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DISTRICT OF COLUMBIA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS

RESIDENTIAL MORTGAGE LENDING DISPARITIES IN
WASHINGTON, D.C.

624 9th Street
Washington, D.C.

August 6, 1998

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Meet.
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P R O C E E D I N G S

1
2 MR. SIMS: Good morning, I am
3 Steven Sims and I am the chairman of the
4 District of Columbia Advisory Committee for
5 the U.S. Commission on Civil Rights. On
6 behalf of the Advisory Committee, whom you
7 will meet in a moment and commission staff, I
8 thank you for your interest and attendance at
9 today's press conference and hearing on
10 residential mortgage lending disparities in
11 the District of Columbia.

12 A quick announcement for those of
13 you that might not be aware, we do have
14 materials in the back on the table, including
15 my opening remarks for your review and use.

16 Our 1996 report on the
17 disproportionately smaller share of loans and
18 loan amounts for minority applicants versus
19 non-minority applicants is of critical
20 concern to the citizens of the District of
21 Columbia and their fundamental understanding
22 of equal opportunity and the concept of civil

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1 rights.

2 Were loan denials a matter of too
3 many unqualified people soliciting loans or a
4 lending system at that time, afraid to
5 provide credit to minority borrowers? A
6 further concern raised by the data and
7 experts we talked to, noted a possible link
8 between numbers of loans denied minority
9 applicants and the specific track wards where
10 those borrowers wanted to buy.

11 This questions the marketing
12 application and underwriting criteria used by
13 mortgage lenders in the District of Columbia.
14 We want to spend time this morning talking
15 about where residential mortgage lending is,
16 what direction it's headed, and as we strive
17 to ensure all our citizens, regardless of
18 race or ethnicity, the chance to claim the
19 American dream.

20 What I'd like to do is start by
21 making several major introductions, first
22 introducing those of you that might not be

1 aware, what is the D.C. Advisory Committee
2 and its relationship to the U.S. Commission
3 on Civil Rights?

4 The U.S. Commission on Civil Rights
5 is a fact-finding agency within the executive
6 branch of government. The Commission has
7 established advisory committees in each state
8 and the District of Columbia, with members
9 appointed by the commissioners and those of
10 us up here serve without compensation.

11 Our function is to receive reports,
12 suggestions and recommendations from
13 individuals, public and private
14 organizations, and public officials upon
15 matters pertinent to inquiries conducted by
16 the advisory committee and to use this
17 information to initiate and forward advice
18 and recommendations to the Commission on
19 Civil Rights matters occurring in our
20 jurisdiction.

21 The report we are releasing today
22 has been received by the commissioners, who

1 unanimously accepted our report for
2 publication. I'd like to also now go around
3 the table and have my colleagues introduce
4 themselves. We can start on my right with
5 John.

6 MR. TOPPING: My name is John
7 Topping. I've been a member of this site for
8 a number of years.

9 MR. MCKETHAN: My name is Donnie
10 McKethan, and I too have been a member of the
11 committee, I guess, four years.

12 MS. HEUER: My name is Ann Heuer
13 and I've been a member for five years, and
14 was here at the time that we did this report.

15 MS. JONES: Good morning, my name
16 is Lisa Jones, and I've just been a member
17 for the last year. I reside here in the
18 District in Southeast Washington.

19 MS. KRUVANT: My name is Charito
20 Kruvant and I've been a member of the
21 commission for the last six years, and I had
22 the opportunity to be the chair while

1 everything was ongoing.

2 MS. BROWN: Rachelle Brown, this is
3 my first term.

4 MS. WILDY: Jody Wildy, this is my
5 second term.

6 MR. SIMS: Let me note at this
7 point of the hearings, data collection
8 analysis and the report itself were completed
9 under the outstanding leadership of my
10 predecessor, Ms. Charito Kruvant.

11 As a member of her committee and
12 her success in the chairperson seat, I want
13 to acknowledge Charito's skills as an
14 organizer, facilitator, spokesperson and
15 leader. Those skills really made this report
16 possible. I'd also like to make clear that
17 even our advisory board fell prey to the
18 government bureaucracy of hurry up and wait,
19 which is responsible for the lengthy time
20 between this document's completion and its
21 release here today.

22 It's also important that I

1 acknowledge those former advisory committee
2 members, who were intimately involved in this
3 lending disparity report, but are no longer
4 on the committee, Mari Carmen Aponte, Laura
5 Chin, Yetta Galiber, Jose Guttierrez, Rita
6 DiMartino, Clifton Smith, Malcolm
7 Stubblefield and Jeffrey Weintraub.

8 Finally, I want to strongly and
9 enthusiastically acknowledge the staff of the
10 commission for their support, guidance and
11 assistance in the research, development,
12 writing and publishing of this report. My
13 particular thanks to John Binckley, Edward
14 Darden, Ki-Taek Chun and especially Marc
15 Pentino for their energetic and passionate
16 commitment to protecting the civil rights of
17 all the citizens of the District of Columbia.

18 Let us now get to the business at
19 hand: The past and present patterns of
20 residential mortgage lending disparities in
21 the nation's capital. As background, our
22 project began in 1993, after the committee

1 observed disparities in lending rates to
2 minority communities throughout the District.

3 In the summer of 1993, various
4 articles in The Washington Post alleged a
5 pattern of disparate lending to minorities,
6 which it tracked by specific wards. In 1994,
7 the committee held a fact-finding meeting
8 with experts in the fair lending field and
9 government officials, to get a sense of what
10 was happening in the District. At our forum,
11 various community advocacy groups offered
12 their analysis of lending patterns in the
13 District.

14 Throughout the next two years, as
15 the committee prepared its report, it
16 gathered follow-up information, solicited
17 input on the report from lending
18 institutions, government agencies, and
19 community organizations, and monitored
20 additional reports on disparate lending.
21 When the report was completed, it was
22 presented to the commissioners, who approved

1 its release and publication.

2 Let me say up front before I ask
3 Charito to share a summary of the report's
4 primary findings and recommendations, that
5 while the committee is aware of many changes
6 in the mortgage lending arena, which reflect
7 movement toward providing equal access and
8 opportunity to purchase a home in the
9 District, our findings were valid and some of
10 our recommendations are still necessary.

11 Following Charito's statement, I
12 would like to move immediately into the panel
13 discussions, which will provide us a chance
14 to learn about developments since our
15 fact-finding meeting, in the area of fair
16 lending enforcement, industry efforts to
17 improve lending to minority communities, and
18 other new issue areas.

19 We do plan on, one, providing a Q
20 and A period following the panel
21 presentations, so that the press and the
22 audience, as well as other advisory committee

1 members can raise any concerns, questions or
2 issues they might have. But we do plan on
3 providing the commissioners with an addendum
4 to our report, with the information we gather
5 today. With that, let me turn it over to
6 Charito for her statement.

7 MS. CHARITO: Thank you for the
8 opportunity to spend some time with the
9 committee members, and at the same time be
10 able to share some of the findings and
11 recommendations of the report.

12 Before I do so, I thought it would
13 be worthwhile for me to both express my
14 appreciation to the staff that supported us
15 and also to take a minute or so to remind how
16 extraordinarily both interesting and complex
17 it is to do the work of civil rights issues
18 within the District of Columbia.

19 When we think about issues of
20 minority and we think also about issues of
21 the District Columbia, our framework of
22 reference has to change because we,

1 minorities in the District, are not
2 minorities in the District. So I think it's
3 about time that we update our language and
4 our terminology. It's important that we look
5 at it from a different perspective.

6 It has also, during the period in
7 which I was chair, become critical to me to
8 understand both how complex the federal
9 regulations and the agencies are in
10 supporting civil rights issues, and how
11 unsupported the staff of the commission for
12 civil rights is to be able to tackle such
13 complex issues and some complex documents.

14 So not only my thanks to the staff,
15 my admiration to all of you for continuing to
16 do these complex tasks. Most of our research
17 during the process was both secondary
18 research. It was also the kind of process
19 that we knew much needed to be done and we
20 needed to rely, not only on volunteers, but
21 on a very, very limited amount of staff that
22 the commission has.

1 So if you find certain flaws in the
2 staff, yes, it's because of process and it's
3 because of the complexity of the subject
4 matter that it will require to be fair to the
5 issue. It will require a much appreciated
6 staffing pattern to be able to do these
7 tasks.

8 So to the ones that were in the
9 past, supporting these, particularly to
10 Mr. Betino, thank you for not giving up. I
11 think issues like this -- once in a while, we
12 need to take the time and to say -- and also
13 to my colleagues, this was not an easy task
14 because the answers did not come as clear as
15 on a black and white, but the issues of civil
16 rights right now are quite gray in our area.

17 Some of it is connected to
18 legalities, but much of it is connected to
19 attitudes. So we spent many hours, not only
20 learning of the facts, but also trying to
21 provide a new frame of reference under which
22 some of these issues need to be looked at.

1 Many, many times we did not agree. So in
2 some instances we agreed to not agree.

3 As it was mentioned before, these
4 tasks started in 1993. Now we are in 1998.
5 So one, also of great importance, is to know
6 while we finally do have a printed report, I
7 think it's important to notice that it might
8 be no longer dated document. Much of the
9 information is no longer crucial because both
10 the economy in the country has changed quite
11 drastically. The rules and regulations have
12 changed quite drastically.

13 Also the competition within both
14 the banking community and other lenders has
15 changed. So the picture under which we
16 prepared this document, and the picture of
17 today, I think, has changed quite
18 drastically. As you maybe hear some of these
19 findings and some of these recommendations,
20 it will be important to note that much of
21 these needs to be constantly updated.

22 What has not, I think, changed too

1 drastically is quite frequently our attitude
2 about learning and about educating ourselves.
3 I think much of that still needs to be done.
4 So let me now share with you a couple of
5 findings that we did come up in the report.

6 My assumption is that most of you
7 have hard copies and if you are interested,
8 you will be able to not only read the
9 document, but we are available to discuss
10 thoroughly each one of that. But as it is
11 right now, what we did find in the reports,
12 the finding number one, that there are
13 disparities in loans to minorities and
14 non-minorities in D.C. However, these are
15 not conclusive evidence of discrimination.

16 What we were looking at were
17 patterns of discrimination, consistent
18 practices and systemic practices. What we
19 did here about anecdotal information and
20 specific cases, we looked at the evidence of
21 patterns or systemic issues and we could not
22 really demonstrate that there is.

1 So we wish we could come up with
2 one of those big, lambasting things that will
3 bring us to the news today, but we did not
4 find. I think we owe it to ourselves and to
5 the public to say that. But there are some
6 recommendations that I think are quite valid.

7 One, the federal and the District
8 government should collect and analyze data
9 needed to address whether discrimination
10 exists and who, if anyone, is doing it.
11 We're not saying that it's not there. What
12 we are saying is we did not find the patterns
13 that either the press or the other
14 information indicated.

15 The recommendation number two,
16 lenders should reveal their operations and
17 assure themselves that they're not
18 discriminating and making corrections if
19 needed. We do believe that it's crucial to
20 the institutions that are providing the
21 services of lending and that they're in the
22 business of learning, they have to have an

1 infrastructure and internal procedures and
2 processes under which they're consistently
3 monitoring.

4 I think part of the great success
5 of the next step is probably relying on it in
6 that way. Because if we're going to rely on
7 the federal government or public agencies to
8 be doing the monitoring, we note that it's
9 taken from 1994 to 1998 to publish 26 pages
10 of the document.

11 Recommendation three, under finding
12 one, lenders should publicize their
13 availability of loans to all communities as
14 well as their efforts to promote their
15 lending. That's something that we did find a
16 tremendous lacking. There was not really
17 easily available information which the public
18 could easily understand.

19 We do know the rules and
20 regulations could be complex and at some
21 point, cumbersome, but the individual that's
22 both attempting to borrow money needs to

1 understand it in their way, in a simple
2 manner. We believe that the banking
3 community was not at that stage, doing that
4 efficiently or effectively.

5 Finding number two, D.C. regulatory
6 agencies currently play only a minor role in
7 fair lending. I think since 1993 to today,
8 the District of Columbia has gone through a
9 major metamorphosis and we do see a change,
10 very positive change in which the city is
11 attempting to govern the city, but there's
12 still quite a lot to be done.

13 We, for as much as did some changes
14 recently, still believed that they're not
15 really organized and they're not supported in
16 a fair way, issues of fair lending.

17 Recommendation number one of that finding,
18 that the District should increase the
19 oversightability of the regulatory agencies
20 in this area.

21 It sounded to us or it looked to
22 us, not only much needed to be done, but some

1 of the basic internal framework and
2 infrastructure to be able to do that, needs
3 to be thought through. Not only the staffing
4 issues need to be looked at, but just how and
5 who and when needs to be organized.

6 It seemed to us that there was good
7 attitude. There was good intention, but it
8 just wasn't there in the way that the
9 citizens deserved to be served.

10 In the finding number three, the
11 recommendation that indeed both the banking
12 community and the community at large should
13 organize itself to be able to coordinate or
14 partner, so that the information can go way
15 beyond the banking establishment to the local
16 level. There were a couple of specific
17 organizations that we found that were very
18 helpful in providing that support.

19 Finding number four, government
20 efforts to detect discrimination are not
21 adequate. From our seat, that probably was
22 the saddest thing to know, that we could see

1 that the press could write up.

2 In 1994 they did so, a series of
3 documents that were touching and I think they
4 brought up a reality that was occurring at
5 another level. It was very specific.

6 On the other hand, we really were
7 able to notice that the government, both the
8 federal government and the other agencies are
9 not really organized and they're not
10 providing systemic efforts to detect
11 discrimination. So if we're serious about
12 it, I think it's important that much of that
13 needs to be done in an organized fashion from
14 the federal government and the District
15 level.

16 The recommendation number one,
17 coordination between federal and D.C.
18 agencies and private groups should increase
19 and their roles better defined.
20 Recommendation number two and finding number
21 four, all fair lending agencies should report
22 periodically to the public on their

1 activities.

2 I think for us to be able to
3 clearly get to the next step, not only do we
4 need to know what's going on, but we really
5 need to inform ourselves on what do we do and
6 how do we it? We do believe that there are
7 certainly very good best practices that some
8 of the banking institutions are providing it.
9 Some of them are part of very well kept
10 secrets.

11 I think those efforts need to be
12 publicized and we also do note that some
13 practices are occurring that need to be known
14 so that others learned to train their stuff,
15 particularly the banking community. If
16 they're fair to their employees, they need to
17 train them.

18 I think much of the discrimination
19 that is occurring, is both out of ignorance
20 and out of systemic approach on the training
21 on both training of their own employees and
22 training to the public. So that we're all

1 aware on that process.

2 That's pretty much the summary of
3 both my findings and recommendations. What's
4 more, this is the kind of a process that
5 might not bring us to the first line on the
6 post, but I do think it's important that we
7 did it in a systemic way and an organized
8 fashion. Thank you again to the staff and to
9 the group.

10 MR. SIMS: Thank you. We had
11 planned on having a Q and A period here, but
12 again because we want to be fair to all sides
13 and we want to both be able to talk about
14 where we are today and allow an update in
15 terms of changes in the industry.

16 We've put together a couple of
17 panels, one, representing some of those
18 groups that monitor issues of fair housing in
19 the District, and then also get an industry
20 perspective from some of the lending
21 institutions and representatives. If I could
22 ask the first panel, David Berenbaum and

1 Joshua Silver to come up.

2 While they're coming, let me
3 quickly mention that Jay Anthony Romero, who
4 is the superintendent of the D.C. Office of
5 Finance and Banking Institutions, is with us.
6 If you could stand? Charles Lowery, general
7 counsel to that agency are here. So that if
8 there are any questions that you would like
9 to raise at some point also with some of the
10 monitoring and enforcement, we do have
11 representatives from the D.C. government here
12 and you're certainly welcome.

13 Let me turn to the panel. The
14 title of this panel is Statistical Analysis
15 of the Home Mortgage Lending. We've asked
16 David Berenbaum, the Executive Director of
17 the Fair Housing Council of Greater
18 Washington to give us an update in terms of
19 where the industry is and how it is
20 performing, and followed by Joshua Silver,
21 Vice President of Research for the National
22 Community Reinvestment Coalition.

1 I'd like to hold off questions
2 until both panelists have presented, and then
3 I will open it up to the floor for questions
4 or comments, both from committee members as
5 well as press and other invited guests.
6 David?

7 MR. BERENBAUM: Thank you,
8 Mr. Sims, members of the commission, as well
9 as guests in the audience. The Fair Housing
10 Council of Greater Washington is a
11 not-for-profit fair housing organization,
12 serving not only the District of Columbia,
13 but the entire Mid-Atlantic region.

14 We have a host of very
15 sophisticated private enforcement, education
16 and outreach, voluntary compliance, and most
17 recently planning activities that we had been
18 conducting in cooperation with the entire
19 community.

20 I mean community as policymakers,
21 industry leaders, as well as grassroots civil
22 rights organizations and groups dedicated to

1 expanded equal housing opportunity and home
2 ownership opportunities, not only in the
3 District, but in our nation.

4 I have been the Executive Director
5 of the Fair Housing Council for the past
6 three and half years. For your information,
7 prior to that, I served as Executive Director
8 of Long Island Housing Services, another
9 civil rights organization for eight years. I
10 am currently second Vice President of the
11 National Fair Housing Alliance, who is
12 committed to the realization of fair lending
13 across the nation, through our 70 members.

14 The Fair Housing Council, three and
15 a half years ago, began a re-engineering of
16 how we do business. We made a very simple
17 theory, a philosophy of how we do business in
18 the community. The philosophy was that many
19 of the issues that we're dealing with today
20 go beyond a simple report, go beyond a
21 jurisdiction's boundaries.

22 In fact, to look at lending, one

1 must also look at sales practices in the
2 community, at insurance practices in the
3 community, look at models that are
4 successful, and yes, look at what's failing
5 in an objective and realistic way so that we,
6 as policymakers, you as a civil rights
7 commission, can move ahead.

8 Three years ago, the United States
9 Department of Housing and Urban Development
10 began, through its consolidated planning
11 process, a process called the Fair Housing
12 Planning requirement. Every entitlement
13 community, which receives federal support,
14 including the District of Columbia, is
15 required to produce a document called, The
16 Fair Housing Planning Analysis of
17 Impediments.

18 The report's goals, frankly, are
19 very similar to what the Commission was
20 trying to accomplish and has accomplished by
21 calling attention to the lending issue in the
22 report being discussed today. HUD mandated

1 that communities must objectively, fairly,
2 inclusively work to examine the extent of the
3 housing discrimination problem in our area.

4 That jurisdictions over the next 5
5 years must develop Fair Housing Plans
6 reasonably taking steps to overcome the
7 impediments to Fair Housing choice that are
8 documented in the community. The Fair
9 Housing Council approached the Metropolitan
10 Council of Governments in the Washington D.C.
11 area and we suggested a regional approach to
12 this fair housing planning process. What
13 developed, in fact, after that over a two
14 year period, has become a national model.

15 One of the issues that we addressed
16 was fair lending practices and lending
17 discrimination. This report was released
18 approximately a year and a half ago, and it
19 involves both a regional planning document,
20 as well as a local document specific to the
21 Washington, D.C. community.

22 One of the issues that was

1 discussed was, frankly, the limitations of
2 Home Mortgage Disclosure Act data. Across
3 the nation, there has been debate as to the
4 meaning upon the data. Is it a true way of
5 monitoring performance with regard to
6 compliance and fair lending issues?

7 Certainly, as I said, it is an
8 indicator of disparities in our mortgage
9 marketplace. If you look at upon the data,
10 not only from the period that was examined in
11 the reports included in your document, but
12 also since then, the disparities continue
13 east of 16th Street. But who is injured by
14 this? In fact, the entire District of
15 Columbia community.

16 Every act of discrimination has an
17 economic impact on the District and frankly,
18 every jurisdiction around the nation. We as
19 a community cannot tolerate these acts of
20 discrimination.

21 We were asked by municipal leaders,
22 by lenders and others, to assess the extent

1 of the problem of lending discrimination, but
2 also to look at other areas, a total approach
3 to fair housing, to do statistically relevant
4 audits, fair housing audits, using the
5 process of match-pair testing, and in
6 partnership with industry and in partnership
7 with government, release the results.

8 So the results that have been done
9 in the past that prove controversial, the
10 results of the Fair Housing Index Project, as
11 this effort became known, became, in fact,
12 building coalition, building bridges. That
13 is actually affirmatively furthering fair
14 housing today.

15 I say you cannot look at lending
16 issues without looking at related housing
17 issues because, in fact, as everyone in the
18 real estate industry knows, the industry is
19 folding in on itself. Today, there are
20 national mega-corporations that are promoting
21 one stop shopping. You go to your real
22 estate office or you go on to the Internet.

1 Not only can you look for your home
2 and purchase your home, but also you can get
3 your engineers' report. You can get your
4 insurance product. You can get all of your
5 shopping done by simply dealing with one
6 location. That is a major change in our
7 marketplace. It requires that we look across
8 all issues. The Fair Housing Index project
9 did that.

10 We looked first at rental
11 practices. That report was celebrated and
12 used on Capitol Hill as a national model of
13 how to build consensus. We found in the
14 District of Columbia, looking at race and
15 national origin, we did an audit looking at
16 the Latino community in particular, 28
17 percent of the time, our protected testers
18 encountered disparate treatment in their
19 search for an apartment.

20 But then we moved on and we looked
21 and released a report in June of last year,
22 looking at sales practices. In fact, a

1 statistically relevant report looking at
2 discrimination in the real estate industry,
3 realtors, licensees and others have never
4 been done before in this area; 100 match-pair
5 tests were conducted.

6 While we found overwhelmingly there
7 was compliance in our marketplace with fair
8 housing laws, we reported the unfortunate
9 fact that 28 percent of the time,
10 discrimination was taking place on the basis
11 of race and national origin.

12 The most frequent form of
13 discrimination is directly relevant to what
14 we are discussing here today. That African
15 American and Latino testers, when they
16 approached real estate offices to purchase a
17 home, more frequently were asked, have you
18 been prequalified for a mortgage, or how is
19 your credit?

20 Then told that the real estate
21 professional could not take them out to see
22 housing until they produced a credit report

1 or were prequalified either by a broker in
2 house, or through mortgage professional or
3 institution or profession out of house.

4 This, in fact, was shocking because
5 the comparison, white tester, was not told
6 that same information. They were immediately
7 shown housing again and again, and told,
8 we'll work with you to qualify for that
9 mortgage product.

10 We then looked at disability issues
11 and we looked also at familial status issues
12 in our report. Then this year, for the first
13 time in the nation, we released the Fair
14 Lending Index.

15 There has yet to be a consensus on
16 fair lending, marketing and fair lending
17 testing methodologies, but frankly we're more
18 in agreement than disagreement. The
19 remaining issues, at the very least
20 represent, where we disagree, poor marketing
21 practices, even if we won't call them
22 discrimination.

1 We looked at our three
2 jurisdictions because we only looked at
3 regional lenders in our area. There were
4 over 45 at the time that we began the lending
5 index study. All of our studies, all of our
6 testers were upper middle income testers.

7 We did not want to confuse the
8 issue of poverty and race in our nation,
9 which is a very real fair housing and civil
10 rights issue, but we wanted to make the point
11 that was not the issue with what was going in
12 the index project. There was only one issue,
13 race or national origin, that we were
14 controlling for.

15 We sent out 150 match-pair testers
16 throughout our region. In fact, the results
17 were quite striking. 41 percent of the time,
18 we encountered either overt or subtle forms
19 of discrimination.

20 I agree, as what was said earlier
21 today, the majority of the time, we were
22 simply encountering practices that were

1 either so sloppy or there was a failure, in
2 fact, to monitor practices within a
3 particular mortgage corporation or entity.

4 That, in fact, they rised to the
5 level of fair lending discrimination. But
6 there were many subtleties in the report as
7 well, overt acts of discrimination.

8 For example, when our Latino
9 testers were calling within the District of
10 Columbia, almost 100 percent of the time,
11 they were asked about their credit before
12 they even were able to make an appointment,
13 but our white comparison testers, over the
14 phone, had no difficulty whatsoever in fact
15 gaining an appointment and accessing mortgage
16 information. Now that did not happen all of
17 the time, but it was a very strong finding in
18 the District of Columbia.

