Letter from the Sandlers to The Times (April 22, 2009)

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Golden West Financial Corporation and World Savings Bank

HERBERT M. SANDLER & MARION O. SANDLER

April 22, 2009

Mr. Bill Keller
Executive Editor
The New York Times
620 Eighth Avenue
New York, NY 10018

Dear Mr. Keller:

In our recent conversation, we mentioned that another letter concerning the December 25th *New York Times* article would be forthcoming. Thank you for your time and consideration.

You may wonder why we haven't just ignored the story and moved on. Here are some reasons why:

- Our entire business careers and personal lives have been based on ethics, integrity, discipline and fair dealing. For us and our children, our reputation and the way in which we conduct our lives have always been of supreme importance.

- World Savings had a well-deserved and unquestioned reputation, earned over 43 years, for integrity and for being the best run, most risk-averse and best performing publicly traded thrift.

- Former World Savings employees remain extremely proud of the company they worked for and have been hurt by recent mischaracterizations about the company. Although it used to be an enormous plus to include World Savings on their resumes, the inclusion today carries an undeserved taint.

- Because the article appeared in *The New York Times*, the errors in the story have been perpetuated by others. For example, errors made by *Time Magazine* in their February 2009 feature – "25 People to Blame for the Financial Crisis" – were lifted from your article. This has been true of other articles and the blogosphere, especially the right wing blogosphere that has cited the article to attack our "liberal" philanthropy and some organizations we have supported, including the Center for Responsible Lending and Pro Publica. *The New York Times* article also influenced *60 Minutes* to continue pursuing its flawed story.

Your natural tendency must be to defend your reporters, editors and the newsroom. As former CEOs, we totally understand. It was always our policy to fight vigorously for the company and its employees when we were falsely accused of wrongdoing. However, if we were in the wrong, which we were from time to time, as any company is, we insisted that we own up to the mistake, apologize and make it right.

We are writing to you with that spirit in mind.

Although we understand that your instinct must be to maintain the *status quo*, when the damage is so great, and knowing, as you must, that the article was not up to your personal standards or those of *The New York Times*, there is a higher moral imperative to make things right.

Please work with us to find a solution to the great harm this article has caused.

<u>The Story is Deeply Flawed, Inaccurate and Misleading</u>

When we were first contacted by the reporter, he stated that he had read about World Savings' superb long-term reputation, which seemed inconsistent with recent criticism. Over several conversations, the reporter made clear that his objective was to write a story that would be fair and balanced, not one with a sharply negative slant. At no time did the reporter reveal that the story was going to be part of a series, *The Reckoning*, about those who contributed to the financial crisis. Only after publication did we learn that we had been set up to be members of a despised rogue's gallery.

We do not know all the circumstances that led to the article being written in the way that it was. But, in trying to understand how this could have happened, it seems plausible that the reporter had every incentive to write a negative story, irrespective of contrary facts, in order to be included in the series, and that a looming deadline for the story forced the reporter and editors to quickly assemble what they had.

The result was a very negative story that was inaccurate, misleading, disorganized, contrived and damaging. The story is frontloaded with negative comments and innuendo. Information we supplied which did not fit the reporter's predetermined narrative was rejected or buried. And various assertions in the article were false, unsupported, distorted or taken out of context.

Let us provide some examples of these flaws.

<u>(1) The Story is Frontloaded with Negative Comments and Innuendos.</u>

The story was frontloaded with negative information. Obviously being cast as "pariahs" in the original headline was totally inappropriate and inaccurate. The corrected headline still leaves a clear impression that we are no longer trustworthy.

(a) The article starts with material obtained through trickery regarding a 15 second excerpt from a DVD. The first four paragraphs of the story, which lead into the article, rely on Herb's reaction to a 15 second excerpt of a DVD that was shown to him in the first few minutes of the in-person interview.

> *Herbert Sandler, the founder of the Center for Responsible Lending, is standing in his bayfront office watching a DVD that trains brokers to pitch mortgages by extolling the glories of the real estate boom.*
>
> *The video reeks of hucksterism, and it infuriates Mr. Sandler.*
>
> *"I would not have approved that!" he declares. "I don't think we should be selling our loans based on home prices continuing to go up."*
>
> *But the DVD was produced in 2005 by a mortgage lender that Mr. Sandler and his wife, Marion, ran at the time: World Savings Bank. And the video was part of a broad and aggressive effort by their company to market risky loans at the height of the housing bubble.*

When Herb asked to view more of the video, or better still, to borrow the entire "training video," the reporter demurred and stated there was nothing else that was relevant on the video. This should have aroused our suspicions and, admittedly, we were naïve in not insisting on viewing the balance of the video, which provided a far different picture than was presented in the story. We were not even allowed to view the 75 second excerpt that now appears on *The New York Times* website, which leaves the viewer with a different impression than the 15 second clip we were shown. The reporter obtained Herb's reaction through dissemblance and included it at the beginning of the story which introduced a false charge, carried throughout the article, that the company had started to aggressively market risky loans.

