever wanted, because way back in the army… I was in the military police. I'd always thought of myself as that compliance person, that investigator, [whereas] I was no good at sales. I could describe anything, but trying to push somebody to buy it was the toughest part. Mostly the analysis-to-paralysis type concept. I'd go too far into what the problems were with the product before I could sell it.

[1] An "A paper" loan is another name for a prime loan, available to borrowers with a credit score of 680 or higher.

[S]o anyway, I saw the job open with the Department of Finance, looking for an examiner who had mortgage experience; [the] job was for financial examiner, an investigator. I felt like I had investigative experience with my experience in the military police and so I applied. And it has been my dream job ever since I began working for the Department in 2000.

Andrews O'Shaughnessy: [As] a bank examiner, what were your responsibilities?

Anthony Polidori: I'll clarify, never have been a bank examiner. There's a difference here. You've probably talked to several people in this area. For [a] financial institutions examiner, the level of training and experience requirements to become a commissioner examiner are much different than on this side, whereas a financial examiner investigator, there's really not a set schema for how somebody becomes a senior mortgage examiner. Not within the state system, at least. And prior to the existence of the CFPB [Consumer Financial Protection Bureau], there really wasn't a comparable federal counterpart to what we do on the mortgage side here in the state system. So not a bank examiner. But 'how do I find it,' I guess, is what the question was?

Andrews O'Shaughnessy: Let's start with brass tacks since I was misapprehending the role a little bit there. What kind of institutions were you covering? Was it non-depository lenders, brokers, others? What was the scope of your purview?

Anthony Polidori: When I joined the Department in 2000, I was very pleased to find that Idaho was, from my point of view, progressive in the fact that it had established a supervision concept for mortgage brokers and mortgage lenders. And so the subjects of our examinations and the subjects of licensure here in Idaho since 1996 have been those independent non-depository mortgage lenders and also mortgage brokers. Idaho, I believe, had seen the sense in saying, "Okay, if you're doing any type of business in this particular area and you're not a bank, then supervision should apply to you. There should be some compliance standard." And interestingly enough, in Idaho, our law has always been such that it's not just residential mortgages that relate to primary residences. They have always covered any one- to four-family unit residential dwelling, regardless of whether or not the person has obtained a loan for it for an investment purpose or as their primary residence or their secondary home. So the lenders in that space are the ones that we supervise, and the examinations that we conduct cover those types of businesses.

Andrews O'Shaughnessy: How does an investigation originate? Do you receive complaints? Does everyone get investigated at some point? Is it sampling? How does it work?

Anthony Polidori: It's very interesting that you asked that question, because I would answer that question differently in 2000 than I would answer that question today.

Andrews O'Shaughnessy: What did it look like in 2000?

Anthony Polidori: In 2000, an investigation would commonly start because… the "Bat Phone" would ring in the Department of Finance and somebody would call up and say, "I saw this thing happening." Commonly it would be somebody in the industry themselves that would call us and say, "I saw this thing happening." And so you would then say, "Okay, is it time for [a] routine examination of this company, or do the allegations rise to the level [such] that we want to go out there and conduct what we might call a 'for cause' examination?" or even say "Let's open up investigation because we've received evidence that there's been wrongdoing here."

So complaints, phone calls, things like that. In 2020, it's interesting, but we don't get that a large number of complaints. During the period of 2007 to 2010, yes, complaints were part of the issue, but we were also finding a lot of things just simply because of market conditions or the examinations we'd conduct. So it's always been a mix. I think it's cyclical. I really think it depends on how much supervision is occurring within the space. Right now in 2020, I'd say there's a lot of supervision occurring in the space. Most companies that are licensed use this nationwide multi-state licensing system, so there's a pretty granular view of what the companies look like from the beginning of their licensure. They continuously report requirements on a quarterly basis to departments [and] agencies like mine, or even on a continuous basis. So, weekly, you might be getting information about a company and what it's doing. And so you have a better opportunity to find things before they become major problems. So you don't get as many complaints, probably because the supervision aspect covers a lot of things and catches things before they happen more often than they have in the past.

