



INTERNATIONAL ACADEMY OF COLLABORATIVE PROFESSIONALS

resolving disputes respectfully

message from the presidents

Welcome to the first MCPC Newsletter. We are excited to take over the helm of MCPC. We have big shoes to fill, and thank Darcy Shoop profusely for all of the effort and hard work she contributed to get our organization off the ground. We would not be there without her and we all owe her a huge debt of gratitude.

MCPC's purpose is to help connect all of Maryland's collaborative professionals with each other. We plan to achieve our goal by improving communication among the state's various collaborative practice groups. Your receipt of this Newsletter is the first step in improving that communication, by providing all of our members with collaborative news and events from around the state. We are also revamping the MCPC website to make it more user friendly, to provide more member services and to link it with the individual practice groups. Look for the improved website in the coming year.

Finally, mark your calendar now for the Second Annual MCPC Symposium, scheduled for May 29, 2009 at the Turf Valley Resort and Country Club. The symposium committee has arranged for Sharon Ellison as the speaker. She is the author of *Taking the War Out of Our Words* and is a national speaker. She will present on non defensive communication. Look for more symposium information in the next few weeks.

We look forward to serving your needs as collaborative professionals in the coming year.

Karen Robbins

Co-President

Jolie Weinberg

Co-President

the role of the collaborative coach in divorce

By Kate Scharf

Those of us working in Collaborative Divorce are familiar with the challenge of helping colleagues and new clients to relinquish attachments to traditional approaches to divorce that are based in culturally supported but distorted ideas about the efficacy of litigation. The difficulties we face in helping others to make what we have come to call "the paradigm shift," are many and complex. As Collaborative Divorce Coaches we are working both in our individual offices and in our practice groups to develop new and better ways to explain the critical value of our particular contribution to the work. Here I offer some of my own thoughts on the subject.

The Collaborative Divorce Coach, the mental health professional on the collaborative team, has three primary roles that I term the "Client-Focused Coach," the "Process-Focused Coach" and the "Parenting Plan Coach." These distinctions are schematic; in practice the three roles are inter-related and come into play at all levels of the collaborative process. In addition, the roles of various members of the inter-disciplinary team include a measure of fluidity—a feature of Collaborative Law we treasure. I hope these ideas will feel familiar and perhaps serve as fodder for our ongoing thinking:

Client-Focused Coach

- *We offer empathy and containment for pain and loss.* Our client needs to tell us his or her story and to have it acknowledged, validated, and taken in. He or she needs to feel we "get it," that we understand what it means to walk in their shoes. While we know that the narrative inevitably contains distortions (there is certainly an other side!), we listen in a non-judgmental way.
- *We nevertheless do not support prolonged or unproductive "venting," or unbalanced disparagement of the other.* We work towards helping our client to recognize and acknowledge his or her contribution to the difficulties they face, and ideally to develop empathy for their partner. The success of the collaborative venture hinges on each party's recognition of the humanity of the other.
- *We manage expectations of the process.* While we offer support education, and even interpretations that can help our clients to develop insights that are often transformative, the breadth and depth of our work is limited. We are not therapists in this setting. Also, while the collaborative process can offer the opportunity for healing and forgiveness, it can not fully heal psychic wounds or offer retribution for pain suffered at the hands of a partner.

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2009 calendar of events

apr
2009

April 2, 2009 - 6:30 - 9:00pm
An Evening with Bernard Mayer, Ph.D.,
Hosted by: MACRO and University of Baltimore

April 17-18, 2009 - 8:30am - 4:00pm
**2-Day Multidisciplinary Interactive Training in
Family and Business Collaborative Practice**
Hosted by: Collaborative Training Solutions

April 22, 2009 - 9:00am - 12:30pm
**Let's Make a Deal! Tax and Other Financial
Issues in Separation Agreements**
Hosted by: Collaborative Training Solutions

April 23, 2009 - 9:00am
**Assembling the Interdisciplinary Team -
Child Specialist**
Hosted by: Coll. Roundtable of Baltimore

may
2009

May 8, 2009, 12:00pm - May 9, 2009, 3:30pm
**A Strengths-Based Approach to Collaborative
Clients; Working Collaboratively with
Challenging Clients**
Hosted by: Collaborative Training Solutions