19 As well, we noted that with regard
20 to our African American testers, there was a
21 propensity to recommend FHA mortgage
22 products. Now the FHA mortgage product is a

1 wonderful loan product.

2 It does expanded housing
3 opportunities across this nation, when other
4 GSAs, such as Fannie Mae and Freddie Mac have
5 not been doing enough to provide similar
6 products that, in fact, our minority
7 communities and neighbors can access. So I
8 am not criticizing FHA, but I am criticizing
9 the mortgage representatives who are using
10 the product, *vis a vis*, to create steering in
11 our nation.

12 The Home Mortgage Disclosure Act
13 data in this area conclusively shows that
14 regardless of income, African Americans are
15 more likely to be steered to FHA mortgage
16 products. I have no problem if it's the
17 right product for someone. I do have a
18 problem if the same choice is not offered to
19 all people based on their individual
20 qualifications.

21 In the District of Columbia, we
22 also have other issues. Obviously, the issue

1 service and equal treatments. We have begun
2 partnerships with a number of lenders, and
3 we're negotiating with more. It's a self
4 test.

5 This is a major, major development
6 in this community. It serves as a model for
7 the nation. It's called our fair housing
8 partnership program.

9 It represents the corporate
10 commitment, the redefining of philosophy to
11 say, not only will it reduce risk, but if we
12 are going to survive into the next century,
13 by 2010, when everyone says the demographics
14 will change in our nation, and they will, we
15 had better re-engineer right now to make sure
16 we're ready to do business with our future
17 customers and consumers.

18 In fact, that simple philosophy is
19 winning. Over CEOs in both the real estate
20 industry, as well as the lending industry, to
21 take a total approach to fair housing
22 compliance.

1 The Fair Housing Council recently
2 filed a complaint, which I think is one of
3 the most significant fair housing lawsuits
4 filed in the nation. We filed a fair housing
5 lawsuit against CAP Cities Mortgage
6 Corporation. The Washington Lawyer's
7 Committee for Civil Rights is representing
8 us, with also a pro bono law firm.

9 This is the very first law suit in
10 the nation arguing reverse redlining. Not
11 saying that they are trying not to do
12 business in a community, but in fact, they
13 are targeting. You've all known the language
14 predatory in lending. That's what this case
15 is all about.

16 It's not like me to read when I
17 speak publicly, but it's also unusual to have
18 such striking language in the first paragraph
19 of a fair housing complaint. The
20 complainants in this case come from the
21 District of Columbia and also the urban core
22 of Prince George's County.

1 We looked at where, in fact, CAP
2 Cities is exclusively doing business. It is
3 racially and economically impacted areas of
4 our community. Here we go.

5 "This complaint arises out of a
6 pattern or practice of predatory and racially
7 discriminatory lending by defendants in the
8 Washington D.C. metropolitan area. While
9 they masquerade as bankers, defendants
10 systematically defraud innocent individuals
11 out of their money and property.

12 They accomplish their illicit
13 purposes by means of fraudulent loans
14 obtained through unscrupulous methods. Using
15 these loans, defendants extract
16 unconscionable and illegal fees from their
17 victims, until there is no money left to
18 extract. They then expropriate their
19 victims' business properties, churches and
20 homes before closures, which the loans were
21 specifically designed to facilitate."

22 This complaint is available from my

1 office and I can leave this as an exhibit
2 today.

3 The Fair Housing Council, in
4 cooperation with the District of Columbia
5 Office of Housing and Intergovernmental
6 Affairs has begun testing in the District of
7 Columbia. We are looking at discrimination
8 through testing in race and also various
9 national origin groups. We're looking at
10 rental.

11 We're looking at sales, and I have
12 no problem to publicly state that we are
13 looking at predatory lending. It's
14 particularly in northeast and southeast
15 Washington, D.C. The recommendations
16 included in the District of Columbia analysis
17 of impediments document are very similar to
18 that included in your document released
19 today.

20 The future is a great opportunity,
21 because I have seen such sensitivity by a
22 majority of the large volume in mortgage

1 companies, as well as banks, to do the right
2 thing, to work hand in hand, to move beyond
3 us and them, to say, how can we best serve
4 the community?

5 I'd like to conclude with a brief
6 statement about the problem of mortgage
7 insurance, homeowner's insurance in
8 particular in our community. The Fair
9 Housing Council recently has filed three
10 complaints to the United States Department of
11 Housing and Urban Developments.

12 One of the companies involved will
13 not even insure homes in the District of
14 Columbia that are less than a quarter of a
15 million dollars in value. Where are they
16 insuring in the District of Columbia with
17 that policy? Other companies have had
18 policies in the past, many of them have begun
19 to change them, looking at the age of housing
20 or construction of housing.

21 Age of housing is not a valid
22 underwriting issue. You cannot have

1 arbitrary standards. For example, we will
2 not insure homes that are more than 30 years
3 of age because what does that do to our urban
4 communities around the nation?

5 To their credit, after complaints
6 were filed against Allstate and State Farm
7 and also with regard to Nationwide Insurance,
8 those companies have abandoned that
9 discriminatory policy.

10 Other policies have to do with
11 rating territories, and a belief that higher
12 risks exist in certain communities.

13 Sometimes that is not a corporate policy in
14 underwriting, but it is a practice exhibited
15 by front line professionals, who may be
16 independent brokers, whether they are the
17 real estate industry, blending or insurance.

18 We are coming to a new point in
19 time where there will be new and expanded
20 responsibility and/or liability for wholesale
21 operations. So parent corporations, such as
22 Erie Insurance, who abandoned the District of

1 Columbia because of regulatory red tape, yet
2 they will insure for other areas. Then
3 housing can no longer be tolerated. These
4 complaints are pending.

5 The most serious threat, I think,
6 to the wonderful, positive efforts that are
7 taking place by lenders to expand home
8 ownership opportunities today in the
9 District, as well as by the many of the
10 community groups that are working hand in
11 hand with the lenders to do direct
12 counseling, for example, is the fact where
13 lenders, 5, 6 years ago, in a short period of
14 time, began secondary review processes under
15 regulatory pressure as well as with the
16 desire to ensure compliance.

17 Today, where alternative means
18 other than credit has been developed to
19 qualify homeowners for mortgage products, the
20 insurance industry as a whole is moving to
21 credit as a factor for qualifying for
22 homeowner's insurance. I say to you that is

1 ludicrous.

2 If you look at insurance
3 underwriting today, if you make two claims
4 within a reasonable period of time, you're
5 going to be cancelled. If you have a claims
6 history, you are going to be cancelled. The
7 argument being made is, if you have a poor
8 credit history, you are more likely to make a
9 claim.

10 This is no different, the disparate
11 impact that was created by lenders, using
12 credit, 6, 8 short years ago, than what the
13 insurance industry is doing today. We as
14 fair housing advocates around the nation are
15 speaking out on this issue. We will be
16 filing complaints on this issue. We are
17 making friends among the realtors and I
18 believe the lenders, to address this issue
19 proactively. Thank you.

20 MR. SIMS: Joshua?

21 MR. SILVER: Yes, good morning.

22 Thank you for giving me the opportunity to

1 testify before you today. My name is Josh
2 Silver. I'm the Vice President of Research
3 at the National Community Reinvestment
4 Coalition. NCRC is a CRA trade association
5 of 680 community reinvestment organizations
6 from around the country.

7 Our members include community
8 development corporations, civil rights
9 groups, and other neighborhood organizations,
10 whose tasks day in and day out is to
11 revitalize inner city and rural communities.

12 I was asked to present the findings
13 of a report that we did with HMDA data
14 from 1994 through 1996. The report is
15 called, Who's Financing the American Dream?
16 We took a look at lending patterns in the 20
17 largest metropolitan areas in the country. I
18 hope you all have copies of the report,
19 because I'd like to refer to tables during
20 this presentation. Who's financing the
21 American dream?

22 We decided to focus on home

1 purchase loans, specifically, both
2 conventional and government insured, rather
3 than looking at all single family lending,
4 which would include not only home purchase,
5 but home improvement and refinance.

6 Obviously, very importantly, home
7 ownership helps revitalize neighborhoods,
8 gives people a stake in their communities,
9 increases property tax revenues as home
10 purchases and housing rehabilitation occurs
11 in the neighborhood.

12 So that's why we focused on home
13 purchase lending in the report. We took a
14 look at six different indicators. The
15 percentage of marketing practices, which
16 could be measured by the percentage of
17 applications received by blacks and
18 Hispanics.

19 We focused on blacks and Hispanics
20 in this study. How many applications a
21 lender receives from blacks and Hispanics is
22 a proxy for marketing because if blacks and

1 Hispanics are applying to a lender, obviously
2 they've heard about the lender somehow,
3 through radio or through some other media, or
4 through word of mouth or some other form of
5 marketing practice.

6 We also took a look at the
7 percentage of loans going to blacks and
8 Hispanics than the percentage of marketing
9 practices to low and moderate income
10 borrowers, the percentage of applications
11 that low and moderate income borrowers submit
12 to a bank, the percentage of loans going to
13 low and moderate income borrowers.

14 Then, last but not least, we had
15 professor at the University of Minnesota
16 compute, he calls it a discrimination ratio.
17 He uses HMDA data and census statistics to
18 determine if similarly qualified minorities
19 that have the same qualifications as whites
20 are being disproportionately rejected for
21 loans from a particular institution?

22 Before I jump into how, kind of the

1 individuals lenders fell out, that was just a
2 broad description of the methodology that we
3 used in our report. I'd like to draw your
4 attention to this table it's, Home Purchase
5 Loans to Minorities.

6 You'll see on the left most column,
7 the 20 largest metropolitan areas in the
8 country. Metropolitan area, that includes
9 both the city and the suburb. So for
10 Washington, D.C., we're talking about the
11 District of Columbia and then Montgomery,
12 P.G. County and Maryland and Arlington and
13 Alexandria and other jurisdictions in
14 Virginia.

15 What you'll see on percent
16 minority, on that column, which is right next
17 to the metropolitan areas, percent minority
18 is actually the percentage of blacks and
19 Hispanics that reside in each of the
20 jurisdictions, and then percentage of loans
21 in 1996, where the percentage of loans that
22 were offered to blacks and Hispanics in 1996,

1 and so on for 1995 and 1994.

2 Let's look at Riverside, San
3 Bernandino on the top; 25 percent of blacks
4 and Hispanics live in that metropolitan area.
5 Incredibly, they receive 42 percent of all
6 home purchase loans in that metropolitan area
7 in 1996.

8 So if you go a little further
9 across the row, and you see the column 1996
10 difference, in other words, the percentage of
11 loans that were offered to blacks and
12 Hispanics by lenders in that area, was 17.1
13 percentage points higher than in percentage
14 of blacks and Hispanics that lived in that
15 metropolitan area.

16 Orange County, you'll notice the
17 first four or five jurisdictions are
18 California jurisdictions. I sorted this
19 table based on the difference between the
20 percentage of loans minus the percentage of
21 people that were minority in that area.

22 So in other words, Orange County,

1 where it says 1996 difference, 5.7 percentage
2 points more loans than there were minority
3 residents. In other words, 23 percent of the
4 loans in 1996 were to minority residents,
5 and 17 percent of the population were
6 minority in Orange County. You can see it's
7 the same trend for 1995 and 1994 for Orange
8 County.

9 Then you go down the list and you
10 see Washington, D.C. as number ten.
11 Actually, in kind of an absolute sense, D.C.
12 is not doing terribly, but in a relative
13 sense, it could be doing better because
14 you'll see the non-metropolitan areas ahead
15 of D.C. Some of the metropolitan areas don't
16 have a high percentage of minority
17 populations, but others do, like Los Angeles,
18 Long Beach, for example.

19 Washington, D.C., 30 percent of the
20 residents in D.C. are black and Hispanic.
21 Our lenders offered 29 percent of home
22 purchase loans to minorities in 1996, 31

1 percent in 1995, and 27.87 percent in 1994.

2 In 1996, there was just about 1
3 percentage point fewer loans than the
4 percentage of minority residents in the city.
5 It was kind of similar for 1995 and 1994. So
6 it's kind of a double story in D.C., kind of
7 in an absolute sense, there's progress, but
8 relative to some other metropolitan areas,
9 there's room for improvement.

10 Then you look at the bottom of the
11 page, and you'll see average for the 20 MSAs,
12 and then for United States as a whole,
13 there's 22 percent of the population in all
14 the 20 MSAs were black and Hispanic. They
15 got 21 percent of the loans in 1996 on
16 average.

17 United States, 17 percent of
18 population is black and Hispanic, and they
19 received 14 percent of the loans in 1996.
20 That's kind of interesting, kind of in rural
21 areas and small towns, probably there's not
22 as much success in reaching minorities as

1 there are in the bigger cities. Perhaps the
2 lenders are not as experienced in serving
3 that market in rural areas and smaller towns.

4 Then you go into Table 2, and I do
5 the same story for low and moderate income
6 households. What's interesting is
7 Washington, D.C. performs well on a relative
8 and an absolute sense on this table. You'll
9 see it's number two, right below Minneapolis,
10 St. Paul. 37 percent of the population is
11 low and moderate income in Washington, D.C.

12 In low and moderate
13 households/families, we see 41 percent of all
14 home purchase loans. In other words, 3.76
15 percentage points more loans than the
16 percentage of minority residents, blacks and
17 Hispanics in the city. You'll see for 1995
18 and 1994, 36.1 and 36.3.

19 Does that mean that we should rest
20 easy? No, because this is home purchase
21 lending. We should also take a look at home
22 improvement lending and refinance lending.

1 We should also take a look at the geographic
2 distribution of home purchase loans.

3 This study focuses on lending to
4 individuals throughout the metropolitan area
5 and not so much lending in different
6 neighborhoods. So we recommend additional
7 studies looking at, as you did a few years
8 ago, in lending and the different wards.

9 What's interesting in lending to
10 income is on average, it's harder for lenders
11 to reach low and moderate income households
12 in proportion to their population. You'll
13 see at the bottom of the page, on average 41
14 percent of the people in any given MSA, are
15 low and moderate income, and 1996, they
16 received about 36 percent of the loans, and a
17 similar percentage of loans in 1995 and 1994.

18 So in other words, 10 percentage
19 points fewer loans than there are low and
20 moderate income households in any given MSA.
21 It many areas, such as New York or some of
22 the California communities, you have high

1 cost of housing.

2 You have an affordability issue,
3 but still, affordable home mortgage products
4 should be developed so as to try to increase
5 the percentage of loans going to low and
6 moderate income households.

7 For the United States as a whole,
8 that last row on the page, it's kind of
9 interesting that again, it's about 40 percent
10 of the people in the country are low and
11 moderate income. They received 42 percent of
12 the loans in 1996. It's sort of the reverse
13 of the 20 largest metropolitan areas. Again,
14 it probably is due to lower housing costs in
15 rural areas and smaller towns.

16 Table 3, which I'll just quickly go
17 through, is the denial ratios. That means
18 how many more times are blacks and Hispanics
19 denied for loans than for whites? You'll see
20 D.C. is probably eighth on the list.
21 In 1996, minorities were denied 1.73 times as
22 often as whites. Happily, that's been going

1 down.

2 There's 2.57 in 1994, 2.02
3 in '95, 1.73 in '96, but should we rest easy?
4 No, because still minorities are being
5 denied 1.73 times as often as whites. We do
6 have metropolitan areas that have lower
7 denial ratios.

8 Let me jump to how the lenders fell
9 out in the District of Columbia. On pages 37
10 and 38 of the report, on page 37, it starts
11 with the best lenders or the lenders that
12 offer the highest percentage of loans to
13 minorities and low and moderate income
14 households, and then do the most marketing.
15 We see the most applications from underserved
16 populations.

17 Then to the lenders that are lowest
18 on the table. You'll see that Riggs Banks is
19 number one in the study. Russell Simmons
20 will probably be happy about that. You'll
21 see that Riggs took in, but for good reason,
22 71 percent of its applications were for

1 blacks and Hispanics.

2 Remember, if 30 percent of the
3 population in the entire metropolitan area
4 are minorities. So Riggs is taking more than
5 twice that, then offered 71 percent of their
6 loans to blacks and Hispanics.

7 Again, for low and moderate
8 income, 73 percent of their applications were
9 from low and moderate income households; 73
10 percent of their approvals were to low and
11 moderate income households. Low and moderate
12 income households, as I said before, were
13 about 37 percent of the population of the
14 District of Columbia.

15 You'll see this DSC ratio. That
16 was developed by professor Sam Myers at the
17 University of Minnesota. A negative number
18 means good news. It means, basically an
19 absence of discriminatory practices. If it's
20 above 1, it's a little worrisome.

21 What the quintile means, say the
22 quintile next to the minority applications,

1 quintile 5, that means it was the top
2 quintile. That score for Riggs Bank on the
3 minority approvals was in the top quintile of
4 the lenders in our report.

5 You know you sort lenders into 5
6 different categories for the same number of
7 lenders in each categories on each of the
8 indicators. So 5 means a top quintile. So
9 you have 6 indicators. You'll see that Riggs
10 got a score of 30, which means that they
11 scored in the fifth quintile. They got a
12 score of 5 in each of the 6 indicators.

13 In 1995, they also had a score
14 of 30. Interestingly enough, they did have
15 to improve from '94 to '95. I believe the
16 history was, is that in previous years there
17 was a low CRA rating for Riggs Banks. Riggs
18 did the work, and they improved their lending
19 performance. That's what CRA fair lending
20 laws are all about.

21 Riggs is a case study on how CRA
22 and fair lending laws provide an incentive

1 for lenders to serve people who have been
2 traditionally underserved by financial
3 institutions in the United States.

4 Then you can kind of see a little
5 further down the page, your lenders, say
6 percentage of loans being offered to
7 minorities. Virginia First Savings Bank, 20
8 percent of their loans are going to
9 minorities as opposed to a member. Then 70
10 percent of the loans going to Virginia First
11 Savings Bank is like sixth from the bottom.

12 So you can see that there is a
13 great difference in performance amongst the
14 lenders in Washington, D.C. Further analysis
15 and study should figure out why. It could
16 have to do with their branch distribution
17 network.

18 Actually, NCRC has the capability
19 of putting nice maps where the branches are
20 of the lenders. If the branches are in
21 predominantly white areas, in the suburbs,
22 you're not going to have a whole lot of loans

1 going to minorities or low and moderate
2 income people. If the branches are more
3 evenly distributed throughout a metropolitan
4 area, you will see performances like Riggs.

5 You also have to look at affordable
6 mortgage products. Do the lenders offer
7 affordable mortgage products with waiving
8 some fees on a loan or a below market
9 interest rate? One thing I'll brag about
10 NCRC members here is, we have 680 members who
11 work out partnerships with lenders to do
12 affordable mortgage programs, that say, offer
13 a one percent below the market rate in return
14 for people going through home ownership
15 counseling.

16 Marcia Griffin will be talking to
17 you later about home ownership counseling
18 efforts. But these types of programs get
19 people ready to purchase their American
20 dream, and the extent to which lenders have
21 affordable mortgage products, you'll see some
22 of that reflected in the performance of the

1 lenders, on these charts.

2 I should also say that since 1977,
3 community reinvestment organizations have
4 negotiated over \$1 trillion dollars, I'll
5 repeat that figure, \$1 trillion dollars in
6 CRA agreements with lenders. These
7 agreements commit lenders to offer loans and
8 investments to low and moderate income areas
9 and minority communities over a multi-year
10 period.

11 Often this occurs during the merger
12 application time. That's when CRA is
13 enforced. It's one of the times that CRA is
14 enforced.

15 A lender has to demonstrate to a
16 federal regulator that it has a good
17 community reinvestment performance. So
18 lenders again have the incentive to work out
19 these agreements with community
20 organizations.

21 There was recently an agreement in
22 the Midwest and Chicago with First Chicago

1 Bank, filled \$4 billion in loans to low
2 income areas in Chicago. There was similar
3 agreements with First Union here in D.C. a
4 few months ago.

5 Continuing with this table, if you
6 turn to page 38, you see the lenders that
7 fall in the lower half of the table. For
8 example, you have Citibank Federal Savings
9 that offers 18 percent of their loans to
10 minorities, has 17 percent of their loans to
11 low and moderate income borrowers. Remember,
12 low and moderate income people were 37
13 percent of the population in D.C.

14 So what is it about Citibank that
15 they're not doing as well as some of the
16 other lenders?

17 What this table enables all of us
18 to do is to have constructive dialogues with
19 lenders saying, okay, Norwest Mortgage
20 Corporation. You got a score of 16 in 1996,
21 and I see that you're offering 20 percent of
22 your loans to low and moderate income

1 purchasers, but a regional bank that has your
2 same asset size, say, Countrywide Home Loans,
3 is much higher up on the table. We want to
4 work with you to get you to what Countrywide
5 is.

6 In other words, if you show lenders
7 that their peers with the similar financial
8 capacity, similar assets, are higher on the
9 table, and if there's a way to do this, and
10 that you're willing to work with the lenders,
11 that is the value of a study like this.

12 This gets you to the table and gets
13 you past the accusations flying and get you
14 to looking at the facts and figuring out how
15 you can really, in a constructive way,
16 improve lending performance for everyone's
17 benefit, to revitalize neighborhoods and to
18 pursue profitable opportunities.

19 Mellon Bank and First Union Bank
20 have sold CRA loans to Wall Street. This is
21 profitable business. So it's a win-win,
22 revitalizes -- I'll end on that. It

1 revitalizes neighborhoods and it's profitable
2 opportunities for banks, doing well by doing
3 right.

4 MR. SIMS: Thank you. I'd like to,
5 as chair, modify the suggestion I made
6 initially, and open up for questions because
7 I do have a couple myself. Also give
8 Mr. Simmons a chance to -- the
9 acknowledgement of Riggs Banks performance.

10 MR. SIMMONS: That was a very
11 impartial study. We looked at the numbers.
12 They were obviously very excited and very
13 gratified, and as I began to speak -- it's
14 part of the whole process that we ended ----
15 back in '93, we did not pass the CRA exam and
16 certainly that got our attention.

17 Mostly because we had just come out
18 of almost going under, back in the real
19 estate crisis, but since then, and when I get
20 on the panel, I'll sort of address it.
21 Residential lending is part of an overall
22 strategy at Riggs, CRA lending. That's what

1 I'm going to talk about, but certainly we
2 thank you for the study.

3 MR. SIMS: Wonderful. I guess my
4 first question is to David. In terms of the
5 study that you presented, did you find or did
6 you look into any new strategies or terms of
7 training or orientation of employees that
8 might assist them and improve the
9 sensitivity, either in terms of racial
10 sensitivity or whatever, that the
11 institutions have implemented in terms of
12 this evolutionary change that's going on?

13 MR. BERENBAUM: The study itself
14 focused on actual practices at lenders
15 mortgage bankers and brokers in the District
16 and the surrounding areas. So that report
17 itself really looked at what happens during a
18 pre-application situation. You have a copy
19 of the report to examine that aspect closely.
20 Everything is charted out. However, one of
21 the important goals of the Fair Housing Index
22 Report was to begin dialogue.

1 That has happened after each of the
2 reports has been released. Not only was it a
3 public education project, frankly, also it
4 was an enforcement project.

5 We've just filed our first
6 complaint to HUD against a Montgomery County
7 lender, where in fact there's very poor Home
8 Mortgage Act data and all of the tests
9 corroborated the findings from the HMDA data,
10 inability to access mortgage products,
11 steering FHA products, differential terms,
12 for example, with regard to the cost of the
13 mortgage product.

14 We, since the release of the
15 report, have met with approximately ten
16 financial institutions or mortgage entities
17 and it's given us a very interesting insight
18 into the true best-efforts on the part of
19 institutions to try to comply with the host
20 of regulations and federal and state laws.
21 What's clear to me is that there is lack of
22 consistency.

1 There's some institutions that
2 frankly have a minimalist approach, where
3 they will do just enough. For example, a two
4 hour discussion of fair lending compliance is
5 part of a broader discussion of CRA and
6 related issues of lending requirements.

