AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS
ORAL HISTORY PROJECT

Interview with
Brian Montgomery

Bass Connections
Duke University
2021

PREFACE

The following Oral History is the result of a recorded interview with Brian Montgomery conducted by Jon Rosen on July 1st, 2021. 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: Kale Wright
Interviewee: Brian Montgomery
Interviewer: Jon Rosen

Session: 1
Location: By Zoom
Date: July 1, 2021

Jon Rosen: I'm Jon Rosen, a student at Duke Law School and a member of the Bass Connections American Predatory Lending and Global Financial Crisis team. It is Thursday, July 1, 2021. I'm speaking with Brian Montgomery, the former Federal Housing Commissioner and the Assistant Secretary of Housing for the Department of Housing and Urban Development for an oral history interview. Mr. Montgomery joins me via zoom. Thank you so much for joining me today.

Brian Montgomery: Glad to be involved. Thank you.

Jon Rosen: So I'd like to start by establishing a little bit about your background. I believe that you received your bachelor's degree from the University of Houston, is that right?

Brian Montgomery: Correct.

Jon Rosen: At what point in your professional career did you first become involved with residential mortgages?

Brian Montgomery: When I was working at the Texas Department of Housing and Community Affairs in the late nineties. So, 25 years ago or so.

Jon Rosen: During your time with the Texas Department of Housing and Community Affairs, you've mentioned that some of the department's portfolio was not only making sure that people had affordable housing, but also had access to basic amenities and necessities like clean water. Can you just talk a little bit about that?

Brian Montgomery: Yeah, I'll talk about it in the perspective of federal grants. So, most state housing agencies administer the state's first-time home buyer programs that are means tested with respect to income. Also, many of them administer the Community Development Block Grant Program. Texas also had a program designed to help persons who live in what are called colonias, some unincorporated areas along the Texas-Mexico border. Almost all of that assistance was done through federal grants that flow through the states, typically through a state agency. There were other programs that we had as well, the home program, weatherization, things of that nature, and energy efficiency.

Jon Rosen: In 2005, you became Federal Housing Commissioner. Can you talk about the mandate of the Federal Housing Administration [FHA] and your portfolio as Commissioner?

Brian Montgomery: Absolutely. The FHA was created in 1935. The idea came from a young economist at the Department of Commerce [USDOC], by the name of Winfield Riefler. At the time, the housing market was still one of the unsolved problems of the Great Depression. Up unto that point, many people who bought a home, those that could afford it, had really almost usurious terms, high down payments, [and] balloon notes. Mr. Riefler, who was an economist, came up with the idea of a 30-year, fully amortizing loan using a federal government product, mortgage insurance, to help entice lenders to lend to the borrowers. It's been a great success story, since 1935. [The] FHA has helped 55-60 million persons and families buy a home. And that proud legacy continues today.

Jon Rosen: Are there particular types of borrowers that use FHA insurance or are there demographic groups that the FHA works with mostly?

Brian Montgomery: Absolutely. The data is pretty consistent, year to year, somewhere between 81-83% are first-time home buyers and a third, sometimes higher, are minorities. I would frequently say, and still did up until recently when I left, but [without the] FHA, a large part of minority home lending would not exist. They tend to be borrowers that are sometimes more, in general - it doesn't matter whether they're minorities or not - maybe a little more credit challenged, [or they] don't have much of a credit history. There's a reason it's a government agency helping people. But it's a good success in that - I tell people, "FHA is government assistance you pay for and it makes money for the government, because the FHA is largely self-sustaining. It receives an appropriation for salaries, expenses, and technology products, things like that. But in terms of paying its obligations through its insurance, that's all done through premiums."

Jon Rosen: Was consumer education of potential borrowers a focus of the agency?

Brian Montgomery: Absolutely. It doesn't matter whether it's been a Republican or a Democrat administration, there's always been a focus for home buyer counseling. In fact, HUD [Department of Housing and Urban Development] typically funds anywhere from $50-$70 million a year through 18 or so intermediaries that fund another 2,000 or so non-profit organizations that provide free of charge home buying counseling, not just pre-purchase, but post-purchase counseling as well.

Jon Rosen: When you were working at the FHA, did you work with other consumer focused agencies on proposals or was it kind of more siloed agency by agency?

