Financial "Perfect Storm" Brewing Over America's Middle Class, Says Bankruptcy Expert

A weaker housing market is the final element of a confluence of economic currents which, if left unchecked, may well lead to a financial debacle for America's Middle Class Homeowner. This can be averted only with luck, or by timely action at the State and Federal Legislative and Regulatory levels.

New York, NY (PRWEB) April 30, 2006 -- "A weakening housing market, together with other financial currents in the U.S. Economy, represents the potential final impetus to a 'Perfect Storm' brewing over the American Middle Class, and, without luck or prompt legislative action, may lead to disaster, especially for homeowners." So says Warren R. Graham, a New York Bankruptcy Attorney. The other prevailing currents threatening to collide over the heads of an unsuspecting public, claims Graham, include rising interest rates, limited recourse to bankruptcy relief and the virtual elimination of usury and other restrictions on credit card issuers.

For many millions of Americans, who live "paycheck to paycheck," the only thing defining their status as Middle Class, and differentiating them from the so-called "Working Class" is their ownership of a home, and the equity accumulated in it. Graham points out that that equity is being eroded by two factors: the first is the threat of declining home values, and the second is the propensity of homeowners, over the last few years, to refinance their homes or take out home equity loans at very low adjustable rates to pay off high interest credit card debt. Now, Graham says, the equity is at risk, because of the softening in the market, the fact that the adjustable rates have risen consistently (and are expected to continue to do so), and the reality that much of it has already been borrowed out to pay off credit card debt, and for other purposes, such as home improvement.

Coupled with the risk of declining home equity, Graham argues, is an enormous, and, to date, largely invisible swinging of the pendulum toward the credit card issuers, and their sponsoring banks. After years of intense lobbying (on both sides of the political aisle) by that constituency, the bankruptcy laws have been extensively rewritten, so as to restrict, severely, access to certain kinds of bankruptcy relief, especially for those who, while certainly not well-off, earn above their respective state's median income. "Credit card holders, of course, had no lobbyists on retainer," says Graham. At the same time, the same financial institutions have found creative ways, by re-domiciling themselves in states hungry for their business, such as South Dakota, to avoid the restrictions of usury laws. So now, observes Graham, it is not unusual for your credit card interest rate, if you are carrying a balance, to rise suddenly from that 5% "teaser rate," to an unprecedented 32%, in the event of a default. "And worse," Graham points out, "a 'default' doesn't have to be non-payment. Your cardholder agreement, which you likely have not read, allows periodic review of debt to income ratios, and problems with other creditors as a justification to change rates on almost no notice." Add to that the changes in banking procedures, by which banks have restructured their "minimum payment" requirements on cardholders carrying balances, "and that monthly $250 minimum payment has now jumped to $600, or more, multiplied by the number of cards the consumer may be carrying." The homeowner who wants to do something about this has a much harder time doing so, according to Graham. "His or her house has less equity, because of a softening market, or because it has already been tapped by the homeowner, and the cost of borrowing against it is higher, by virtue of climbing mortgage rates."

In the meantime, the Middle Class homeowner's income has not even remotely kept pace with these increased costs, Graham points out. "And this does not even take into account the likely substantial effect of rising gasoline and energy costs." "And when the homeowner finally reaches the end of his or her tether," says

Graham, " his or her income level may prevent recourse to bankruptcy. Chapter 7 liquidation may be unavailable altogether, and Chapter 13, in which a percentage of creditor obligations are paid over time, while mortgage debt remains intact, may not be feasible, because the income may simply not support the cost of financing a repayment plan." Thus, Graham concludes, bankruptcies may be dismissed, and homeowners may have to dispose of their properties, or worse, lose them to creditors in satisfaction of their mounting debts.

According to Graham, "one does not need a crystal ball to see that a potential debacle is looming for the Middle Class homeowner." Unless pure luck prevents these currents in the economy from coming together, or unless the U.S. Congress revisits its ill-conceived bankruptcy reform (especially that part of it geared to consumer debt) and state banking departments review their willingness to ignore usury prohibitions that date back to biblical times, disaster may await. "The credit card industry, in the flush days of the late 1990's started down this path," says Graham, "and may have overplayed its hand. But without attention and intervention by legislators and regulators, the victim is likely to be the backbone of this Country—the American Middle Class."

# # #

Contact Information
Warren Graham
COHEN TAUBER SPIEVACK & WAGNER LLP
http://www.ctswlaw.com/templates/page3_attorney.asp?docid=667
212-381-8767