7 Whereas there are other
8 institutions in our community, who are very
9 proactive, and they bring in outside
10 consultants and will spend up to five days in
11 discussion groups with key management,
12 developing what is a best practices approach,
13 not only to fair lending practices, but
14 related civil rights and diversity issues as
15 well.

16 The Fair Housing Partnership
17 Program that we have begun takes really what
18 was the recommendations of the National
19 Association of Realtors, and implements them
20 across the board. We have been using this
21 new project, not only to promote voluntary
22 compliance with the law, but also with regard

1 to settling cases that are actively on the
2 enforcement side of the road.

3 Simply, that a company that is
4 truly committed to a business practice of
5 equal housing opportunity, as was said a
6 component of being actually successful in
7 marketing a community and realizing profit,
8 will look at its internal practices, not only
9 underwriting, but in retaining staff, let
10 staff know what the company's commitment is
11 to equal housing opportunity, to CRA and
12 related laws.

13 They'll let the staff know there's
14 accountability at every level to these laws
15 and that this company is serious. When we
16 settled the federal lawsuit against First
17 Virginia Bank-Maryland, it was very
18 heartening to hear the president of the
19 financial institution get up and say to his
20 staff, let me make it clear, we do not
21 tolerate racial discrimination or any
22 discrimination at this bank.

1 I tell you, since then, we have yet
2 to get another complaint against that
3 institution, after the case that was settled.
4 That is the kind of message that makes a
5 difference, as well as having a diverse
6 staff, that will reach out to the community,
7 a multilingual staff, as well as having a
8 board that is sensitive and diverse as well,
9 which is another issue for financial
10 institutions today.

11 The institutions in this room have
12 a wonderful job reaching out to community
13 groups, but that's not enough. You can have
14 a policy in practice, but this is simply not
15 about changing attitudes, it's about changing
16 actions. There is liability if a manager in
17 a particular branch or a particular telephone
18 operation of an institution violates the fair
19 lending laws, regardless of the corporate
20 position of the lender.

21 That's where the self testing is so
22 stimulating. It's being done on a widespread

1 basis. I'm glad that we're going to be
2 getting a dialogue with the Mortgage Bankers'
3 Association and other associations, to talk
4 about having a common theme. There need to
5 be parameters.

6 I believe the parameters of my
7 agency are first class in testing, but I know
8 for a fact, there are private consultants and
9 fair housing groups and other organizations
10 around the country who are using all
11 different methodologies.

12 The bottom line is we have to
13 interpret the law in the same way. We have
14 to interpret the regs in the same way. We
15 have to agree what's a violation through self
16 testing and the parameters of that, but
17 that's the point we're getting to. That's
18 how sophisticated the civil rights movement
19 has become over the past three years. That's
20 a marvelous opportunity.

21 MR. SIMS: Thank you. Any other
22 questions? Yes?

1 MR. TOPPING: I got a comment on a
2 question. I appreciate very much the
3 testimony that both of you have provided.

4 I found especially interesting the
5 test you take, although I thought the
6 mathematical precision was a little stronger
7 than I was comfortable with, converted into
8 the index, nevertheless I think there were
9 some things that were fairly blatant, other
10 things that probably were very much in the
11 area of sloppy practices, but I think
12 nevertheless a very compelling case is made
13 that there is a significant degree of
14 differential treatment that is adverse and
15 very likely discriminatory through this
16 technique.

17 I think the testing technique
18 really allows you to probe much more than
19 what's actually available in the overall
20 statistics.

21 One of the things I'm struck with
22 in terms of addressing this, is that the

1 possibility -- and this of course, we can
2 trust later. I'll sit with members of the
3 banking industry that a substantial amount of
4 self testing might be carried.

5 I'm a former Air Force brat, and
6 also former Air Force officer, and I know the
7 strategic air command would often send in
8 various teams onto air bases to actually test
9 how secure the bases were against someone
10 coming in from the outside. The result of
11 this was that you get a remarkable degree of
12 vigilance and so on, through those particular
13 bases.

14 I think that there might be some
15 real nerve, if we're going to have these
16 practices administered fairly throughout, and
17 having the banking community more generally,
18 really work out some kind of self testing.

19 This way small banks could pool
20 with the larger banks in some way, and really
21 institute this kind of self scrutiny in which
22 they could end up arriving at something in

1 consultation with groups such as yourselves.
2 That would be a very constructive way of
3 addressing a lot of these subtle issues, that
4 the loan differential terms and so forth.

5 Where somebody may still get a
6 loan, but they may get it at far higher rates
7 or they may find that there really isn't this
8 kind of competition offered. I think somehow
9 that kind of effort on the part of the
10 industry might be a way of addressing that.
11 What is your sense?

12 MR. BERENBAUM: Whole point of the
13 partnership initiative. To say rather than
14 it being an ongoing adversarial relationship
15 between the civil rights movement and
16 industry providers, this is the 30th
17 anniversary of the Federal Fair Housing Act.

18 Our nation remains
19 hyper-segregated. It is in fact more
20 segregated and we expect, especially if you
21 look at this community, the white flight, not
22 only from District of Columbia, but from our

1 inner communities: Fairfax, Arlington,
2 Prince George. That is going to be
3 reinforced based on interim data that we have
4 seen.

5 We, in fact, are preparing to test
6 the outer jurisdictions because we are so
7 concerned about what we're documenting.
8 Voluntary compliance efforts, we have an
9 equal responsibility to work hand in hand,
10 doing training, self testing, policy,
11 advertising review, whatever it may be with
12 industry.

13 If a corporation is willing to step
14 forward and say, "We believe in fair housing
15 as best practice, we have a responsibility as
16 a public interest organization serving this
17 community to work with those groups."

18 The reality is, quite frankly, it
19 is not something for fair housing advocates
20 to be afraid of, you know, because there is
21 some discussion about are we giving up our
22 private attorney general role by doing this?

1 In fact, we are not. We are firewalling out
2 the program. There are safeguards in place.

3 There are commitments made by the
4 corporations if there is a complaint, to
5 immediately do the right thing by the
6 complainant. But what it is really doing is
7 putting us all on the same table and the same
8 page with regard to what needs to be done.
9 For those who are the worst offenders in the
10 community, it allows me as a civil rights
11 advocate, to focus all of my enforcement
12 activities on them, where frankly, they
13 deserve to be put.

14 MS. CORONADO: Just a clarification
15 on that point of the results of the self
16 testing. Those results, I assume, because
17 the banks and other lenders that agreed to
18 that self testing, those results are not
19 available for use in court action or --

20 MR. BERENBAUM: Well, there has
21 been regulation, which has now been accepted
22 on a federal level, which basically gives

1 companies, lenders, sort of a limited safe
2 haven in the sense that as long as there is a
3 constructive action taken. Let's say
4 hypothetically, there is some finding through
5 self testing to correct the problem?

6 A regulator will not use that
7 against a particular lending. Now it's all
8 ultimately discoverable, but that is true in
9 any testing situation. What's interesting,
10 and I say this quite candidly, is that while
11 our project was an enforcement project, we
12 very publicly when we released the results,
13 and I agree that, for example, three or six
14 tests of an institution -- that shows what
15 may be sloppy practices.

16 Maybe not enough to say it's a fair
17 lending violation, but it's enough for us to
18 go back. If it happens 9 or 12 times, then
19 you bet we're going to say it's a fair
20 lending violation and file a case because
21 then you're proving a disparate treatment
22 case.

1 But with the self testing, as long
2 as a lender or any real estate provider,
3 insurer, because a lot of people are looking
4 at testing now, act responsively and
5 proactively, there's very little risk
6 associated with it because of the new regs.

7 MS. CORONADO: So that's a good
8 thing?

9 MR. BERENBAUM: It's a very good
10 thing. Again, this was a change. Many civil
11 rights advocates were uncomfortable with it,
12 and there was a lot of testimony, pro and con
13 in tweaking it that NCRC and others were
14 involved with in National Fair Housing
15 Alliance. But the outcome, because I had
16 everyone's input, has been very positive, I
17 believe.

18 MR. SIMS: One last question, you
19 had mentioned the lawsuit being brought? Was
20 that against a specific lending institution
21 or association or can you clarify that again?

22 MR. BERENBAUM: Are you talking

1 about the Capitol Cities cases that I
2 mentioned?

3 MR. SIMS: Yeah, mm-hmm.

4 MR. BERENBAUM: It was against
5 Capitol Cities Mortgage and the principal
6 owner, whose name is Nash. I have a copy
7 that I'll leave right here today. It is a
8 very important case. There are many aspects
9 to it beyond civil rights. For example,
10 there was a very important argument being
11 made under the federal racketeering aspects
12 of our laws. That is also a new argument
13 that is being made.

14 But I tell you, this will be the first
15 of what will be other cases or complaints
16 filed by our agency, because this company by
17 no means is alone as it operates in the
18 District of Columbia.

19 MR. ROMERO: Mr. Chairman?

20 MR. SIMS: Yes?

21 MR. ROMERO: Mr. Nash is not
22 licensed with my office and with the LBFI.

1 We rejected his application. Legally, he's
2 not allowed to make any residential loans in
3 the District of Columbia. Whether we can
4 afford it or not, that's another problem.
5 But he's doing a commercial role.

6 MR. SILVER: That's what I thought.

7 MR. ROMERO: And there's nothing
8 Carlos can do about it.

9 MS. HEUER: I guess I would address
10 this question, how did you make a decision on
11 which banks and lenders that you used in
12 Washington?

13 MR. SILVER: That's a good
14 question.

15 MR. ROMERO: Include all of them or
16 was there --?

17 MR. SILVER: There's a cut-off. We
18 wanted to, as much as possible, compare
19 apples with apples. So we decided that
20 lenders at 250 applications or more. They
21 had to have taken in at least minority
22 application. That was the cut-off. It

1 roughly translates to people with market
2 shares of about one percent of the market and
3 hire of applications. That was the cut-off,
4 so you'll see D.C. has about 50 lenders in
5 the study.

6 MR. BERENBAUM: Mr. Chair, can I
7 just quickly make just one more remark?

8 MR. SIMS: Sure.

9 MR. BERENBAUM: Relevant to CAP
10 Cities, and frankly what's happening in our
11 entire nation, is that there is a need for
12 greater guidance from regulators in the
13 sub-prime marketplace. We see that beginning
14 to be developed by, for example, Fannie and
15 Freddie.

16 There's been a lot of dialogue
17 about that, but I believe that this would be
18 a very appropriate function, for example, for
19 our superintendent in the D.C. environment,
20 in a very proactive way because particularly
21 in the D.C. Marketplace, there is a greater
22 reliance in some areas of our community on B,

1 C, and sometimes even D loan products.

2 We hear some of the horror stories
3 associated from some of the lenders who are
4 less than professional in their approach to
5 marketing these products.

6 MR. SIMS: Any other questions,
7 comments?

8 MR. SIMMONS: I want to thank you.
9 We will be, as I mentioned earlier, using the
10 presentation you made to date in our addendum
11 to the U.S. Commission on Civil Rights.
12 Thank you very much.

13 MR. SIMS: Thank you. If we could
14 have our second panel? David Baer?

15 MR. BAER: Yes, sir. How are you
16 doing? Good morning.

17 MR. SIMS: Russell Simmons, do you
18 get mistaken for the other Russell Simmons?

19 MR. SIMMONS: Occasionally, I refer
20 to myself as the poor one.

21 MR. SIMS: Okay, and Jan Maxwell?
22 Is Jim Griffin here?

1 SPEAKER: Marcia.

2 MR. SIMS: I'm sorry. Okay, okay.

3 The next panel will provide us information
4 from in the industry perspective, bank's
5 industry effort to assist to minority home
6 buyers. The first presenter will be David
7 Baer, president elect, Mortgage Bankers
8 Association of Metropolitan Washington,
9 followed by Russell Simmons, the poor one,
10 the senior vice president for business and
11 community development and CRA officer at
12 Riggs Banks, and our clean up hitter will be
13 Jan Maxwell, vice president and CRA officer
14 of the Chevy Chase Bank. Welcome.

15 MR. BAER: Thank you. Good
16 morning, everybody. I appreciate the
17 opportunity to address the group this
18 morning. As an active member in the lending
19 community, which encompasses Washington, D.C.
20 as well as the Maryland and Virginia suburbs
21 of the city of Washington, I come to you as a
22 representative of both, or rather, banks as

1 well as mortgage bankers, as well as general
2 mortgage lenders.

3 Our membership consisted of 110
4 different entities, representing a myriad, if
5 you will, of institutions and entrepreneurs.
6 Small companies, single branch operations,
7 and then larger national bank operations as
8 well, are members of the Mortgage Bankers
9 Association of Metropolitan Washington, which
10 is a chapter of the national association,
11 just to give you some perspective.

12 As an active participant in the
13 governing body of the MBA of Metropolitan
14 Washington, I've been involved for six years
15 in the association. I've been involved in
16 lending since 1977. Started my career out
17 with a bank and currently work for savings
18 and loan, but have worked for private owners
19 as well during a 21 year period.

20 Our efforts at the MBA of
21 Metropolitan Washington, as it relates to
22 your hearings, I think can be stated as one

1 of educating our group as it relates to their
2 responsibilities, both social and
3 professional responsibilities. In 1996 to
4 give you sense, we went with the Virginia
5 Housing Development Authority and commenced
6 an educational program to not only educate
7 our membership, but educate the public.

8 We had a relative start. It
9 started out slow. We had maybe 25 to 30
10 homeowners per class, and now this year,
11 we're getting an upwards of 75 to 80
12 participants per class. I'm very happy to
13 report that about 2/3 of those participants
14 are converting to home ownership. So the
15 program itself was created by the Virginia
16 Housing Development Authority.

17 They came to the Association in the
18 third quarter of 1996. Both these
19 institutions have participated in those
20 programs. We feel, as an association, the
21 best thing that we can do for the consuming
22 public, is to educate them as it relates to

1 the processes.

2 There's no doubt that participants
3 or rather member firms and their employees
4 come to the table with predispositions as it
5 relates to how they interface with people.
6 That is human nature and that is, I'm sure,
7 is what this commission's really trying to
8 address. But part of the process with VHDA
9 puts everything in a very objective format,
10 and we have found and as I have mentioned, to
11 be very successful.

12 We're conducting at least one
13 seminar a month right now. We have enlisted
14 the Northern Virginia Association of Realtors
15 during the course of this year. That has
16 really added a lot to our grassroots effort.
17 As a pending motion for the executive
18 committee for the MBA of Metropolitan
19 Washington, we're going to pursue the same
20 avenue with the Maryland Association as well
21 as the D.C. Association of Realtors, because
22 they're the ones with the contacts with the

1 public.

2 Our objective is to notify the
3 public of the opportunities in housing, not
4 just in the housing stock, but the housing
5 lending programs, the flexible lending
6 programs that are out there as earmarked by
7 Fannie Mae and Freddie Mac and the larger
8 financial institutions.

9 It is worth noting that the typical
10 mortgage banker, the small time operator,
11 doesn't have the ability to create these
12 programs themselves and have to rely on these
13 secondary marketing players, like Fannie and
14 Freddie, to get these programs out to the
15 Street. So again, we're looking forward to
16 an extended grassroots effort going forward
17 through the end of the millennium and beyond.
18 We have educated in excess of 750 people in
19 the course of the last 16, 17 months. We're
20 very proud of that.

21 Again, the conversion rate is
22 about 67 percent to home ownership. So

1 people that come through the program are --
2 and we go after, you know, the Hispanics and
3 the minorities, and anybody that has an
4 interest in buying a house, you know,
5 specifically earmarked Hispanics. We've done
6 these classes, if you will, at libraries, at
7 community centers, that are not done
8 typically as you might suppose on the grounds
9 of an institution. They're done at a neutral
10 setting, which we think adds to the
11 attraction.

12 The community fairs, providing
13 seminars and exhibits to approximately
14 a 1,000 perspective home buyers, held in June
15 and September of last year. Last year also,
16 we joined forces with several area
17 associations community groups to form the
18 Housing Coalition of Maryland and the Housing
19 Opportunities Coalition of Virginia.

20 The mission of each coalition is to
21 enhance and expand the efforts to ensure that
22 affordable housing opportunities exist for

1 families in the Washington metro area.
2 Coalition members are committed to continuing
3 their proactive role, in support of the
4 National Home Ownership Strategy and the
5 National Partners in Home Ownership, which I
6 think echoes Mr. Berenbaum's comments about
7 being proactive. I think it's a critical
8 feature.

9 We have co-sponsored fair housing
10 and fair lending seminars with the Montgomery
11 County Human Relations Commission, providing
12 a full day of educational sessions on fair
13 housing and fair lending practices in April
14 of this year. We have made, as an
15 association, annual contributions to Jubilee
16 Housing and D.C. Habitat for Humanity. We
17 agree as a membership or association, we have
18 a code of ethics which stresses fairness,
19 reasonableness, integrity, sound practices
20 and conduct, without regard to race, creed or
21 color.

22 Also, as you will hear from my

1 associates here, many of our members
2 regularly hold fair lending functions and
3 remain very involved in the community
4 outreach projects. That's pretty much my
5 prepared comments.

6 MR.SIMS: Thank you.

7 MR. SIMMONS: Thank you. My name
8 is Russell Simmons and I'm with Riggs Bank.
9 I am and we are very pleased to be here. I'm
10 going to talk about an overall story and then
11 get to mortgage lending because it's all a
12 part of -- a few years back in '93, Riggs was
13 in serious trouble because of the real estate
14 crisis. We got an eastern approval from the
15 CRA rating.

16 Since then, we have begun to, I
17 guess, consider the entire CRA lending
18 process including mortgage lending on a
19 fairly systematic basis. We do strategic
20 planning. We've assembled a staff. We've
21 gone about making CRA lending an integral
22 part of our business.

1 It is a profitable business.

2 In '93, we loaned about \$20 million dollars a
3 year, CRA. We have since then raised that
4 level to approximately \$125 million a year.
5 We've lent over between \$500 and \$600 million
6 in the last 4/5 years. That lending has been
7 as profitable as other lending in the bank.

8 Now we lend approximately one out
9 of five dollars in this community to low and
10 moderate income areas. That happens to be
11 the percentage of low and moderate income
12 census tracks, and roughly lower than
13 moderate income population in this
14 metropolitan area.

15 It takes an effort to do that.
16 We've not changed our products a great deal,
17 but we have changed the marketing. We have
18 changed how we do business. We have
19 concerted efforts. We develop a strategic
20 plan, each line of business for the CRA and
21 the bank every year. It is monitored very
22 closely, both on internal committee and a

1 moderate income areas.

2 As you know, low and moderate
3 income areas also are highly correlated with
4 being in minority areas. Actually, the
5 eastern half of the District and the inner
6 beltway, Prince George's County probably make
7 up 80 percent of the low and moderate income
8 census tracts, and I'm sure almost as much
9 for a great portion of the minority
10 population of this area.

11 So our concentration has to be
12 where the people are. It is a tough
13 business. It is a very, very competitive
14 business. My colleagues at Chevy Chase and
15 others are our fierce competitors. It is --
16 you have to do more each day to stay in the
17 same place. I hope when the study comes out
18 again from the National Community
19 Reinvestment Coalition, that we are again
20 number one, but it is a tough, tough fight.

21 Many lenders are realizing that the
22 bulk of growth in home buyers' market are

1 coming from minorities and first time home
2 buyers. Certainly I think in order to be in
3 that business, you have to have the product
4 first. We think we have good products. We
5 were one of the first people out of the box
6 in terms with affordable housing loans.

7 My colleague, Andy Morris, who
8 couldn't be here today, runs our residential
9 mortgage section and he has been very
10 innovative and very, very dogged in terms of
11 making these kinds of efforts happen. He
12 deserves, sort of, the recognition on the
13 mortgage side because he monitors and watches
14 that program.

15 In terms of how we make things
16 happen, we do penetration reports every
17 quarter. What we do is we look up
18 geographically where every loan in the bank
19 is going. If we see that a particular
20 geographic area is missing, or we're not
21 getting enough in a certain place, we devise
22 specific strategies to do that.

1 It may mean going into a low and
2 moderate income area with a pre-approved home
3 equity product. It's very, very difficult,
4 particularly in the low income census tracts,
5 because the home ownership really may only
6 be 15/16/17 percent. It's not the 60 to 70
7 percent that you'll see in this metropolitan
8 area. So it is very difficult to penetrate
9 some of these places.

10 They have just high rental markets
11 and you have to do marketing and people don't
12 really buy -- you get customers from there,
13 but they don't buy there because the housing
14 stock isn't available.

15 In ward 8 in Southeast, as you
16 probably read in The Post a couple of weeks
17 ago, there are 1,000 single family units now
18 on the boards that will developed within the
19 next 12 months. That is a, not only a sign
20 of confidence for ward 8 and the District,
21 but a phenomenal signal from the private
22 sector that there is a ready market in the

1 District of Columbia.

2 I mean these houses are, I guess,
3 ranging from the low \$100's to the \$150's or
4 more. But certainly it signals that there is
5 market, I think. I saw another report about
6 the year 2002 or 2003, there are
7 another 1,000 units for ward 8 that are on
8 the boards. So we're happy about that and I
9 think other places in the District will begin
10 to see that. We hope parts of Prince
11 George's County will also begin to experience
12 a renaissance in affordable housing.

13 In closing, I think key to
14 marketing in low and moderate income areas
15 across the board, are knowing your market,
16 partnering with neighborhood groups as much
17 as possible. We work with a number of CDCs,
18 as well as the ACORNS and NARCORP that I
19 mentioned. Paying attention to this is a
20 good business.

21 Three or four years ago, we were
22 not lending \$100 million in this area.

1 That's \$100 million of lending opportunity we
2 weren't doing. This is good business. We
3 take it seriously. Thank you.

4 MR. SIMS: Thank you very much.
5 Jan?

6 MS. MAXWELL: Thank you.
7 Mr. Chairman, members of the commission, I am
8 Jan Maxwell. I'm a vice president and CRA
9 officer of Chevy Chase Bank. I'd like to
10 also introduce my colleague, Richard Harvey,
11 vice president and our chief compliance
12 officer and of course our community partner,
13 Marcia Griffin, who's president of Home Free.
14 Marcia will speak to you when I finish.

15 Chevy Chase Bank is the largest
16 federally chartered thrift institution in the
17 Washington metropolitan area. We have
18 over \$6 billion in assets and a branch
19 network of 140. 12 branches are located in
20 the District of Columbia. Any lending
21 statistics I give you this morning are only
22 the District of Columbia, not the larger

1 metropolitan area.

2 Chevy Chase Bank and our mortgage
3 subsidiary, the B.F. Saul Mortgage Company,
4 are committed to providing a variety of
5 mortgage loan products and services to
6 promote the opportunity for home ownership
7 among D.C. residents. Our mortgage products
8 and services are accessible through our
9 retail, wholesale, and telemarketing
10 operations. Our staff attends fair lending
11 and CRA training twice a year, however, we
12 believe that we can do a better job with
13 that, and are currently in the process of
14 talking with the Fair Housing Council about
15 expanded training opportunities.

16 Over the past five years, our HMDA
17 statistics tell us that Chevy Chase Bank has
18 provided mortgage financing to over 2,900
19 D.C. home owners, for a total of
20 approximately \$465 million. Of that number,
21 almost 1,200 were minority borrowers, who
22 borrowed in excess of \$145 million, and I

1 might add, at prime market interest rates or
2 below market interest rates, not at sub-prime
3 rates.

4 Despite the NCRC report that we
5 just saw this morning, we believe our success
6 in reaching out to the minority community is
7 the result of committed efforts on the part
8 of our loan originators and successful
9 partnerships with community-based
10 organizations.

11 Additionally, we have created a
12 series of three financial/education workshops
13 covering the home buying process, credit
14 awareness and repair, and budget development.
15 Our credit counselor, along with other staff
16 members, have presented over 60 of these
17 workshops during the past three years, which
18 have been attended by over 1,200 consumers.

19 We are especially proud of our
20 relationship with Home Free U.S.A. We became
21 alliance partners with Home Free U.S.A. in
22 the crusade for home ownership in the summer

1 of 1995. Since the beginning of our
2 relationship, Home Free has provided
3 marketing outreach and home buyer education
4 to hundreds of prospective home owners.