As our head of compliance, David Madsen, wrote to you on January 10, training videos were subject to close scrutiny by compliance personnel and attorneys. He also wrote:

> "Training techniques employed in training videos often involved comparing 'wrong' and 'right' approaches to discussing ARM products with customers, or critiques of particular presentations or 'roll plays.' [*sic*] Therefore, excerpts from specific videos taken out of context may lead viewers to incorrect conclusions about what was being taught. To properly reflect the compliance training material contained in mortgage loan training videos, they must be viewed in their entirety."

In short, *The New York Times* took a small snippet of a video completely out of context and disregarded the thrust of the entire tape, which was to ensure that information would be presented accurately and fairly to borrowers. When viewed in totality, the video would not "*reek of hucksterism*." This is a form of "gotcha" journalism one comes to expect from disreputable news programs, not *The New York Times.*

(b) **References to a Saturday Night Live (SNL) parody, which was completely in error and was removed from the SNL website, was used to continue the negative frame of the article.** Shortly after the DVD paragraph, the article introduces a discredited Saturday Night Live parody to continue the negative frame:

> *Once invited by Congress to testify about good lending practices, the Sandlers were recently parodied on "Saturday Night Live" as greedy bankers who handily sold their bank – and pocketed $2.3 billion in shares and cash – in 2006 before many of their loans began to sour.*

Why does the reporter introduce the SNL skit at the beginning of the article and then wait more than 50 paragraphs, near the end, to note that SNL apologized for the skit and removed the parody from the website?

> *After the Saturday Night Live skit, Paul Steiger, a former executive editor of the Wall Street Journal and editor-in-chief for ProPublica was among those who wrote to the shows' producer Lorne Michaels saying the Sandlers had been unfairly vilified. Mr. Michaels apologized for the skit (which suggested that the Sandlers "should be shot") and removed it from NBC's website.*

And why is the SNL skit included at all, particularly, in view of the following facts known to the reporter:

- The allegations about us in the sketch were factually untrue – e.g. we did not engage in subprime lending, we did not bundle and sell loans to Wall Street, we did not urge Congressman Frank to block oversight of our corrupt activities (in fact, throughout our history, we consistently advocated for sound public policies and urged greater regulatory oversight of abusive or corrupt activities in the financial industry).

- Mr. Lorne Michaels, the executive producer of SNL, had apologized to us immediately after learning we were real people and, in an interview with the LA Times, said that there was "absolutely no evidence" that we engaged in any wrongful behavior. He continued: "I, in a state of complete ignorance, thought they were characters in a piece [not real people] … first of all, I pleaded incompetence, which is not a thing I do often, and the fact that I did not know they were real is 100% my responsibility."

- SNL then proceeded to eliminate all references to us in the sketch from their website and their archives, an action we understand was unprecedented in SNL's 35 plus year history.

Even in reporting on the SNL apology, the story distorts the truth. In fact, Michaels had apologized well before receiving letters from Paul Steiger and others. The reporter knew this, but even during the interview with Herb it was clear that he was excited by the reference to Steiger, probably because of his prominence, and intended to use the incident, even though Steiger's letter had no bearing on the apology given. The reference to Steiger was gratuitous and irrelevant.

Notwithstanding the errors in the SNL sketch, the reporter deliberately referenced the skit at the beginning of the article and selectively used a malicious reference to us as "greedy bankers" who pocketed billions, suggesting we had significantly changed our financial standing by selling the company. The facts, which were known to the reporter, are that:

- Prior to the acquisition by Wachovia, our personal stock holdings were already worth close to $2 billion; we were already extremely wealthy beyond our wildest dreams and had been for years.

- The premium paid by Wachovia was 15%, or $300 million.

- <u>Before</u> the Wachovia transaction was approved, we had transferred approximately $1.3 billion to our philanthropic foundation with a commitment to transfer the balance of our personal assets to the foundation either during our lifetime or upon our death. Therefore, what possible incentive was there for us to change our life-long core principles of honesty, integrity, fair-dealing and concern for the least fortunate among us? The reporter knew all about our $1.3 billion donation, since he asked numerous questions about the details of that gift and our decision to give the balance of our remaining net worth to philanthropy.

<u>(2) Facts That Did Not Fit the Article's Predetermined Negative Narrative Were Ignored or Buried.</u>

Despite a series of telephone interviews and a long personal interview, most of the factual information we provided was ignored, distorted or buried in the story.

(a) World Savings was a <u>portfolio lender</u>; we kept our loans on our books. **This fact is absolutely fundamental to understanding the company's loan operation. It was aggressive mortgage bankers, not World Savings, who engaged in high-volume, risky behavior.** Our business model as a portfolio lender required minimizing nonperforming loans to keep costs and losses as low as possible. Failed loans would be a direct hit to the bank's bottom line, so we had every incentive for borrowers to perform on their loans. We used traditional, conservative underwriting and appraisal practices throughout our history to assess the quality of loans.

One of the most disturbing items from the point of view of journalistic integrity is that this fundamental fact about our portfolio lending model appeared in only two sentences buried halfway through the article, after the negative and distorted discussions about training videos, greedy bankers on SNL, lawsuits, exotic mortgages, etc….

