S C H W A R T Z *Report*

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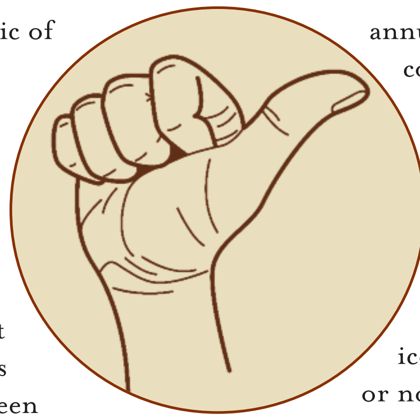

Economist Milton Friedman, a skeptic of government regulation, once said: "One of the greatest mistakes is to judge policies and programs by their intentions rather than their results." He was referring at the time the Community Reinvestment Act of 1977 (CRA). Its laudable intention was to reduce discriminatory lending practices that worked against low income households. No good deed goes unpunished, of course, and the CRA has been cited as one of the factors that paved the way for the 2008 housing crisis because it forced lenders to grant mortgages to people who couldn't afford them.

The CRA is a law which conceivably could be revised or even repealed by Congress. It is not a living, metastasizing bureaucracy that sees itself as an omnipresent provider of "consumer protection". Such an entity, a creature of the 2010 Dodd-Frank financial law, is the Consumer Financial Protection Bureau (CFPB). Unlike multi-member government commissions such as the Securities and Exchange Commission or the Federal Communications Commission, Dodd-Frank placed nearly all of the CFPB's executive power in a single person, its director. He is appointed for a five year term by the President and confirmed by the Senate but can only be removed "for cause" by the President. He is therefore immune to political oversight by Congress. Nor can the Congress even directly exercise its traditional power of the purse as the bureau is funded based on a formula from the Federal Reserve which has reportedly resulted in regular budget increases. So the CFPB, which is expected to burn $600 million by the end of the fiscal year, does not need to justify itself to either the Congress or the President for an annual budget appropriation. Imagine an unaccountable director with escalating ATM funding that is difficult or impossible to pare down and you have created the Consumer Finance Persecution Bureau.

Since its inception it has moved to ban binding arbitration clauses in contracts for consumer financial products and services whether offered by financial institutions or not; it has attempted to regulate car dealers although the Dodd-Frank Act says that is not its job. It has attacked auto lenders for alleged racially biased lending practices by guessing at the race of borrowers using their last name. It has investigated college accreditation practices; attacked "pay day" lenders and sued mortgage servicers for alleged violations of the Real Estate Settlement Procedures Act (RESPA) by reinterpreting that law's existing regulations. RESPA has been in place since the 1970's.

This latest ploy has brought forth a severe legal rebuke to what is increasingly becoming known as the "rogue bureau." On October 21, 2016 a panel of the D.C. Circuit Court of Appeals said that the CFPB incorrectly levied a $109 million fine on mortgage giant PHH Corp. for entering into an arrangement with mortgage insurers to refer customers to PHH if they bought reinsurance from PHH-affiliated reinsurers. PHH argued that the arrangement was lawful under Sec.8©(2) of RESPA as interpreted and applied by the U.S. Department of Housing and Urban Development (HUD) which administered RESPA until 2013 when the CFPB took over that function. The court agreed with PHH that HUD's interpretation, not the CFPB's new take, is the correct

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one. What was even more instructive was the court's declaration that the power invested in the agency's director violated the Constitution. Judge Brett Kavanaugh wrote for the 2-1 majority: "Other than the President, the Director of the CFPB is the single most powerful official in the entire Unites States Government, at least when measured in terms of unilateral power. That is not an overstatement." He went on to characterize the arrangement as "the first of its kind and a historical anomaly" and concluded that the power vested in the agency's director violated the Constitution's Separation of Powers Doctrine.

The aforementioned CFPB director, Richard Cordray, whose term expires in 2018 has said that he has no plans to resign merely because a new president was chosen in November. The transition team has also not given any indication of the intentions of the Trump administration perhaps because it doesn't want to be tarred with the brush of opposing "consumer protection". Thomas Sowell's maxim comes to mind: "Please stop helping me!" All of this begs the question is the CFPB helping consumers or is it helping itself? Here's a novel idea, make Mr. Cordray's dismissal a new episode of the Apprentice and move on to an arrangement that doesn't confuse consumer persecution with consumer protection.

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for a detailed overview of the current real estate markets in New Castle & Kent County, DE, S. Chester County, PA and Cecil County, MD.

11 Critical Home Inspection Traps to be Aware of Weeks Before Listing Your Home for Sale

DE, MD, PA – According to industry experts, there are over 33 physical problems that will come under scrutiny during a home inspection when your home is for sale. A new report has been prepared which identifies the eleven most common of these problems, and what you should know about them before you list your home for sale.

Whether you own an old home or a brand new one, there are a number of things that can fall short of requirements during a home inspection. If not identified and dealt with, any of these 11 items could cost you dearly in terms of repair. That's why it's critical that you read this report before you list your home. If you wait until the building inspector flags these issues for you, you will almost certainly experience costly delays in the close of your home sale or, worse, turn prospective buyers away altogether. In most cases, you can make a reasonable pre-inspection yourself if you know what you're looking for, and knowing what you're looking for can help you prevent little problems from growing into costly and unmanageable ones.

To help homesellers deal with this issue before their homes are listed, a free report entitled "11 Things You Need to Know to Pass Your Home Inspection" has been compiled which explains the issues involved.

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