5 Through this process, the bank has
6 successfully funded over \$15 million in 145
7 home loans. The majority of these loans were
8 to minority borrowers of low and moderate
9 incomes. At this time, I'd like to introduce
10 Marcia Griffin, who'll talk to you a little
11 bit about her insights into how successfully
12 assist minority homeowners.

13 MS. GRIFFIN: Good morning. It's a
14 pleasure to be here. My name is Marcia
15 Griffin and I'm president of a non-profit
16 home ownership organization here in
17 Washington called Home Free U.S.A. I'm also
18 very pleased, I must say that certainly
19 representing the non-profit environment and
20 also being directly in touch with the
21 aspiring home owners as well as home buyers
22 in this area.

1 We are especially pleased to have
2 your organization and many others to be very
3 conscious of, you know, home ownership
4 pursuits and the position of minority, and
5 just sort of underserved communities across
6 the board. So I'm very happy to be here
7 today.

8 Home Free U.S.A. is an organization
9 that has partnered with Chevy Chase Bank and
10 other lending organizations in the Washington
11 metropolitan area. Our job is to touch the
12 community and to really incite a sense of
13 hopefulness, if you will, within our
14 communities to not only let them know that
15 home ownership is possible for them, but
16 actually show them how to get through the
17 process of home ownership and actually become
18 home owners.

19 We feel that in order to overcome
20 many of the inherent issues and problems in
21 the whole home ownership process, it really
22 requires three main tools, we find. One,

1 without question, education, we brought this
2 up earlier.

3 Education, information and
4 motivation are three very, very important
5 elements that are needed in order to overcome
6 many of the obstacles that are faced by
7 minorities and low and moderate income and
8 just underserved people generally. The
9 issues that many people with regard to home
10 ownership, and you know, these are issues
11 that the lenders also face.

12 The credit issues, the savings
13 issues, all of those, you know, are ones that
14 we engage everyday. We interact with
15 almost 1,000 prospective home owners a week.
16 We are involved very actively in a campaign
17 to encourage people to CDC as a place to
18 live, and to afford them the information that
19 they need to know about the financial
20 incentives there are to buy in D.C.

21 Generally however, we know that
22 people need, they need a lot of information.

1 There is a significant amount of support that
2 people need, not just financial support,
3 which I must say that the lenders could do
4 anything. Those lenders, like Chevy Chase,
5 and with Riggs and others, who are able to
6 afford down payment and closing cost
7 assistance.

8 This is absolutely needed within
9 our community. I'm not just saying it's
10 needed by even low income people. It's
11 needed by large income -- high income people
12 also who have good credit, but just have not
13 been able to save.

14 Clearly however, our mission and
15 within Home Free, we have created what we
16 view as a home ownership model which brings
17 people into an environment and really is
18 designed to uplift their financial
19 understanding. It's designed to get people
20 to understand what are the problems, the
21 obstacles to home ownership. If you have
22 credit problems, these credit problems really

1 need to be solved.

2 Really, we take them under our wing
3 and really with a significant support that
4 we've had through Chevy Chase, you know, to
5 bring them under our wing and get people to
6 really be able to, not just understand what
7 an FHA mortgage is and you know, who Fannie
8 and Freddie are, but really get a real
9 understanding as to who's getting rich and
10 who's getting poor when you're using a lot of
11 credit cards.

12 How to look at our spending
13 patterns so that even though it seems like
14 we're overwhelmed today with bills and
15 creditors and everything else there, you
16 absolutely must save some money.

17 When you're going to a lender,
18 you'll want to have some money of your own on
19 the table. This is possible. Within the
20 communities and the people we work also
21 with 133 churches here in D.C., there is a
22 tremendous, tremendous thirst, if you will,

1 among all people for information. They need
2 to talk to people who have become homeowners,
3 or people who are also going through the
4 process so that they know that when they get
5 to the end, and certainly in our environment,
6 every single person who's gone through the
7 Home Free process has been approved.

8 We feel that people need to be
9 educated and informed about why some people
10 are approved and why some people are not
11 approved. There are many things that we as
12 individuals, that the prospective home buyer
13 can do, quite frankly, on their own to ensure
14 mortgage approval on the back end. So, you
15 know, we work with HUD and DHCD and Chevy
16 Chase and many other great institutions to
17 inspire home ownership, we're seeing
18 significant interest.

19 As I said, in our classes, we have
20 on average about 100 people in every single
21 class. Quite frankly, we have an
22 infrastructure that is designed to hold onto

1 the person from that class all the way
2 through closing and two years afterwards
3 because what we find is that once a person
4 gets into that home, they really need to have
5 someone that they can call if they have any
6 questions. They need to still come to some
7 classes afterwards.

8 Of the people that we have put into
9 homes which 145 have gone to Chevy Chase, you
10 know, many of the loans have gone to almost
11 about 30 or so other lenders in the
12 metropolitan area. We have helped, in the
13 last about 15 months, to get over 300 people
14 into homes. The counseling is great. The
15 education is great. The opportunities are
16 great and we are here to just, you know,
17 thank you for your conscious effort to really
18 look out for people as they become home
19 owners.

20 MR. SIMS: Thank you very much.

21 MS. GRIFFIN: Thank you.

22 MR. SIMS: At this point, I'll

1 throw it open for questions and I think will
2 lead off with a question. It appears from
3 this panel that there has been incredible
4 outreach, education support for getting the
5 perspective buying public educated in terms
6 of how to get through the system and how to
7 be prepared to be a home owner.

8 Going back to David's Berenbaum's
9 presentation earlier to the panel, the notion
10 of this partnering. There's another part of
11 the equation, which I don't know that I've
12 heard much of, and I'd ask David to come up
13 and respond to it. What's being done within
14 the association to either share best
15 practices and what's being done within the
16 banks in terms of internal compliance?

17 There's two parts of the equation.

18 In my opening remarks, I mentioned
19 about maybe the large -- the loan denial
20 rates are a result of a lot of non-qualified
21 people coming in, but maybe there's also part
22 of it in terms of an insensitivity, a lack of

1 training, a lack of programs, a lack of
2 evaluations or monitoring of the people that
3 are dealing with the public once they come
4 through the door.

5 I'd like to ask David if anything
6 is being done by your association to get your
7 members sharing best practices or -- and then
8 of the two banks, Russell mentioned your
9 quarterly penetration assessment to look at
10 where you're not doing business that you
11 should be. What other kinds of things and
12 systems do you have in place to begin to see
13 how your employees are responding to the
14 people that come in and ensuring that they
15 have a sensitivity to the concerns of those
16 consumers that come in wanting to get a loan
17 from the institutions?

18 MR. SIMMONS: You want us to go
19 first? Well, I think the penetration
20 analysis is a business tool that's been a
21 useful tools. I don't think you could ever
22 have enough training with which a staff --

1 and it's just a constant review process and a
2 constant re-enforcement that you basically
3 treat all customers well and the same.

4 We also have a couple levels of
5 second review, both within the mortgage
6 division as well as, there's a separate
7 second review committee within that
8 systematically, after the fact, looks at
9 large group samples. We see pattern going
10 over that sample we corrected immediately
11 from a policy point of view.

12 That, I think has served us well
13 because we haven't had any problems to date
14 with unfair practices. But overall, I think
15 using tools within the bank, using best
16 practices, certainly talking to you
17 colleagues frequently and finding out what
18 works, what doesn't. The competitive
19 market's sort of lets you know that.

20 You know if you're not getting the
21 business, there's a reason for it and you
22 have to change to try to do that. Once you

1 decide to get into this business, and it
2 somewhat of a specialized business, but it's
3 not unlike any other specialized business
4 that a bank gets into, you get in, you find
5 out how to do it, and you compete.

6 MS. MAXWELL: If I could just ask
7 my colleague, Richard Harvey, to talk a
8 little bit about how we handle, you know,
9 internal review.

10 MR. HARVEY: To answer your
11 question in terms of whether or not there is
12 a sharing of best practices amongst the
13 institutions, I don't think a whole lot of
14 that goes on, but I don't think that there's
15 a whole lot of secrets either. I think we
16 may do things a little bit differently, but
17 we've got the same result orienting, you know
18 in terms of how we want to succeed.

19 I think David's point earlier on
20 was that senior management makes it known
21 that we won't tolerate discrimination. It's
22 going to trickle down and everyone will know

1 it. I think that's what we started Chevy
2 Bank. We also have a second review
3 committee.

4 The policy that our senior
5 management has developed with respect to
6 mortgages, that no one individual can deny a
7 mortgage. It has to come to a committee.
8 That committee is empowered to determine
9 whether or not there's any way at all we can
10 make the loan.

11 Not with the -- you know, not
12 looking at -- in terms of whether or not
13 we're going to deny it. The second committee
14 is made up of individuals that represent the
15 mortgage company, underwriting, processing,
16 compliance division and various other parts
17 of events.

18 We were all trying to sit around
19 and determine whether or not there's any way
20 we can make loans. You know, like I said, I
21 don't think there's any sharing of that
22 information, but I think that's something

1 that's pretty common now in terms of the
2 second review. Different organizations do
3 them differently.

4 Ours is just that, you know, a man
5 from the top, that no one person's going to
6 make any decisions in terms of denial.

7 MS. MAXWELL: Do you want to
8 address the issue of self test?

9 MR. HARVEY: Sure, that's also
10 something that we engaged in. On an annual
11 basis, we do self tests. What I mean by that
12 is we hire outside companies to come and to
13 conduct mystery shopping. You ask Cheryl
14 here I guess, whether or not that is
15 something that we found helpful. We have.

16 What we do is we take a look at
17 that data, and we make certain determinations
18 as to whether or not there are particular
19 individuals within the organization that may
20 be exhibiting discriminatory practices,
21 whether there are certain branches, not
22 certain individuals per se, but certain

1 branches that tend to be discriminating
2 against individuals. Then we take actions
3 based upon those findings.

4 MR. SIMS: That's no small
5 statement. It's important that you present
6 that because again the notion is that if you
7 just focus on the consumer portion, you
8 negate the notion that in any relationship
9 there are at least two people or an
10 institution and an individual.

11 So the notion that you've got your
12 own self-testing begins to address at least
13 the testing that David and his group have
14 done which found the 41 percent in one case
15 were discriminated against, with Hispanics
16 and almost 100 percent in terms of questions
17 about credit.

18 You may have some process that once
19 the application is filed, but how many people
20 never get to the application process because
21 when they make the phone call or they come in
22 to meet somebody, every indication is that

1 your not welcome? So, it is important.

2 I think that you folks emphasize as
3 much, the internal pieces that your doing, as
4 well as what you're doing to prepare the
5 consumer. David and then this gentleman?

6 MR. BERENBAUM: I think that we're
7 taking our first baby steps in collaboration
8 on these issues and that we're doing in this
9 area, particularly D.C., I hope will become a
10 model for the nation. The main things for us
11 to get to the same page as we're going to
12 find discrimination and what becomes a
13 problem from the marketing of fair housing
14 from a perspective.

15 I think it's important for the
16 commission also to take note from the other
17 lending issues. Small business loans, in
18 particular, are a major issue in the
19 community to expand entrepreneurship, loan
20 protected classes in this nation. It's
21 unfortunate that many protected classes have
22 to, in fact, take second mortgages on their

1 homes just to start a small business.

2 It's a much larger statistic than
3 their white counterparts trying to be in
4 small businesses. This is an issue we need
5 to address. Also, other related loan
6 products such as the refinance market, such
7 as home improvement loans.

8 It's interesting that we still
9 receive a large number of complaints in those
10 areas from throughout the metropolitan area.
11 The relationship between appraisal and the
12 lending process -- I spoke with a number of
13 individuals in this room. The problems that
14 the lenders are encountering aren't
15 technically a fault of their own because
16 they're using an outside appraiser, but that
17 appraiser as the representative of the
18 financial institution, if in fact they are
19 unprofessional or violate our nation's civil
20 rights laws, that creates a liability
21 situation.

22 All of this gets back to the

1 systemic and complex nature of discrimination
2 in our nation. We cannot -- and this is our
3 approach now, the total approach cannot look
4 lending as an issue unto itself. It is not,
5 for example, the lending institutions call to
6 this nation that we have a segregated housing
7 market, just as much government and realtors
8 and every other aspect of our marketplace.

9 I think the charge for all of us is
10 to be innovative and think of new ways to
11 reinvent the process. Litigation alone is
12 not getting us there. I say that as a person
13 who's filed over 60 different civil rights
14 complaints. Voluntary compliance alone is
15 not getting us there either because we still
16 have the problems within our corporate
17 structures about how products are marketed.

18 But if we can work together as
19 civil rights commissions, with fair housing
20 planning agencies, with city councils, with
21 the corporate area, and agree on what are the
22 best approaches and it's all of the things

1 we've been doing plus new things, then we're
2 going to get there. So, I'd like to say that
3 the best practices approach is working even
4 though I don't know the methodology of 30 of
5 the different financial institutions doing
6 self testing, but it's being done.

7 Now the doubting Thomas and the
8 civil rights folks will say, oh that's just
9 done so they can document compliance 100
10 percent of the time. The lenders would say
11 we're out to get them because we're suing
12 them. We're beyond that. That's the point
13 to be made to the nation, equal professional
14 service, equal access to mortgage products
15 based on your individual qualifications.

16 I'll add mortgage products for the
17 rental marketplace for the commercial side as
18 well because there will always be a portion
19 of the American public, despite the noble
20 dreams of Andrew Cuomo and the federal
21 government, that will never be home owners,
22 and we have to be sure that housing stock is

1 there that is quality and renewing itself,
2 both from infrastructure upgrades as well as
3 new construction. There needs to be more
4 mortgage products out there for rental
5 housings of opportunities as well.

6 MS. KRUVANT: I have a question.
7 Were you going to make a comment to the
8 question?

9 MR. SIMS: Sure, go right ahead.

10 MS. KRUVANT: If you were going to
11 make a comment to the question, I would
12 suggest --

13 MR. BERENBAUM: A comment.

14 MR. SIMS: Were you going to make a
15 comment adding --

16 MS. KRUVANT: Sorry. I heard today
17 two things that were extraordinarily positive
18 to us, particularly as we have gone through
19 the different deliberations internally
20 throughout the years. We heard from the
21 member, Mr. Simmons from the Riggs Bank, that
22 it is good business to lend to minorities.

1 Then indeed it has been good for your bank.

2 We've also heard from you that
3 indeed the members of the communities that
4 are going to be borrowing money, they need to
5 thoroughly be educated/informed, but looking
6 at issues of saving practices is one of the
7 critical concerns to prepare yourself to be
8 ready to borrow money.

9 From the other perspective, are
10 there some things that now that we hear that
11 it publicly and with data that indeed it is
12 good business to lend to minorities? Are
13 there some things in terms of regulations or
14 regulatory approaches or the system that it
15 is making it too cumbersome for you and for
16 the borrowers to be able to succeed?

17 If our goal is to make it
18 available, and I'd like to hear particularly
19 from you and from the banks or anybody else,
20 are there some things that need to change so
21 you could continue doing good business of
22 more than anything that the borrowers have

1 access to funding?

2 MR. SIMMONS: That's a dangerous
3 question to ask bankers.

4 MS. KRUVANT: I'm usually good at
5 it.

6 MR. SIMMONS: We are probably the
7 most regulated industry in this country.
8 You're asking me if there are regulations
9 that we could do away with?

10 MS. KRUVANT: Well, you know, it's
11 time that we all look at ourselves
12 differently. In the past, we used think
13 ourselves as people on two different sides of
14 the table and with different concerns. I
15 think some of the results are allowing for us
16 to have a different type of conversation and
17 also sometimes to address some other issues,
18 if maybe some of the issues were created.

19 MR. SIMMONS: Mm-hmm.

20 MS. KRUVANT: At different times.

21 MR. SIMMONS: Certainly the
22 regulations and the laws that were peddled on

1 both -- were needed or when this thing first
2 started, and some of them are probably are
3 still needed. We are so heavily regulated
4 that it's just tremendous costs that you have
5 to bear to do all the regulations.

6 Certainly I think, and while I
7 can't say we don't want this regulation or
8 that regulation, I think we need to look very
9 carefully at that because the savings from
10 this, I mean, can be passed to the consumer.
11 It costs us a tremendous amount of money to
12 meet the regulations across the board, from
13 CRA to safety in towns. Along that
14 suggestion that we not have any of them, but
15 I will suggest that we, both government and
16 industry, look very carefully at regulations,
17 the cost of them.

18 It's often, it's much like a
19 band-aid approach. You have a problem here,
20 you put a band-aid on it. There's another
21 one over here. Over the years, you have this
22 tremendous cadre of regulations that are for

1 this reason and that reason -- and when you
2 look at them as a whole and put them
3 together, you've got smorgasbord of things
4 that often don't make sense and that are
5 awfully expensive and take a lot of time, a
6 lot of resources to carry out, that are
7 really not germane today as they might have
8 been 10 or 15 years ago when the seats came
9 in.

10 MS. KRUVANT: Thank you.

11 MS. MAXWELL: I would make two
12 comments. First of all, with regards to
13 mortgage lending, you know, most of us
14 lenders cannot afford to just go out and make
15 the loans and let them sit on the shelf
16 for 30 years. We do have to access the
17 capital market. So therefore, who's really
18 pulling the strings when it comes to the loan
19 programs and the criteria of those programs?
20 You know, those are the secondary agencies,
21 Fannie Mae, Freddie Mac, and the government
22 agencies had MVA.

1 Of course, they're balance
2 everything against, you know, an issue of
3 risk. So, there's constant change in the
4 programs based on what kind of history may
5 have developed in that program. We've seen
6 just in the last five years some major
7 changes in the -- what I would call the low
8 down payment, but the industry views high
9 risk mortgage loan.

10 I know we've worked very closely
11 with Home Free and Freddie Mac to bring out a
12 mortgage product called the Freedom Fund
13 loan, which we hope will address some of the
14 needs in the minority community. So it's an
15 evolving process and it -- you could say that
16 it might be an impediment, but it's also, you
17 know, a business reality. So I think we have
18 to keep that in mind.

19 The other comment that I would make
20 is that I find these meetings very
21 interesting, but I'm always somewhat
22 bothered, again when we talk mortgage

1 lending, that the representatives from the
2 real estate industry are not here. They have
3 a tremendous amount of influence. Anybody
4 who has found their dream home and knows that
5 that realtor is really the one who's going to
6 get that home for them, you know, understands
7 how important they are to the process and how
8 influential they are.

9 So, I think there needs to be more
10 dialogue with the real estate community. I
11 know that David in his efforts in the Fair
12 Housing Council, they have tried to address
13 that very specifically, but I think all of us
14 lenders and most of the community-based
15 organizations would say that it would be
16 helpful to have them more involved.

17 MR. SIMS: Yeah, I do think we
18 reached out to the real estate industry to
19 invite their participation. It's duly noted.
20 The gentleman right -- and then we'll go back
21 to you, Josh.

22 MR. EARL: I'd like a moment to see

1 whether it's still morning. It is. Good
2 morning. My name is Maurice Jourdain Earl.
3 I am managing director of CLC Compliance
4 Technologies. We are a Washington,
5 D.C.-based compliance technologies consulting
6 firm. Our client base essentially are
7 lenders, DOJ and others involved in
8 discrimination in lending.

9 We have quietly, for the last six
10 years, been doing a lot of the heavy lifting
11 behind the scenes. We go in and we work with
12 institutions one-on-one to analyze their
13 systems, to analyze their lending practices,
14 to do studies with respect to their outcome
15 of a loan application -- obtaining the loan
16 applications, but more importantly, what
17 happens to their loan application once it is
18 obtained?

19 I'm here kind of filling up because
20 I see what the issues really are in terms of
21 the exemplary lenders, are the ones that are
22 truly looking to manage fair lending. It's

1 those people who would add to and put the
2 resources to Fair Lending as they would to
3 managing the bottom line.

4 So hearing the exemplary lender
5 story, the best practices if you will, are
6 ones where from the top down and bottom up,
7 they're truly involved with trying to find
8 out where the bottlenecks are, where are the
9 policies and procedures and the practices
10 that are breaking down, that prevents people
11 from all races, all colors, etcetera, from
12 having an equal opportunity to update in a
13 loan.

14 But at the same time, I see so many
15 lenders fall to the trap of having the
16 confusion between affordable housing and fair
17 lending. So we're constantly fighting this
18 battle of getting them to open up and see
19 clearly that affordable housing is different
20 than fair lending, that you could have an
21 affordable housing program that reaches
22 everybody based upon income, yet at the same

1 time, still have fair lending problems, that
2 you can also have an outstanding CRA rating
3 and still have a fair lending problem.

4 So it's a function of what are you
5 doing to identify the fair lending issues and
6 risk that are associated with the
7 institution?

8 So to that end, I'm truly pushing
9 today, from a broad policy perspective, the
10 use of comparative file audits in fair
11 lending testing, pre-application testing
12 versus post-application testing.
13 Pre-application testing essentially is the
14 mystery shopping that you've heard about and
15 there's a lot to be learned about
16 pre-application.

17 However, once that application is
18 obtained, if there is no match pair testing
19 taking place behind the scenes, you will not
20 know whether or not a fair lending issue from
21 that perspective is occurring. To that end,
22 after thousands of loan files that we have

1 reviewed during a comparative file audit, I
2 can tell you where the paradigm shift needs
3 to take place with respect to managing fair
4 lending. It is here.

5 The issue has been that the
6 industry by and large has been focusing on
7 denials, black denials, Hispanic denials. So
8 programs and practices have been set up for
9 second reviews, trying to see whether or not
10 the denials are justified. Quite frankly,
11 based upon the guidelines, most of the time,
12 denials can be justified. However, the
13 paradigm shift needs to be -- to begin to
14 look at white approved loans.

15 When you begin to study white
16 approved loans and you find differences with
17 respect to the quality of assistance,
18 differences with respect to how someone may
19 have been coached and told about little
20 nuances and wrinkles, given advice as to how
21 to go about getting a gift or how to go about
22 getting some down payment assistance, or how

1 to go about paying out some additional debt
2 in order to qualify, to get within the
3 guidelines of the ratios.

4 It's the quality of assistance that
5 takes place, whether it be based upon a
6 cultural affinity. The cultural affinity of
7 course comes about by virtue of the fact that
8 you have very few people of color on the
9 front line, as loan officers or brokers in
10 this industry. Okay?

11 It is still by and large a very,
12 very white industry. So with that lack of
13 diversity, you have differences with respect
14 to how people communicate. They don't have
15 the same level of comfort because they go to
16 the same church or belong to the same health
17 club, to sit down at the kitchen table, then
18 really dig out how you can best situate
19 yourself to get qualified.

20 So diversity is really a -- still a
21 major issue. Then, with respect to studying
22 that white approved loan, when you begin to

1 find the kind of underwriting exceptions that
2 are made, and begin to apply those exceptions
3 to that same black and Hispanic deny
4 population, I pretend that many of those
5 black and Hispanic denied Africans would get
6 approved if the same rules were applied.

7 But lenders still today, focus
8 predominantly on concentrating and studying
9 the black and Hispanic deny population
10 without looking at the white approval. So
11 I'm pushing for a comparative file audits as
12 the really bottom line, guts up during fair
13 lending testing.

14 Lastly, I want to ask the
15 Commission to begin to focus on some other
16 broader issues that are beginning to occur,
17 and that is the use of credit scoring in
18 lending. It's being driven, largely by
19 Fannie Mae and Freddie Mac, through the use
20 and the phenomenal increases in the use of
21 technology today. It's gotten to the point
22 where now we're trying to do with mortgage

1 lending, where it's a black box. Okay?

2 If you don't fit the box,
3 essentially you're out. Credit scoring is
4 driving that box. There are still issues
5 with respect to credit scores. I'm looking
6 at a credit report yesterday. Four different
7 credit scores from four different
8 repositories. Okay?

9 So it's not only the issue of the
10 score itself, what's in the formula? But
11 just as importantly, how is it being used?
12 What policy does that lender have to say
13 which credit score do I use? Okay? Mind
14 you, the range was a low of 570 to a high
15 of 683. Okay? So, if someone wanted to deny
16 that loan, they'd simply use the 580 or
17 the 570. Okay?