May 20-22, 2009 - 8:00am - 4:00pm
Collaborative Interdisciplinary Training
Ecker Business Training Center
Hosted by: MICPEL

May 27, 2009 - 9:00am
**Assembling the Interdisciplinary Team -
Financial Specialist**
Hosted by: Coll. Roundtable of Baltimore

May 29, 2009 - 8:30am - 4:30pm
MCPC Annual Symposium
Turf Valley Resort and Conference Center
Hosted by: MCPC

jun
2009

June 3-6, 2009 - 8:00am - 6:30pm
**Mediation Theory, Process and Skills
Geared Toward Collaboratively Trained
Professionals - 30 or 40 Hour Course**
Hosted by: Collaborative Training Solutions

June 24, 2009
Team Communication: the Brief and Debrief
Hosted by: Coll. Roundtable of Baltimore

July 22, 2009
Use of a Neutral Facilitator
Hosted by: Coll. Roundtable of Baltimore

jul
2009

August 26, 2009 - 9:00am
Impasse Issues
Hosted by: Coll. Roundtable of Baltimore

aug
2009

September 23, 2009
Ending a Case
Hosted by: Coll. Roundtable of Baltimore

September 23-26, 2009 - 8:00am - 6:30pm
**Mediation Theory, Process and Skills
Geared Toward Collaboratively Trained
Professionals - 30 or 40 Hour Course**
Hosted by: Collaborative Training Solutions

sep
2009

October 28, 2009 - 9:00am
Lessons from Minneapolis
Hosted by: Coll. Roundtable of Baltimore

oct
2009

how do we advocate?

By Suzy Eckstein and Anne Marie Wall

In 2004, a journey began with the idea of forming a practice group and led to a 22 hour trip (there and back) to a Canadian Collaborative Convention. One particular session of interest was led by well known mediator, Chip Rose, wherein the question arose: Why do we need lawyers at collaborative meetings?

As our experience in the collaborative process has grown over the years, the answer is clear - attorneys play an intricate role as their client's advocate, through their own unique set of skills, and by supporting and echoing the roles of the mental health and financial professionals.

We advocate by providing our client with options for process

Black's Law Dictionary defines advocacy as the "act of pleading for or actively supporting a cause or proposal." The "cause" is the best interest of your client. Your advocacy through representation of you client's "cause" begins when you explain to the client their options for handling a particular matter. Comment 5 to Maryland Rules of Professional Responsibility states: "... [W]hen a matter is likely to involve litigation and, in the opinion of the lawyer, one or more forms of alternative dispute resolution are reasonable alternatives to litigation, the lawyer should advise the client about those reasonable alternatives." (Emphasis supplied). The collaborative process offers one such alternative.

We advocate by protecting the process

Once our clients have chosen the collaborative process, we advocate for clients by ensuring the process proceeds in the proper manner. Clients often become impatient during the beginning phase of the process- the formation of goals, questions to be answered, and information gathering. They believe they can save money by making offers and seeing if they are well-received (positioning), or by relying on agreements made prior to a full understanding of the consequences, e.g., agreeing that each party will keep their own retirement without looking at how that impacts each of their futures. We advocate by explaining to our clients that although the process initially feels slow, experience teaches us that when the goals and questions are fully explored and answered, and information is properly gathered, the options phase leads quickly to agreement. Conversely, when these essential elements are not adequately addressed, the process inevitably stalls.

We advocate by making sure our client's voice is heard

The best way to have our client's voice heard in the process is when it comes directly from the client. Clients often want to hide behind their attorneys and look to the attorney to play the traditional role of mouthpiece. Professionals can offer helpful ideas, but should strive to have clients voice their own concerns and options. Information is better received when clients speak for themselves. As advocates, however, it is important to assist clients in

advancing individual goals, questions, information and options and ensuring that our client's voice is heard. We need to recognize when clients are having difficulty expressing themselves and work with clients, along with coaches, to increase a client's ability to communicate.

