

# National Settlement Services Summit

## *Is the Appraisal and Valuation Market Right for Title Agents*

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# Introduction

## ✓ Jeff Schurman, CAE

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# The Problem

## ✓ Client Pressure

- Inappropriate influence on the appraiser by a party to the transaction in the development and reporting of a real estate appraisal.



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# The Example

## ✓ The Parties

- WaMu – the client
- First American eAppraiseIT – the appraisal management company
- First American – the title insurance company
- Andrew Cuomo – the New York attorney general

## ✓ The Dilemma

- eAppraiseIT appraiser panel or WaMu “Preferred” appraisers?



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# Cooperation Agreements

## ✓ Signers

- Andrew Cuomo, Attorney General, New York
- Office of Federal Housing Enterprise Oversight (OFHEO)
- Fannie Mae and Freddie Mac

## ✓ Timeframe

- Announced on March 8, 2008
- Effective on January 1, 2009

## ✓ Cooperation Agreements

- GSEs will purchase loans only from lenders that certify compliance with the Home Valuation Code of Conduct (HVCC)



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# Home Valuation Code of Conduct

## ✓ HVCC At-A-Glance

### ➤ Client Pressure

- Forbids anyone from influencing appraisers through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or in any other manner

### ➤ Ordering Appraisals

- Bars mortgage brokers and real estate agents from selecting, retaining, or compensating appraisers



# Stats

## ✓ HVCC At-A-Glance

### ➤ In-House Staff Appraisers

- Prohibits lenders from using “In-house” staff appraisers to conduct appraisals or use loan production staff, and certain other employees to select, retain, recommend, or influence the selection of or otherwise communicate with appraisers
- Prohibits lenders from using appraisal providers that they own or control or that are owned in whole or in part by settlement service providers



# Stats

## ✓ HVCC At-A-Glance

### ➤ Quality Control/Reporting

- Imposes certain quality control (review and retrospective appraisals for example) and reporting requirements on lenders

### ➤ Independent Valuation Protection Institute

- Requires the GSEs to fund creation of an *“Independent Valuation Protection Institute”* to:
  - Implement and monitor the Code
  - Establish a complaint hotline, and
  - Serve as a contact for appraisers who believe that their independence has been compromised.



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# Industry Concerns About HVCC

- HVCC violates Federal Administrative Procedures Act
- Adversely effects appraisal delivery, lender operations, and corporate ownership of AMC/VMCs
- Needs to define *affiliate*, *vendor management company*, *appraisal management company*, and *employed by*; clarify that “employed by” does not include independent contractors
- Vague and impractical standards serve only to further complicate the mortgage mess



# Industry Concerns About HVCC

- HVCC supersedes Federal preemption in Title XI
- Eliminates staff appraisers and lender-affiliated AMCs
- Bars mortgage brokers and realtors from ordering appraisals but with no alternative means to acquire appraisals
- Eliminates long-standing client/vendor relationships
- Promotes automated valuations in lieu of appraisals
- Puts too much ordering authority in Appraisal Management Companies
- Prohibits appraisals to be ordered through a “settlement services provider”



# A Guess About the Future

## Go/No-Go:

- HVCC adopted as-is (Odds: 70%)
- HVCC adopted with revisions (Odds: 20%)
- HVCC rescinded (Odds: 10%)

## If Adopted:

- Lawsuits will be filed to toss out HVCC (Odds: 99.99%)
- Residential appraisal acquisition will enter a period of chaos (Odds: 100%)
- Federal statute (probably within a predatory lending bill) will be introduced in part to overrule Cooperation Agreements and HVCC (Odds: 85%)



# Possible Business Opportunities

Note: Subject to implementation of HVCC with revision removing the proposed ban on settlement service provider-ordered appraisals. Proceed with great caution... and with legal representation of course!

- Mortgage brokers and realtors are not typically VMC/AMC clients
- The HVCC will cause them to seek to partner with AMCs or title agencies
- Market appraisal management services to mortgage brokers and real estate brokers
- Create RESPA-compliant referral arrangement with in-area AMCs and real estate appraisers