Brian Montgomery: The FHA has a mandate of what they're supposed to do, but we absolutely face off [with] the industry stakeholders, lenders, [and] non-profits. We did communicate with our colleagues at the Veterans Administration [VA], USDA [U.S. Department of Agriculture], and at the GSEs [government-sponsored enterprises] as well….. So, there was some co-collaboration within the government, but obviously a fair amount among the various stakeholders that help the FHA.

Jon Rosen: I know that during your time as Commissioner, before the crisis, you talked about the need to modernize the FHA. Can you just talk more about that and why it was necessary?

Brian Montgomery: Well, you're fairly young, but I'm sure you recall mainframe computers, and FHA technology at the time - we're going back to 2005-2009. As you know, I was just recently FHA commissioner again. But back then we had a lot of hard coded mainframes, no business rules, [or other] things of that nature, [we did] not [have] a data centric piece of equipment to be found. We were not able to get the funding that we needed. The Obama administration had some success. But we were able finally in 2019 to get success [and] some funding, to bring about some dramatic improvement to the FHA's systems, whether it's handling claims, underwriting, servicing - Congress finally came around and promised $80 million over four years. So far, the FHA has got about $60 million, but that was just recently. That modernization effort continues today and obviously in the current administration.

Jon Rosen: ... Can you talk about how the mortgage market had changed since the FHA was created and how did that affect your ability to help homeowners in the new mortgage market?

Brian Montgomery: Well, the FHA has always had a niche, again, mostly first-time home buyers. And its mission is grounded in statute and the National Housing Act. It simply doesn't stray a whole lot from what it's really good at, providing mortgage insurance. I'm assuming we're just talking about the single-family programs here, although the FHA does multifamily home care, things of that nature. But you will see different products pop up in the private sector, the non-FHA, the non-conventional, from time to time. You certainly saw, as an example, the rise of subprime lending in the time period that we're discussing today. But, for the FHA, it's never about market share. It's about the ability to serve a certain type of [group], new, more than likely young, and largely first-time home buyers. There's private mortgage insurers, as you know as well, who obviously view the FHA as a competitor. The FHA, [as] a government agency doesn't really view them as competitors, because it's not - the FHA doesn't chase market share, there's no sales bonus, so there's no volume performance measures. We certainly want to make sure we're bringing in more money each year than we're paying out in claims. But in many ways it almost functions like a corporation.

Jon Rosen: Can you talk about the existing statutory authority for the agency when you came into the office?

Brian Montgomery: Well, it's interesting; most of HUD is means-tested, meaning to receive public housing, whether it's through project-based, tenant-based, [or] whatever, you have to meet certain guidelines. The FHA doesn't really have any income means-testing. It's simply been people using the FHA because they need to. Again, they tend to have better credit files, less money for a down payment. So the FHA's mission is obviously more first-time home buyer centric. It's a large part of HUD's overall mission to help vulnerable populations, seniors, persons with disabilities, help folks find safe, sanitary, decent housing. But the FHA, through its home ownership programs, multifamily home care is a good adjunct to that.

Jon Rosen: One recommendation that you had when you were first FHA commissioner was to create a risk-based premium structure for the FHA. Can you talk more about that?

Brian Montgomery: So, obviously, if you and I were to put our auto insurance bills next to each other - I'm going to go out on a limb - yours is going to be a little more than mine, not because you're an unsafe driver but just because of the age bracket that you're in. We had looked at the idea of going [to] risk-based pricing for a number of reasons. Principally, it was also that some borrowers presented a different level of risk. But the other was [that] there was this form of down payment assistance that crept up on the FHA program, that was essentially allowing people to get an FHA loan without any down payment whatsoever. They were being fooled into thinking it was a gift, when in fact they were actually paying for their own down payment.

We tried to stop their use of the FHA program. We initially [were] unsuccessful. So one of the career staffers said, "why don't we offer the zero-down program? We can price it accordingly based on the premiums." Then, I would say, the private mortgage insurers viewed that as a threat. The FHA is trying to compete more with them. We were doing it more to survive and doing it more to help price a hundred percent down payment loans, trying to get rid of the seller-funded down payment programs. Congress said, "well, we don't want you to do that." And [they] put something in the Housing and Economic Recovery Act [HERA] that put a moratorium on us using risk-based premiums, which I thought was a little unusual at the time. But different place, different time.

Jon Rosen: Would you mind just talking a little more about that? When they decided to ban that and any of your thoughts on its effectiveness?