We advocate by encouraging/insisting our clients provide requested information

Clients fighting the production of information effectively stalls the collaborative process. This often occurs when a client believes the information is obvious. For example, the husband believes the wife irresponsibly spent a severance pay received by the wife. The wife, who historically handled the finances in the marriage, knew that both parties overspent and needed those funds to pay off debts that had accumulated during the past two years. The husband did not understand how or why they needed the entire severance package to stay afloat. By taking the time to provide all documents of debts and compare the parties' incomes to monthly expenses, it becomes obvious why and how the money was spent, allowing the husband a comfort level to move on in the process.

We advocate by assisting our clients create the maximum number of options

When options are "vetted," clients have an opportunity to discover what may work and what cannot practically work prior to determining any agreement between the parties. For example, a spouse may insist on only paying alimony for a set time period with a declining amount each year. The other party may be incensed that is all the spouse is offering. Neither party may be aware that IRS regulations may affect deductibility. Both may find that by paying for a longer time or an increased amount the overall cash flow to the family is increased. By encouraging our clients to think of at least 2 or 3 options, we create opportunities to merge ideas and come to agreement, while maintaining readily available alternatives.

We advocate by working with the Team

The "magic" of collaborative process occurs when we create a synergy among the Team. This includes a willingness to speak up when concerns about Team interactions arise and working together to maintain a cohesive unit of professionals. In a recent case, my collaborative counsel and I found ourselves passionately stating our client's positions to each other. In doing so, we were not listening to each other, but focused solely on making sure our client's feelings were heard. On reflection, with the help of one of the mental health professionals (and a few martinis) we recognized that what was important was how we understood our own client and our client's spouse. It is only by understanding where both parties are coming from, that we can then help our client's achieve what the process is designed for- a sustainable settlement.

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We advocate by making sure the settlement makes sense for both parties

We tell our clients that the collaborative process is not about what is "fair." If we put 10 people in a room and ask them what options are fair in a particular situation we will get 10 different answers. What we strive for is a settlement both parties can live with, an agreement that takes into account each spouse's interests (as well as the interests of their children). By entering into the process, clients have in effect asked us to look out for their own interests, as well as the interest of their spouse and family. Whether or not they like their spouse or care about the spouse's interests, creating a settlement that considers both the client and spouse's interests offers greater cohesion in the agreement and provides the client with a more sustainable future.

We advocate by discussing the "law" and role it does (or does not) play in the process

Parties often want to know, and are entitled to know, the law and what may happen in a courtroom, however, we know that the law often provides only a minimum standard for what a court may do for a family. Along with collaborative counsel, I often find myself explaining to clients what the "law" provides, while warning against expected outcomes since it often depends on the judge. There are certain situations where we may definitively state the legal outcomes, i.e., a prenuptial agreement that both attorneys agree is enforceable. When clients focus on learning just what the law can offer, I encourage them to first think about their own options and then discuss and list the "law" as an option. Simply going forward on the "law" does not take into account other considerations- such as being able to sit at graduations and/or weddings together or providing support for adult children.

We advocate by making sure the settlement comports with Court requirements

The collaborative process allows parties to create unique solutions that work for their families. There are however, certain situations where we know the law has to be specifically addressed, i.e., child support guidelines. If the parties choose to go outside those guidelines, it is the attorney's unique job to determine those areas which may pose a problem for the court incorporating an agreement, and to develop ways to satisfy court requirements.

An advocate in litigation versus collaboration

As attorneys, we are taught to be zealous advocates and litigation provides a predictable forum for the would-be zealot. Litigation-based advocacy promotes form over substance, relies on strategy and tactical considerations, encourages positional thinking, allows emotions to permeate outcomes, discourages communication, and typically results in a carefully choreographed, staged production of a family in crisis.

Collaborative advocacy centers upon substance rather than form, relies on candor, promotes creative options and solutions, addresses emotions but discourages emotional outcomes, encourages communication, and typically results in carefully considered, long-term solutions designed by the family itself. Zealous advocacy permeates the collaborative process, requiring attorneys to

work through complex legal, financial and emotional situations in a productive, yet non-confrontational manner.

