



4.10.2021 via email

Office of Minnesota Attorney General Keith Ellison

445 Minnesota Street, Suite 1400
St. Paul, MN 55101-2131

CCs: Minnesota House and Senate Leadership
Other MN AG Office members (see full cc list, below).

RE: Media outreach regarding allegations involving the manufactured housing industry.

Dear Attorney General Keith Ellison, et al,

Racial bias and corporate excesses, which include claims of a range of illegalities, are arguably among the most important and pernicious issues facing our nation and the State of MN. While then Representative Ellison was in Congress, along with some House colleagues, a formal statement was made about evidence of racial bias and allegations of other problematic practices by Clayton Homes and their Berkshire Hathaway-affiliated lenders who operate in the manufactured housing industry. Part of that statement is shown in the quote below.



U.S. House of Representatives Maxine Waters (D-CA), Emanuel Cleaver (D-MO), Keith Ellison (D-MN), Mike Capuano (D-MA). Image credits, Twitter, Wikipedia.

"Clayton is the nation's largest manufactured housing company and has a "near monopolistic" grip on lending to minority borrowers seeking financing for manufactured housing reaching nearly 72% of African-American borrowers, 56% of Latino borrowers, and 53% of Native American borrowers."

 - Letter to Consumer Financial Protection Bureau, Department of Justice.



To buttress the validity of the concerns those House members expressed is this pull quote from Donna Feir, Ph.D. Her statement was made due to research performed for the Minneapolis Federal Reserve. Feir cited some of the same reporting by the *Seattle Times* that sparked then Rep. Ellison's comments, quoted above.



minneapolisfed.org

"We believe further investigation around the manufactured home financing market structure might be necessary if home loans are going to be made equally affordable for AIAN borrowers."

- Donna Feir, Ph.D.,
Research Economist



I am hereby providing your office via this message evidence compiled from legal and other research that has been conducted by third parties as well as our own *MHPProNews* investigations, reports, and expert analysis. It includes substantial evidence of what [Sam Strommen](#) at Knudson Law has called a "**felony**" case of possible antitrust, RICO, and other violations.

Strommen's allegations point to members of the manufactured housing industry which include Clayton Homes, 21st Mortgage Corp, other Berkshire-owned (BRK) brands, and other companies that are often seen as 'leading' members of the Manufactured Housing Institute (MHI).

By way of introduction, *MHPProNews* is the acknowledged largest and most-read trade media serving the manufactured housing industry. As trade media, we strive to provide watchdog reports for purported wrongdoing, and we receive tips that aid that goal from a range of sources. As trade media, we also play the role of advocate for 'white-hat' firms plus seek to advocate for current and potential manufactured home consumers' interests. Those interests involve matters which include, but are not limited to, claims of racial bias, market manipulation, conflicts of interest, predatory business practices, and other evidence-based credible concerns about injustices and purported illegalities. Personally speaking, as a person inspired by faith, it is my view that the long-term interests of a profession are ideally and pragmatically best achieved by honestly and honorably serving the interests of the consumer and public.

We get millions of visits every year. Our readers include those on Capitol Hill, those in various state offices, attorneys, investors, thousands of professionals, researchers, nonprofits, advocates, and others. Our research and reports have been cited by the CFPB, the National Association of Realtors, a range of NGOs, academics, media, and others. Following one of our tips akin to this letter, for example, HUD did an internal investigation that ultimately resulted in the discharge/separation of an Office of Manufactured Housing Program (HUD OMHP) staffer. Several at HUD and the FHFA know us.

With that backdrop, the following.

As a roughly 30-year veteran of the manufactured home profession, which includes over a decade of writing and publishing, in my expert view, the claim then Rep. Ellison and your colleagues made was based upon what appears to be substantial evidence.

That begs this **question**. Now that Keith Ellison is Minnesota's Attorney General, have you considered looking into state-level antitrust, RICO, deceptive trade practices, and other allegations that harm the interests of consumers and small businesses in your state?

If so, I am not aware of something similar since Rep. Ellison left Congress.

Please be advised that we have had several contacts with state attorneys general offices in other states. For example, One Democratic state AG's office forwarded our concerns to the federal Consumer Financial Protection Bureau. The CFPB, in turn, has contacted me. Two Republican-led assistant state AGs in their respective antitrust divisions have reached out to me via email and phone. Prior to the Strommen report, which is [linked here](#) and below, I was told that our reports had credible evidence of antitrust, RICO, and possibly other market manipulation and consumer-connected violations.

In my view, the body of evidence has only grown since then, and is supported by Strommen's contentions, as well as by research performed by James A. Schmitz, a Minneapolis Federal Reserve researcher, and his colleagues who have written a series of reports on "[sabotaging monopolies](#)" and what they see as evidence of collusion between people at HUD and private interests that include builders. These purportedly corrupt practices, say [Schmitz and their colleagues, are fueling the affordable housing crisis](#).