Brian Montgomery: People simply viewed the FHA premiums - someone told me at a hearing once, the government doesn't know how to price for risk. And I said, "oh, no. We know how to price for risk. It's just, sometimes people don't let us." We wanted to always make sure that we weren't paying out more money than we're bringing in. As you probably found out, the rules around actuarial accounting, credit subsidy rates, capital ratios is pretty arcane. But people take it very seriously. It's interesting, when we unpacked the price instructor based on risk, there was an interesting dynamic that the borrowers paying the most were the lowest income tranche. You would have thought that the reverse would have held true. It was a really hard message to explain up on the Hill.

... I can't speak for Fannie Mae and Freddie Mac, but if you look at the lowest income tranche of FHA borrowers, they present the lowest amount of risk and, therefore, the lowest premiums. But, even so, the difference in the highest pay band and the lowest pay band, in terms of the cost of the premiums, was $15 a month. It wasn't a lot. We partly did it out of survival, just because of the losses we were incurring because of those down payment programs that we couldn't seem to get our arms around until, fortunately, HERA [Housing and Economic

Recovery Act of 2008] passed and outlawed the seller- funded down payment programs.

Jon Rosen: I know another recommendation the FHA had called for [was] the expansion of reverse mortgages. Can you talk a little bit about that?

Brian Montgomery: I don't know if I'd necessarily say expansion. The reverse mortgage product is largely still the government. It has been around since 1989, and it's a product that helps HUD fulfill its mission, right; the seniors, or [the] vulnerable population that they serve. So it fits a niche of seniors who, as we call it, house rich but cash poor and allows them to extract equity from their home while they're still alive. Thus, leaving the decision obviously to their heirs for their estates once they no longer occupy the home. A lot of it was just making sure that we're pricing it accordingly. Again, making sure that that's a population that the FHA serves [and] it's done in a way that doesn't make the product not attractive to loans. Even though the FHA didn't have really a role, certainly not the reverse mortgage product of the housing loans, they suffered from the dramatic loss of home values. And the structured reverse mortgage is built upon the predicate that the home will increase in value. Now you all of a sudden you have an asset that's worth far less than it was at the time of the origination of the product. And while that hurts the FHA overall, it darn sure hurts the reverse mortgage product.

Jon Rosen: Can you talk about during your time at the agency, before the crisis, was there a partisan divide on how to reform the agency or was it split on different lines? What were the dynamics there?

Brian Montgomery: It was interesting. Our market share had really dropped, as you may have researched, almost dangerously low. Again, the FHA doesn't chase market share, but any given year was typically anywhere between 8% and 16%, give or take. When I came in there, it was 2.5%. We could see the rise of the subprime market. There are many ways [it was] skimming off our traditional borrower. So we came up with a plan to help modernize FHA, in terms of premiums, and as I mentioned before, down payment assistance. We went up on the Hill and talked to the Republicans first. And the Republicans said, "oh, no, it sounds good, but you need to go get Barney Frank and Maxine Waters and others on board." Then we did that. We got the support, we got a bill on the floor, and it passed 415 to 7.

We thought, "man, this was great. You know, bipartisanship love [for] it." But getting back to the private sector, some felt like FHA was expanding, pushing too much in their space, including Fannie and Freddie at the time. We went up on the Hill on the Senate side and we got cut off at the knees, so to speak. [The] Senate wanted to have nothing to do with it. There was a hearing that was just not productive. And they said, "well, we want GAO [Government Accountability Office] to look at the efficacy of FHA modernization." [That was] basically them telling you [there's] no way it's going to happen.

Jon Rosen: You mentioned the industry groups. I was just wondering if you could talk about that dynamic, whether it's brokers versus insurance companies, what kind of the dynamics were in the industry, in terms of supporting FHA proposals?

Brian Montgomery: I think the private mortgage insurers were kind of put off by it, because they thought it was an expansion more into their realm. Like a lot of the housing advocates, are focused more on low income and they're not anti-home ownership, but they think HUD should be more focused on the poorest of the poor, if you will. But I think the industry, just lending in general, saw it as a plus - the Mortgage Bankers Association and others - because it responsibly could expand home ownership. Especially at that time when subprime products were growing. Now, FHA modernization passed in 2007. At that point, the subprime market had largely run out of steam. But everybody knew the FHA is a fully amortizing 30-year fixed rate product for most borrowers - most borrowers get the fixed rate, not the ARM [adjustable rate mortgage] product. There's some safety in knowing that, there's some comfort in knowing the full faith and credit of the U.S. Government's behind their mortgage.