18 All kinds of issues there, and I
19 think that the Commission has a good
20 opportunity to begin to look at the
21 influences of the secondary market, Fannie
22 Mae and Freddie Mac in particular, that's

1 driving a lot of this. Okay? Because the
2 lenders are sometimes stuck wanting to do
3 affordable housing and minority lending,
4 etcetera, but they cannot afford to take the
5 risk of putting those loans in their books
6 without knowing it as a ready market
7 available for those loans to be sold.

8 That's particularly the mortgage
9 bankers because mortgage bankers don't hold
10 loans. They simply make them and with the
11 purpose of selling them. The depository
12 institutions at least have the opportunity to
13 put the loan in portfolio. But even they got
14 into trouble when they had too many of them
15 and interest rates went crazy because they
16 would choke on them.

17 So the point is, we need to have
18 more of a focus on a broader scope as to
19 where the bottlenecks are in this country,
20 and mind you, Fannie and Freddie being
21 quasi-public entities, need to play a better
22 role with respect to what's going on here.

1 Thank you.

2 MR. SIMS: Any other questions or
3 comments?

4 MR. SILVER: I'd just like to make
5 a comment --

6 MR. SIMS: Yes, I'm sorry, Joshua.

7 MR. SILVER: On a question about
8 regulatory burden. NCRC would humbly submit
9 that the community re-investment act has
10 worked and has done tremendous things, and it
11 needs to be strengthened. That's the way the
12 regulation needs to be fixed. A couple of
13 years ago, actually, there was a re-work of
14 the community reinvestment act regulations.
15 As you've heard, you know, in passing, banks
16 are examined by federal regulators for a CRA
17 compliance, how many loans they're making to
18 low and moderate income borrowers and low and
19 moderate income communities.

20 These exams where we worked a
21 couple of years ago, rather than you know, a
22 few years ago, you'd actually have the CRA

1 examiner look at how the board of directors
2 of a bank were involved in CRA program, kind
3 of a process, now that the emphasis is much
4 more on the performance. Where are the loans
5 actually being made?

6 There was pretty much of consensus
7 among the lenders and community groups that
8 that was the way to go. So the exams have
9 been reworked and there's three different
10 exams, small bank, large banks, and limited
11 purpose banks. Let's just say again that
12 since 1977, there's been \$1 trillion dollars
13 of CRA commitments made by lenders to low and
14 moderate and minority communities.

15 You know, with CRA conversations
16 between lenders and community organizations,
17 how to serve community organizations would
18 not be taking place. And -- you know, there
19 was -- and actually I should say the 1997
20 HMDA data is supposed to be released any day
21 now.

22 So we're all waiting eagerly and we

1 hope that the progress continues. Some of
2 the trends Maurice Jourdain Earl talked about
3 are really some trends, credit scoring and
4 other issues like that.

5 MR. EARL: Sub-prime lending.

6 MR. SILVER: Sub-prime lending,
7 other issues like that. So I will end by
8 saying that CRA should be extended. As
9 Mr. Berenbaum was saying, you have to look at
10 the total picture, not only what lenders are
11 doing, but what insurance agents are doing.
12 NCRC has advocated the extension of CRA to
13 other types of lenders, and credit unions,
14 mortgage companies.

15 Mortgage representatives will not
16 be too happy to hear about that. But anyway,
17 but also to a community reinvestment
18 obligations for insurance companies and
19 securities firms. You may have heard that
20 Congress is considering financial
21 modernization legislation that would
22 basically allow banks, insurance companies

1 and securities firms to all own one another.

2 Now if they all own one another and
3 CRA only applies to the bank, what's going to
4 happen? The assets may go from the bank to
5 the other parts -- the insurance and the
6 securities firm. So, and even some bank --
7 actually a lot of bankers say CRA should be
8 extended to other -- to level the playing
9 field and won't say so publicly.

10 I guess it was -- actually there
11 was a credit union bill a couple of days ago
12 that was approved by Congress. Should a
13 Community Reinvestment Act be applied to
14 credit unions? That was an issue with that.
15 So that's how things should change if there
16 is a CRA community reinvestment obligation
17 for the insurance companies, you would
18 have -- in HMDA-like data for insurance
19 companies, you have these conversations
20 occurring with community organizations and
21 insurance companies.

22 It's an additional level of

1 scrutiny and accountability that would help
2 all of us do the job of reinvestment. Than
3 you very much.

4 MR. SIMS: Thank you. Yes?

5 MR. HARVEY: I just wanted to make
6 a comment. Well, financial institutions are
7 committed I'm sure to fair lending. I mean
8 at Chevy Chase Bank I can tell you, we
9 certainly are committed. However, it's a
10 little disheartening, and sometimes I think
11 the picture is not as clear as it ought to
12 be, when we see consistently reports that
13 talk about, for example, denial ratios and
14 denial numbers and other things that don't
15 really give a full picture.

16 I guess what I'm concerned about is
17 when applicants or you know, consumers hear
18 about these reports, are they going to be
19 discouraged from even getting in the process?
20 They aren't always an accurate picture.

21 I think I read in your report the
22 fact that it was brought out that

1 institutions that had high concentrations of
2 applications from minorities, high approvals
3 of minorities, also had high denial ratios.
4 You know, it's sort of like that Catch-22
5 that's talked about there. These reports, if
6 they don't accurately reflect why these
7 things happen, for example, the HMDA data
8 doesn't go into -- it doesn't give you, you
9 know, reason to know that there is in fact
10 discrimination. I don't see any of the
11 reports really talking in terms of what are
12 the reasons for these denials?

13 I mean at Chevy Chase Bank, what we
14 do is we go back and we try and find out what
15 are the major reasons for the denials. We've
16 done that process over and over again, year
17 by year. By far, there are two issues that
18 continue to prop up. One is credit history
19 and the other is debt to income ratios.

20 With respect to the credit history,
21 we take the applicants as they come. We
22 can't change their credit history. What we

1 try to do is get involved with them through
2 organizations like Home Free. You know, we
3 catch them before they even come to table and
4 we educate them in Home Free assistance, in
5 straightening out any kind of credit problems
6 that they may have. I think it's important
7 for the picture to be a little bit more
8 clear.

9 MR.SILVER: I'd just like to say
10 real quickly in response to that -- I'm
11 sorry, but I do want to say real quickly in
12 response to that, the denial thing in our
13 report was only one of six indicators. We
14 did give things credit for marketing and for
15 offering a whole lot of loans -- offering
16 loans to low income in minority communities.
17 So we try to look at a holistic -- I just
18 want to make that real quick comment that we
19 took a holistic approach in our report. It's
20 just not the denial way.

21 MS. HEUER: Well, I was going to
22 make a comment that while we were doing this

1 report, I was in fact a real estate agent.
2 So I was very conscious of -- and didn't
3 agree with a lot of things that came up
4 actually because as an agent, I felt that I
5 worked as hard as I could to get the best
6 loan from any bank. One of the things that
7 we were always conscious of was -- and asked
8 what do you base on the credit scoring? I
9 mean, are you going to deny?

10 I would not ever go to somebody
11 that I felt that was going to do credit
12 scoring. I think it's probably one of the
13 worst things that's happened. Do you feel
14 that there will be any effort to ease this
15 credit scoring?

16 MR. BERENBAUM: There is a lot of
17 discussion now on multiple levels about the
18 black box of credit scoring. It's being
19 looked at different ways. National Fair
20 Housing Alliance and the professional
21 organizations have been invited by some of
22 the secondary market players such as Fannie

1 and Freddie to start on. They're just
2 looking at the issues.

3 I've been very, very clear on the
4 issue in the community, that if we feel that
5 a declination is wrongfully based on the
6 credit score, we're going to file a
7 complaint. We really feel that it is danger
8 in all the accomplishments that we have made.
9 There must be the human ---- to look at
10 credit and explain what happened to the
11 individual or to correct a problem, to look
12 at the disparities and who is the source of
13 the credit scoring. This is a major, major
14 issue, but it's being looked at very closely.
15 So I'm very optimistic within six months we
16 may see some --

17 MS. HEUER: Could I just ask one
18 question briefly? Do Fannie Mae and -- do
19 they have a certain criteria? In other
20 words, if your credit scoring is below --

21 MR. EARL: 620.

22 MS. HEUER: That you cannot give a

1 loan?

2 MR. BERENBAUM: I've been
3 approached by underwriters at some of the
4 major financial institutions here in
5 the ---- giving their advice right now. We
6 want to work along, but they know they can't
7 sell the product. That's unfair.

8 MR. BAER: Credit scores are only
9 one component to like debt ratios and down
10 payment aspects of the transaction. A lender
11 that's relying simply on a credit score to
12 make an underwriting decision is playing with
13 fire, and I think that's a lesson some of us
14 have already learned. Again, you know, each
15 lending institution has their own practices,
16 but in general, I think the consensus is
17 don't rely on simple credit score.

18 If you've got a 620 credit score
19 like Maurice says, you know, that's a symbol
20 of exercising caution. Well, I can tell you
21 there are good borrowers out there with
22 credit scores below 600, that if you take a

1 look at the whole picture, and you look at
2 the mitigating circumstances that drove that
3 score down, they're good risks. Secondary
4 programs allow things like that.

5 MR. EARL: However, at the same
6 time, here is something that I know what's
7 happening right now in this industry. It
8 happens before the loan even gets to the
9 lender. The loan officer is immediately
10 asking for permission to pull a credit report
11 to give a credit score and making a decision,
12 a determination right at that point, as to
13 whether they are even going to take this
14 person on as a client.

15 No questions asked with respect to
16 why explanations of derogatory credit, but
17 just based upon this score under the guise of
18 saying, "I'm asking for this so that I can
19 determine what loan product to put you in."
20 However, when the score comes back for
21 something less than what they think is going
22 to make the cut, the next word is "next."

1 Okay? 513 is where that particular one goes.

2 Now we found this out by doing some
3 mystery shopping. Okay? In particular,
4 and this is down in Florida, but it is
5 widespread practice across lenders, it is
6 beginning to happen because quite frankly --

7 MS. HEUER: Are you talking about
8 pre-qualification?

9 MR. EARL: Pre-qualification,
10 that's exactly right, but it's a very
11 efficient process.

12 MS. HEUER: Mm-hmm.

13 MR. EARL: However, it is clearly
14 discriminatory.

15 MR. SIMS: Florida also is one of
16 the hottest sub-prime markets in the nation
17 just as a footnote.

18 MS. GRIFFIN: I'd like to just make
19 a couple of comments. In working with
20 thousands of home buyers, this credit score
21 issue is a significant issue. It really is.
22 People, even before they begin going to

1 realtors or lenders, they are aware of the
2 credit score. This is a big issue with
3 Fannie and Freddie.

4 It really does -- you know, when
5 they say something, it impacts the lenders.
6 It impacts the home buyers. It impacts
7 everyone.

8 You know, just to sort of tag along
9 with a lot of the things that Maurice said,
10 from a community standpoint, we are losing a
11 lot of people to the sub-prime mortgage
12 brokers, who are out here, who when a person
13 has a small credit issue and could serve to
14 work that credit issue out you know, over a
15 period of just a couple of months, they have
16 a loan officer who is telling them, "Look I
17 can get you into a home right now, you know,
18 but you've got to pay three and four
19 extra --"

20 Well, we've even had people who
21 have paid eight points. Those are the people
22 that -- eight points and three percent

1 interest rates. I mean those are the people
2 that David and those are working with and
3 should address.

4 This is a problem and minority
5 communities, particularly the African
6 American community and the Latino community
7 are targets for this type of lending. You
8 know, certainly where the credit score is
9 concerned, that credit score is too low.

10 A lot of lenders, a lot of loan
11 officers -- we even look, quite frankly, at
12 credit scores ourselves. You know, because
13 we are so aware of what Fannie and Freddie
14 are looking at where the industry is going.
15 Really, I mean your commission -- this would
16 be a wonderful task for you all to engage
17 because it will impact the home ownership in
18 this country.

19 MR.MCKETHAN : I'm not sure I
20 understand, when you say sub-prime rates.
21 Are you talking about sub-prime rate with
22 interest rates that are penalty-like?

1 MS. GRIFFIN: Yes, exactly.

2 MR. MCKETHAN: Okay, so if I get a
3 three percent interest rate from a -- and I'm
4 the institution, I have to pay like you said,
5 eight points?

6 MS. MAXWELL: Well, no, it'd be a 3
7 percent add on to today's market rate.

8 MR. MCKETHAN: Oh.

9 MS. GRIFFIN: Yeah, exactly.

10 MS. MAXWELL: Market rate is
11 sitting at a half, if you're talking about --

12 MR. BAER: Sometimes it's termed
13 predator pricing.

14 MS. MAXWELL: Right.

15 MR. BAER: There's another
16 development in the industry that I think is
17 very worth while mentioning to this group,
18 and that is the introduction of automated
19 underwriting practices both through Freddie
20 Mac and Fannie Mae.

21 I can cite examples where we've had
22 borrowers approved at my company with credit

1 scores in the 570s and the 580s, have gone
2 through these automated underwriting systems
3 and had been approved for loans sold to
4 Fannie and Freddie. Okay?

5 I'm talking about fixed rate, prime
6 pricing, 6 1/2 percent, zero point type
7 transactions. So there is some development
8 going on, that in, you know, in the beta
9 testing, took place about 3 years ago on the
10 desktop underwriting system and now is
11 utilized on a very widespread basis across
12 the nation.

13 Not every lender's out there is
14 subscribing to it. So they're relying on
15 people that bring poor judgment to the
16 equation. So there is development taking
17 place on the positive side.

18 MR. SIMS: Any other -- yes?
19 Ki-Taek?

20 MR. CHUN: I have a question,
21 please. To what extent is that accessible to
22 the data which you mentioned, that is the

1 loan officer's conduct and the use of credit
2 scoring, and then given I presume it is. I
3 presume he has limited access. Do you have
4 any suggestions as to how we, for instance,
5 chance of absence of penetration?

6 MR. EARL: Well, the only public
7 data set, and this is the best set of data
8 available, the HMDA data. HMDA data is
9 limited in what it can tell you. It can tell
10 you essentially race, geography, income of
11 the applicant, geographic location of the
12 property, and the action taken on the
13 application, but it gives you no qualifying
14 information, not the LTB or the loan to value
15 or the housing ratio, the debt to income
16 ratio, nor the credit score.

17 So to that extent, the best that
18 you can do with HMDA data is to do studies
19 with respect to what the broad lending
20 patterns are by a lender.

21 You can't come to any conclusive
22 decision with respect to discrimination in

1 lending, but with respect to that, you can
2 begin to analyze it, to determine whether
3 it's smoke. Because generally where there is
4 smoke, there is going to be some fire. While
5 it may require further study because quite
6 frankly, if you are doing a very good job of
7 marketing and going and getting loan
8 applications from a population that may have
9 more problems than others, you will have a
10 higher denial rate.

11 But at the same time, that means
12 that you need to focus also on looking at
13 what is the origination rate disparity
14 because there's a good story there. As a
15 matter of fact, the industries that we use,
16 we have four of them. We call it the ODI,
17 DDI, FDI and TDI.

18 The ODI is the origination break
19 disparity between black and white. The DDI,
20 denial rate disparity and the fallout rate,
21 which is another very critical area, fallout
22 in terms of HMDA. There's three categories

1 of HMDA for action codes that does not result
2 in a denial, nor an approval.

3 That is, the loan application was
4 approved by the lender, but rejected by the
5 applicant. Or the loan application was
6 withdrawn. Or lastly, the loan application
7 was incomplete. We sum all three of those
8 action codes together to call it fallout.

9 There's a serious story that can be
10 told by analyzing fallout because it may ask
11 questions with respect to quality of
12 assistance. It may have questions with
13 respect to steering, with respect to a lack
14 of trying to help someone get a loan.

15 But when you look at the whole
16 picture, you begin to get a sense for what is
17 a lender doing and where, because I tell you
18 that the view that you get when you look at
19 the NSA level is one thing. When you begin
20 to look at the county level, it's another.
21 When you zoom in and look at the central city
22 level, it's even more dramatic.

1 So while many of the studies for
2 purposes of ease will focus on MSA, when you
3 zoom in and look at the city, that's when the
4 story really is being told.

5 For instance, 30 percent minority
6 for the Washington, D.C. MSA is a far cry
7 from the 50 percent minority in the District
8 of Columbia or 50 percent in P.G. County.
9 Okay? So if you look at P.G. County versus
10 looking at D.C., versus looking at the
11 Washington, D.C. metropolitan area,
12 phenomenally big, different story.

13 MS. HEURER: What was your TDI?

14 MR. EARL: Oh, TDI. I'm sorry.
15 Good Ann, you're listening. TDI is the total
16 disparity index. Okay?

17 MS. HEURER: Okay.

18 MR. EARL: So it's the sum of all
19 three of them. We've basically come up with
20 this methodology to use to do a comparative
21 analysis of lenders.

22 MR. SIMS: Jody and then David.

1 MS. WILDY: I just have a question.
2 In terms of credit scoring, are most of these
3 statistics based on first time home buyers or
4 is there any -- or is it just in terms of
5 whether you're purchasing your second house
6 or whatever?

7 MR. EARL: It doesn't matter. It
8 doesn't matter.

9 MR. BERENBAUM: Freddie Mac has
10 just completed a report, which I think they
11 have released or about to release. It looks
12 at credit scoring, but it analyzes as if in
13 fact credit scoring was to be implemented
14 hypothetically, what would be the impact both
15 based on income as well as based on race?
16 It's a fascinating study that was presented
17 at -- or at least there was a preview of it
18 at the National Fair Housing Rights Meeting.

19 But that is a response to your
20 question, and it's going to be a fascinating
21 report on what hypothetically would be the
22 impact ---- rolled out. There were many

1 different levels to it, you know, depending
2 on if you were looking at race or income. In
3 some cases expanding opportunities.

4 MR. EARL: Well, the issue there is
5 though, I mean we have to look this at a
6 broader setting. If you are the last hired
7 and first fired. If you've been
8 disenfranchised for 400 years. If you have
9 lack of an opportunity to get a decent
10 education and now all of a sudden we get to a
11 point in time where we can use technology to
12 come up with a score, all of the baggage that
13 you brought to the table is going to still be
14 with you when that score is taken.

15 So unless there's some intervention
16 to again to realize that it's broader than
17 just a score or broader than just the issues
18 with respect to loan underwriting, that
19 people are dealing with. We're dealing with
20 people's lives and we're dealing with their
21 homes. We're dealing with how they develop
22 and where the kids go to school and what kind

1 of police protection's going to be involved.

2 So it's a lot broader from a social
3 perspective when we try to reduce it down to
4 a single score that may be flawed,
5 particularly if it's going to bring into
6 focus the number of inquiries, or bring into
7 focus the type of credit that someone has.

8 For instance, finance companies
9 credit is deemed less desirable than
10 non-finance company credit. Well, if the
11 only company that's around in your
12 neighborhood is a finance company, that's
13 where you're going to get your loan. So you
14 automatically have some internal, intrinsic
15 things that are going to be going against
16 you, without your ever even knowing it.

17 MR. HARVEY: Even absent of credit
18 scoring, you have those factors that are
19 coming against you, and that's what I mean
20 when I say that financial institutions take
21 people as they are. If they're carrying that
22 kind of societal baggage with them, that's

1 what we're looking at it.

2 MR. SIMS: David saying that credit
3 scoring in and of itself -- experience has
4 been somewhat problematic, that you have to
5 look at it more holistically if you're going
6 to do a more accurate assessment and not put
7 yourself in a position.

8 SPEAKER: Don't lead them blind?

9 MR. SIMS: Yeah, exactly.

10 MR. EARL: Well, one of the last
11 comments that I have to make is to do a study
12 of who owns these sub-prime lenders. Okay?
13 Many of them are owned by our major banks.
14 So we walk into a room on one day, and we
15 have, you know, the person with the nice suit
16 on, but around the corner, they own Nations
17 bank Credit or Fleet owns Option One out of
18 Los Angeles, which is a sub-prime lender.

19 Weyerhauser was sold out to a
20 company called WMC, which is a sub-prime
21 lender. CIT is owned by Chemical. Chemical
22 also owns, and Travellers owns a piece of

1 Commercial Credit. Okay? So we have one
2 face with respect to the A lender, but that
3 many of these A lenders also own B and C and
4 we saw where one lenders rated the Z loan.

5 SPEAKER: What is that?

6 MR. EARL: That's the loan for
7 anybody that's got a heartbeat. It exists,
8 but the question was at what rate. Okay?
9 HMDA data again can't even get you to that.

10 MR. SIMS: Are there any other
11 questions, comments, issues that?

12 MR. SILVER: I just say watch the
13 Federal Reserve Board because over the spring
14 they asked us, we're thinking about doing a
15 new proposal for HMDA. What are your
16 thoughts about HMDA data? NCRC said, "We'd
17 like to see the annual percentage rate on the
18 HMDA data so you can get a sense of, you
19 know, prime lending versus sub-prime
20 lending," which we can't really do right now
21 through our studies.

22 We also would like to see the

1 credit score on the HMDA data. So our
2 minorities with the same credit score as
3 whites are being treated the same. So it may
4 come out in the fall with a proposed rule.
5 So, you know, I would invite U.S. Commission
6 of Civil Rights to monitor that and to get
7 involved in that process.

8 MR. SIMS: Thank you very much.
9 Thanks to our panelists. Thank you for those
10 that took time this morning with other
11 hearings and things going on in the
12 Washington area to be with us. Let me say
13 that the State Advisory Committee will be
14 meeting in September.

15 We will take forward the
16 recommendations in terms of follow-up issues
17 for the initial report and that we will be
18 issuing, as I said, issuing an addendum to
19 the report that based on the feedback
20 information that was submitted to us and
21 shared with us today. There being no other
22 business to come before us, I'll call this

1 meeting adjourned. Thank you very, very
2 much.

3 (Whereupon, the PROCEEDINGS were
4 adjourned.)

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In The Matter Of:

*RESIDENTIAL MORTGAGE LENDING DISPARITIES
IN WASHINGTON D.C.*

August 6, 1998

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DISTRICT OF COLUMBIA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS
RESIDENTIAL MORTGAGE LENDING DISPARITIES IN
WASHINGTON, D.C.
624 9th Street
Washington, D.C.
August 6, 1998

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[1] PROCEEDINGS

[2] MR. SIMS: Good morning, I am [3] Steven Sims and I am the chairman of the [4] District of Columbia Advisory Committee for [5] the U.S. Commission on Civil Rights. On [6] behalf of the Advisory Committee, whom you [7] will meet in a moment and commission staff, I [8] thank you for your interest and attendance at [9] today's press conference and hearing on [10] residential mortgage lending disparities in [11] the District of Columbia.

[12] A quick announcement for those of [13] you that might not be aware, we do have [14] materials in the back on the table, including [15] my opening remarks for your review and use.

[16] Our 1996 report on the [17] disproportionately smaller share of loans and [18] loan amounts for minority applicants versus [19] non-minority applicants is of critical [20] concern to the citizens of the District of [21] Columbia and their fundamental understanding [22] of equal opportunity and the concept of civil

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[1] rights.

[2] Were loan denials a matter of too [3] many unqualified people soliciting loans or a [4] lending system at that time, afraid to [5] provide credit to minority borrowers? A [6] further concern raised by the data and [7] experts we talked to, noted a possible link [8] between numbers of loans denied minority [9] applicants and the specific track wards where [10] those borrowers wanted to buy.

[11] This questions the marketing [12] application and underwriting criteria used by [13] mortgage lenders in the District of Columbia. [14] We want to spend time this morning talking [15] about where residential mortgage lending is, [16] what direction it's headed, and as we strive [17] to ensure all our citizens, regardless of [18] race or ethnicity, the chance to claim the [19] American dream.

[20] What I'd like to do is start by [21] making several major introductions, first [22] introducing those of you that might not be

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[1] aware, what is the D.C. Advisory Committee [2] and its relationship to the U.S. Commission [3] on Civil Rights?