Andrews O'Shaughnessy: In 2000 you said [that] depending on the severity of the complaint, you would do either a routine or a for cause examination. What was the difference between them, and what might lead you to choose one or the other?

Anthony Polidori: [A] routine examination would be where basically you'd be looking at the company for all aspects of its business. You want to know what is going on with this company. And, again, we started in licensing in ‘96 in Idaho. I came on in 2000 [and] when I came on, I was the first full time dedicated mortgage examiner. We had another mortgage examiner prior to that period of time, but she mainly handled licensing of the companies themselves and hadn't really conducted exams. So I created the examination protocol for Idaho. I began the examination process. For me, a routine examination was, “This is the first time we've probably ever seen this company. We received some complaints and phone calls, but let's find out everything we can about the business itself.” So it was a review of policies and procedures.

If you had a low-volume company, [we would review] a hundred percent of what it did here in Idaho. Mainly they were companies that were located in Idaho. Those are the ones you get the most complaints about. So that would be the routine examination that we might conduct. For-cause [examinations] would relate to the allegations themselves. So if you were to receive an allegation that this company, let's say was, at that time, paying referral fees for getting business from some real estate agent, you would conduct an examination. You may not go down to the policies and procedures level. And back in 2000, to be honest, most small independent companies didn't have much in the way of policies and procedures. What you would be doing is actually looking at the general ledger, their financials, and trying to actually identify whether or not you could find evidence that they were paying out referral fees for the business that they were receiving. So that would be the difference. [It was] more targeted in the for-cause type of examination.

Andrews O’Shaughnessy: You mentioned this distinction between in-state Idaho-based businesses and businesses [that were] not based in Idaho [but] doing business there. Was your jurisdiction based on just the activity of doing origination in the state? Was it limited to Idaho corporations?

Anthony Polidori: It was not limited. The mix of our licensee base has changed over time — and this also goes along with what happened after the crisis. Prior to the crisis in 2000, much of your origination was being conducted by your depository institutions. Outside of the depository institutions, the originations were commonly being conducted by brokers using wholesale lines, either from depositories or non-depository independent lenders or wholesale companies. So our jurisdiction covered anybody who was conducting business in the state, so they could have been out-of-state companies as well. But majority of our business at that time in 2000 was mainly being generated by those in-state mortgage brokers, because the business was a little bit different back then without the capacity for online services. I would say the hesitancy of the average Idahoan to want to deal with somebody that they've never seen or never met [was greater back then]. They would probably more often use a mortgage broker that was situated nearby, or at least at a branch location nearby. So maybe not all Idaho companies, but at least companies that had a presence within the state. However, our jurisdiction covered anybody who is licensed to do business in the state. So if it was, let's say, a Countrywide outside of the state [and] they didn't have branches in the state, we would still conduct examinations of Countrywide.

Andrews O’Shaughnessy: In the first half of the 2000s or so, what kind of evolution did you see in the kinds of products that were being marketed to borrowers?

Anthony Polidori: We've talked about the first part of the 2000s. I think you have to go back just a little bit. From ‘98 to 2000 — at least, this is my experience being both on the ground as a mortgage representative, an originator and a broker, and then coming into this business — the product being pushed to the consumer prior to 2000 was either that prime product — commonly the prime product — or it was a variation of what appeared to be a prime product, but was more in the subprime category. In essence, this is where I would think that if we're talking about predatory lending, you would see more examples of predatory lending in the 2000s, from my experience. At least, maybe a higher volume of instances where the consumer didn't know that the product they were getting was costing them as much as it really was. The yield spread hid much of the cost of that loan, or you had a good mortgage originator who could sell you on the fact that, “Well, the seven percent that you're getting, you're getting it because X features of this particular loan [are] fixed for this period of time, [or] I'm getting this much cash out, [or] I'm getting this high [loan-to-value ratio]. And that's why you're paying seven percent,” without ever disclosing the fact that “You’re really paying seven percent because I'm getting two percent off of that. And you're never going to know about that.”