Jon Rosen: During your tenure, Democrats took the House in 2006. I was just wondering - you mentioned that before the Senate killed it - but did that change in parties affect your ability to advocate for policies more generally?

Brian Montgomery: Well, whereas I'd been kind of leading the effort at that point. Once the Democrats took over, Barney Frank started leading the effort and that was okay. I mean, Barney Frank, he's obviously [in a] different party than I am, but no one ever questioned his conviction in housing. He was the supporter when he was in the minority and in the majority as well. But he was largely driving what he wanted in the bill and what he didn't want to [be in it].

Jon Rosen: One of the first major issues you dealt with as Commissioner was the devastation caused by Hurricane Katrina and other storms. I'm just wondering if you could talk a little bit about that experience.

Brian Montgomery: When I was at the White House in the Bush administration, the second job I had was running the Office of Cabinet Affairs. I had a pretty good idea in that role, which is a very expansive job, as you can imagine. We did help deal with the inter-agency response to hurricanes, and not necessarily as much [with] FEMA [Federal Emergency Management Agency]. I mean, FEMA knows what they're doing. The newly founded department of Homeland Security at the time. But a lot of it was dealing with workforce grants, USDA [United States Department of Agriculture] grants of crop lands, private education grants of schools [that] are damaged, things of that nature. So when I got over to HUD, the Secretary at the time said, "I want you to be very involved in disaster recovery." A month and a half later, after I got confirmed, Katrina hits.

... HUD's funding for disaster recovery is always supplemental. FEMA and others are kind of the tip of the spear. Our funding always comes later and it takes many years to suspend. We were given a lot of money by Congress. By the way, it wasn't just Katrina. There had been hurricanes Ike, Rita, Jeanne and others a few years later. So I headed up the HUD Housing Recovery Center, taking a few pages from what we had done after 9/11, in terms of being better coordinated and staffing a recovery center and working real closely with other agencies. Certainly [working] with Louisiana, Mississippi and the Gulf Coast Recovery Office. I think HUD, I won't say because of me, got high marks for their response.

Jon Rosen: In that process, was there any relief for borrowers that might've fallen behind on their mortgage payments because their properties had been damaged? Was there anything like that?

Brian Montgomery: FEMA and obviously the SBA [Small Business Administration] - first off, your insurer, your property and casualty, or if you have flood insurance is the first line of the systems. Then, depending on what your insurance company does, FEMA can obviously help you get back on your feet, or the SBA with a low interest rate loan, or even through HUD. So there's any number of federal programs administered through those states to help families deal with the aftermath of the hurricane. Again, these programs take typically a long time to go through, especially the HUD funding ones.

Jon Rosen: In 2005, the FHA removed its requirement for specialized FHA appraisers. Instead [they] used another loan product to allow borrowers to make improvements on their home. Can you talk a little bit about that project and why it was necessary?

Brian Montgomery: Yeah, you might've been mixing two issues. I'll have you ask the question again. I want to make sure I understand.

Jon Rosen: So, if I have it correct, the FHA removed this specialized appraisers requirement, and then also instituted another $35,000 loan to allow homeowners to make improvements on their homes. Is that correct?

Brian Montgomery: Yes, but they're two different issues. One, on the appraisers, we had an outdated system at the time that put too much - there was what were called certified appraisers and licensed appraisers. And we felt like a lot of the licensed appraisers were being crowded out of the program. So we made a change to allow licensed appraisers to not get certified. Certified ones typically - like Fannie and Freddie would use [them] more than the FHA. There was a separate program called the FHA 203K program, which was the $35,000 amount. The 203K program was a wonderful program if the home you're buying needs repairs. [It] allows you to roll in the cost of those repairs into the mortgage. The thought being that you're now buying a home that's been repaired, is in better shape, and will last longer. Two different issues, but obviously touched each other.

Jon Rosen: You mentioned it before, but could you just talk a little bit about the role of seller-funded down payments and how those operated?