For the unconvinced litigator, it is helpful to review the etymology of advocacy itself. The word stems from the Latin for 'to summon,' ad + vocare, where voc provides the root meaning "voice." Collaborative advocates provide a forum for clients to summon their own voice. The attorney's role in collaborative law is, most simply put, to create a vessel for encouraging communication. Although such a role flies in the face of typical litigation practice where we all but order clients not to speak, collaborative advocacy helps break down emotional barriers, affords each client an opportunity to be heard without the fear of their own words being held against them in court, and invites the advice, ideas and assistance of other appropriate and critical professionals. Litigation, infiltrated by attempts not to disclose, centered on a singular option, and resulting in merely what the law will permit, prompts more litigation with parties continually seeking to modify judicial orders that do not meet their own needs. Collaborative advocacy, with full disclosure and as many options as the clients and professionals can develop, offers a roadmap for the future that is designed and customized to meet the needs of the family.

As advocates, we often serve our clients needs for a day, but as collaborative advocates, we have an opportunity to serve our clients needs to create a better future.

SAVE THE DATE!

**MCPC
ANNUAL
SYMPOSIUM**

**MAY 29, 2009
8:30 AM - 4:30 PM**

**TURF VALLEY RESORT
AND CONFERENCE CENTER
ELLCOTT CITY, MARYLAND**

EARLY BIRD RATES
\$100.00 MCPC MEMBERS
\$175.00 NON-MEMBERS

AFTER MAY 1ST
\$125/\$200

STAY TUNED FOR MORE INFORMATION

Anne Arundel Collaborative Professionals, Inc.

Anne Arundel Collaborative Professionals, Inc. was officially formed in January, 2009 as a 501(c)(3) nonprofit. It currently has 18 members and meets for lunch at noon on the second Monday of each month at Pesce Grande in Parole. The website is a work in progress, but it will be located at www.anne-arundel-collaborative.com. The officers for 2009 are as follows: President, Nancy Weller, Vice-President, Timothy Mummert, Treasurer, David Simison, and Secretary, Jackie Sincore Guild. For more information about the group, contact Nancy Weller at nlw@nancyweller.com.

Association of Collaborative Professionals

The Association of Collaborative Professionals ("ACP") meets on the second Tuesday of each month in Frederick at 214 West Patrick Street, at 8:30 a.m. ACP is open to all collaboratively trained professionals practicing in Frederick, Washington and neighboring counties. Coffee and refreshments are always available for our early morning gatherings. They are currently in the process of planning an evening event to include networking, information and great food! More details will be provided as the planning progresses.

ACP has been meeting monthly for the past year to provide educational and networking opportunities for Collaborative professionals. Monthly presentations on various aspects of Collaborative Process have included: one coach vs. two coach models, the impact of bankruptcy on divorce, an update on recent changes in the mortgage industry and a comparison of coaching to therapy. ACP co-hosted a panel discussion in November with the Frederick County Bar's Family Law Section on the issues of dealing with real property in the current economic climate.

ACP's organizational structure is a nonprofit 501(c)(3) corporation. They are in the process of developing a website to give its members greater opportunities to network and reach out to the public. Many members are available to speak to organizations or groups to increase awareness of the benefits of the Collaborative Process. Some members are active in other area Collaborative Practice groups, such as the Maryland Collaborative Professionals Council ("MCPC") and the International Association of Collaborative Professionals ("IACP").

Carroll County Collaborative Practice Group

Carroll County Collaborative Practice Group ("CCCPG") is excited to say that 2009 has gotten off to a wonderful start. Meetings are the first Thursday of each month, offering both education and social opportunities. Their year started with a presentation by newly trained Collaborative Appraiser, Robert Cushner, on the state of the market and the effects on Collaborative cases. The March meeting presentation, "Beginning the Case-The Initial Intake" will be a role play helping CCCPG's members through the process. The majority of members have Collaborative case experience, as this new opportunity spreads through Maryland. The 2008 year provided a variety of advertising, including an ad in a local eatery, two advertisements in the Carroll County Times and self-promoted

brochures placed through-out the county. The 2009 year focuses on additional advertising, focusing on informing and promoting interest from the community, local professionals, and the local bar. Additionally, CCCPG hosts happy hours every other month, starting in January at the Green Turtle in Westminster and working throughout the county. They plan to continue hosting educational, training and social events throughout the year. For more information on meeting locations and social events, visit www.carrollcollaborativelaw.com or contact Diana Denrich, CCCPG President, at (410) 517-3840.