Put differently, since Rep. Ellison's and his House colleagues' concerns were voiced, the issues and evidence have only grown. Yet, there seems to have been no noteworthy action taken by either the CFPB or the Justice Department under either the Obama-Biden or Trump-Pence Administrations.

Besides the reports linked above, please let me share a few more links that would be useful in grasping, within a few hours of reading, just how extensive the evidence that supports the concerns raised by Strommen, Feir, Schmitz, and others is. Some of our reports are relatively short. All are cross-linked to evidence that supports the allegations.

The first one following the one about MHI and racial issues, which tops 8000 words, might be a useful introduction for a legal researcher in your office.

- Thus, this outreach is first an inquiry if any such probes in allegations of illegal and corrupt practices that harm small businesses and consumers have taken place in MN yet?
- But also, if it that has not yet occurred, please consider this as evidence for such an investigation by the MN AG's office. And consider this as a petition for redress of grievances on behalf of those who are being harmed by these practices.

Before proceeding further, let me note the following.

The Manufactured Housing Institute (MHI) CEO Lesli Gooch, Ph.D., has raised the racial equity issue recently too. However, as our analysis of what is arguably a superficially fine statement by MHI reflects, Gooch and her colleagues could have raised these same points years ago. The case is made that MHI failed to hold several of their own members credibly accused of wrongdoing to account. Put differently, while the MHI missive provides useful insights, it is arguably window-dressing, for reasons explained in our analysis.

<https://www.manufacturedhomepronews.com/advancing-racial-equity-through-manufactured-housing-lesli-gooch-manufactured-housing-institute-ceos-impressive-op-ed-manufactured-housing-institutes-nati/>

MHI Board of Directors

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 Mr. Nathan Smith, Flagship Communities
 Mr. Tom Tracy, KYOCERA SENCO Industrial Tools, Inc.
 Mr. Michael Wade, Cavalier Homes Inc.
 Ms. Betty Whittaker, Kentucky Manufactured Housing Institute
 Mr. Timothy Williams, 21st Mortgage Corp.
 Mr. Mark Yost, Champion Home Builders, Inc.

Annotations:

- Each blue arrow points to a Berkshire Hathaway (BRK) owned brand. As long-time MHPProNews readers know, Clayton Homes, 21st Mortgage Corp et al have been subjects of several media exposes. Public officials called for investigations into their purportedly predatory, discriminatory and monopolistic practices. Clayton's Hodges is MHI chair.
- Green arrows point to ELS, Flagship, SUN and Hometown America. Flagship was previously known as SSK, led by Nathan Smith, and is among those featured in John Oliver's viral video that also ripped MHI member Frank Rolfe - Impact Communities and Mobile Home U.
- Cavco (CVCO) thoughtfully documented how they grew since 2009. 2009 was the year that BRK owned 21st cut off lending to non-Clayton selling independent retailers. As a consequence, MHI member SKY, CVCO and Clayton have taken 80% combined market share.

Your AG's office is among the states that are probing the tech giants. Once the severity and the nature of the evidence hereby submitted is digested, I believe you will see the following.

- A better understanding of how the "castle and moat" methodology preached by Warren Buffett has arguably impacted manufactured housing.
- How that Buffett mantra has *also apparently been adopted by other industries* that could include those you are currently investigating.

Beyond those linked above, links to additional reports, are as follows. While the next one is the longest, it may prove useful as an introduction to those who may not be familiar with manufactured housing.

<https://www.manufacturedhomepronews.com/nimby-vs-yimby-homelessness-and-housing-insecurity-re-discovering-complete-value-of-affordable-housing-multifamily-housing-vs-manufactured-homes-reimagined-castles-and-moats-analysis/>

<https://www.manufacturedhomepronews.com/bombshell-buffett-berkshire-clayton-homes-21st-vanderbilt-specific-mhi-members-ripped-felony-monopolization-of-the-american-manufactured-home-industry/>

There are numerous concerns involving the manufactured home community sector. This example is not from your state, but it links information and sheds light on practices that I think you will find are likely impacting thousands of residents in Minnesota and hundreds of thousands nationally. It also happens to have an oblique tie into an issue that then Rep. Ellison attempted to advocate on. The PESP report is linked further below, and most certainly impacts your state.

<https://www.manufacturedhomepronews.com/impact-communities-dave-reynolds-denies-frank-rolfe-is-his-partner-to-kjct8-kkco11-news-impact-cares-follow-up-reynolds-includes-clayton-homes-and-mhi-analysis/>

These items are just an introduction, but they will rapidly give an attentive reader clarity on the issues. They are similar to the reports read by other state AGs that sparked their interest. The one below, I am told - in writing - will be posted to the FHFA "Listening Session" web page. It addresses the financing issues with more specificity, and like the others, cites and links evidence accompanied by expert analysis.