Brian Montgomery: Yeah, there was some entities, nonprofits, [or they] at least appear to be nonprofits, since he came up with this idea that they would inflate the cost of your sales price of your home, use those funds to create a down payment, give them to you. Then you're paying a higher mortgage. So it wasn't a gift, gift down payments are allowed. They sort of pass this off as a gift. Before I got there, I know that there had been some concern about them, even going back to the Clinton Administration. We certainly had some concerns about them as the default data started coming in. At the time, they were two and a half times more likely to default for the obvious reasons. You're not putting any of your own funds into a transaction.

You're essentially now paying a higher price for the loan, because the home value prices increase and increased the money for your down payment. Any mortgage loan with FHA has a higher default rate, if you don't put your own money in the transaction. But borrowers who get a gift from their parents or a sibling, while the fall data was higher, [it] was nowhere near what it was for the seller funded down payment program. We, based on the data, decided that we needed to eliminate them and went through the Administrative Procedures Act and created a rule to do away with them. We were immediately sued in federal court, were enjoined from putting the rule into effect until the court could rule. The plaintiffs were [alleging] irreparable harm.

The judge ruled against us in March. We'd been up on the Hill, talking to the House and the Senate. Democrats and Republicans both told us, "we support you getting rid of them. But there's two members of Congress who obviously don't want you getting rid of them, one Republican, one Democrat." So when we were blocked from the risk-based pricing - for us to continue to accept the seller-funded down payment systems - I went back up on the Hill and said, "look, the FHA could be in serious financial straits if you don't do something there somewhere around election time."

We finally convinced Congress that these things have got to come to an end. Their prohibition was included in the Housing and Economic Recovery Act. But while everything else went into effect - the day the bill was signed [was] July 31, 2008 - the one part that didn't go into effect until the end of the fiscal year was the seller-funded down payments. They continued to be able to be used, which was crazy. Worse, the Economic Stimulus Bill that passed in December of 2007 raised FHA loan limits. Now, not only could they continue for another two months, they could operate in just about every corner of the country now because of the higher loan limits, which then just flooded the FHA with high-risk, high-balance mortgages.

Jon Rosen: As the crisis started, fewer FHA insured mortgages foreclosed, and then just general subprime mortgages. Can you talk about why that is?

Brian Montgomery: I kind of touched on this [with] my earlier comment about the subprime product. A lot of the subprime lenders had really good marketing, good advertising, they had teaser rates, lower down payments, and one big part of their pitch was we can close quickly. At the time, and even still [today] FHA is a little more cumbersome, a little slower to close. A lot of realtors at the time hated dealing with FHA because of that. They want to close quickly because their clients wanted to be closed quickly, right? I'm not saying that's why the subprime product proliferated, but it certainly didn't help our case. We could look at the demographics of the subprime bar and look at our market share, and a 10th grader could have figured it out. [They'd] say, "hey, it looks like you're losing folks over to subprime market."

Were they getting a better deal? So to speak. Again, we're a government agency. We would've been okay with that. But they weren't getting, in our mind, a better deal. We were looking at the data and its impact, some minority home buyers - and I remember putting an amendment together and going to the White House. [There I was] talking to the Domestic Policy Council, cause President Bush a few years sooner talked about it, closing the minority home ownership gap, which every president since then has talked about it. And we said, "you know, this is what I think that President Bush had in mind." All of a sudden, a lot of those subprime lenders started collapsing, New America, Argent, and the other one was [New] Century I think. They were literally almost overnight, poof, gone. In some ways, I thought, "well, I don't like people losing their jobs, but any of these borrowers should have got an FHA loan." We found out later a lot of them couldn't, whether the expiration of the teaser rate - [I] may be getting a little ahead of your question, but we created a product to help them refinance with FHA.

Jon Rosen: Can you just expand a little bit on that product?

Brian Montgomery: We had a great research team at the time, and, by the way, still did when I left recently. And [we] said, "we need to open the aperture a little." This is what term we kept using. Everything FHA does, everything that we go through that affects FHA, we have to discuss with OMB [Office of Management and Budget], right? The modeling, the pricing, because no one wants FHA to find themselves in a place where their credit subsidy rate goes positive [and] the capital ratio drops precipitously. So we had to model everything. Including when we first rolled it out, the borrower had to be current. ... The uptake will be what it needs to be.