[4] The U.S. Commission on Civil Rights [5] is a fact-finding agency within the ex-

ecutive [6] branch of government. The Commission has [7] established advisory committees in each state [8] and the District of Columbia, with members [9] appointed by the commissioners and those of [10] us up here serve without compensation.

[11] Our function is to receive reports, [12] suggestions and recommendations from [13] individuals, public and private [14] organizations, and public officials upon [15] matters pertinent to inquiries conducted by [16] the advisory committee and to use this [17] information to initiate and forward advice [18] and recommendations to the Commission on [19] Civil Rights matters occurring in our [20] jurisdiction.

[21] The report we are releasing today [22] has been received by the commissioners, who

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[1] unanimously accepted our report for [2] publication. I'd like to also now go around [3] the table and have my colleagues introduce [4] themselves. We can start on my right with [5] John.

[6] MR. TOPPING: My name is John [7] Topping. I've been a member of this site for [8] a number of years.

[9] MR. MCKETHAN: My name is Donnie [10] McKethan, and I too have been a member of the [11] committee, I guess, four years.

[12] MS. HEUER: My name is Ann Heuer [13] and I've been a member for five years, and [14] was here at the time that we did this report.

[15] MS. JONES: Good morning, my name [16] is Lisa Jones, and I've just been a member [17] for the last year. I reside here in the [18] District in Southeast Washington.

[19] MS. KRUVANT: My name is Charito [20] Kruvant and I've been a member of the [21] commission for the last six years, and I had [22] the opportunity to be the chair while

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[1] everything was ongoing.

[2] MS. BROWN: Rachele Brown, this is [3] my first term.

[4] MS. WILDY: Jody Wildy, this is my [5] second term.

[6] MR. SIMS: Let me note at this [7] point of the hearings, data collection [8] analysis and the report itself were completed [9] under the outstanding leadership of my [10] predecessor, Ms. Charito Kruvant.

[11] As a member of her committee and [12] her success in the chairperson seat, I want [13] to acknowledge Charito's skills as an [14] organizer, facilitator, spokesperson and [15] leader. Those skills really

made this report [16] possible. I'd also like to make clear that [17] even our advisory board fell prey to the [18] government bureaucracy of hurry up and wait, [19] which is responsible for the lengthy time [20] between this document's completion and its [21] release here today.

[22] It's also important that I

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[1] acknowledge those former advisory committee [2] members, who were intimately involved in this [3] lending disparity report, but are no longer [4] on the committee, Mari Carmen Aponte, Laura [5] Chin, Yetta Galiber, Jose Gutierrez, Rita [6] DiMartino, Clifton Smith, Malcolm [7] Stubblefield and Jeffrey Weintraub.

[8] Finally, I want to strongly and [9] enthusiastically acknowledge the staff of the [10] commission for their support, guidance and [11] assistance in the research, development, [12] writing and publishing of this report. My [13] particular thanks to John Binckley, Edward [14] Darden, Ki-Taek Chun and especially Marc [15] Pentino for their energetic and passionate [16] commitment to protecting the civil rights of [17] all the citizens of the District of Columbia.

[18] Let us now get to the business at [19] hand: The past and present patterns of [20] residential mortgage lending disparities in [21] the nation's capital. As background, our [22] project began in 1993, after the committee

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[1] observed disparities in lending rates to [2] minority communities throughout the District.

[3] In the summer of 1993, various [4] articles in The Washington Post alleged a [5] pattern of disparate lending to minorities, [6] which it tracked by specific wards. In 1994, [7] the committee held a fact-finding meeting [8] with experts in the fair lending field and [9] government officials, to get a sense of what [10] was happening in the District. At our forum, [11] various community advocacy groups offered [12] their analysis of lending patterns in the [13] District.

[14] Throughout the next two years, as [15] the committee prepared its report, it [16] gathered follow-up information, solicited [17] input on the report from lending [18] institutions, government agencies, and [19] community organizations, and monitored [20] additional reports on disparate lending. [21] When the report was completed, it was [22] presented to the commissioners, who approved

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[1] its release and publication.

[2] Let me say up front before I ask [3] Charito to share a summary of the report's [4] primary findings and recommendations, that [5] while the committee is aware of many changes [6] in the mortgage lending arena, which reflect [7] movement toward providing equal access and [8] opportunity to purchase a home in the [9] District, our findings were valid and some of [10] our recommendations are still necessary.

[11] Following Charito's statement, I [12] would like to move immediately into the panel [13] discussions, which will provide us a chance [14] to learn about developments since our [15] fact-finding meeting, in the area of fair [16] lending enforcement, industry efforts to [17] improve lending to minority communities, and [18] other new issue areas. [19] We do plan on, one, providing a Q [20] and A period following the panel [21] presentations, so that the press and the [22] audience, as well as other advisory committee

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[1] members can raise any concerns, questions or [2] issues they might have. But we do plan on [3] providing the commissioners with an addendum [4] to our report, with the information we gather [5] today. With that, let me turn it over to [6] Charito for her statement.

[7] **MS. CHARITO:** Thank you for the [8] opportunity to spend some time with the [9] committee members, and at the same time be [10] able to share some of the findings and [11] recommendations of the report.

[12] Before I do so, I thought it would [13] be worthwhile for me to both express my [14] appreciation to the staff that supported us [15] and also to take a minute or so to remind how [16] extraordinarily both interesting and complex [17] it is to do the work of civil rights issues [18] within the District of Columbia.

[19] When we think about issues of [20] minority and we think also about issues of [21] the District Columbia, our framework of [22] reference has to change because we,

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[1] minorities in the District, are not [2] minorities in the District. So I think it's [3] about time that we update our language and [4] our terminology. It's important that we look [5] at it from a different perspective.

[6] It has also, during the period in [7] which I was chair, became critical to me to [8] understand both how complex the federal [9] regulations and the agencies are in [10] supporting civil rights issues, and how [11] unsupported the staff of the

commission for [12] civil rights is to be able to tackle such [13] complex issues and some complex documents.

[14] So not only my thanks to the staff, [15] my admiration to all of you for continuing to [16] do these complex tasks. Most of our research [17] during the process was both secondary [18] research. It was also the kind of process [19] that we knew much needed to be done and we [20] needed to rely, not only on volunteers, but [21] on a very, very limited amount of staff that [22] the commission has.

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[1] So if you find certain flaws in the [2] staff, yes, it's because of process and it's [3] because of the complexity of the subject [4] matter that it will require to be fair to the [5] issue. It will require a much appreciated [6] staffing pattern to be able to do these [7] tasks.

[8] So to the ones that were in the [9] past, supporting these, particularly to [10] Mr. Betino, thank you for not giving up. I [11] think issues like this — once in a while, we [12] need to take the time and to say — and also [13] to my colleagues, this was not an easy task [14] because the answers did not come as clear as [15] on a black and white, but the issues of civil [16] rights right now are quite gray in our area.

[17] Some of it is connected to [18] legalities, but much of it is connected to [19] attitudes. So we spent many hours, not only [20] learning of the facts, but also trying to [21] provide a new frame of reference under which [22] some of these issues need to be looked at.

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[1] Many, many times we did not agree. So in [2] some instances we agreed to not agree.

[3] As it was mentioned before, these [4] tasks started in 1993. Now we are in 1998. [5] So one, also of great importance, is to know [6] while we finally do have a printed report, I [7] think it's important to notice that it might [8] be no longer dated document. Much of the [9] information is no longer crucial because both [10] the economy in the country has changed quite [11] drastically. The rules and regulations have [12] changed quite drastically.

[13] Also the competition within both [14] the banking community and other lenders has [15] changed. So the picture under which we [16] prepared this document, and the picture of [17] today, I think, has changed quite [18] drastically. As you maybe hear some of these [19] findings and some of these recommendations, [20] it will be important to note that much of [21] these needs to be constantly updated.

[22] What has not, I think, changed too

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[1] drastically is quite frequently our attitude [2] about learning and about educating ourselves. [3] I think much of that still needs to be done. [4] So let me now share with you a couple of [5] findings that we did come up in the report.

[6] My assumption is that most of you [7] have hard copies and if you are interested, [8] you will be able to not only read the [9] document, but we are available to discuss [10] thoroughly each one of that. But as it is [11] right now, what we did find in the reports, [12] the finding number one, that there are [13] disparities in loans to minorities and [14] non-minorities in D.C. However, these are [15] not conclusive evidence of discrimination.

[16] What we were looking at were [17] patterns of discrimination, consistent [18] practices and systemic practices. What we [19] did here about anecdotal information and [20] specific cases, we looked at the evidence of [21] patterns or systemic issues and we could not [22] really demonstrate that there is.

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[1] So we wish we could come up with [2] one of those big, lambasting things that will [3] bring us to the news today, but we did not [4] find. I think we owe it to ourselves and to [5] the public to say that. But there are some [6] recommendations that I think are quite valid.

[7] One, the federal and the District [8] government should collect and analyze data [9] needed to address whether discrimination [10] exists and who, if anyone, is doing it. [11] We're not saying that it's not there. What [12] we are saying, is we did not find the patterns [13] that either the press or the other [14] information indicated.

[15] The recommendation number two, [16] lenders should reveal their operations and [17] assure themselves that they're not [18] discriminating and making corrections if [19] needed. We do believe that it's crucial to [20] the institutions that are providing the [21] services of lending and that they're in the [22] business of learning, they have to have an

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[1] infrastructure and internal procedures and [2] processes under which they're consistently [3] monitoring.

[4] I think part of the great success [5] of the next step is probably relying on it in [6] that way. Because if we're going to rely on [7] the federal government or public agencies to [8] be doing the monitoring, we note that it's [9] taken from 1994 to 1998 to publish 26 pages [10] of the

document.

[11] Recommendation three, under finding [12] one, lenders should publicize their [13] availability of loans to all communities as [14] well as their efforts to promote their [15] lending. That's something that we did find a [16] tremendous lacking. There was not really [17] easily available information which the public [18] could easily understand.

[19] We do know the rules and [20] regulations could be complex and at some [21] point, cumbersome, but the individual that's [22] both attempting to borrow money needs to

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[1] understand it in their way, in a simple [2] manner. We believe that the banking [3] community was not at that stage, doing that [4] efficiently or effectively.

[5] Finding number two, D.C. regulatory [6] agencies currently play only a minor role in [7] fair lending. I think since 1993 to today, [8] the District of Columbia has gone through a [9] major metamorphosis and we do see a change, [10] very positive change in which the city is [11] attempting to govern the city, but there's [12] still quite a lot to be done.

[13] We, for as much as did some changes [14] recently, still believed that they're not [15] really organized and they're not supported in [16] a fair way, issues of fair lending. [17] Recommendation number one of that finding, [18] that the District should increase the [19] oversightability of the regulatory agencies [20] in this area.

[21] It sounded to us or it looked to [22] us, not only much needed to be done, but some

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[1] of the basic internal framework and [2] infrastructure to be able to do that, needs [3] to be thought through. Not only the staffing [4] issues need to be looked at, but just how and [5] who and when needs to be organized.

[6] It seemed to us that there was good [7] attitude. There was good intention, but it [8] just wasn't there in the way that the [9] citizens deserved to be served.

[10] In the finding number three, the [11] recommendation that indeed both the banking [12] community and the community at large should [13] organize itself to be able to coordinate or [14] partner, so that the information can go way [15] beyond the banking establishment to the local [16] level. There were a couple of specific [17] organizations that we found that were very [18] helpful in providing that support.

[19] Finding number four, government [20] efforts to detect discrimination are not [21] adequate. From our seat, that pro-

bably was [22] the saddest thing to know, that we could see

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[1] that the press could write up.

[2] In 1994 they did so, a series of [3] documents that were touching and I think they [4] brought up a reality that was occurring at [5] another level. It was very specific.

[6] On the other hand, we really were [7] able to notice that the government, both the [8] federal government and the other agencies are [9] not really organized and they're not [10] providing systemic efforts to detect [11] discrimination. So if we're serious about [12] it, I think it's important that much of that [13] needs to be done in an organized fashion from [14] the federal government and the District [15] level.

[16] The recommendation number one, [17] coordination between federal and D.C. [18] agencies and private groups should increase [19] and their roles better defined. [20] Recommendation number two and finding number [21] four, all fair lending agencies should report [22] periodically to the public on their

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[1] activities.

[2] I think for us to be able to [3] clearly get to the next step, not only do we [4] need to know what's going on, but we really [5] need to inform ourselves on what do we do and [6] how do we do it? We do believe that there are [7] certainly very good best practices that some [8] of the banking institutions are providing it. [9] Some of them are part of very well kept [10] secrets.

[11] I think those efforts need to be [12] publicized and we also do note that some [13] practices are occurring that need to be known [14] so that others learned to train their stuff, [15] particularly the banking community. If [16] they're fair to their employees, they need to [17] train them.

[18] I think much of the discrimination [19] that is occurring, is both out of ignorance [20] and out of systemic approach on the training [21] on both training of their own employees and [22] training to the public. So that we're all

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[1] aware on that process.

[2] That's pretty much the summary of [3] both my findings and recommendations. What's [4] more, this is the kind of a process that [5] might not bring us to the first line on the [6] post, but I do think it's important that we [7] did it in a systemic way and an organized [8] fashion. Thank you again to the staff and to [9] the group.

[10] MR. SIMS: Thank you. We had [11] planned on having a Q and A period

here, but [12] again because we want to be fair to all sides [13] and we want to both be able to talk about [14] where we are today and allow an update in [15] terms of changes in the industry.

[16] We've put together a couple of [17] panels, one, representing some of those [18] groups that monitor issues of fair housing in [19] the District, and then also get an industry [20] perspective from some of the lending [21] institutions and representatives. If I could [22] ask the first panel, David Berenbaum and

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[1] Joshua Silver to come up.

[2] While they're coming, let me [3] quickly mention that Jay Anthony Romero, who [4] is the superintendent of the D.C. Office of [5] Finance and Banking Institutions, is with us. [6] If you could stand? Charles Lowery, general [7] counsel to that agency are here. So that if [8] there are any questions that you would like [9] to raise at some point also with some of the [10] monitoring and enforcement, we do have [11] representatives from the D.C. government here [12] and you're certainly welcome.

[13] Let me turn to the panel. The [14] title of this panel is Statistical Analysis [15] of the Home Mortgage Lending. We've asked [16] David Berenbaum, the Executive Director of [17] the Fair Housing Council of Greater [18] Washington to give us an update in terms of [19] where the industry is and how it is [20] performing, and followed by Joshua Silver, [21] Vice President of Research for the National [22] Community Reinvestment Coalition.

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[1] I'd like to hold off questions [2] until both panelists have presented, and then [3] I will open it up to the floor for questions [4] or comments, both from committee members as [5] well as press and other invited guests. [6] David?

[7] MR. BERENBAUM: Thank you, [8] Mr. Sims, members of the commission, as well [9] as guests in the audience. The Fair Housing [10] Council of Greater Washington is a [11] not-for-profit fair housing organization, [12] serving not only the District of Columbia, [13] but the entire Mid-Atlantic region.

[14] We have a host of very [15] sophisticated private enforcement, education [16] and outreach, voluntary compliance, and most [17] recently planning activities that we had been [18] conducting in cooperation with the entire [19] community.

[20] I mean community as policymakers, [21] industry leaders, as well as grassroots civil [22] rights organizations and groups dedicated to

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[1] expanded equal housing opportunity and home [2] ownership opportunities, not only in the [3] District, but in our nation.

[4] I have been the Executive Director [5] of the Fair Housing Council for the past [6] three and half years. For your information, [7] prior to that, I served as Executive Director [8] of Long Island Housing Services, another [9] civil rights organization for eight years. I [10] am currently second Vice President of the [11] National Fair Housing Alliance, who is [12] committed to the realization of fair lending [13] across the nation, through our 70 members.

[14] The Fair Housing Council, three and [15] a half years ago, began a re-engineering of [16] how we do business. We made a very simple [17] theory, a philosophy of how we do business in [18] the community. The philosophy was that many [19] of the issues that we're dealing with today [20] go beyond a simple report, go beyond a [21] jurisdiction's boundaries.

[22] In fact, to look at lending, one

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[1] must also look at sales practices in the [2] community, at insurance practices in the [3] community, look at models that are [4] successful, and yes, look at what's failing [5] in an objective and realistic way so that we, [6] as policymakers, you as a civil rights [7] commission, can move ahead.

[8] Three years ago, the United States [9] Department of Housing and Urban Development [10] began, through its consolidated planning [11] process, a process called the Fair Housing [12] Planning requirement. Every entitlement [13] community, which receives federal support, [14] including the District of Columbia, is [15] required to produce a document called, The [16] Fair Housing Planning Analysis of [17] Impediments.

[18] The report's goals, frankly, are [19] very similar to what the Commission was [20] trying to accomplish and has accomplished by [21] calling attention to the lending issue in the [22] report being discussed today. HUD mandated

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[1] that communities must objectively, fairly, [2] inclusively work to examine the extent of the [3] housing discrimination problem in our area.

[4] That jurisdictions over the next 5 [5] years must develop Fair Housing Plans [6] reasonably taking steps to overcome the [7] impediments to Fair Housing choice that are [8] documented in the community. The Fair [9] Housing Council approached the Metropolitan [10] Coun-

cil of Governments in the Washington D.C. [11] area and we suggested a regional approach to [12] this fair housing planning process. What [13] developed, in fact, after that over a two [14] year period, has become a national model.

[15] One of the issues that we addressed [16] was fair lending practices and lending [17] discrimination. This report was released [18] approximately a year and a half ago, and it [19] involves both a regional planning document; [20] as well as a local document specific to the [21] Washington, D.C. community.

[22] One of the issues that was

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[1] discussed was, frankly, the limitations of [2] Home Mortgage Disclosure Act data. Across [3] the nation, there has been debate as to the [4] meaning upon the data. Is it a true way of [5] monitoring performance with regard to [6] compliance and fair lending issues?

[7] Certainly, as I said, it is an [8] indicator of disparities in our mortgage [9] marketplace. If you look at upon the data, [10] not only from the period that was examined in [11] the reports included in your document, but [12] also since then, the disparities continue [13] east of 16th Street. But who is injured by [14] this? In fact, the entire District of [15] Columbia community.

[16] Every act of discrimination has an [17] economic impact on the District and frankly, [18] every jurisdiction around the nation. We as [19] a community cannot tolerate these acts of [20] discrimination.

[21] We were asked by municipal leaders, [22] by lenders and others, to assess the extent

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[1] of the problem of lending discrimination, but [2] also to look at other areas, a total approach [3] to fair housing, to do statistically relevant [4] audits, fair housing audits, using the [5] process of match-pair testing, and in [6] partnership with industry and in partnership [7] with government, release the results.

[8] So the results that have been done [9] in the past that prove controversial, the [10] results of the Fair Housing Index Project, as [11] this effort became known, became, in fact, [12] building coalition, building bridges. That [13] is actually affirmatively furthering fair [14] housing today.

[15] I say you cannot look at lending [16] issues without looking at related housing [17] issues because, in fact, as everyone in the [18] real estate industry knows, the industry is [19] folding in on itself. Today, there are [20] national mega-corporations that are promoting [21] one stop shopping. You go to your real [22]

estate office or you go on to the Internet.

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[1] Not only can you look for your home [2] and purchase your home, but also you can get [3] your engineers' report. You can get your [4] insurance product. You can get all of your [5] shopping done by simply dealing with one [6] location. That is a major change in our [7] marketplace. It requires that we look across [8] all issues. The Fair Housing Index project [9] did that.

[10] We looked first at rental [11] practices. That report was celebrated and [12] used on Capitol Hill as a national model of [13] how to build consensus. We found in the [14] District of Columbia, looking at race and [15] national origin, we did an audit looking at [16] the Latino community in particular, 28 [17] percent of the time, our protected testers [18] encountered disparate treatment in their [19] search for an apartment.

[20] But then we moved on and we looked [21] and released a report in June of last year, [22] looking at sales practices. In fact, a

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[1] statistically relevant report looking at [2] discrimination in the real estate industry, [3] realtors, licensees and others have never [4] been done before in this area; 100 match-pair [5] tests were conducted.

[6] While we found overwhelmingly there [7] was compliance in our marketplace with fair [8] housing laws, we reported the unfortunate [9] fact that 28 percent of the time, [10] discrimination was taking place on the basis [11] of race and national origin.

[12] The most frequent form of [13] discrimination is directly relevant to what [14] we are discussing here today. That African [15] American and Latino testers, when they [16] approached real estate offices to purchase a [17] home, more frequently were asked, have you [18] been prequalified for a mortgage, or how is [19] your credit?

[20] Then told that the real estate [21] professional could not take them out to see [22] housing until they produced a credit report

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[1] or were prequalified either by a broker in [2] house, or through mortgage professional or [3] institution or profession out of house.

[4] This, in fact, was shocking because [5] the comparison, white tester, was not told [6] that same information. They were immediately [7] shown housing again and again, and told, [8] we'll work with you to qualify for that [9] mortgage product.

[10] We then looked at disability issues [11] and we looked also at familial status issues [12] in our report. Then this year, for the first [13] time in the nation, we released the Fair [14] Lending Index.

[15] There has yet to be a consensus on [16] fair lending, marketing and fair lending [17] testing methodologies, but frankly we're more [18] in agreement than disagreement. The [19] remaining issues, at the very least [20] represent, where we disagree, poor marketing [21] practices, even if we won't call them [22] discrimination.

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[1] We looked at our three [2] jurisdictions because we only looked at [3] regional lenders in our area. There were [4] over 45 at the time that we began the lending [5] index study. All of our studies, all of our [6] testers were upper middle income testers.

[7] We did not want to confuse the [8] issue of poverty and race in our nation, [9] which is a very real fair housing and civil [10] rights issue, but we wanted to make the point [11] that was not the issue with what was going in [12] the index project. There was only one issue, [13] race or national origin, that we were [14] controlling for.

[15] We sent out 150 match-pair testers [16] throughout our region. In fact, the results [17] were quite striking. 41 percent of the time, [18] we encountered either overt or subtle forms [19] of discrimination.

[20] I agree, as what was said earlier [21] today, the majority of the time, we were [22] simply encountering practices that were

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[1] either so sloppy or there was a failure, in [2] fact, to monitor practices within a [3] particular mortgage corporation or entity.

[4] That, in fact, they rised to the [5] level of fair lending discrimination. But [6] there were many subtleties in the report as [7] well, overt acts of discrimination.

[8] For example, when our Latino [9] testers were calling within the District of [10] Columbia, almost 100 percent of the time, [11] they were asked about their credit before [12] they even were able to make an appointment, [13] but our white comparison testers, over the [14] phone, had no difficulty whatsoever in fact [15] gaining an appointment and accessing mortgage [16] information. Now that did not happen all of [17] the time, but it was a very strong finding in [18] the District of Columbia.

[19] As well, we noted that with regard [20] to our African American testers, there was a [21] propensity to recommend FHA mortgage [22] products. Now the FHA

mortgage product is a

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[1] wonderful loan product.

[2] It does expanded housing [3] opportunities across this nation, when other [4] GSAs, such as Fannie Mae and Freddie Mac have [5] not been doing enough to provide similar [6] products that, in fact, our minority [7] communities and neighbors can access. So I [8] am not criticizing FHA, but I am criticizing [9] the mortgage representatives who are using [10] the product, vis a vis, to create steering in [11] our nation.

[12] The Home Mortgage Disclosure Act [13] data in this area conclusively shows that [14] regardless of income, African Americans are [15] more likely to be steered to FHA mortgage [16] products. I have no problem if it's the [17] right product for someone. I do have a [18] problem if the same choice is not offered to [19] all people based on their individual [20] qualifications.

[21] In the District of Columbia, we [22] also have other issues. Obviously, the issue

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[1] that HMDA data documents the most is the [2] issue of northeast, southeast, versus [3] northwest, southwest, the fact that [4] disparities routinely are there.

[5] We have issues, though, where [6] individual applicants from mortgage products [7] are denied based on the characteristics they [8] themselves bring to negotiating table or [9] mortgage application form, regardless of [10] which area they live in the District of [11] Columbia.

[12] Now with all of this going on, [13] there is a lot also happening that's very [14] positive. I noted the financial institutions [15] who are included reports in or responses in [16] the report. They should be celebrated for [17] the positive steps that they are taking to [18] expand home ownership opportunities, but fair [19] housing alone is not an issue about marginal [20] loan applicants.