> *The Sandlers also held onto World Savings' loans rather than selling them off to Wall Street to be repackaged as securities. They say this made them more alert to risky borrowers than were lenders who sold off their loans.*

To understand what led up to the recent housing/financial debacle, it is critical to know the difference between portfolio lenders like World and others, such as mortgage bankers, who exploited the system with little or no regard for the outcomes. Portfolio lenders focused on quality and fair dealing, since they absorbed losses on mortgages they underwrote. Portfolio lenders also were required to hold capital on their books to support their loan portfolio; this capital acted as a constraint on rapid loan growth. Mortgage bankers, by contrast, transferred the credit risk to investors, were not concerned about loan quality, were not constrained by capital requirements, and they looked for shortcuts to generate greater volumes of loans. For example, the largest mortgage bankers watered down or eliminated traditional underwriting and appraisal standards, relying on automated and expedited procedures (e.g. FICO credit scores and automated valuation models).

These new entrants to ARM lending, and the securitization market that facilitated the volume, were largely responsible for the housing debacle. These are the players which started to originate a new and bastardized version of the Option ARM in 2003, changing the very structural safeguards employed by portfolio lenders. These are the entities that utilized historically low start rates, much lower than World and other traditional portfolio lenders. These are the players who engaged in "*broad and aggressive efforts*" to market risky loans and whose business models required them to "*reel in borrowers*." Not World Savings.

World Savings was always a small player in a huge market and never accounted for more than 1% to 1.75% of total U.S. mortgage originations. By contrast, the nation's two largest mortgage bankers started at less than 1% of U.S. mortgage originations, but grew to 16% and 10%, respectively, in the 2000s, as reflected on Exhibit A. The article makes no mention of mortgage bankers, the real culprits of the housing crisis, instead focusing on World Savings – a small participant by comparison.

(b) The article disregards the distinction between the World Savings portfolio Option ARM and the mortgage banker Option ARM, even though the differences are critical and were discussed in great detail with the reporter. As a result, the article repeatedly and erroneously ties World Savings to risky practices used by mortgage bankers.

> *At the center of the controversy is an exotic but popular mortgage the Sandlers pioneered that helped generate billions of dollars of revenue at their bank. Known as an Option ARM – and named "Pick-A-Pay" by World Savings – it is now seen by an array of housing analysts and regulators as the Typhoid Mary of the mortgage industry.*
>
> *Pick-A-Pay allowed homeowners to make monthly mortgage payments that were so small they did not cover their interest charges. That meant the total principal owed would actually grow over time, not shrink as is normally the case.*
>
> *Now held by an estimated two million homeowners, the option adjustable rate mortgage will be at the forefront of a further wave of homeowner distress that could greatly delay or even derail an economic recovery, mortgage industry analysts say.*

The first sentence of the above quote asserts that we pioneered an "*exotic*" mortgage that is seen as "*the Typhoid Mary of the Mortgage Industry*." In fact, the loan structure had been utilized safely by many of the best portfolio residential lenders in the country for 25 years. The mortgage was, in fact, "*pioneered*" by lenders in Europe, where it had been used for decades before it was adopted in the U.S. in 1981, over a quarter of a century ago.

Until very recently, for reasons which will be explained shortly and which were known to the reporter, the experience with that loan was superb. The loan was favorable for borrowers because it provided enormous flexibility and limited the possibility of payment shock. Additionally, in almost all cases, borrowers paid less interest than they would have if they had held a conventional 30-year fixed mortgage. And most important, during that quarter century, the quality of the World loan portfolio was impeccable. By that we mean, **we had the lowest delinquencies, the lowest foreclosures, and the lowest chargeoff ratios (losses divided by outstanding loans) both on a year-to-year and on a cumulative basis, of any major financial lender in the country, including those residential lenders that only originated 30-year fixed-rate loans**. See <u>Exhibit B</u> for our record low chargeoff ratios, including ratios of <u>zero</u> in our final eight years as an independent company (1998-2005).

The World Savings portfolio Option ARM was designed to minimize the possibility that the loan's monthly payment would significantly increase after a few years, causing payment shock to the borrower. It was carefully underwritten (e.g. the borrower's ability to make payments was carefully assessed – the borrower had to qualify for the loan at the fully amortizing rate) and the real estate was conservatively appraised. It should be reiterated that World Savings and the many other lenders who had been originating the loan since 1981 were portfolio lenders. We retained the loans and thus we retained all the risk. Thus, the ability of the borrower to perform under the loan was critically important.

As the reporter knew, in the early 2000's, circa 2003, a new group of ARM lenders with a very different business model began originating adjustable rate loans for the first time. These mortgage bankers were focused on originating large volumes of ARM loans which they would immediately bundle and sell to investors in the secondary market using very complex securitization structures, sometimes with 15 tranches or more. The vast percentage of the devastation visited on borrowers, the housing industry and the economy emanated from this group of lenders, aided and abetted by loan brokers, the rating agencies and investment bankers. Since portfolio lenders retained their loans, it is a gross distortion to accuse them and World of derailing an economic recovery.