Later, we did away with that requirement, that the borrower had to be current. At last count, when we left office, probably half a million people had refinanced out of a subprime and into an FHA loan. Again, knowing, you're paying now your fully amortizing, 30-year fixed rate loan. I'm sure many of them realized, "why didn't I get this in the first place?" FHA has a huge role, not just when the market's good, but more so when the market’s bad. In this case [they were] stepping in and helping borrowers, many of them who were high risk but needed a hand and FHA was there to help them.

Jon Rosen: You've advocated for increasing FHA's maximum mortgage to the level of mortgages backed by Fannie and Freddie. Can you talk more about that?

Brian Montgomery: FHA loan limits, when I was Commissioner the first time - I remember going in to meet with Maxine Waters, because Republican leadership had said, "you need to go meet with Maxine Waters and Barney Frank." She was a little suspicious when I showed up and I said, "Congresswoman, how many FHA loans you think we did in your district in the year 2000?" Then she gave a guess, but it was way low. And I said, "we did about 3,000 FHA loans in your district." And the number may be high, may be low, but it was a decent size though. I said, "that was in the year 2000." And she goes, "what do you have more recent?" I said, "what about the numbers from 2005?" She said, "what are the numbers from 2005?" I said, "34." She said, "3,400?" I said, "no, 34." She says "why?" I said, "because of our loan limits, we can't -" She goes, "well, what did you do in the state of California?" I said, "statewide, in 2000, we did about 125,000, [if my] memory serves correct. But the year before we did about 6,000 in the entire state." This is the most populous state in the country. Meanwhile, in Texas we're doing hundreds of thousands. In the same discussion, with Schumer's staff and Democrats in the high-cost states, [we said,] "we got to get these loan limits up." We agreed, as part of the negotiations for a bill in 2008 - there was agreement that we were going to go up to like 525,000.

I remember I was over at the FHFA [Federal Housing Finance Agency] office with Jim Lockhart and we turned the TV on. It was Barney Frank, Hank Paulson, and [I'm] trying to remember who the other Republican was. Anyway, they announced the deal of the bill and they were going, "and the FHA loan limits of $729,000." And we go, "what?" The Democrats had wanted the higher loan limits. They were astronomically high. But the Southern states at the time, where the prices were much lower, [had] members of Congress going, "your FHA is doing $600,000 to $700,000 homes?" [We] said, "that's what they cost in the Bay Area or in the boroughs of New York and in the LA area." And they're as entitled to the FHA product as the next person. It was a surprise to us that the ultimate bill had them as high as they were, considering what we'd all agreed on, but [we] fully understood the reason.

Jon Rosen: In 2008, Congress passed the Housing and Economic Recovery Act. What was your view of the Act and how adequate it was to the challenges?

Brian Montgomery: Well, I'll just speak to my portion of it. One, it created the Federal Housing Finance Agency [FHFA]. So [it] incorporated some of what OFHEO [Office of Federal Housing Enterprise Oversight] had been doing, relative to the GSEs, including the Federal Home Loan Banks. But, for our part, it eliminated the seller-funded down payment assistance and put some more safeguards and barriers around what is appropriate type of down payment assistance and what is not. In many respects it was a good piece of legislation, but certainly for FHA as well.

Jon Rosen: Can you talk a little bit about the FHA Secure Program?

Brian Montgomery: Yeah, that was the refinance product that we relaxed the criteria a little [for], including allowing delinquent borrowers. We were targeted at subprime borrowers who were rephrasing owners' interest rate resets, and it had good success. I mean, half a million borrowers is a good number. But, as we know, there were far more that were delinquent. But that was just in 2008.

Jon Rosen: Can you talk about the Hope for Homeowners Program?

Brian Montgomery: We were getting that program off the ground, working with a home now coalition and working with NeighborWorks America. I also sat on their board at the time. And, again, the fall 2008 was a pretty crazy time. Although, the housing market had run out of steam in 2007. So you were starting to see there's going to be a serious need to get housing counselors in a mechanism, whereas borrowers can reach out to them to work with the servicers. The Obama Administration, to their credit, took a lot of what we laid the groundwork for, working in a bipartisan fashion. They took those and created - making them affordable, HAMP [Home Affordable Modification Program], HARP [Home Affordable Refinance Program], and hardest hit fund and all that. Faith Schwartz and her team were real active in all that. I don't know if you've talked to her, but she'd be a good one to talk to.[1] And ultimately expanded and was able to help hundreds of thousands of people.