Collaborative Dispute Resolution Professionals, Inc.

CDRP is a multidisciplinary collaborative practice group in Montgomery County, composed of attorneys, mental health, financial and associated professionals who are all devoted to excellence in the provision of collaborative dispute resolution. CDRPs members practice both in family law and in general civil law areas. CDRP meets monthly, on the fourth Monday of the month at 6:00pm at the Legacy Hotel in Rockville, from September through April. The May meeting is the third Monday evening of the month, and is the annual meeting. Every meeting of CDRP includes a social/networking component as well as a continuing educational piece designed to advance the practitioners's level of collaborative practice. For more information concerning membership, contact Vicki Viramontes-LaFree at (301) 656-8850 and for more information concerning meetings, contact Steve Weisbaum at (301) 279-0977.

Collaborative Divorce Association, Inc

Collaborative Divorce Association, Inc ("CDA") in Montgomery County, Maryland has more than 40 interdisciplinary professionals who have years of experience seeing the impact that litigation has on families who are dealing with divorce. That is the reason that CDA views collaborative practice as a viable and often preferable alternative to litigation. In its monthly meetings CDA focuses on providing substantive information and creative ideas to deal with difficult client issues. They encourage use of the team approach and believe it provides the support and resources that often serves clients best. A goal of CDA is to discuss ways that would help members strengthen and grow their collaborative practices. Each meeting, a group of members develops a monthly topic for discussion. One recent topic was a comparison of the financial cost of the collaborative process vs. the more traditional process of litigating or negotiating settlements in the divorce process. This comparison was based on research done by IACP as well as statistics taken from the experiences of CDA members.

In March, CDA sponsored an Institute focusing on choosing the best approach to meet client needs in the collaborative process. The conference was led by Pauline Tesler and Peggy Thompson, national leaders in the collaborative field. CDA hopes to sponsor an Institute on a yearly basis and looks forward to collaborating with the tri-state practice groups to educate both the public and professionals about the collaborative process.

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Members of CDA are working with other collaborative professionals, not only as members of a collaborative team but also to develop consistent protocols and participation agreements to standardize the approaches taken. They are also participating in a Tri-state Summit group to provide practice group information to the various practice groups and to coordinate approaches and methods of educating the public about collaborative divorce.

CDA looks forward to the continuing growth and strength of Collaborative Divorce as a means of helping people divorce with integrity and a positive outcome for all. Please contact Karen P. Freed, LCSW-C, BCD or Stacy Talbott, Esq., Co-Presidents, for more information.

Collaborative Professionals of Southern Maryland, Inc.

CPSM held its annual membership meeting on February 24th and rolled out an exciting new practice group website design (www.fairdivorcemaryland.com) created by member Brian Sullivan with some assistance by other members as well as an innovative community outreach collaborative practice PowerPoint presentation. The meeting was held at the Prince George's County Circuit Court with over 20 people in attendance including some recently trained professionals and two members of the bench.

The meeting primarily concentrated on new marketing concepts, business development and the great strides the group has taken over the past two years of existence in bringing value to the membership.

The group has also developed a member based speaker's bureau that will utilize the PowerPoint presentation created by George Collis to address target organizations and businesses developed through member leads, which have included faith based groups, civic organizations, HR executives and other entities. Successful presentations have already taken place and more are scheduled in the next few months. It is anticipated that all the members will all be sharing the responsibility of making the presentations utilizing members representing each profession. It will also be an excellent opportunity for individual direct marketing.

CPSM meets on a monthly or bi-monthly basis at a convenient location because of the large demographic. There are a number of Montgomery County and DC professionals interested in joining because of the volume of work being conducted in the various represented counties.

The next meeting will be on April 28, 2009 (regular date is the 4th Tuesday of every month) at the Prince George's County Circuit Court in Family Services Training Room M-0421. For more information contact President Ron Bergman at rbb@houlonberman.com or (301) 459-8200.