To me, that was where you had consumers that were more deluded and the product was less transparent [and] less understandable as far as what the actual product [was]… [it was] less understandable that the *cost* of the product was hidden in that product. As you evolve through 2002 to 2007, to me, the product changed in that it became more transparent what the product was. The cost, yes, still truly hidden in the product, but you had more of an effort on the part of the originator to obfuscate what actually were the terms in relation to the product. So you move from this regular subprime product that was either a variable product or a high-cost yield spread bearing product to products that were interest-only payment products based on "no doc" loans[2] or "no doc" verification.

And the consumer would have this concept that "I'm paying this very, very low fee. And I got this really, really good deal, but I just have to be smart [in] the future because they said something about it recasting at some point in time, or at some point I'm going to have to pay fixed [interest] — but I'm going to go ahead and sell my house before then, or I'm going to refinance before then. So everything's covered for me, [and] that's why I chose this vehicle." So the evolution of the product was: going from what would be just subprime with a little bit of false identity about what the costs were, to a subprime with a bunch of nontraditional features or other risk features involved in it. Tiered risk items like No Doc, high LTVs, over LTV, combined LTVs, high debt ratio loan products that mirrored what might be available to the prime market but cost that consumer so much more and did not really fit what an unsophisticated borrower could understand or really anticipate what it was going to do to them in the future….

Andrews O'Shaughnessy: …. Did you feel like you had the legal tools necessary to address the problems you were finding? You mentioned that Idaho had a progressive scheme in place. Was it really sufficient to investigate and then sanction actors …?

Anthony Polidori: Legislatively, I believe that we've always had the tools. Our [state] laws, as I said, contemplated the fact that you had this independent market of activity outside of the regular depository angle. It provided for actual criminal violations for certain acts that would occur [under the] [Residential] Mortgage Practices Act, mainly unlicensed activity. But you had that ability under that act to take action if you could. And the penalties were for 2000, pretty significant, Idaho's law would allow for $5,000 per violation of the law. So as far as what we had as the basis, the foundation, legally, I believe was substantial. What we lack —

[2] A "no doc" or "low doc" loan refers to loans that require little to no documentation from borrowers about their income.

and I think many agencies would probably would have the same answer — is the amount of staff and the ability to actually look at the market as a whole, rather than taking the phone call and conducting this one for-cause examination, [instead] being able to look at the market as a whole and try and identify patterns or trends that were occurring in the market and then taking action based on that…[In] 2007, I think we had three mortgage examiners. That was it for a licensee base of about three hundred to four hundred corporations and in about a thousand or so total branch and corporate offices.

Andrews O'Shaughnessy: …[A]ssuming an average loan size in the very low six figures, a $5,000 sanction sounds like it would wipe out any incentive to do that for the particular one that you're working with.

Anthony Polidori: I agree that it would. The problem then is: how many of those loans did they do, and did you have the ability to determine that, [given] the staffing that you have and the investigative resources you have available to you?

Andrews O'Shaughnessy: … [Y]ou mentioned this in-state versus out-of-state dynamic. Were people ever sympathetic to the plight of these in-state Idaho businesses that were, in some sense, competing against these national players? Were there any sort of political issues like that?

Anthony Polidori: That's a good question. And it's an interesting question considering my position now. I've moved from that original examiner in 2000, and now I'm the Deputy Director of the department. So political conversations [are] very in my wheelhouse right now. I would say looking back over it, no; I don't believe that we ever had any instances where we were ever given any type of directive that an in-state company should receive some type of preference over an out-of-state company. In fact, during that period of time, the majority of the regular routine examinations we did were of our in-state companies. Now, as I mentioned, I was the one who drafted the examination procedures for us [and] I had set up the schedule for our examinations. I chose to do the in-state companies, because from my previous experience as a mortgage broker and originator, it was that in-person touch that commonly was where you'd see the most issues. To me, [the goal] was [to] get to the branches, get to the locations that actually deal with those customers on a regular basis and see them face to face and find out what they're doing there. And so there was probably more of a focus [on] our in-state companies than there was on some of the out-of-state companies, the larger lenders that might have a branch outside of Idaho, but were conducting some business here.

Andrews O'Shaughnessy: That's very interesting. It sounds like you had fairly broad powers for someone in your position at this time; pretty broad investigatory scope [and] pretty significant sanctions power. Under what conditions would you refer to something to a state or a local prosecutor? Did you ever do that?