Jon Rosen: In 2008, the FHA proposed an overhaul of mortgage loan disclosures, [where] requirement terms [would] be disclosed … more vigorously, and adding a good faith estimate to the mortgage. Can you talk about that a little bit?

Brian Montgomery: For five hours if you want. We had this crazy idea that we wanted to give consumers a little more edge in the process where they are agreeing to pay back the biggest loan of their life. And RESPA [Real Estate Settlement Procedures Act] is one of the most, at the time, complicated pieces of the home buying process that no one had ever heard of until they buy a house. Certainly they will have by their second or third. And it was done in a way that just was confusing. There was a lack of certainty [and] certainly lack of transparency in the process. Before I got to HUD, just to be clear, [they] had already started a modernization effort that was kneecapped by some folks up on the Hill who didn't want us doing it because there were strong stakeholder groups that didn't want us doing those. [But] when I get my mind made up something, I can typically get it done.

We pushed through a RESPA rule that looked like a thoroughbred racehorse. Now, by the time it came back, [it] probably resembled a little bit of a camel, but camels are pretty durable too. We got high praise for it from groups you wouldn't ordinarily think a Republican Administration would get [from] Consumer Federation of America, Center for Responsible Lending, National Community Reinvestment Coalition. And it was the very last rule to go into

[1] The American Predatory Lending team also interviewed Faith Schwartz.

effect in the Bush Administration. It went into effect on January the 16, 2009.[2] So, I was a hold over into the Obama administration for six months. When the new team came in there, some of the folks who didn't support RESPA started lobbying the new Obama administration to get rid of it. Then they realized that Montgomery is still there, as a hold over.

I said, “oh, no.” I had talked to the new Secretary at the time, Donovan. He said, “look, we’ve got no intention to get rid of this thing.” It had a one-year implementation, up to one year. Lenders could start doing it whenever they wanted. Because it governs the process from the time you first put in an application, find a home, the good faith estimate, all the way to the closing. At that point, it doesn't have a role in the secondary market. And he said, “we're going to probably strengthen this.” This was before CFPB and Dodd-Frank. But it was a tough one to get done. I mean, there was a lot of things had to come together for us to get that over the finish line for the end of the Bush Administration. And then we did. Then the CFPB, when they got it, they did some improvements to it. I think now it's decidedly a better product and probably to the betterment of borrowers or consumers.

Jon Rosen: You mentioned all the pieces that had to come together to pass that. Can you just talk about whether the industry groups - were they against it? I know mortgage brokers had to disclose more information. Was there any concerns on their side about that?

Brian Montgomery: Well, the ubiquitous yield spread premium, they weren't big fans of that. I understand the reasons. The realtors weren't particularly big fans of it, because it was a change to the way they'd been doing business. But we had a bunch of public hearings across the country. We had a company that developed the forms of testimony, focus groups. We did our homework on those and I think folks, even when they were against, realized they won't be able to stop it. And I think some of them realized it's probably good that they're updating it. It probably needs to be updated because once it was out there, it was out there and the world didn't come to an end, right? People still bought homes. We felt like that they now could feel better about the transaction because there it was in black and white ink, exactly what they're paying for and why, and none of the hidden yield spread premiums and POC - which who knew what the heck any of that meant, “paid outside of closing.” Ultimately, it was certainly better for the consumers and better for the industry, quite frankly.

Jon Rosen: During the crisis, as the FHA was helping to ensure relief for consumers, did you have any experience with scam lenders masquerading as FHA backed products?

Brian Montgomery: Other than the subprime, they weren't scammed. No, not really

---

[2] Technical changes, including streamlined mortgage servicing disclosure language, elimination of outdated escrow account provisions, and a provision permitting an “average charge” to be listed on the Good Faith Estimate and HUD-1 Settlement Statement, took effect on January 16, 2009.

scammed. There were people perpetrating mortgage fraud and things of that nature. But they were more one-offs. The HUD inspector general obviously dealt with those. If I understand your question correctly, I don't recall any companies that were just committing wholesale fraud, masquerading as someone else.

Jon Rosen: Over the last decade we've seen a number of different narratives emerge about how to explain the financial crisis. How do you understand what caused the crisis?