Collaborative Resource Center of Maryland

The Collaborative Resource Center of Maryland was founded by Ali Dansker Doyle and Mary McNeish Stengel as the community outreach and educational arm of Collaborative Training Solutions, LLC. The mission of The Collaborative Resource Center of Maryland is to provide information to the legal, mental health, and financial community on issues related to Collaborative practice. The CRCM

office is in Towson at 305 West Chesapeake Avenue, Suite L-80. Professionals interested in pursuing information about Collaborative practice can stop by the office and speak with interdisciplinary Collaborative professionals, and access books, CDs, DVDs, and training information. Experienced Collaborative practitioners interested in discussing practice issues and perfecting their skills through role-plays and video taping can join the Collaborative Roundtable at Baltimore (CRAB). Office and conference room space are available for Collaborative professionals to use on an hourly or daily basis for a nominal fee.

Collaborative Roundtable at Baltimore

The Collaborative Roundtable at Baltimore (CRAB) is operated through the Collaborative Resource Center of Maryland (CRCM). CRAB meets at the office of Collaborative Training Solutions on the fourth Wednesday of each month at 9:00 a.m. In keeping with the mission of the Collaborative Resource Center of Maryland, CRAB will be a practice group in its purest form. There will be no board of directors and no dues. The only requirements are that participants are members of the International Association of Collaborative Professionals (IACP), they maintain and increase their knowledge and competence in their practice area, and that they are committed to and endorse the interdisciplinary model. A nominal donation of \$3.00 to go toward food for meetings is requested but not required.

Eastern Shore Collaborative Professionals

Susan J. Land, Barbara Trader and Dianne Beauchamp are all Collaboratively trained attorneys from the Eastern Shore of Maryland. They are eagerly awaiting other attorneys and Collaborative Professionals to join their ranks and start the Collaborative Process on Maryland's Eastern Shore!

Howard County Collaborative Professionals, Inc.

Howard County Collaborative Professionals ("HCCP") was incorporated April 17, 2007 as a 501(c)(3) non-profit corporation. Its website is www.hccpagree.com. This local group of professionals has grown to over 60 professionals including attorneys, mental health professionals, financial specialists, mortgage brokers and investment professionals. They meet every third Tuesday of the month alternating between 8:00 a.m. meetings at the Java Grande Coffee Cafe in Ellicott City, Maryland and noon lunch meetings at the Coho Grill at Hobbit's Glen Golf Course in Columbia, Maryland. Many of the members have taken the Advanced Interdisciplinary training and moved to a higher level of practice. The current officers of HCCP and Board members include Meg Oliver, President; Betsy Case, Vice-President; Ceecee Paizs, Secretary; Jac Knust, Treasurer; Jolie Weinberg, Immediate Past President; and Ann Balcerzak, Ali Doyle, Cindy Lifson, John Lefkowitz, John Faggio, and Mimi Stansbury as Board members. The committee structure of HCCP includes: 1) standards of practice/ethics, which addresses issues concerning forms, documents, best practices, and case facilitation resources; 2) membership, which addresses issues concerning standards for membership, benefits, attracting new members, retaining members, and social events; 3) education, which plans

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- *We educate clients about the psychological experience of divorce. We help them to anticipate that their marital dynamics will be replicated and alive in the collaborative process, and that both they and their partner will behave in familiar ways that are likely to be amplified under the current conditions of stress. "Collaborative" does not mean "easy," or "nice." Collaborative sessions are often painful and difficult.*
- *We can help clients to identify "hot spots," areas of particular psychological vulnerability that may cause them to become emotionally flooded and may impede progress. We can help our clients to strategize ways of managing strong feelings (both in themselves and in their partner) when they arise.*
- *We can teach our clients effective, non-attacking, non-defensive modes of communication.*
- *We can help our clients to identify priorities and particular areas of concern. What is most important to them? What are their greatest fears?*

Process-Focused Coach

- We can help attorneys to understand their clients' emotional "hot spots," fears, and concerns.
- We can help attorneys to understand when marital dynamics are re-played in the collaborative process in such a way that they create impasse or cause stalling or positional behavior on the part of a client or member of the team.
- When we are included in meetings with attorneys we can make real time interventions to identify unconscious or un-named psychological blocks to the process.
- Our ability to closely track process (both on and below the surface of the dialogue) allows us to facilitate focused and efficient pacing of meetings.