Anthony Polidori: Very infrequent. I probably could count on one hand how many times we made a referral to a local prosecutor on the mortgage side. Now, [the situation was] different in some of our other areas. We also supervise collection agencies, or credit service companies, as I term them. We also supervise, consumer finance companies. [In those instances], we would more often probably make a referral to local law enforcement or a local prosecutor because of violations that really look more like theft or direct fraud. On the mortgage side…I don't believe we did as many cases as we possibly could have done if I had a staff of twenty examiners investigators. But I do think that we were able to manage the outcomes through enforcement actions administratively that were beneficial to our consumers where we could identify them and take an action.

Andrews O'Shaughnessy: …[W]hat stands out to you as being particularly salient about your experiences now? If you were to think back from 2000 and work your way forward, were there any particular cases or anecdotes that you felt like captured what it was like to do your job during this period?

Anthony Polidori: Yeah, I probably could think of few. I believe you talked to Chuck Cross. And he discussed a little bit about Household[3] with you, and I think that that kind of stands as a benchmark for what was an industry problem overall. Now, Household [is] not like your regular mortgage broker, obviously. It's an independent lender, a retail outlet. So it kind of covered the span of not just mortgages, but also consumer finance products. It was that element of the 2000s of selling people on a product for your own income and not disclosing to them what that product was that kind of highlights where the end of the '90s, beginning of the 2000s began. And then from there, the evolution of, "Well, okay, we're not going to lie to them about what the *cost* of the product is. We're going to lie to them more so about *what* the product is and what it's going to do for them and what they can do in the future."

[3] Chuck Cross was one of the key investigators and negotiators in the Household Finance case, one of the largest predatory lending cases in history.

So you go from this, “Let's hide all the balls that we can, let's make as much money as off this product as we possibly can” to, “Okay, I'm not going to hide all the balls on how much money I'm going to make. I'm going to convince this consumer, this product is in their best interest, even though any person can see that product is never going to be in your best interest, especially if you're in a regular, let's say hourly wage job, you haven't been there for that long. And I'm going to lie about your income to get you this loan. And you're going to be happy about it because now you're going to be in the house that you want, and look how the market's going. Market's going up, up, up, up, up, [so] you'll be able to refinance it at anytime, once you get more stable income or once you get better employment, or if you just want to make some money off that property and move into something else.”

And so it was that evolution of, “Okay, we're going to make the borrower be part of this whole process of harming the borrower themselves,” I guess, is the best way to put it. Even involving them in their own demise…. So that's how I saw it evolve over time. And to do that, before, it was, “Let's just hide what the disclosures mean or what the cost behind the disclosures mean” to, “Let's create new documentation. Let's create your employment documentation. Let's say you work for this company, even though you don't. Let's create a new business out there. We'll register with the Secretary of State. We'll create a phone number for somebody to call if they want to verify the employment. Well, you need deposits, [so] let's go ahead and put some money in a bank account. We'll put you on that bank account. You're not going to have any powers on it, but your name is going to be there so we can seize in some funds for you and say you have some assets on hand.” So again, it was that evolution of involving the borrower themselves in the process of…”ripping off the borrower.”

Andrews O’Shaughnessy: Something that you said… illustrated the ambivalence [that] people sometimes feel about borrowers during this period. Because you mentioned — and I'm paraphrasing — [that] most anyone could see that something weird is going on with these more esoteric products that evolved. So the borrower knows that something's sort of fishy but they choose to go through with the transaction anyway. Could you opine a little bit about why they might want to do that? …[D]id you ever really talk very much to borrowers?

Anthony Polidori: Of course, it's purely opinion…. I'm not a mind reader. I wish at times that I were. My observations were that… it was always a trade-off to the borrower of, “I will do this thing, which may not be, let's say, ethically acceptable to me normally, but the trade-off in the end is so good. The increased income that I'm going to get when I sell this property because market values continue to go up. Or the ability to pay off all these other debts that I'm getting from this particular product, which have been burdening me for however long. Or the ability to move into that place that I've always wanted because construction is going up everywhere and look at that nice house down there. And I've been living in this small place for forever." It was that trade-off, I think, that oftentimes the borrowers were accepting. "I'll take a dip in my ethical standards in order to obtain this trade-off in the future."