[21] It is not an issue about CRA. It [22] is simply an issue about equal professional

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[1] service and equal treatments. We have begun [2] partnerships with a number of lenders, and [3] we're negotiating with more. It's a self [4] test.

[5] This is a major, major development [6] in this community. It serves as a model for [7] the nation. It's called our fair housing [8] partnership program.

[9] It represents the corporate [10] commitment, the redefining of philosophy to [11] say, not only will it reduce risk, but if we [12] are going to survive into the next

century, [13] by 2010, when everyone says the demographics [14] will change in our nation, and they will, we [15] had better re-engineer right now to make sure [16] we're ready to do business with our future [17] customers and consumers. [18] In fact, that simple philosophy is [19] winning. Over CEOs in both the real estate [20] industry, as well as the lending industry, to [21] take a total approach to fair housing [22] compliance.

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[1] The Fair Housing Council recently [2] filed a complaint, which I think is one of [3] the most significant fair housing lawsuits [4] filed in the nation. We filed a fair housing [5] lawsuit against CAP Cities Mortgage [6] Corporation. The Washington Lawyer's [7] Committee for Civil Rights is representing [8] us, with also a pro bono law firm.

[9] This is the very first law suit in [10] the nation arguing reverse redlining. Not [11] saying that they are trying not to do [12] business in a community, but in fact, they [13] are targeting. You've all known the language [14] predatory in lending. That's what this case [15] is all about.

[16] It's not like me, to read when I [17] speak publicly, but it's also unusual to have [18] such striking language in the first paragraph [19] of a fair housing complaint. The [20] complainants in this case come from the [21] District of Columbia and also the urban core [22] of Prince George's County.

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[1] We looked at where, in fact, CAP [2] Cities is exclusively doing business. It is [3] racially and economically impacted areas of [4] our community. Here we go.

[5] "This complaint arises out of a [6] pattern or practice of predatory and racially [7] discriminatory lending by defendants in the [8] Washington D.C. metropolitan area. While [9] they masquerade as bankers, defendants [10] systematically defraud innocent individuals [11] out of their money and property.

[12] They accomplish their illicit [13] purposes by means of fraudulent loans [14] obtained through unscrupulous methods. Using [15] these loans, defendants extract [16] unconscionable and illegal fees from their [17] victims, until there is no money left to [18] extract. They then expropriate their [19] victims' business properties, churches and [20] homes before closures, which the loans were [21] specifically designed to facilitate."

[22] This complaint is available from my

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[1] office and I can leave this as an exhibit [2] today.

[3] The Fair Housing Council, in [4]

cooperation with the District of Columbia [5] Office of Housing and Inter-governmental [6] Affairs has begun testing in the District of [7] Columbia. We are looking at discrimination [8] through testing in race and also various [9] national origin groups. We're looking at [10] rental.

[11] We're looking at sales, and I have [12] no problem to publicly state that we are [13] looking at predatory lending. It's [14] particularly in northeast and southeast [15] Washington, D.C. The recommendations [16] included in the District of Columbia analysis [17] of impediments document are very similar to [18] that included in your document released [19] today.

[20] The future is a great opportunity, [21] because I have seen such sensitivity by a [22] majority of the large volume in mortgage

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[1] companies, as well as banks, to do the right [2] thing, to work hand in hand, to move beyond [3] us and them, to say, how can we best serve [4] the community?

[5] I'd like to conclude with a brief [6] statement about the problem of mortgage [7] insurance, homeowner's insurance in [8] particular in our community. The Fair [9] Housing Council recently has filed three [10] complaints to the United States Department of [11] Housing and Urban Developments.

[12] One of the companies involved will [13] not even insure homes in the District of [14] Columbia that are less than a quarter of a [15] million dollars in value. Where are they [16] insuring in the District of Columbia with [17] that policy? Other companies have had [18] policies in the past, many of them have begun [19] to change them, looking at the age of housing [20] or construction of housing.

[21] Age of housing is not a valid [22] underwriting issue. You cannot have

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[1] arbitrary standards. For example, we will [2] not insure homes that are more than 30 years [3] of age because what does that do to our urban [4] communities around the nation?

[5] To their credit, after complaints [6] were filed against Allstate and State Farm [7] and also with regard to Nationwide Insurance, [8] those companies have abandoned that [9] discriminatory policy.

[10] Other policies have to do with [11] rating territories, and a belief that higher [12] risks exist in certain communities. [13] Sometimes that is not a corporate policy in [14] underwriting, but it is a practice exhibited [15] by front line professionals, who may be [16] independent brokers, whether they are the [17] real estate

industry, blending or insurance.

[18] We are coming to a new point in [19] time where there will be new and expanded [20] responsibility and/or liability for wholesale [21] operations. So parent corporations, such as [22] Erie Insurance, who abandoned the District of

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[1] Columbia because of regulatory red tape, yet [2] they will insure for other areas. Then [3] housing can no longer be tolerated. These [4] complaints are pending.

[5] The most serious threat, I think, [6] to the wonderful, positive efforts that are [7] taking place by lenders to expand home [8] ownership opportunities today in the [9] District, as well as by the many of the [10] community groups that are working hand in [11] hand with the lenders to do direct [12] counseling, for example, is the fact where [13] lenders, 5, 6 years ago, in a short period of [14] time, began secondary review processes under [15] regulatory pressure as well as with the [16] desire to ensure compliance.

[17] Today, where alternative means [18] other than credit has been developed to [19] qualify homeowners for mortgage products, the [20] insurance industry as a whole is moving to [21] credit as a factor for qualifying for [22] homeowner's insurance. I say to you that is

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[1] ludicrous.

[2] If you look at insurance [3] underwriting today, if you make two claims [4] within a reasonable period of time, you're [5] going to be cancelled. If you have a claims [6] history, you are going to be cancelled. The [7] argument being made is, if you have a poor [8] credit history, you are more likely to make a [9] claim.

[10] This is no different, the disparate [11] impact that was created by lenders, using [12] credit, 6, 8 short years ago, than what the [13] insurance industry is doing today. We as [14] fair housing advocates around the nation are [15] speaking out on this issue. We will be [16] filing complaints on this issue. We are [17] making friends among the realtors and I [18] believe the lenders, to address this issue [19] proactively. Thank you.

[20] MR. SIMS: Joshua?

[21] MR. SILVER: Yes, good morning. [22] Thank you for giving me the opportunity to

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[1] testify before you today. My name is Josh [2] Silver. I'm the Vice President of Research [3] at the National Community Reinvestment [4] Coalition. NCRC is a

CRA trade association [5] of 680 community reinvestment organizations [6] from around the country.

[7] Our members include community [8] development corporations, civil rights [9] groups, and other neighborhood organizations, [10] whose tasks day in and day out is to [11] revitalize inner city and rural communities.

[12] I was asked to present the findings [13] of a report that we did with HMDA data [14] from 1994 through 1996. The report is [15] called, Who's Financing the American Dream? [16] We took a look at lending patterns in the 20 [17] largest metropolitan areas in the country. I [18] hope you all have copies of the report, [19] because I'd like to refer to tables during [20] this presentation. Who's financing the [21] American dream?

[22] We decided to focus on home

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[1] purchase loans, specifically, both [2] conventional and government insured, rather [3] than looking at all single family lending, [4] which would include not only home purchase, [5] but home improvement and refinance.

[6] Obviously, very importantly, home [7] ownership helps revitalize neighborhoods, [8] gives people a stake in their communities, [9] increases property tax revenues as home [10] purchases and housing rehabilitation occurs [11] in the neighborhood.

[12] So that's why we focused on home [13] purchase lending in the report. We took a [14] look at six different indicators. The [15] percentage of marketing practices, which [16] could be measured by the percentage of [17] applications received by blacks and [18] Hispanics.

[19] We focused on blacks and Hispanics [20] in this study. How many applications a [21] lender receives from blacks and Hispanics is [22] a proxy for marketing because if blacks and

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[1] Hispanics are applying to a lender, obviously [2] they've heard about the lender somehow, [3] through radio or through some other media, or [4] through word of mouth or some other form of [5] marketing practice.

[6] We also took a look at the [7] percentage of loans going to blacks and [8] Hispanics than the percentage of marketing [9] practices to low and moderate income [10] borrowers, the percentage of applications [11] that low and moderate income borrowers submit [12] to a bank, the percentage of loans going to [13] low and moderate income borrowers.

[14] Then, last but not least, we had [15] professor at the University of Minnesota [16] compute, he calls it a discrimination

ratio. [17] He uses HMDA data and census statistics to [18] determine if similarly qualified minorities [19] that have the same qualifications as whites [20] are being disproportionately rejected for [21] loans from a particular institution? [22] Before I jump into how, kind of the

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[1] individuals lenders fell out, that was just a [2] broad description of the methodology that we [3] used in our report. I'd like to draw your [4] attention to this table it's, Home Purchase [5] Loans to Minorities.

[6] You'll see on the left most column, [7] the 20 largest metropolitan areas in the [8] country. Metropolitan area, that includes [9] both the city and the suburb. So for [10] Washington, D.C., we're talking about the [11] District of Columbia and then Montgomery, [12] P.G. County and Maryland and Arlington and [13] Alexandria and other jurisdictions in [14] Virginia.

[15] What you'll see on percent [16] minority, on that column, which is right next [17] to the metropolitan areas, percent minority [18] is actually the percentage of blacks and [19] Hispanics that reside in each of the [20] jurisdictions, and then percentage of loans [21] in 1996, where the percentage of loans that [22] were offered to blacks and Hispanics in 1996,

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[1] and so on for 1995 and 1994. [2] Let's look at Riverside, San [3] Bernardino on the top; 25 percent of blacks [4] and Hispanics live in that metropolitan area. [5] Incredibly, they receive 42 percent of all [6] home purchase loans in that metropolitan area [7] in 1996.

[8] So if you go a little further [9] across the row, and you see the column 1996 [10] difference, in other words, the percentage of [11] loans that were offered to blacks and [12] Hispanics by lenders in that area, was 17.1 [13] percentage points higher than in percentage [14] of blacks and Hispanics that lived in that [15] metropolitan area.

[16] Orange County, you'll notice the [17] first four or five jurisdictions are [18] California jurisdictions. I sorted this [19] table based on the difference between the [20] percentage of loans minus the percentage of [21] people that were minority in that area.

[22] So in other words, Orange County,

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[1] where it says 1996 difference, 5.7 percentage [2] points more loans than there were minority [3] residents. In other words, 23 percent of the [4] loans in 1996 were to minority residents, [5] and

17 percent of the population were [6] minority in Orange County. You can see it's [7] the same trend for 1995 and 1994 for Orange [8] County.

[9] Then you go down the list and you [10] see Washington, D.C. as number ten. [11] Actually, in kind of an absolute sense, D.C. [12] is not doing terribly, but in a relative [13] sense, it could be doing better because [14] you'll see the non-metropolitan areas ahead [15] of D.C. Some of the metropolitan areas don't [16] have a high percentage of minority [17] populations, but others do, like Los Angeles, [18] Long Beach, for example.

[19] Washington, D.C., 30 percent of the [20] residents in D.C. are black and Hispanic. [21] Our lenders offered 29 percent of home [22] purchase loans to minorities in 1996, 31

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[1] percent in 1995, and 27.87 percent in 1994.

[2] In 1996, there was just about 1 [3] percentage point fewer loans than the [4] percentage of minority residents in the city. [5] It was kind of similar for 1995 and 1994. So [6] it's kind of a double story in D.C., kind of [7] in an absolute sense, there's progress, but [8] relative to some other metropolitan areas, [9] there's room for improvement.

[10] Then you look at the bottom of the [11] page, and you'll see average for the 20 MSAs, [12] and then for United States as a whole, [13] there's 22 percent of the population in all [14] the 20 MSAs were black and Hispanic. They [15] got 21 percent of the loans in 1996 on [16] average.

[17] United States, 17 percent of [18] population is black and Hispanic, and they [19] received 14 percent of the loans in 1996. [20] That's kind of interesting, kind of in rural [21] areas and small towns, probably there's not [22] as much success in reaching minorities as

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[1] there are in the bigger cities. Perhaps the [2] lenders are not as experienced in serving [3] that market in rural areas and smaller towns.

[4] Then you go into Table 2, and I do [5] the same story for low and moderate income [6] households. What's interesting is [7] Washington, D.C. performs well on a relative [8] and an absolute sense on this table. You'll [9] see it's number two, right below Minneapolis, [10] St. Paul. 37 percent of the population is [11] low and moderate income in Washington, D.C.

[12] In low and moderate [13] households/families, we see 41 percent of all [14] home purchase loans. In other words, 3.76 [15] percentage points more loans than the [16] percentage of minority

residents, blacks and [17] Hispanics in the city. You'll see for 1995 [18] and 1994, 36.1 and 36.3.

[19] Does that mean that we should rest [20] easy? No, because this is home purchase [21] lending. We should also take a look at home [22] improvement lending and refinance lending.

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[1] We should also take a look at the geographic [2] distribution of home purchase loans.

[3] This study focuses on lending to [4] individuals throughout the metropolitan area [5] and not so much lending in different [6] neighborhoods. So we recommend additional [7] studies looking at, as you did a few years [8] ago, in lending and the different wards.

[9] What's interesting in lending to [10] income is on average, it's harder for lenders [11] to reach low and moderate income households [12] in proportion to their population. You'll [13] see at the bottom of the page, on average 41 [14] percent of the people in any given MSA, are [15] low and moderate income, and 1996, they [16] received about 36 percent of the loans, and a [17] similar percentage of loans in 1995 and 1994.

[18] So in other words, 10 percentage [19] points fewer loans than there are low and [20] moderate income households in any given MSA. [21] In many areas, such as New York or some of [22] the California communities, you have high

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[1] cost of housing.

[2] You have an affordability issue, [3] but still, affordable home mortgage products [4] should be developed so as to try to increase [5] the percentage of loans going to low and [6] moderate income households.

[7] For the United States as a whole, [8] that last row on the page, it's kind of [9] interesting that again, it's about 40 percent [10] of the people in the country are low and [11] moderate income. They received 42 percent of [12] the loans in 1996. It's sort of the reverse [13] of the 20 largest metropolitan areas. Again, [14] it probably is due to lower housing costs in [15] rural areas and smaller towns.

[16] Table 3, which I'll just quickly go [17] through, is the denial ratios. That means [18] how many more times are blacks and Hispanics [19] denied for loans than for whites? You'll see [20] D.C. is probably eighth on the list. [21] In 1996, minorities were denied 1.73 times as [22] often as whites. Happily, that's been going

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[1] down.

[2] There's 2.57 in 1994, 2.02 [3] in '95,

1.73 in '96, but should we rest easy? [4] No, because still minorities are being [5] denied 1.73 times as often as whites. We do [6] have metropolitan areas that have lower [7] denial ratios.

[8] Let me jump to how the lenders fell [9] out in the District of Columbia. On pages 37 [10] and 38 of the report, on page 37, it starts [11] with the best lenders or the lenders that [12] offer the highest percentage of loans to [13] minorities and low and moderate income [14] households, and then do the most marketing. [15] We see the most applications from underserved [16] populations.

[17] Then to the lenders that are lowest [18] on the table. You'll see that Riggs Banks is [19] number one in the study. Russell Simmons [20] will probably be happy about that. You'll [21] see that Riggs took in, but for good reason, [22] 71 percent of its applications were for

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[1] blacks and Hispanics.

[2] Remember, if 30 percent of the [3] population in the entire metropolitan area [4] are minorities. So Riggs is taking more than [5] twice that, then offered 71 percent of their [6] loans to blacks and Hispanics.

[7] Again, for low and moderate [8] income, 73 percent of their applications were [9] from low and moderate income households; 73 [10] percent of their approvals were to low and [11] moderate income households. Low and moderate [12] income households, as I said before, were [13] about 37 percent of the population of the [14] District of Columbia.

[15] You'll see this DSC ratio. That [16] was developed by professor Sam Myers at the [17] University of Minnesota. A negative number [18] means good news. It means, basically an [19] absence of discriminatory practices. If it's [20] above 1, it's a little worrisome.

[21] What the quintile means, say the [22] quintile next to the minority applications,

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[1] quintile 5, that means it was the top [2] quintile. That score for Riggs Bank on the [3] minority approvals was in the top quintile of [4] the lenders in our report.

[5] You know you sort lenders into 5 [6] different categories for the same number of [7] lenders in each categories on each of the [8] indicators. So 5 means a top quintile. So [9] you have 6 indicators. You'll see that Riggs [10] got a score of 30, which means that they [11] scored in the fifth quintile. They got a [12] score of 5 in each of the 6 indicators.

[13] In 1995, they also had a score [14] of 30. Interestingly enough, they did have [15] to improve from '94 to '95. I believe

the [16] history was, is that in previous years there [17] was a low CRA rating for Riggs Banks. Riggs [18] did the work, and they improved their lending [19] performance. That's what CRA fair lending [20] laws are all about.

[21] Riggs is a case study on how CRA [22] and fair lending laws provide an incentive

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[1] for lenders to serve people who have been [2] traditionally underserved by financial [3] institutions in the United States.

[4] Then you can kind of see a little [5] further down the page, your lenders, say [6] percentage of loans being offered to [7] minorities. Virginia First Savings Bank, 20 [8] percent of their loans are going to [9] minorities as opposed to a member. Then 70 [10] percent of the loans going to Virginia First [11] Savings Bank is like sixth from the bottom.

[12] So you can see that there is a [13] great difference in performance amongst the [14] lenders in Washington, D.C. Further analysis [15] and study should figure out why. It could [16] have to do with their branch distribution [17] network.

[18] Actually, NCRC has the capability [19] of putting nice maps where the branches are [20] of the lenders. If the branches are in [21] predominantly white areas, in the suburbs, [22] you're not going to have a whole lot of loans

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[1] going to minorities or low and moderate [2] income people. If the branches are more [3] evenly distributed throughout a metropolitan [4] area, you will see performances like Riggs.

[5] You also have to look at affordable [6] mortgage products. Do the lenders offer [7] affordable mortgage products with waiving [8] some fees on a loan or a below market [9] interest rate? One thing I'll brag about [10] NCRC members here is, we have 680 members who [11] work out partnerships with lenders to do [12] affordable mortgage programs, that say, offer [13] a one percent below the market rate in return [14] for people going through home ownership. [15] counseling.

[16] Marcia Griffin will be talking to [17] you later about home ownership counseling [18] efforts. But these types of programs get [19] people ready to purchase their American [20] dream, and the extent to which lenders have [21] affordable mortgage products, you'll see some [22] of that reflected in the performance of the

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[1] lenders, on these charts.

[2] I should also say that since 1977, [3] community reinvestment organizations have [4] negotiated over \$1 trillion dollars, I'll [5] repeat that figure, \$1 trillion dollars in [6] CRA agreements with lenders. These [7] agreements commit lenders to offer loans and [8] investments to low and moderate income areas [9] and minority communities over a multi-year [10] period.

[11] Often this occurs during the merger [12] application time. That's when CRA is [13] enforced. It's one of the times that CRA is [14] enforced.

[15] A lender has to demonstrate to a [16] federal regulator that it has a good [17] community reinvestment performance. So [18] lenders again have the incentive to work out [19] these agreements with community [20] organizations.

[21] There was recently an agreement in [22] the Midwest and Chicago with First Chicago

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[1] Bank, filled \$4 billion in loans to low [2] income areas in Chicago. There was similar [3] agreements with First Union here in D.C. a [4] few months ago.

[5] Continuing with this table, if you [6] turn to page 38; you see the lenders that [7] fall in the lower half of the table. For [8] example, you have Citibank Federal Savings [9] that offers 18 percent of their loans to [10] minorities, has 17 percent of their loans to [11] low and moderate income borrowers. Remember, [12] low and moderate income people were 37 [13] percent of the population in D.C.

[14] So what is it about Citibank that [15] they're not doing as well as some of the [16] other lenders?

[17] What this table enables all of us [18] to do is to have constructive dialogues with [19] lenders saying, okay, Norwest Mortgage [20] Corporation. You got a score of 16 in 1996, [21] and I see that you're offering 20 percent of [22] your loans to low and moderate income

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[1] purchasers, but a regional bank that has your [2] same asset size, say, Countrywide Home Loans, [3] is much higher up on the table. We want to [4] work with you to get you to what Countrywide [5] is.

[6] In other words, if you show lenders [7] that their peers with the similar financial [8] capacity, similar assets, are higher on the [9] table, and if there's a way to do this, and [10] that you're willing to work with the lenders, [11] that is the value of a study like this.

[12] This gets you to the table and gets [13] you past the accusations flying and get you [14] to looking at the facts and figuring out how [15] you can really, in a constructive way, [16] improve lending

performance for everyone's [17] benefit, to revitalize neighborhoods and to [18] pursue profitable opportunities.

[19] Mellon Bank and First Union Bank [20] have sold CRA loans to Wall Street. This is [21] profitable business. So it's a win-win, [22] revitalizes — I'll end on that. It

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[1] revitalizes neighborhoods and it's profitable [2] opportunities for banks, doing well by doing [3] right.

[4] **MR. SIMS:** Thank you. I'd like to, [5] as chair, modify the suggestion I made [6] initially, and open up for questions because [7] I do have a couple myself. Also give [8] Mr. Simmons a chance to — the [9] acknowledgement of Riggs Banks performance.

[10] **MR. SIMMONS:** That was a very [11] impartial study. We looked at the numbers. [12] They were obviously very excited and very [13] gratified, and as I began to speak — it's [14] part of the whole process that we ended [15] back in '93, we did not pass the CRA exam and [16] certainly that got our attention.

[17] Mostly because we had just come out [18] of almost going under, back in the real [19] estate crisis, but since then, and when I get [20] on the panel, I'll sort of address it. [21] Residential lending is part of an overall [22] strategy at Riggs, CRA lending. That's what

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[1] I'm going to talk about, but certainly we [2] thank you for the study.

[3] **MR. SIMS:** Wonderful. I guess my [4] first question is to David. In terms of the [5] study that you presented, did you find or did [6] you look into any new strategies or terms of [7] training or orientation of employees that [8] might assist them and improve the [9] sensitivity, either in terms of racial [10] sensitivity or whatever, that the [11] institutions have implemented in terms of [12] this evolutionary change that's going on?

[13] **MR. BERENBAUM:** The study itself [14] focused on actual practices at lenders [15] mortgage bankers and brokers in the District [16] and the surrounding areas. So that report [17] itself really looked at what happens during a [18] pre-application situation. You have a copy [19] of the report to examine that aspect closely. [20] Everything is charted out. However, one of [21] the important goals of the Fair Housing Index [22] Report was to begin dialogue.

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[1] That has happened after each of the [2] reports has been released. Not only was it a [3] public education project, frankly, also it [4] was an enforcement project.

[5] We've just filed our first [6] complaint

to HUD against a Montgomery County [7] lender, where in fact there's very poor Home [8] Mortgage Act data and all of the tests [9] corroborated the findings from the HMDA data, [10] inability to access mortgage products, [11] steering FHA products, differential terms, [12] for example, with regard to the cost of the [13] mortgage product.

[14] We, since the release of the [15] report, have met with approximately ten [16] financial institutions or mortgage entities [17] and it's given us a very interesting insight [18] into the true best-efforts on the part of [19] institutions to try to comply with the host [20] of regulations and federal and state laws. [21] What's clear to me is that there is lack of [22] consistency.

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[1] There's some institutions that [2] frankly have a minimalist approach, where [3] they will do just enough. For example, a two [4] hour discussion of fair lending compliance is [5] part of a broader discussion of CRA and [6] related issues of lending requirements.

[7] Whereas there are other [8] institutions in our community, who are very [9] proactive, and they bring in outside [10] consultants and will spend up to five days in [11] discussion groups with key management, [12] developing what is a best practices approach, [13] not only to fair lending practices, but [14] related civil rights and diversity issues as [15] well.

[16] The Fair Housing Partnership [17] Program that we have begun takes really what [18] was the recommendations of the National [19] Association of Realtors, and implements them [20] across the board. We have been using this [21] new project, not only to promote voluntary [22] compliance with the law, but also with regard

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[1] to settling cases that are actively on the [2] enforcement side of the road.