Parenting Plan Coach

- We can work with clients independently from the entire team, thus saving time and money.
- We offer extensive expertise in child development and the psychological aspects of divorce on family members.
- Our experience in developing parenting plans allows us to facilitate option development, anticipate potential difficulties, help couples to imagine both the near and far futures, and normalize parents' intense emotions so that they can remain able to think creatively in considering new and evolving options.

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MCPC executive committee

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the new reality of mortgage financing

By Margie Hofberg, President, Residential Mortgage Center Inc.

Happy New Year to all. I couldn't be happier, because 2008 was terrible. But as I always say, focus on the positives. Here's a positive – my vocabulary of financial terms doubled in 2008. Yours probably did too. Repeat after me: Bailout, TARP, declining markets, short sales, Fannie, Freddie, blah, blah. Okay, enough about things that are way beyond our control. Thinking about them makes me lose my positive focus. So forget the big picture. It's all in the details anyways. Of course by "details" I refer to the guidelines, which are the rules of eligibility and underwriting which govern mortgage origination. In their ongoing efforts to reduce risk, or more accurately to do a better job of pricing risk, Fannie, Freddie and the mega-banks continue to add new guidelines and make substantial changes to existing ones at a very fast pace. It is on the effects of these changes that I wish to focus your attention. Here is my "new reality" in three parts. More restrictive rules, which can and do change as often as weekly, and which have a tendency to cause problems for even the most qualified borrowers. Other

than that, mortgage origination is a breeze!

Not surprisingly, the first and most serious effect is that the guidelines are becoming more and more restrictive. Every change pushes a group of potential borrowers out of the market, or even if not pushed completely out, many borrowers will be limited to higher priced products with very little flexibility. The second effect is purely a result of the frequency of the changes – the deal you could do yesterday you may not be able to do today. For both of these I have but one suggestion. Meet with me early, and meet with me often. I will gladly spend whatever extra time is necessary with your clients. An early discussion will help to avoid "dead-ends" where the parties are ready and willing but that mortgage product is simply not available. And if I can revisit the matter fairly often, I will have a better chance at warning you about recent or even upcoming changes. So much for taking any time off, but after 2008 that is fine with me.

The third type of effect is a little less intuitive, and usually not

mcpc mission statement

The Maryland Collaborative Practice Council ("MCPC") brings together attorneys, mental health professionals and financial specialists from around the State of Maryland to promote Collaborative Practice as the preferred dispute resolution mechanism in domestic and other matters.

To become a member of MCPC one must be trained in Collaborative Practice, be in good standing with a relevant licensure organization and pay nominal annual dues. Members of MCPC are encouraged to participate in committees established to reach our goals.

The mission and goals of MCPC are to:

- **Provide statewide support of Collaborative Practice;**
- **Create a state-wide educational effort directed toward professionals and the public;**
- **Facilitate collaborative training statewide;**
- **Interface with the judiciary; and**
- **Develop statutes and/or rules concerning Collaborative Practice.**

solved by effort alone. These are what I call the “unintended consequences” of the new reality, and I can personally attest to the frustration they can cause. They are difficult to foresee, and often seem totally irrational. The best way for me to help you deal with them is for me to point them out, as if they were land mines. Which they are.

Home Values and Appraisals: Most of the neighborhoods in the metro area are considered “declining” markets in appraisal language. It only takes one or two short sales or foreclosures to depress appraised values substantially. The appraisers know they have to be conservative, and if sales are declining, they have to apply a downward adjustment unless they can cite data that suggests otherwise. So, no matter how conservative your estimate may be, it is probably still too high.