I think that that's probably the main element that I saw. At times you would run into — and this is probably something I've never really heard talked about — is that the borrower themselves became a pseudo mortgage professional, in a sense. That they were actually part of the scheme overall. Now this wasn't a common thing, but it happened, I think, in more cases than many people might recognize. Let's say [that] it's the borrower coming up from California to buy investment properties. They know that what they're doing is not right necessarily, because they know their income isn't what was stated on that application, but they need another investment property to be able to pay off the points and fees that they charge were charged on their last investment property, or [they need it in order to] to continue building this portfolio that they have. [That] might be one example.

Another example might be where you have these independent mortgage brokers who are just popping up overnight. They don't know much about the business. They don't know much about how to get business going. And so they might engage their friends, their families to say, "Let's start doing this so that I can make some money. There's a house down the street. Let's see if we can't get you into that with a stated income loan. Once we get you into that, then we're going to go ahead and flip that property — because market values, again, are going up. We'll flip that property in the next two to three months and we'll get you into other property. We're going to generate revenue for me that way, and we're going to share revenue off of some of these broader purchases and sales and refinances that we're doing." …I guess I would say there's these two different paths: the borrower who's, again, trading some ethical values for the award that they're going to get in the future. And then some of them were saying, yeah, this sounds like an interesting scheme. I don't have to be a mortgage broker, but I can be a participant in this process and earn money off of it and not have to quit my day job, or maybe even not have to work at all.

Andrews O'Shaughnessy: So, after Household, which, like you said, kind of serves as a capstone for the period ending in the late '90s on 2000 or so. Are there other specific cases or actors or anecdotes that you recall?

Anthony Polidori: …[In terms of] large cases, I don't think that I can really come up with any that you would say, "Okay, I recognize that name." I know there was the AmeriQuest [case]. And we participated tangentially on AmeriQuest. Again, AmeriQuest was similar to the Household [case] from my point of view. It was, again, "Let's hide the ball. Let's get as much money as we can out of consumers by hiding that ball." When it moves from there, I think the highlights that you see are things like Countrywide that followed from Household. And again, Countrywide obviously profited from a lot of what was going on, but… [what] I think that a lot of people haven't recognized is [that] it was down at the broker level. And again, this kind of… collusion between the mortgage broker and their borrowers to create these loans that, again, maybe [are] not in the borrower's interest in the long run, but obviously [are] benefiting the borrower at some point, at least immediately.

I was involved in Countrywide to the extent that we watched the company fail. We had conducted examinations of the company. We watched the products that they were buying from these brokers, and we realized "there is a problem here." So we commonly went after the brokers that were doing those loans without really going after Countrywide for accepting those loans. I think that was maybe a downfall on our side, at least Idaho's side. I think maybe overall, [for] the entire state system, that might [have been] where we were missing it. That yeah, you got the brokers doing this at the ground level. You see the falsification of documentation. You see [that] the borrowers are probably involved in some of that, or at least accepting of some of that. But what we had failed to look at was really how the lenders behind those transactions were allowing this to happen in the first place and going to them for it.

Andrews O'Shaughnessy: How did it feel doing your job in 2002 through 2005 or 2006 period? You described being resource constrained, [and] you have a big field of people to go after. Did it feel like everybody was a crook? Or that it was just hard to find out who to really investigate and distinguish between someone who was an honest dealer in products?

Anthony Polidori: That's a great question because it touches on, I think, some of the values that agencies like Idaho's Department of Finance probably has set for its own cultural organizational values. And that is: the people that we deal with, they come to us for a license…they're our stakeholders, just as the consumers who they service are our stakeholders. And we'd like to think that anybody who came and applied for license is intending to do business the way it's supposed to be done. So I think that we commonly have that objective. I'd say that I've internalized that myself. That if they're [a] business that we deal with, presume that they're doing the right thing until you're told otherwise, or you find out otherwise.