These rogue mortgage bankers originated a bastardized variety of adjustable rate loans. By far, the most toxic form of the adjustable rate loans, and one that is frequently confused with the Option ARM by unsophisticated observers and commentators, is the so-called 2/28 loan that was made primarily by institutions (many of them not regulated) in the subprime industry. In the 2/28 structure, the borrower enjoys a relatively reasonable level of interest rates for the first two years, but at the end of that period, the interest rate adjusts immediately to a <u>much higher</u> level. Most borrowers who have these loans will be unable to meet the new payment rate and will go into foreclosure unless there is some specific government or industry program to assist them. The devastation of these 2/28 loans has been enormous, including for some of the nation's most vulnerable borrowers.

Mortgage bankers who were focused on the *prime* market created their own version of the Option ARM which, to those unfamiliar with the lending details and practices, would appear on a superficial level to be the same as that originated by portfolio lenders like World Savings. In fact, and the reporter was so advised, the **mortgage bankers deliberately <u>changed</u> the structure of the original portfolio Option ARM in order to generate and bundle large volumes of Option ARMs for sale into the secondary market. In so doing, they significantly increased the risk of an early recast that would cause a material payment shock to borrowers**. As shown on <u>Exhibit C,</u> mortgage bankers made the following key changes to the product structure:

- Mortgage bankers shortened the triggers that would cause the loan to recast, somewhat akin to the 2/28 loans described above.

- Mortgage bankers reduced the starting rate used to calculate the borrower's minimum payment. And they would often qualify borrowers based only on that low starting rate, rather than their ability to make payments based on the fully amortizing interest rate.

- Mortgage bankers made loans with high loan-to-value ratios of as much as 100%.

- Mortgage bankers reduced underwriting standards, with the principal criterion being whether a loan could be pooled and sold to investors.

The different structures of the Option ARM have significant implications, including the number of loans that are likely to reamortize and cause payment shock to borrowers. Throughout World's history, only a nominal number of our portfolio Option ARMs ever resulted in a payment increase of more than 7.5% to borrowers, and we expect that record to continue for the foreseeable future. While it may be true that mortgage banker Option ARMs "*will be at the forefront of a further wave of homeowner distress that could greatly delay or even derail an economic recovery*," it is **not true** for the World Savings Option ARM.

The article makes this same mistake later on with a reference to Fitch Ratings.

> *Over all, analysts expect the option ARM fallout to be brutal. Fitch Ratings, a leading credit rating agency, recently reported that payments on nearly half of the $200 billion worth of option ARMs it tracks will jump 63 percent in the next two years – causing mortgage delinquencies to rise sharply.*

The loans where payments will jump significantly, and which are reflected in Fitch's numbers, are those which were bundled into complex securities by mortgage bankers. Since World's loans are **not** included in the Fitch pool, or any pool for that matter, it is intellectually dishonest to include the negative Fitch information about **non-World** loans in a story purportedly about World Savings and its loans.

Whether intentional or by ignorance, the same mistake is made again in a side bar to the online edition, under the heading "Option ARMs" accompanied by a graph which lists by year new Option ARMs issued and the amount issued by World Savings:

> *Because these mortgages can tempt buyers by offering low initial rates that can suddenly rise after a few years, they are now largely faulted for abetting the mortgage crisis.*

As is hopefully clear by now, *The New York Times* repeatedly and mistakenly has lumped all Option ARMs together as *"[t]hese mortgages,"* rather than drawing the critical distinction between the structure of World's portfolio Option ARMs and the large volume of mortgage banker Option ARMs.

(3) Various Assertions in the Article Were False and Unsupported.

Several other statements in the article were unsupported and have no basis in fact.

(a) It is inaccurate that World engaged in an "*aggressive effort*" to market "*risky loans*."

> *And the video was a small part of a broad and aggressive effort by their company to market risky loans at the height of the housing bubble.*

The article is unclear during which year(s) World allegedly marketed risky loans, though the implication is that this occurred in recent years. We submit that World Savings, which had a 40-year record for quality lending, did not vary from its established practices that had received recognition and accolades from the investment community and the media. We continued to market the same loans we had for decades. We remained a small percentage of the overall mortgage market. We maintained our traditional underwriting and appraisal practices. And the percentage of loan applications that survived our underwriting process and were funded remained consistently at or below 60% from 1996-2005. See Exhibit D. We had every opportunity to take countless steps to increase volume at the expense of quality, but we did not. As a portfolio lender, it would have been foolish to do so.

(b) The article falsely claims that we marketed loans to a broader audience, including people with financial troubles.

