

TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

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Testimony of

Mr. Randall Truckenbrodt

before the

House Financial Services Committee

on the date of

March 25, 2009

on the subject of

**Exploring the Balance between Increased Credit
Availability and Prudent Lending Standards**

Mr. Chairman and members of the committee, I want to thank you for allowing me the chance to tell my story. My name is Randall Truckenbrodt, and I am a small businessman and member of the National Federation of Independent Business. I and my employees have felt the economic downturn, and I am doing everything I can to stay in business and keep my employees working.

While many policy leaders have talked about improving access to credit for small business, my problem, like most small businesses, has been just trying to keep doors open and my employees on the payroll. Unfortunately, my experience with Bank of America has made that prospect more difficult.

I started doing business with Bank of America about 7 years ago in Ft. Lauderdale, Florida. The relationship started with a small line of credit (\$250,000) with a company that was in need of rebuilding. After accomplishing that feat, the lending officer was impressed and wanted to do more deals. Over the years, we have done quite a few mortgages with Bank of America.

In August of 2008, I received a call from an executive at the bank's headquarters stating that I was in their workout department. The workout department of the bank is where they work on non-performing or under-performing loans. I asked why I would be in a workout department since I have never missed a payment on any loan with Bank of America or for that matter any bank in the 32 years that I have been in business. The executive stated that I was in the workout department because one of my companies, American Equipment Rental in Pompano Beach, Florida, was operating at a loss. To which I replied -- So What? I reminded him that I have never missed a payment with the bank and have no intention of stopping payment going forward.

We discussed the probability of the company making a profit going forward. I explained that forecasting a profit is difficult to predict due to the credit markets

holding up construction projects and the fact that the real estate market was overcooked for years. I further explained that we were changing some things to help the recovery process and that I have a pretty good track record of fixing our businesses when they come under outside pressures.

After several months, Bank of America advised me that it would be sending me terms for a waiver letter to be issued. I have had 25-30 waiver letters issued by banks through the years, and they have always been issued at no charge. Waiver letters protect the bank's rights while allowing a customer to work their way back into compliance.

Since late November, Bank of America has sent three proposals explaining their terms for issuing a waiver letter. In the first letter, the Bank of America executive indicated he would charge my company \$55,000 in fees and require the company to reappraise all the mortgaged properties (at an estimated cost of \$25,000). So the bank was proposing to impose all these fees on an unprofitable company that he is measuring profits against. I have never heard of anything so ridiculous. The rest of the conditions of this waiver terms included a statement that I would agree not to sue Bank of America. The natural question is why would I be asked not to sue them if they are doing things right.

We received three of these demand letters over a period of 6 weeks. Each one offered to lower the fees in order to get this waiver letter issued. The last letter indicated that it would waive all fees and costs if we would agree to change the maturity of the loan document from 2025 to April, 2009 and that I had to sign a statement that I won't sue Bank of America.

I refused to agree to their terms. One of my concerns was the difficulty in getting these small business loans placed elsewhere, and what it would cost the business. These tactics are very troubling, especially since they are directed at a small business that has always paid its debts. It bothers me that these tactics might be

directed at small business owners all over the country, some of who might not put up a fight or even understand that they can fight back.

Imagine if the large banks were doing this to a homeowner who was granted a mortgage based on a certain income level but then lost his job. Would the bank then demand additional fees even though the homeowner continued paying his mortgage from savings? Would the bank start reappraising the property and charging the homeowner the cost? In my case, it feels as though Bank of America is doing everything in its power to drive my company towards bankruptcy.

Over the past six weeks, the bank has initiated without my consent the reappraisal of our properties, and they have not communicated any information about these appraisals after numerous requests. I want to know how the bank intends to use these appraisals. In 32 years I have never had an appraisal of real estate where a request for more capital wasn't the basis (i.e. refinance). Finally, I was instructed last week that they intend to raid our accounts for the cost of the appraisals. I will fight these fees in court, if necessary, and have advised Bank of America of my intent.

Bank of America has received billions of dollars in taxpayer bailout money. It was my understanding that the money was supposed to be used to help individuals and businessmen through this rough economy. I have never asked for or expected help from the government, but I also wasn't expecting an attack on my business from a bank where all my bank loans are current. It seems to me that Bank of America is trying to pull cash out of my business to benefit theirs, and I wonder if I am the only small business they are doing this to?

Small business has led our country out of past recessions, and we stand ready to do so again. We are not responsible for the financial mess we find ourselves in, and are not asking for bailouts and handouts from the government. If we are left to our own devices, we will make it through the recession and come out stronger.