So I don't think that we ever felt, or I ever felt that "everybody out there is doing something wrong and I [have] got to catch the bad guys, and where am I going to look next?" Although maybe I should have at times put those glasses on and said, eh, maybe [it's] more likely than not that somebody is doing something wrong once in a while. What we started to do was engage the community of mortgage companies more regularly. We actually adopted a licensing standard for mortgage loan originators in 2006. And prior to that, we had started conducting continuing education courses for our mortgage brokers and lenders who are licensed in Idaho. So we were doing outreach in 2004, 2005, 2006 to all these companies to provide them with some, "Hey, this is what we're seeing in the market. Here's what we see happening. Here's, a particular case of somebody falsifying [an] appraisal, or a particular case of somebody creating an identity for somebody so that they can improve their credit score, or possibly just get a loan." And through that outreach, I think that we felt we were covering a lot more of the bases and being able to kind of say, "Hey, this is the stuff we're looking for. If by chance you see it, let us know." And with that, we probably got more referrals from [members of the] industry themselves saying, "Hey, I think somebody is doing something wrong over here."

: Now, [going back to] when we talked about politics earlier, one of the things about being an agency like ours is that you're not the Attorney General. You can't go out and just hammer everybody who is doing something wrong. Oftentimes you may find that they're doing something wrong, but it's because one originator in that office is doing something wrong. And so oftentimes we might take an action against the company that doesn't even end up public, but it's because of that originator. And we put that originator, let's say out of the business, and that originator is not going to be coming back and getting a license because of their history with us.

Altogether I think that we did a lot of things right by the outreach. I think we did a lot of things right, by communicating with our industry. Where we probably didn't do the right thing was when you take an administrative action, an MOU [memorandum of understanding], let's say, and nobody knows about it, except for you and the company, [and then] that originator walks out the door and moves across state lines and gets a job somewhere else and does maybe the same thing. Or maybe they open up their own operation inside of another state. And so I think it was our final evolution to this multi-state licensing system that really was probably the best thing that we could have done, because that way we could start tracing these mortgage loan originators as they move from company to company. And the actions that other regulators might've taken against them prior to those moves….

Andrews O'Shaughnessy: … [I]s there anything else that I should have asked you about to capture your experience as a frontline regulator now, or anything else that you would want to talk about and get in the record?

Anthony Polidori: I think that there is an area that — you may have heard this from some others. And I had gone back and listened to some of the oral histories and this caught my attention, and it's "what *we* did in North Carolina or what *we* did in this state or what *we* did as this agency." I think that one of the greatest lessons that we should have learned from 2007, 2008, 2009 is that we're all in the same business of supervision of a particular area. And I think a lot of us learned that lesson. But what I still recognize as a problem for state agencies and even federal agencies is our lack of coordinated efforts. We've done things like the multi-state licensing system where state regulators communicate on a regular basis about our independent licensees, individualized licensees.

But what we failed to do, I think, is when it comes down to the supervision level, work together in coordinated fashion on the compliance of these companies and what they're doing in our particular markets….[W]e still work in isolation in a lot of ways. And part of that is because we haven't adopted, from my point of view, uniform standards that apply everywhere. The federal agencies — let's say it's the Consumer Financial Protection Bureau. It has its policies through its examination that it [uses when it] conducts its activities. And we coordinate with them on some things, we do actually do examinations with them. But their standards are *their* standards. Our standards at a state [level] might be different than the standards of the [Consumer

Financial Protection Bureau], but it also might different from the standards of Oregon or Washington right next to us.

As you know, as I've progressed in my own role here at the Department of Finance, I've worked as much as I can to say, “Let's make more uniformity work for us so that we can all talk… in the same language about the same things that we're seeing throughout the system. I think that's one lesson that we all should have learned, and we should probably, from my point of view, elevate that to a higher priority than where it might be right now.

Andrews O’Shaughnessy: Do you think there are other lessons [that] you think legislators or state level policymakers should learn from the crisis?