<https://www.manufacturedhomepronews.com/masthead/pimple-on-an-elephants-ass-shell-game-l-a-tony-kovach-manufactured-housing-institute-manufactured-housing-assoc-for-regulatory-refo/>

This next is from the Manufactured Housing Association for Regulatory Reform (MHARR), which is a trade group that has also looked into several of these issues. This is on the financing topic. Their CEO is attorney Mark Weiss.

<https://manufacturedhousingassociationregulatoryreform.org/mharr-to-fhfa-fannie-mae-and-freddie-mac-stop-the-shell-game-with-the-hud-code-manufactured-home-industry-and-american-homebuyers/>

Last, but not least, for now from our research. Please be aware that we have reached out several times to top officials at the firms and the MHI trade group, seeking their responses to these allegations. Those contacts included those to inside and outside counsels. For instance. At Berkshire Hathaway, this is but one of the examples of contacts with Ronald L. Olson, who is a Berkshire board member and a named partner at the MTO law firm, which includes Charles "Charlie" Munger, the vice-chair and Buffett's right hand for decades.

<https://www.manufacturedhomelivingnews.com/machine-of-human-suffering-berkshire-hathaways-clayton-homes-manufactured-housing-institute-attorneys-response-to-allegations-felony-abuses-knudson-law/>

A list of some links to mainstream news reports and commentary that shed light on Clayton Homes and related "Castle and Moat" issues are as follows. While we would not give a blanket endorsement of all that these reports stated, they are nevertheless useful in substantiating the point that these issues are in the public eye and merit serious attention.

- [Kori Hale from CultureBanx writing in *Forbes*](#) called out Buffett, Clayton Homes, and their lenders in April 2019 for racial bias and other problematic business practices.
- [GuruFocus](#) said "[Warren Buffett Can't Escape Unethical Strategic Moats,](#)" their specific points are [linked here](#).

- **The Atlantic**, without specifying how the monopolization was being accomplished, noted that the independent retailers in manufactured housing were being rapidly eliminated/consolidated, that report is [linked here](#).
- **The Nation** called it "[The Dirty Secret Behind Warren Buffett's Billions...](#)" and specifies Clayton Homes among those using the strategic moat in 'dirty' ways.
- **The Jacksonville Florida Times Union** summarized the connection between the John Oliver viral hit video dubbed "Mobile Homes," MHI, Clayton Homes, and their related lenders. That op-ed was first fact-checked by an editor, before it was published not only in the one newspaper it was submitted, but at least in 5 Florida newspapers.
- [Seattle Times | The Mobile Home Trap](#) – This includes items referenced by Ellison, Feir, and others.
- Robin Harding, "[How Warren Buffett Broke American Capitalism](#)." Financial Times

While each of the above were useful insights in our own research, I hope you will find that the articles above will shed a brighter light on what these others did and did not cover.

As professionals who have granular experience in manufactured housing as well as in manufactured home reporting, we have been laser-focused for years on what has gone wrong in our profession. Candidly, it took years to unravel to the current point. Numerous third-party research reports linked from [MHProNews.com](#) and [MHLivingNews.com](#) have synthesized thousands of pages into intelligible insights that could benefit your proposed probe into these troubling issues. They and that sampling of mainstream media reports should make it clear to an objective mind that there is plenty of evidence to act upon.

FWIW, be it the Clayton/Berkshire or Facebook/Google cases, let me make this observation and heartfelt suggestion. Based upon history and years of research on antitrust and monopolistic and market-manipulating practices issues, it seems to me the solution must include breaking these firms up, along with whatever punishments their actions may legally merit.



Carol Roth | Fox News

"...all regulation, that excessively impacts small business...In fact, big companies secretly love regulation because regulations are in fact anti-competitive -- every new rule, law or compliance measure limits the ability of existing smaller competitors or new start-ups to compete."

- **Carol Roth**
- American television personality, bestselling author, entrepreneur, radio host, and investor. Roth appears regularly on national cable television networks including *Fox Business*, *CNBC*, *CNN*, *Fox News* and *MSNBC*, per Wikipedia.