> *World Savings initially attracted borrowers whose incomes fluctuated, like professionals with big year-end bonuses. In the recent housing boom, when World Savings started calling the loan Pick-A-Pay, they began marketing it to a much broader audience, including people with financial troubles, like deeply indebted blue-collar workers.*

This is false. The profile of borrowers was the same throughout that 25-year period in which we compiled the best record for quality lending in the financial industry. The article provides no support for statements about World targeting new categories of individuals, including those with financial difficulties. What makes the statement more egregious is that the reporter reviewed our March 2006 letter to our own regulator in which we stated that we continued to offer the Option ARM to the "exact same types of borrowers to whom we were offering fixed-rate mortgages prior to 1981." We also stated in the letter that what actually changed was that a "wider spectrum of lenders" (including lenders with little experience with the Option ARM) began offering their version of the Option ARM product to a "greater number of borrowers."

(c) The article falsely claims that World Savings dropped a discount rate to 1% to increase volume.

> *World Savings lending volume dipped again in 2006 shortly after the sale to Wachovia was initiated, according to the company's federal filings.*
>
> *This prompted World Savings to attract more borrowers by taking a step that some regulators were starting to frown upon, and which the company had been resisting for years: it allowed borrowers to make monthly payments based on an annual interest rate of just 1 percent. While World Savings continued to scrutinize borrowers' ability to manage increased payments, the move to rock-bottom rates lured customers whose financial reliability was harder to verify.*

We have addressed this point in prior correspondence. The clear implication of the statement above is that the drop to 1% occurred on World's watch. In fact, the sale to Wachovia was initiated in April 2006 and closed in October 2006, while the discount rate was lowered to 1% by Wachovia in March 2007. We had nothing to do with this action.

(d) Citing anonymous critics, the article mistakenly blames the bank's use of independent brokers for undermining its past conservative lending practices.

> *Yet the Sandlers embraced practices like the use of independent brokers who used questionable methods to reel in borrowers (emphasis added). These and other practices, critics contend, undermined the conservative lending practices that the Sandlers built their reputations upon.*

The article does not identify who these "*critics*" are that describe World's use of independent brokers. What are their credentials? Are they regulators? What makes these anonymous sources credible? They cannot be a reliable source since they are demonstrably not knowledgeable about the history of World's use of independent brokers.

Let us put the discussion of independent brokers in context. Historically, prior to the 1980's, the bulk of residential mortgage lending was done by thrifts (portfolio lenders), with the balance split between commercial banks and mortgage brokers. Primary lenders such as thrifts and banks received most of their business from realtor offices. With the 1980s and deregulation, over 2,000 thrifts, trapped in the "borrowing short and lending long" syndrome, went out of business. With a weakened thrift industry, mortgage brokers, together with the Government Sponsored Enterprises (GSEs), such as Fannie Mae and Freddie Mac, started to dominate the residential lending market, ultimately controlling between 60% to 70% of all residential lending business. Indeed, many large realty offices created their own mortgage broker operations, and referred their loans to primary lenders, such as thrifts and banks, through their mortgage broker affiliates. With that bit of history, which was explained to the reporter, let us examine the article's assertions.

The article suggests that, in our alleged attempt to build volume in later years, we started to use independent brokers, undermining the conservative lending practices on which we had built our reputation. In fact, we had been working with brokers as far back as 1985, or almost 20 years. This was known by the reporter. If the use of independent brokers, per se, was questionable, how did we manage to achieve extraordinarily low delinquencies, foreclosures and loan losses for a period in excess of 20 years?

The fact is that any financial institution that wanted to be a participant in residential lending during the last 20-25 years would have had to work with mortgage brokers because mortgage brokers accounted for 60% to 70% of residential loan originations. But, here again, our risk-averse orientation caused us to develop specific procedures when working with mortgage brokers. Unlike virtually all other residential lenders, when World received a loan application from the mortgage broker, we did our own underwriting and our own appraisal with our own internal staff instead of accepting the underwriting and appraisal submitted by the mortgage broker. We conducted extensive training with brokers to ensure they understood the loan product and the quality of loans that we accepted at the company. In short, we did not change our conservative lending practices upon which we had built our reputation. The reverse is true. With the increasing dominance of the mortgage brokers, we became even more vigilant.

(4) Several Items are Distorted or Taken out of Context

Several other statements in the article take quotes or factual information out of context or otherwise distort information in a negative way.

(a) The article distorts the comments by Susan Bies, former Governor of the Federal Reserve Board, as condemning the risky nature of Option ARMs and mistakenly implicates World in the process. The article sandwiches two paragraphs about World (the first and fourth paragraphs below) around two negative paragraphs which excoriate ARMs (not World's), thereby associating World with the terrible practices. This technique leads to a pejorative and distorted presentation of the material.

Mentions World Savings

A swift increase in option ARM lending had prompted federal regulators to weigh tougher controls on lending standards in 2005. Of the $238 billion in option ARM loans made nationally in 2005, World Savings issued about $52 billion, or more than one-fifth of the total.

-- No transition --

Risky ARMs, Not World's

Susan Schmidt Bies, a governor of the Federal Reserve System until last year, said the surge in volume caught regulators by surprise, and that she regrets not acting more quickly to protect borrowers because she believes that they could not understand the risky nature of option ARMs.

Toxic ARM, Not World's

"When you get into people whose mortgage payments are taking half of their cash flow, they are in over their heads, and these loans should not have been sold to this customer base," she said. "This makes me sick when I see this happening."