Anthony Polidori: It's a tough one. I think that is a tough question to answer because if you look at the period of time we're talking about — any of the periods of time we're talking about — there has been law on the books. There's always been law on the books related to fraud or theft or deception. As far as Idaho goes, since 1996, we've had laws on the books related to prohibited practices for mortgage activities. Many other states have had the same thing. Many of our statutes are replicated in statutes in Washington and Oregon. And we borrow some from other States in the statutes and rules that we apply. What I think, I think we miss out on is the fact that we don't need necessarily more law, in particular, in relation to the products themselves.

…[A]s an example, I think North Carolina is a good one, because they established a predatory lending law, created an ability-to-pay requirement, and all things good regarding underwriting and what somebody should do when it comes to underwriting. But what you do when you create all those extra standards, at least from my perspective, is you also create other loopholes. You create the ability for somebody to find a way around something in order to do a business activity that is not encompassed by that particular restriction within the law. Or you lose business altogether, because some businesses don't want to comply. What instead you should be looking at is those fundamentals: “Is fraud still illegal?” “Is theft by deception still illegal?” “Is the misrepresentation of material particulars related to alone still illegal?”

And if they are [still illegal], legislators probably should consider “do we fund more activities that investigate these acts by bad actors?” and “[do] we fund more ability for, let's say, the agencies themselves to take an action without having to convince an Attorney General or a local prosecutor that, ‘Hey, this is a case. You really should take this case.'?" And you're dealing with somebody [at the prosecutor's office] who really doesn't have any financial background, and they're more interested in the case of something that — "what bleeds leads." And so they're more interested in that case that seems more immediate to the community itself.

Andrews O'Shaughnessy: … [S]ince the financial crisis, the mortgage and financial crisis, we've heard a lot of different accounts about what caused it. [H]ow do you understand what caused the national crisis?

Anthony Polidori: It kind of goes back to what I had said earlier. And that was [that] what we saw was collusion between, oftentimes, the mortgage professional and the people they worked with….[W]hat caused the crisis was creating that environment where that could occur…. I talk[ed] about this a lot in continuing education [courses] that I did at the time. We had housing policies and [would] say "We want to impact housing in a significant way. At some point in time, we want a hundred percent of households to have their own home." Wonderful idea, and I think very noble idea, but what followed from that was "Well, to obtain that goal, we need to expand standards. We need to reduce some of the restrictions. Are there requirements would normally be applicable tool a loan to be able to get people into homes where they probably wouldn't normally be able to get into homes under traditional means?"

And so I think it all kind of falls from that policy standpoint that we needed to improve housing conditions overall. To do that, we had GSEs [government-sponsored enterprises][4] who would… loosen the tightened credit restrictions that may have had. And that then creates an environment for people who are less than ethical to say, "Well, instead of just using the parameters that we have here — because now we can get a loan for somebody who has, let's say, that 570, 580 FICO score — based on these particular standards, we will use the stated income, No Doc, no asset loan for that person who has 580s. And we'll also, at the same time, improve their credit and make them look like they're a worthy borrower when in fact they're not." So I do think that it was a whole lot of things put together and you couldn't put your finger on any one thing that caused it outside of the fact that we loosened our standards and we helped create an environment where that's the case.

[4] Fannie Mae and Freddie Mac Government-Sponsored Enterprises. They are privately owned, but receive support from the federal government and assume some public responsibilities. The GSEs provide a secondary market in home mortgages, purchasing mortgages from the lenders who originate them.

And I oftentimes think about it and I said, “Well, what would be the alternative? What could you do to still get that policy effected and be able to accomplish what you want to as a policy goal — more housing for people — without having created that environment?” And for that, I do think that that's where the government could have stepped in and improved its FHA [Federal Housing Administration] lending abilities — the actual government subsidized lending product — rather than relying on the GSEs at the time or independent investors to say, “Okay, take those standards. And let's take that policy goal. And let's apply it by dropping all of our credit requirements or all of our capacity or collateral requirements.”…[T]hat would be my answer. I don't know if it's very succinct answer, obviously. And again, I don't think it looks at all the nuances of everything that was involved at the time, but to me, that seemed like that would have been the major cause of it. And, as I said, an answer to it would have been [that] if you're going to do that, the federal government itself probably should have said, “Let's make certain [that] we have a backup or backstop to provide for these policy goals that we're trying to accomplish.”

[END OF SESSION]