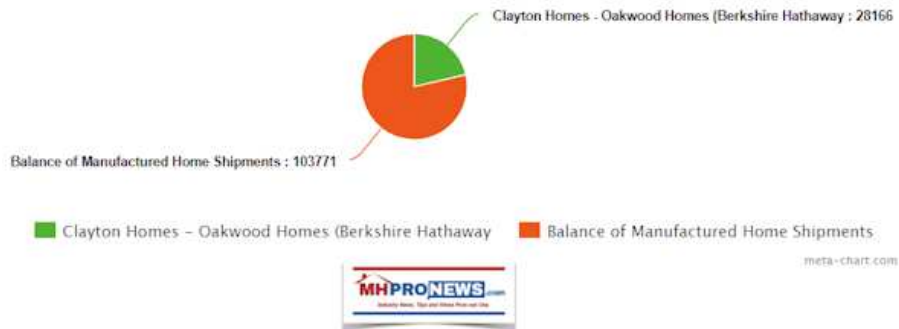


For three years, we have periodically referenced this observation by academic and tech guru, Scott Galloway. Like the arguably book-end observation by Carol Roth above, the efforts by Facebook, Google, and other giant firms for more regulations is a scam meant to give the appearance of accountability. Instead, regulations are often just part of the Warren Buffett style "Moat" that these firms purportedly deploy.

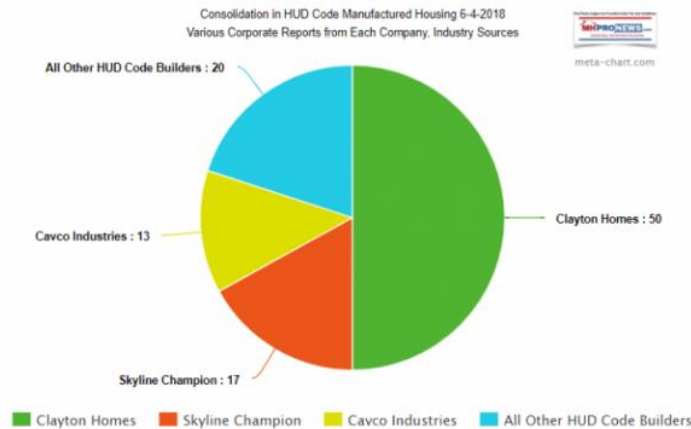


The case for market manipulation that hurts consumers, taxpayers, independent businesses, and others can be illustrated with these market share graphics.

Clayton Homes - Oakwood Homes (Berkshire Hathaway) Market Share End of 2003
 Total Shipments: 130,937. Sources: HUD, Manufactured Home Merchandiser Magazine.



While Berkshire Hathaway's annual report is arguably written in a manner that obscures the information shown below, we obtained a third-party report that tends to confirm what that chart reflects.



The dramatic shift this illustrates can demonstrably be reflected to have impacted dozens of once-prosperous firms that produced affordable manufactured homes.

Tony-

Here is the information requested



Manufacturer	2019 MS
CLAYTON HMS INC	50.60%
SKYLINE CHAMPION	14.68%
CAVCO INDUSTRIES	12.63%

Data is 2019 YTD September.

Thank you,

Scott Stropkai
616-281-9898 ext.128
616-901-8335 (cell)

Composite
emailed message
dated 11.18.2019.

6/24/2020



The pattern that you see in consolidation of manufactured housing production is taking place in the manufactured home community sector too.

<https://pestakeholder.org/report/private-equity-giants-converge-on-manufactured-homes/>

As those Federal Reserve researchers cited above suggest, and applying the principles of their sabotage-monopoly thesis, *powerful corporate interests can obscure the harm that they are causing*. Because they, [MHARR](#), and others allege the some of this involves collusion with federal officials, it only makes sense to approach this from both state and federal angles, to maximize the chance that true justice is done.

While conventional housing is *soaring*, far more affordable manufactured housing is *sliding*. What explains that phenomenon? Note that fewer HUD-Code manufactured homes shipped in 2020 than did in 2003, when Berkshire Hathaway completed its acquisition of Clayton Homes and their affiliated lending.

The linked reports from this message will shed light on how the *Castle and Moat* mechanism is an apparent part of the answer. In the linked reports, you will see Kevin Clayton and Warren Buffett's own words -- and then they are applied to this fact pattern.

As a small businessperson myself, we are a professional free enterprise. As noted, we believe in principled business that is fair to consumers and all in the mix. What is occurring in our profession is, as Robin Harding claimed, a manipulation of capital and markets in a fashion that destroys the access to the

American dream of home and small business ownership. That in turn impacts jobs, opportunities, and so much more.

It is my hope that since then Rep. Ellison was engaged on these topics while in Congress, that you as public officials will take this issue to the logical next steps.

Kindly confirm your receipt of this message. Please feel free to message or call once the items have been digested. The list of those CC'd follow my contact information.

Respectfully submitted,

Tony

L. A. "Tony" Kovach
Managing Member
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DBAs:

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CCs:

Senator Jeremy R. Miller (28, R)

President of the Senate

Majority Leader Paul Gazelka (R)

since January 3, 2017

Minority Leader Susan Kent (DFL)

Speaker of the House Melissa Hortman

Majority Leader Ryan Winkler

Minority Leader Kurt Daudt

Deputy AG Canaday, James

Ast AG Katherine Kelley

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