Brian Montgomery: Well, it was a confluence of a lot of things, the mispricing of risk, a lot of cheap money fueled by a lot of things, oil-rich countries, the growth of China. The seeds were planted way before the housing market. That was more a confluence later of mispricing risk, too many mortgage products, a lot of money to invest in mortgage-backed securities, things of that nature. It wasn't just the United States, as you recall. I think ours was obviously deeper, wider and lasted longer, but that manifested itself in a lot of ways. Looking at certainly what happened with AIG [American International Group], Lehman brothers, Countrywide and subprime, all that. So, it manifested itself in deleterious ways. But it wasn't just the housing market. That was a big part of it, but it wasn't just solely that.

Jon Rosen: Looking back on the crisis over a decade later, what do you see as the most important lesson for policy makers?

Brian Montgomery: I'd say vigilance to the degree that the consumer knows what they're getting into ahead of time and what's expected of them and that you don't separate the person originating a loan completely from the process, right? And to the degree there's more certainty, more transparency that's certainly better for the consumer and better for everyone else. A lot of these cubed mortgage products - I've always been a true believer in the 30-year, fully amortizing fixed rate mortgage. There's some safety in that. That said, the actual mortgage market is a thing in and of itself. And as we've seen through COVID-19, and even today, you've got a housing market - who would have thought with the number of people lost jobs that you'd have a housing market like we had in 2020 and into 2021.

The other lesson I hope we've learned is that this housing market, and every housing market expanding, slows down at some point. The government rightfully stepped in, Congress did, with COVID-19 relief. This is not a repeat of 2008. I hope they learned that lesson, that this is not servicers' fault, right? Not lenders' fault, not the borrowers' fault, right? It's really no one's fault. Let's be more collaborative. Let's work together for the betterment of these borrowers, many of which who still don't have employment, who are on forbearance because they need to be. Forbearance is hitting the pause button, but they're still accumulating arrearages. Rather than just scoring partisan victories, finger-pointing, and name-calling, let's everybody collaborate and focus on the matter at hand, making sure that this homeowner assistance fund - make sure they're able to work closely with the states that work with servicers, because ultimately everybody wants to help the borrower. And there's a lot of borrowers still hurting. I hope the lesson learned is to let the public policy makers do what they need to do to be more collaborative with those. This is the whole point of the public private partnership. Hopefully they'll learn that lesson. Let's all just stop thinking about who we can blame, start thinking about how we can do this to help people.

Jon Rosen: We're nearing the end of the interview. Is there anything that I didn't ask about that you'd like to talk about?

Brian Montgomery: You've been very thorough. You certainly did your homework. ... One thing we did see [was] that 2.5% market share went to 30% in literally a year. FHA was no bigger than when they were at 2.5% and the slowness to hire people, the slowness to get technology modernization, is why I used to advocate splitting off FHA from HUD. The missions are distinct - both equally and critically important mind you. But FHA sometimes needs to be quicker to react to the market and certainly to be able to recruit people. Ginnie Mae, as you know, is equally important. We always advocated to pay FHA employees more, just like they get at FDIC and FHFA, [but it] fell on deaf ears, if you can imagine. So, I think there's got to be a way to totally remake, at least the government side of this, in a way that's - whether it's technology [or] the ability to hire people quicker. It is a government, but it functions like a $1.3 trillion corporation. And there's not many of those out there. Other than that, Jon, is there any other questions you have for me?

Jon Rosen: One last thing, do you think the reason that FHA hasn't been able to expand and adapt is just the bureaucratic and congressional intransigence on that? Or are there other factors at play?

Brian Montgomery: Well, we don't necessarily want to expand per se. You want to make sure that FHA is there in the good times [and] in the bad [times]. But you've got to thread the needle there, right? You want to make sure that they're served, that the risks they present is commenced with the mortgage product they get. ... I think FHA is in a good spot now. The last year was just crazy from a volume perspective for not just FHA, but the GSEs as well. I think reminding them you always have to make sure FHA is prepared for the bad times because they always happen. I think that the new HUD secretary made the right decision a few weeks ago when she said let's pump the brakes on FHA premium decreases, there's always pressure to cut the premiums. Nope. We've got to make sure we're there in the good times and bad. But for the degree they can work together and better collaborate with the GSEs, it's good for the home [owners and the] public.

Jon Rosen: Thank you so much, Mr. Montgomery for your time. It was really great to speak with you.

Brian Montgomery: It was a pleasure. I was pleasantly surprised. [You've been] really thorough and asked some fantastic questions. Thank y'all for doing this project.

[END OF SESSION]