-- No transition --

About World

In March 2006, two months before the Wachovia deal, Mr. Sandler wrote regulators and objected to several aspects of the new rules, including the regulator's conclusion that option ARMs "were untested in a stress environment."

In a conversation we had subsequent to this article, Ms. Bies stated that at no time was she referring to World Savings or the World Savings Option ARM. She was referring to subprime lenders and the 2/28 form of the adjustable used by them. (She was also upset that *The New York Times* had done no fact-checking since that would have enabled her to correct the reporting.) Further, the loans in which borrowers' mortgage payments took half of their cash flows were anathema to World, and we did not make such loans. The lenders that tended to do this were subprime lenders. World was not a subprime lender.

(b) **The reference to World's March 2006 letter to regulators distorts both the content and context of that letter.** The characterization of our letter as objecting to "*several aspects of the new rules*" is completely disingenuous. Any fair reading of the letter is that we were recommending greater oversight of mortgage lending, particularly with respect to emerging risks in the mortgage industry, including those caused by mortgage bankers securitizing large volumes of Option ARM loans (which we described as particularly vulnerable if default rates rose or in a "global financial crisis"). We were alone among major industry players in consistently bringing attention to industry abuses and recommending greater regulatory oversight.

(c) **The article distorts, and actually maligns, both Mr. Sandler's and Mr. Eakes' position on loan prepayment penalties.** The article discusses the issue of prepayment penalties and quotes Martin Eakes, the Executive Director of the Center for Responsible Lending (CRL), as stating that he hates prepayments penalties.

While Mr. Sandler supported the center's antipredatory goals, he disagreed with Mr. Eakes's position on prepayment penalties and sought *to change his mind. Mr. Eakes says the Sandlers convinced him to drop his opposition to prepayment penalties, "but they never dictated to us what to do."*

Mr. Sandler acknowledges that some lenders used the penalties to lock borrowers into "absolutely awful" loans. But he said his bank used the penalties to fend off unethical brokers who enticed borrowers with low-interest-rate loans that often had hidden fees.

Aside from the fact that the reporter had little to no understanding of the relevance, purpose or importance of prepayment fees in the "prime" market, the statement about CRL's position is at best, distorted, and at worse, unethical.

In an email to Herb, Mr. Eakes stated:

> "The imputation that you (the Sandlers) "bought" CRL's position on prepayment penalties is a cheap shot. This is the first time that I have had a NYT reporter **intentionally distort/falsify** a conversation in order to make a preconceived point. I could not have been clearer that our legislative efforts allowed prepay penalties only for limited amounts and term, and ONLY for prime loans" (emphasis added).

Here is the text of an email from Eakes to David McCraw on January 5, 2009:

> "It was suggested that I send to you a copy of the note and letter to the editor that I sent earlier today. I believe that I and my organization have been more publicly outspoken and critical of mortgage prepayment penalties, particularly on subprime loans, than any other person in the country over the last 10 years. So it was particularly galling to be called a sell-out on the very issue that we have championed.
>
> Since the Sandlers have been a funder of my organization, I realize the statements that follow will be discounted, but I believe the statements to be the truth nonetheless. Over the last 25 years, I have known personally the CEOs of many of the largest banks in America. It is my belief that not one of the many CEOs that I have known have more integrity than Herb and Marion Sandler. Only John Medlin of the old Wachovia comes close. To have a page 1 story that puts the Sandlers in the same league as the mortgage scoundrels (such as Angelo Mozilo, former CEO of Countrywide, and Michael Perry, former CEO of IndyMac) is proof to me that even the greatest newspaper in the land sometimes gets its story flat-out wrong. We all make mistakes; I guess the measure of a person is how they handle them.
>
> Sorry to preach. Hope some of this is helpful."

As Eakes notes, the Sandler Foundation is a major supporter of Eakes work, but his evaluation of our integrity as compared with his experience with Moss is striking. I recognize that *The New York Times* did issue a correction regarding the error about the prepayment penalties, which is appreciated, but it is a further example of the numerous distortions and false innuendoes of the original article.

(d) The article references specific legal actions to cast World Savings in a negative light, but distorts the facts. The article includes the following statements:

> *Customer complaints that an unethical broker had misrepresented the terms of World Savings loans is at the heart of a lawsuit filed against the bank and others in Alameda County, Calif. The broker was sentenced to a year in prison for misleading at least 90 World Savings borrowers.*
>
> *Mr. Sandler points out that the company was itself a victim of this broker, that it cooperated fully with authorities, and that it was not charged with any wrongdoing.*

Other than to bias the reader, there is no basis for including reference to a lawsuit in which we were an innocent and aggrieved party. When we learned of the broker's illegal activities, including the broker's collusion with an employee at a title company, as well as the impact of their activities on us and our borrowers, we assisted the lawyer representing the borrowers to rescind the loans and were instrumental in having the broker convicted and sentenced.

