Professor Jim Hawkins was quoted in an article posted on Housingwire, commenting on the Consumer Financial Protection Bureau (CFPB) and possible director candidates.

The following article was posted on Housingwire.com on Wednesday, April 20, 2011:

Warren's future unknown as CFPB director role remains empty


Kerri Panchuk

The fate of Elizabeth Warren, the Harvard Law professor whose ideas built the Consumer Financial Protection Bureau, remains in the lurch as news reports suggest possible director candidates for the CFPB have passed on the role.

Whoever becomes director of CFPB will play a significant role in the mortgage finance space as the agency writes rules to thwart abusive, unfair or deceptive lending practices, legal analysts say.

Several news reports suggest Warren may end up being the only candidate for the CFPB director slot with others walking away from the opportunity.

Possible candidates for the director role included former Sen. Ted Kaufman (D-Del.), former Michigan Gov. Jennifer Granholm (D-Mich.), and attorneys general from Iowa, Illinois and Massachusetts, according to The Wall Street Journal. Former Ohio Gov. Ted Strickland and Sarah Bloom Raskin, a member of the Federal Reserve board also were considered. Most of those fielded for the post turned it down, according to the Journal.

The CFPB director will play a significant role in the mortgage finance space as the agency writes rules to thwart abusive, unfair or deceptive lending practices, legal analysts say.

"I think there are a lot of open issues about what the Consumer Financial Protection Act means," said Jim Hawkins, a University of Houston Law Professor who has studied the new federal bureau. "The CFPB has been granted three powers to deal with unfair, deceptive and abusive conduct. But 'unfair' and 'deceptive' are concepts included in other laws written by federal agencies. But, there are not many laws allowing regulators to stop abusive conduct. We don't know from the statute what 'abusive conduct' means, so the director will really shape how effective the bureau is in response to the abusiveness prong."

The Senate will have to approve the CFPB director — a process many skeptics believe is too difficult for Warren to pass with Republican opposition stacked against her, according to Hawkins.

Hawkins believes possible candidates are shying away because there's a notion Warren's shoes are too big to fill.
"My thought is that it would be crazy if anyone other than Elizabeth Warren is the director," he said. "She created the idea, she worked it through the legislative process. She hired the first key personnel. It is sort of a disconnect to have someone take over what she clearly originated."

When asked about Warren's future – including rumors that she might consider a Senate run in Massachusetts – a spokesperson for Warren said, "Professor Warren is 100% focused on doing the job of building the agency."

Warren's appointment as a special assistant to President Obama and Treasury Secretary Geithner and her role in forming the CFPB has been criticized by lawmakers, who allege the bureau lacks appropriate oversight, given its relative power in the mortgage and credit finance sectors.

Warren's role in advising attorneys general on what type of settlement amount would be best to propose to mortgage servicers also drew criticism earlier this year.