Condominium Units: If the property is a condominium, there is some good news – value may be the least of your concerns. Fannie and Freddie are on the lookout for condo projects that don't meet their standards, and some very nice units in this area have been declared ineligible for agency financing for one reason or another. For new or newly converted projects, watch out for these danger signs: unfinished common areas, a developer still in control of the association, or a significant number of unsold or investor-owned units.

Secondary Financing: Valuation problems are magnified whenever secondary financing such as a home equity line is in place on the property. To keep a second mortgage in place while refinancing the first mortgage requires the holder of the second to agree to a subordination, but getting one is now a nightmare. They used to be almost automatic; now our requests are often simply refused. Of the rest, many will not meet the bank's new rules for subordinations (which are revealed for the first time to the customer in the denial letter) and must be withdrawn. I think it is safe for you to assume that for the foreseeable future any secondary financing will have to be paid off and released in order to refinance the first mortgage.

Stricter Underwriting of Income and Assets: The problem is not so much the across-the-board increase in qualification standards, because the trend is common knowledge and so expectations are more realistic. The problem is that there is no leeway for borrowers that are just outside of the box. The rules on the use of child support and alimony as qualified income are a perfect example. To use support payments in qualifying a borrower, I need proof it will continue for a minimum of 3 years, and proof that the borrower has actually received it for at least the past 6 months. So how frustrating was it to one of our recent borrowers, who had been receiving “handshake” estimated payments for the 6 months prior to the final agreement, to then find out that those 6 months did not count because no agreement or order was in place, and since the agreed duration was only 3 years, waiting 6 more months to refinance the house would leave only 30 more payments. Very frustrating.

Determining qualified income from self-employment is an entire article by itself. For now, just remember that the underwriting definition of “self-employed” is much broader than it would be for tax purposes. There is a 25% ownership rule, but for practical purposes a borrower is self-employed if she can directly or indirectly (through family or commonly controlled entities) control the amount of her

income. And don't even think about buying a new home while keeping your current home and converting it into a rental property. You better be able to carry them both.

Many borrowers list retirement accounts on their applications as liquid assets. This was good for establishing that they had adequate reserves, and we used to need only their most recent statement. Now we have to prove that the borrower has access to the funds under the terms of the plan or custodial agreement, and any assets that are not cash or cash-equivalent must be marked to market.

Pricing is Complicated: And really, it is not our fault. The culprit is the “Price Adjustment Factor,” the single biggest headache for mortgage professionals today. PAF are not new; they have been around as long as the secondary market, but now there are literally dozens that could affect each application. Here are just a few examples (the numbers are hypothetical and for illustration purposes only). Above 75% LTV add 1% to the points, below 720 FICO add 0.50%, if cash-out then add another 0.50%, for a really low LTV of 60% or below subtract 0.25%, but not if FICO is below 740. And those are just the common. Not only is it hard to calculate an accurate price to start with, if the borrower so much as hiccups at least one PAF will change, which means that the price will change, often substantially. I have always been proud of my company's long-standing reputation for fair pricing. But even my most loyal customers raise an eyebrow when I tell them “the appraisal came in \$10,000 lower than expected, so instead of a 0.5% origination fee for a 4.875% fixed rate loan as I originally quoted, the origination fee is now a full 1%.” It is either that or I do the loan for almost nothing. Which I have done on occasion for certain long-time clients, but that is clearly not the preferred solution.

Regarding the future, I can be certain of only one thing. Next month will be different than this month. So I can't emphasize to you enough to consult with me sooner rather than later – or as someone once famously said: “Help me to help you.”

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programming for members' meetings, the dates, times and sites of the members' meetings in addition to trainings, a speaker's bureau and mentoring for new members; 4) communications, which deals with public relations and promotion of Collaborative practice, dealing with the media, the website and brochures; 5) community liaison and outreach which works to maintain contact with court/judicial members, bar association, mental health organizations, schools and clergy; and 6) financial and data collection addresses issues regarding the budget, raising money for the promotion of Collaborative practice, reporting and data collection regarding collaborative cases within HCCP.

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- Our therapeutic backgrounds allow us to help couples grapple with the challenges presented when they are at different levels of acceptance of/feeling about the divorce, and gives us the necessary tools to help parents craft a shared narrative for their children (as well as for extended family and friends).

MCPC

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