The article continues:

> *In August, a federal judge in South Carolina ruled that World Savings had violated the federal Truth in Lending Act by telling borrowers that choosing to make minimum monthly payments on Pick-a-Pay mortgage might cause their principal to grow – when in fact it certainly would occur.*

The article failed to disclose that the ruling was based only on pleadings, was not a finding of any factual issues, and that one of the country's leading experts in real estate law had advised World Savings that we were **<u>legally required</u>** to use the very language to which the judge objected.

(e) The article mistakenly asserts that there was a declining creditworthiness of borrowers because of credit scores. First, the article references that Robert Brown, a Wachovia board member, said that we had run a tight ship and that there was not a huge concern about our loan quality because we had no delinquencies or foreclosures. Next, the article states:

> *Others were less sanguine. The creditworthiness of World Savings borrowers edged down from 2004 to 2006, according to Wachovia's data. Over all, Pick-A-Pay borrowers had credit scores well below the industry average for traditional loans.*

It is unclear what the reporter means. Is he saying that borrowers being approved in 2006 were less creditworthy than borrowers approved in 2004, or that credit scores for borrowers approved in 2004 declined over time?

Either way, the statement depends on an assumption that creditworthiness correlates with credit scores. This reflects a fundamental misunderstanding by the reporter. Unlike many other lenders, including mortgage bankers, World Savings did not rely on credit scores as a sole or primary determinant of credit quality, largely because we did not trust the validity of the scores. There are several factors that call the veracity of FICO credit scores into question:

- FICO credit scores were originally adopted for consumer credit and have never been fully validated for residential mortgage lending.

- Three different credit scoring agencies can give widely different FICO scores for the same borrower at the same point in time, and lenders can play games with which FICO scores they choose to use.

- FICO scores can change quickly for reasons unrelated to credit risk or, alternatively, the scores can move down much too slowly to capture actual risk.

- FICO scores can be manipulated; companies exist to help borrowers improve their credit scores in ways that do not meaningfully alter the borrowers' real risk profile.

For many years, we were among a small number of companies concerned about the validity of FICO scores without more. World Savings always focused on underwriting the entire loan. To use credit scores alone without the rest of the package distorts all comparisons. We have always believed that a credit score was only one of many elements which should be examined in determining whether a loan should be made.

(f) The correction of the headline was defensive and specious. Your personal letter of January 6 regarding the correction to the headline was gracious. The correction itself, however, was not. Generally, one expects to see a simple and straightforward correction – e.g. here is the mistake, here is what it should have said, we apologize. It is a misnomer to refer to the following blurb as a correction:

A headline on Dec. 25 with an article about Herbert and Marion Sandler, bankers and philanthropists whose World Savings Bank originated a type of adjustable-rate mortgage called Pick-a-Pay that has led to many foreclosures as the real estate market and the economy collapsed, described incorrectly the consequences to the Sandlers of the criminal and legal investigations of the practices of the bank, which they sold to Wachovia in 2006. As the article noted, the Sandlers were once trusted mortgage pioneers and now face scrutiny, but they are not "pariahs."

Putting aside the tortured construction of the correction, the language is defensive and goes out of its way to editorialize further about World's loans leading to foreclosures and the purported consequences to us of legal inquiries. It is not until the last sentence that the offensive headline is changed. Every lender in the country is subject to inquiries and lawsuits from borrowers and others; the existence of legal matters does not mean there is merit to any or all of the claims. The correction also incorrectly states that the Pick-a-Pay loan made by World Savings led to many foreclosures, a point which we made in an earlier letter. The corrected headline – *Once Trusted Mortgage Pioneers, Now Scrutinized* – still suggests we are no longer trustworthy.

* * *

Conclusion

The irony of our whole experience with the article is that, for years, we would tell our colleagues, children and friends that if they ever had any question about the ethics or propriety of a proposed action, the test ought to be how they and their family would feel seeing their actions described on the front page of *The New York Times*.

It was disheartening, then, to find ourselves, at the end of a long and honorable career, on the front page of *The New York Times* being labeled "pariahs" and no longer trustworthy. And particularly given all of the factual information we provided the reporter and the many false statements and distortions that emerged in the final product. **We engaged with the reporter in good faith and in the hope that a fair presentation would emerge. Unfortunately, our good faith was not reciprocated. How World Savings got in the crosshairs of *The New York Times*, given all the volume-driven abusive practices engaged in by mortgage bankers and other unscrupulous lenders, is both a mystery and a travesty.**

It sounds self-serving but we really were, and were viewed by others as, the "good guys" for 40 plus years in business. There are countless regulators, legislators, consumer advocates and others who know this to be true. World Savings was a company that operated with the highest integrity, that required doing right by customers and others, that spoke out against abusive practices, and that achieved tremendous success by sticking to its core business as a risk-averse portfolio lender for more than 40 years. And we had an unbelievably talented workforce of over 12,000 people, many of whom were with the company for decades and who remain extremely proud of their tenure at World. The www.goldenwestworld.com website includes several employee letters and other material that describes that World was a responsible lender for more than four decades and was not an aggressive lender who contributed to the nation's current economic problems.

We are not seeking a line by line rebuttal to the points raised in this letter. What we hope is that you will consider the totality of this letter and reflect on the quality of the article that was published (and that, unfortunately, continues to have legs with legacy media and through the Internet). We think you will agree there were substantial, and significant, problems with the story.

We do hope you will give us the opportunity to meet with you in person again to discuss what can be done to help remove, or at least ameliorate, the damage to our reputation and that of our company and employees.

Sincerely,

Herbert M. Sandler

Marion O. Sandler

Herbert M. Sandler | Marion O. Sandler

cc: David McCraw

EXHIBIT A

Approximate Market Share of Single-Family Residential Mortgage Originations
Countrywide and Washington Mutual
1990-2005
(Dollars in Billions)

	Total U.S. Originations	Countrywide		Washington Mutual	
		$	% of U.S.	$	% of U.S.
1990	459	4.5	0.98		
1991	563	12.1	2.15		
1992	893	32.3	3.62		
1993	1,020	52.4	5.14		
1994	769	27.8	3.62	6.9	0.90
1995	640	34.5	5.39	7.4	1.16
1996	785	37.8	4.82	10.8	1.38
1997	833	48.7	5.85	23.7	2.85
1998	1,656	92.8	5.60	44.6	2.69
1999	1,379	66.7	4.84	45.0	3.26
2000	1,139	68.9	6.05	51.2	4.50
2001	2,243	123.9	5.52	165.6	7.38
2002	2,854	251.9	8.83	290.9	10.19
2003	3,812	434.8	11.41	384.1	10.08
2004	2,773	363.3	13.10	212.3	7.66
2005	3,027	495.3	16.36	207.7	6.86

Notes:

(1) Total U.S. mortgage originations data from Mortgage Bankers Association. Lender data comes from 10-K filings.

(2) Lender data includes prime and nonprime first and second mortgage originations. Lender data are best approximations of single-family residential mortgage originations, excluding commercial, multifamily, manufactured and construction loans. Exact year-over-year comparisons are difficult because each company changed how it reported loan originations several times and Washington Mutual often revised its reporting methodology as it acquired additional lending institutions.

(3) Countrywide had a fiscal year ending February 28 until 2001, and thereafter converted to a calendar year; 2001 data covers a 10-month period from 3-1-01 to 12-31-01. Washington Mutual reorganized in 1994, having previously been a state-chartered bank.

EXHIBIT B

Golden West Chargeoffs, 1968-2005

	Golden West Chargeoffs (Recoveries)
	Losses as % of Average Loans Outstanding (in basis points)
2005	0
2004	0
2003	0
2002	0
2001	0
2000	0
1999	(1)
1998	0
1997	6
1996	10
1995	15
1994	18
1993	16
1992	9
1991	7
1990	7
1989	4
1988	6
1987	8
1986	10
1985	3
1984	0
1983	(1)
1982	(1)
1981	(1)
1980	0
1979	0
1978	(1)
1977	1
1976	1
1975	0
1974	0
1973	(1)
1972	(4)
1971	1
1970	0
1969	(7)
1968	1

Notes:

(1) One basis point equals one one-hundredth (1/100) of one percent, or 0.01%
(2) These statistics are from readily available public records.

EXHIBIT C

Differences Among ARMs: World Savings Option ARM, Made for Sale Option ARM, Subprime 2/28 ARM

	World Savings	Option ARM Made for Sale	Subprime 2/28
Market Entry	1981	Circa 2003	
Method of Operation	Hold in portfolio	Originate/sell to be packaged in mortgage securities that have recently been found to be toxic	
Institutions Making the Loan	Portfolio lenders (e.g. World Savings, Home Savings)	Mortgage bankers	State-chartered subprime lenders or mortgage bankers
Risk	Retained	Passed on to investors	
Recast Triggers			
- Time	10 years	5 years	2 years
- Loan Balance [1]	125%	110%	n/a
Typical Minimum Payment Rate [2]	1.95%-2.85% or higher	1.0% or lower	n/a
Loan to Value Ratio (LTV) [3]	Up to 80%, average 71%	Up to 100%	
Underwriting	Traditional underwriting based on borrower's ability to make the full amortizing payment	Automated underwriting, often based on borrower's ability to make a minimum payment	Little, if any, underwriting performed
Appraisal	Most appraised in-house; every loan individually reviewed	Use of either fee appraiser or AVM (automated valuation model)	

Notes:

(1) If the loan balance exceeds 125% (or 110%, as the case may be), of the original loan balance, the lender can recast the loan.

(2) The minimum payment rate is used to calculate the initial minimum payment the borrower can make on the loan. The lower the rate, the greater the potential for, and magnitude of, payment shock.

(3) World Savings originated a limited number of loans with LTVs above 80%; the company obtained mortgage insurance for such loans.

EXHIBIT D

Percentage of World Savings Applications that Were Funded, 1992-2005

Year	Funded
2005	58%
2004	58%
2003	58%
2002	59%
2001	57%
2000	58%
1999	56%
1998	57%
1997	60%
1996	60%
1995	61%
1994	67%
1993	68%
1992	68%