[3] Simply, that a company that is [4] truly committed to a business practice of [5] equal housing opportunity, as was said a [6] component of being actually successful in [7] marketing a community and realizing profit, [8] will look at its internal practices, not only [9] underwriting, but in retaining staff, let [10] staff know what the company's commitment is [11] to equal housing opportunity, to CRA and [12] related laws.

[13] They'll let the staff know there's [14] accountability at every level to these laws [15] and that this company is serious. When we [16] settled the federal lawsuit against First [17] Virginia Bank-Maryland, it was very [18] heartening to hear the president of the [19] financial institution get up and say to his [20] staff, let me make

it clear, we do not [21] tolerate racial discrimination or any [22] discrimination at this bank.

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[1] I tell you, since then, we have yet [2] to get another complaint against that [3] institution, after the case that was settled. [4] That is the kind of message that makes a [5] difference, as well as having a [6] diverse staff, that will reach out to the community, [7] a multilingual staff, as well as having a [8] board that is sensitive and diverse as well, [9] which is another issue for financial [10] institutions today.

[11] The institutions in this room have [12] a wonderful job reaching out to community [13] groups, but that's not enough. You can have [14] a policy in practice, but this is simply not [15] about changing attitudes, it's about changing [16] actions. There is liability if a manager in [17] a particular branch or a particular telephone [18] operation of an institution violates the fair [19] lending laws, regardless of the corporate [20] position of the lender.

[21] That's where the self testing is so [22] stimulating. It's being done on a wide-spread

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[1] basis. I'm glad that we're going to be [2] getting a dialogue with the Mortgage Bankers' [3] Association and other associations, to talk [4] about having a common theme. There need to [5] be parameters.

[6] I believe the parameters of my [7] agency are first class in testing, but I know [8] for a fact, there are private consultants and [9] fair housing groups and other organizations [10] around the country who are using all [11] different methodologies.

[12] The bottom line is we have to [13] interpret the law in the same way. We have [14] to interpret the regs in the same way. We [15] have to agree what's a violation through self [16] testing and the parameters of that, but [17] that's the point we're getting to. That's [18] how sophisticated the civil rights movement [19] has become over the past three years. That's [20] a marvelous opportunity.

[21] **MR. SIMS:** Thank you. Any other [22] questions? Yes?

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[1] **MR. TOPPING:** I got a comment on a [2] question. I appreciate very much the [3] testimony that both of you have provided.

[4] I found especially interesting the [5] test you take, although I thought the [6] mathematical precision was a little stronger [7] than I was comfortable with, converted into [8] the index, neve-

rtheless I think there were [9] some things that were fairly blatant, other [10] things that probably were very much in the [11] area of sloppy practices, but I think [12] nevertheless a very compelling case is made [13] that there is a significant degree of [14] differential treatment that is adverse and [15] very likely discriminatory through this [16] technique.

[17] I think the testing technique [18] really allows you to probe much more than [19] what's actually available in the overall [20] statistics.

[21] One of the things I'm struck with [22] in terms of addressing this, is that the

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[1] possibility — and this of course, we can [2] trust later. I'll sit with members of the [3] banking industry that a substantial amount of [4] self testing might be carried.

[5] I'm a former Air Force brat, and [6] also former Air Force officer, and I know the [7] strategic air command would often send in [8] various teams onto air bases to actually test [9] how secure the bases were against someone [10] coming in from the outside. The result of [11] this was that you get a remarkable degree of [12] vigilance and so on, through those particular [13] bases.

[14] I think that there might be some [15] real nerve, if we're going to have these [16] practices administered fairly throughout, and [17] having the banking community more generally, [18] really work out some kind of self testing.

[19] This way small banks could pool [20] with the larger banks in some way, and really [21] institute this kind of self scrutiny in which [22] they could end up arriving at something in

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[1] consultation with groups such as yourselves. [2] That would be a very constructive way of [3] addressing a lot of these subtle issues, that [4] the loan differential terms and so forth.

[5] Where somebody may still get a [6] loan, but they may get it at far higher rates [7] or they may find that there really isn't this [8] kind of competition offered. I think somehow [9] that kind of effort on the part of the [10] industry might be a way of addressing that. [11] What is your sense?

[12] **MR. BERENBAUM:** Whole point of the [13] partnership initiative. To say rather than [14] it being an ongoing adversarial relationship [15] between the civil rights movement and [16] industry providers, this is the 30th [17] anniversary of the Federal Fair Housing Act.

[18] Our nation remains [19] hyper-segregated. It is in fact more [20] segregated and we expect, especially if you [21] look

at this community, the white flight, not [22] only from District of Columbia, but from our

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[1] inner communities: Fairfax, Arlington, [2] Prince George. That is going to be [3] reinforced based on interim data that we have [4] seen.

[5] We, in fact, are preparing to test [6] the outer jurisdictions because we are so [7] concerned about what we're documenting. [8] Voluntary compliance efforts, we have an [9] equal responsibility to work hand in hand, [10] doing training, self testing, policy, [11] advertising review, whatever it may be with [12] industry.

[13] If a corporation is willing to step [14] forward and say, "We believe in fair housing [15] as best practice, we have a responsibility as [16] a public interest organization serving this [17] community to work with those groups."

[18] The reality is, quite frankly, it [19] is not something for fair housing advocates [20] to be afraid of, you know, because there is [21] some discussion about are we giving up our [22] private attorney general role by doing this?

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[1] In fact, we are not. We are firewalling out [2] the program. There are safeguards in place.

[3] There are commitments made by the [4] corporations if there is a complaint, to [5] immediately do the right thing by the [6] complainant. But what it is really doing is [7] putting us all on the same table and the same [8] page with regard to what needs to be done. [9] For those who are the worst offenders in the [10] community, it allows me as a civil rights [11] advocate, to focus all of my enforcement [12] activities on them, where frankly, they [13] deserve to be put.

[14] **MS. CORONADO:** Just a clarification [15] on that point of the results of the self [16] testing. Those results, I assume, because [17] the banks and other lenders that agreed to [18] that self testing, those results are not [19] available for use in court action or —

[20] **MR. BERENBAUM:** Well, there has [21] been regulation, which has now been accepted [22] on a federal level, which basically gives

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[1] companies, lenders, sort of a limited safe [2] haven in the sense that as long as there is a [3] constructive action taken. Let's say [4] hypothetically, there is some finding through [5] self testing to correct the problem?

[6] A regulator will not use that [7] against a particular lending. Now it's all [8]

ultimately discoverable, but that is true in [9] any testing situation. What's interesting, [10] and I say this quite candidly, is that while [11] our project was an enforcement project, we [12] very publicly when we released the results, [13] and I agree that, for example, three or six [14] tests of an institution — that shows what [15] may be sloppy practices.

[16] Maybe not enough to say it's a fair [17] lending violation, but it's enough for us to [18] go back. If it happens 9 or 12 times, then [19] you bet we're going to say it's a fair [20] lending violation and file a case because [21] then you're proving a disparate treatment [22] case.

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[1] But with the self testing, as long [2] as a lender or any real estate provider, [3] insurer, because a lot of people are looking [4] at testing now, act proactively and [5] proactively, there's very little risk [6] associated with it because of the new regs.

[7] **MS. CORONADO:** So that's a good [8] thing?

[9] **MR. BERENBAUM:** It's a very good [10] thing. Again, this was a change. Many civil [11] rights advocates were uncomfortable with it, [12] and there was a lot of testimony, pro and con [13] in tweaking it that NCRC and others were [14] involved with in National Fair Housing [15] Alliance. But the outcome, because I had [16] everyone's input, has been very positive, I [17] believe.

[18] **MR. SIMS:** One last question, you [19] had mentioned the lawsuit being brought? Was [20] that against a specific lending institution [21] or association or can you clarify that again?

[22] **MR. BERENBAUM:** Are you talking

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[1] about the Capitol Cities cases that I [2] mentioned?

[3] **MR. SIMS:** Yeah, mm-hmm.

[4] **MR. BERENBAUM:** It was against [5] Capitol Cities Mortgage and the principal [6] owner, whose name is Nash. I have a copy [7] that I'll leave right here today. It is a [8] very important case. There are many aspects [9] to it beyond civil rights. For example, [10] there was a very important argument being [11] made under the federal racketeering aspects [12] of our laws. That is also a new argument [13] that is being made.

[14] But I tell you, this will be the first [15] of what will be other cases or complaints [16] filed by our agency, because this company by [17] no means is alone as it operates in the [18] District of Columbia.

[19] **MR. ROMERO:** Mr. Chairman?

[20] **MR. SIMS:** Yes?

[21] **MR. ROMERO:** Mr. Nash is not [22]

licensed with my office and with the LBFI.

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[1] We rejected his application. Legally, he's [2] not allowed to make any residential loans in [3] the District of Columbia. Whether we can [4] afford it or not, that's another problem. [5] But he's doing a commercial role.

[6] MR. SILVER: That's what I thought.

[7] MR. ROMERO: And there's nothing [8] Carlos can do about it.

[9] MS. HEUER: I guess I would address [10] this question, how did you make a decision on [11] which banks and lenders that you used in [12] Washington?

[13] MR. SILVER: That's a good [14] question.

[15] MR. ROMERO: Include all of them or [16] was there —?

[17] MR. SILVER: There's a cut-off. We [18] wanted to, as much as possible, compare [19] apples with apples. So we decided that [20] lenders at 250 applications or more. They [21] had to have taken in at least minority [22] application. That was the cut-off. It

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[1] roughly translates to people with market [2] shares of about one percent of the market and [3] hire of applications. That was the cut-off, [4] so you'll see D.C. has about 50 lenders in [5] the study.

[6] MR. BERENBAUM: Mr. Chair, can I [7] just quickly make just one more remark?

[8] MR. SIMS: Sure.

[9] MR. BERENBAUM: Relevant to CAP [10] Cities, and frankly what's happening in our [11] entire nation, is that there is a need for [12] greater guidance from regulators in the [13] sub-prime marketplace. We see that beginning [14] to be developed by, for example, Fannie and [15] Freddie.

[16] There's been a lot of dialogue [17] about that, but I believe that this would be [18] a very appropriate function, for example, for [19] our superintendent in the D.C. environment, [20] in a very proactive way because particularly [21] in the D.C. Marketplace, there is a greater [22] reliance in some areas of our community on B,

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[1] C, and sometimes even D loan products.

[2] We hear some of the horror stories [3] associated from some of the lenders who are [4] less than professional in their approach to [5] marketing these products.

[6] MR. SIMS: Any other questions, [7] comments?

[8] MR. SIMMONS: I want to thank you. [9] We will be, as I mentioned earlier, using the [10] presentation you made to date in our addendum [11] to the U.S. Commission on Civil Rights. [12] Thank you very much.

[13] MR. SIMS: Thank you. If we could [14] have our second panel? David Baer?

[15] MR. BAER: Yes, sir. How are you [16] doing? Good morning.

[17] MR. SIMS: Russell Simmons, do you [18] get mistaken for the other Russell Simmons?

[19] MR. SIMMONS: Occasionally, I refer [20] to myself as the poor one.

[21] MR. SIMS: Okay, and Jan Maxwell? [22] Is Jim Griffin here?

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[1] SPEAKER: Marcia.

[2] MR. SIMS: I'm sorry. Okay, okay. [3] The next panel will provide us information [4] from in the industry perspective, bank's [5] industry effort to assist to minority home [6] buyers. The first presenter will be David [7] Baer, president elect, Mortgage Bankers [8] Association of Metropolitan Washington, [9] followed by Russell Simmons, the poor one, [10] the senior vice president for business and [11] community development and CRA officer at [12] Riggs Banks, and our clean up hitter will be [13] Jan Maxwell, vice president and CRA officer [14] of the Chevy Chase Bank. Welcome.

[15] MR. BAER: Thank you. Good [16] morning, everybody. I appreciate the [17] opportunity to address the group this [18] morning. As an active member in the lending [19] community, which encompasses Washington, D.C. [20] as well as the Maryland and Virginia suburbs [21] of the city of Washington, I come to you as a [22] representative of both, or rather, banks as

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[1] well as mortgage bankers, as well as general [2] mortgage lenders.

[3] Our membership consisted of 110 [4] different entities, representing a myriad, if [5] you will, of institutions, and entrepreneurs. [6] Small companies, single branch operations, [7] and then larger national bank operations as [8] well, are members of the Mortgage Bankers [9] Association of Metropolitan Washington, which [10] is a chapter of the national association, [11] just to give you some perspective.

[12] As an active participant in the [13] governing body of the MBA of Metropolitan [14] Washington, I've been involved for six years [15] in the association. I've been involved in [16] lending since 1977. Started my career out [17] with a

bank and currently work for savings [18] and loan, but have worked for private owners [19] as well during a 21 year period.

[20] Our efforts at the MBA of [21] Metropolitan Washington, as it relates to [22] your hearings, I think can be stated as one

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[1] of educating our group as it relates to their [2] responsibilities, both social and [3] professional responsibilities. In 1996 to [4] give you sense, we went with the Virginia [5] Housing Development Authority and commenced [6] an educational program to not only educate [7] our membership, but educate the public.

[8] We had a relative start. It [9] started out slow. We had maybe 25 to 30 [10] homeowners per class, and now this year, [11] we're getting an upwards of 75 to 80 [12] participants per class. I'm very happy to [13] report that about 2/3 of those participants [14] are converting to home ownership. So the [15] program itself was created by the Virginia [16] Housing Development Authority.

[17] They came to the Association in the [18] third quarter of 1996. Both these [19] institutions have participated in those [20] programs. We feel, as an association, the [21] best thing that we can do for the consuming [22] public, is to educate them as it relates to

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[1] the processes.

[2] There's no doubt that participants [3] or rather member firms and their employees [4] come to the table with predispositions [5] as it [6] relates to how they interface with people. [7] That is human nature and that is, I'm sure, [8] is what this commission's really trying to [9] address. But part of the process with VHDA [10] puts everything in a very objective format, [11] and we have found and as I have mentioned, to [12] be very successful.

[13] We're conducting at least one [14] seminar a month right now. We have enlisted [15] the Northern Virginia Association of Realtors [16] during the course of this year. That has [17] really added a lot to our grassroots effort. [18] As a pending motion for the executive [19] committee for the MBA of Metropolitan Washington, we're going to pursue the same [20] avenue with the Maryland Association as well [21] as the D.C. Association of Realtors, because [22] they're the ones with the contacts with the

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[1] public.

[2] Our objective is to notify the [3] public of the opportunities in housing, not [4] just in the housing stock, but the housing [5] lending programs, the flexible lending [6] programs that are out there as earmarked by [7] Fannie Mae and Freddie Mac and the larger [8] financial institutions.

[9] It is worth noting that the typical [10] mortgage banker, the small time operator, [11] doesn't have the ability to create these [12] programs themselves and have to rely on these [13] secondary marketing players, like Fannie and [14] Freddie, to get these programs out to the [15] Street. So again, we're looking forward to [16] an extended grassroots effort going forward [17] through the end of the millennium and beyond. [18] We have educated in excess of 750 people in [19] the course of the last 16, 17 months. We're [20] very proud of that.

[21] Again, the conversion rate is [22] about 67 percent to home ownership. So

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[1] people that come through the program are — [2] and we go after, you know, the Hispanics and [3] the minorities, and anybody that has an [4] interest in buying a house, you know, [5] specifically earmarked Hispanics. We've done [6] these classes, if you will, at libraries, at [7] community centers, that are not done [8] typically as you might suppose on the grounds [9] of an institution. They're done at a neutral [10] setting, which we think adds to the [11] attraction.

[12] The community fairs, providing [13] seminars and exhibits to approximately [14] a 1,000 perspective home buyers, held in June [15] and September of last year. Last year also, [16] we joined forces with several area [17] associations community groups to form the [18] Housing Coalition of Maryland and the Housing [19] Opportunities Coalition of Virginia.

[20] The mission of each coalition is to [21] enhance and expand the efforts to ensure that [22] affordable housing opportunities exist for

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[1] families in the Washington metro area. [2] Coalition members are committed to continuing [3] their proactive role, in support of the [4] National Home Ownership Strategy and the [5] National Partners in Home Ownership, which I [6] think echoes Mr. Berenbaum's comments about [7] being proactive. I think it's a critical [8] feature.

[9] We have co-sponsored fair housing [10] and fair lending seminars with the Montgomery [11] County Human Relations Commission, providing [12] a full day of educational sessions on fair [13] housing and fair lending practices in April [14] of this year. We have made, as an [15]

association, annual contributions to Jubilee [16] Housing and D.C. Habitat for Humanity. We [17] agree as a membership or association, we have [18] a code of ethics which stresses fairness, [19] reasonableness, integrity, sound practices [20] and conduct, without regard to race, creed or [21] color.

[22] Also, as you will hear from my

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[1] associates here, many of our members [2] regularly hold fair lending functions and [3] remain very involved in the community [4] outreach projects. That's pretty much my [5] prepared comments.

[6] MR. SIMS: Thank you.

[7] MR. SIMMONS: Thank you. My name [8] is Russell Simmons and I'm with Riggs Bank. [9] I am and we are very pleased to be here. I'm [10] going to talk about an overall story and then [11] get to mortgage lending because it's all a [12] part of — a few years back in '93, Riggs was [13] in serious trouble because of the real estate [14] crisis. We got an eastern approval from the [15] CRA rating.

[16] Since then, we have begun to, I [17] guess, consider the entire CRA lending [18] process including mortgage lending on a [19] fairly systematic basis. We do strategic [20] planning. We've assembled a staff. We've [21] gone about making CRA lending an integral [22] part of our business.

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[1] It is a profitable business. [2] In '93, we loaned about \$20 million dollars a [3] year, CRA. We have since then raised that [4] level to approximately \$125 million a year. [5] We've lent over between \$500 and \$600 million [6] in the last 4/5 years. That lending has been [7] as profitable as other lending in the bank.

[8] Now we lend approximately one out [9] of five dollars in this community to low and [10] moderate income areas. That happens to be [11] the percentage of low and moderate income [12] census tracts, and roughly lower than [13] moderate income population in this [14] metropolitan area.

[15] It takes an effort to do that. [16] We've not changed our products, a great deal, [17] but we have changed the marketing. We have [18] changed how we do business. We have [19] concerted efforts. We develop a strategic [20] plan, each line of business for the CRA and [21] the bank every year. It is monitored very [22] closely, both on internal committee and a

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[1] board committee.

[2] It receives a high level of [3] attention in the bank. In addition to that, [4] we do

have some flexibility relative to [5] trying to work with the community. It is a [6] business in which you have to be somewhat [7] creative.

[8] We do many home buyer programs. We [9] do them with strategic partners. We have [10] partners with ACORN and have a mortgage [11] program with them. We also have a mortgage [12] program at the \$30 million dollar with [13] NARCOVEST Enabling Assistance Corporation of [14] America. We've worked with both of these [15] groups to obtain fairly sizable federal home [16] loan bank board down payment grants, [17] around \$750,000 that is available basically [18] as a grant to home owners to help ease the [19] home buying process.

[20] The bulk of our mortgage lending [21] comes from correspondence. What we do is [22] direct them to concentrate on low and

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[1] moderate income areas.

[2] As you know, low and moderate [3] income areas also are highly correlated with [4] being in minority areas. Actually, the [5] eastern half of the District and the inner [6] beltway, Prince George's County probably make [7] up 80 percent of the low and moderate income [8] census tracts, and I'm sure almost as much [9] for a great portion of the minority [10] population of this area.

[11] So our concentration has to be [12] where the people are. It is a tough [13] business. It is a very, very competitive [14] business. My colleagues at Chevy Chase and [15] others are our fierce competitors. It is — [16] you have to do more each day to stay in the [17] same place. I hope, when the study comes out [18] again from the National Community [19] Reinvestment Coalition, that we are again [20] number one, but it is a tough, tough fight.

[21] Many lenders are realizing that the [22] bulk of growth in home buyers' market are

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[1] coming from minorities and first time home [2] buyers. Certainly I think in order to be in [3] that business, you have to have the product [4] first. We think we have good products. We [5] were one of the first people out of the box [6] in terms with affordable housing loans.

[7] My colleague, Andy Morris, who [8] couldn't be here today, runs our residential [9] mortgage section and he has been very [10] innovative and very, very dogged in terms of [11] making these kinds of efforts happen. He [12] deserves, sort of, the recognition on the [13] mortgage side because he monitors and watches [14] that program.

[15] In terms of how we make things [16] happen, we do penetration reports every [17] quarter. What we do is we look up [18] geographically where every loan in the bank [19] is going. If we see that a particular [20] geographic area is missing, or we're not [21] getting enough in a certain place, we devise [22] specific strategies to do that.

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[1] It may mean going into a low and [2] moderate income area with a pre-approved home [3] equity product. It's very, very difficult, [4] particularly in the low income census tracts, [5] because the home ownership really may only [6] be 15/16/17 percent. It's not the 60 to 70 [7] percent that you'll see in this metropolitan [8] area. So it is very difficult to penetrate [9] some of these places.

[10] They have just high rental markets [11] and you have to do marketing and people don't [12] really buy — you get customers from there, [13] but they don't buy there because the housing [14] stock isn't available.

[15] In ward 8 in Southeast, as you [16] probably read in The Post a couple of weeks [17] ago, there are 1,000 single family units now [18] on the boards that will developed within the [19] next 12 months. That is a, not only a sign [20] of confidence for ward 8 and the District, [21] but a phenomenal signal from the private [22] sector that there is a ready market in the

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[1] District of Columbia.

[2] I mean these houses are, I guess, [3] ranging from the low \$100's to the \$150's or [4] more. But certainly it signals that there is [5] market, I think. I saw another report about [6] the year 2002 or 2003, there are [7] another 1,000 units for ward 8 that are on [8] the boards. So we're happy about that and I [9] think other places in the District will begin [10] to see that. We hope parts of Prince [11] George's County will also begin to experience [12] a renaissance in affordable housing.

[13] In closing, I think key to [14] marketing in low and moderate income areas [15] across the board, are knowing your market, [16] partnering with neighborhood groups as much [17] as possible. We work with a number of CDCs, [18] as well as the ACORNS and NAR-CORP that I [19] mentioned. Paying attention to this is a [20] good business.

[21] Three or four years ago, we were [22] not lending \$100 million in this area.

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[1] That's \$100 million of lending opportunity we [2] weren't doing. This is good business. We [3] take it seriously.

Thank you.

[4] MR. SIMS: Thank you very much. [5] Jan?

[6] MS. MAXWELL: Thank you. [7] Mr. Chairman, members of the commission, I am [8] Jan Maxwell. I'm a vice president and CRA [9] officer of Chevy Chase Bank. I'd like to [10] also introduce my colleague, Richard Harvey, [11] vice president and our chief compliance [12] officer and of course our community partner, [13] Marcia Griffin, who's president of Home Free. [14] Marcia will speak to you when I finish.

[15] Chevy Chase Bank is the largest [16] federally chartered thrift institution in the [17] Washington metropolitan area. We have [18] over \$6 billion in assets and a branch [19] network of 140. 12 branches are located in [20] the District of Columbia. Any lending [21] statistics I give you this morning are only [22] the District of Columbia, not the larger

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[1] metropolitan area.

[2] Chevy Chase Bank and our mortgage [3] subsidiary, the B.F. Saul Mortgage Company, [4] are committed to providing a variety of [5] mortgage loan products and services to [6] promote the opportunity for home ownership [7] among D.C. residents. Our mortgage products [8] and services are accessible through our [9] retail, wholesale, and telemarketing [10] operations. Our staff attends fair lending [11] and CRA training twice a year, however, we [12] believe that we can do a better job with [13] that, and are currently in the process of [14] talking with the Fair Housing Council about [15] expanded training opportunities.

[16] Over the past five years, our HMDA [17] statistics tell us that Chevy Chase Bank has [18] provided mortgage financing to over 2,900 [19] D.C. home owners, for a total of [20] approximately \$465 million. Of that number, [21] almost 1,200 were minority borrowers, who [22] borrowed in excess of \$145 million, and I

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[1] might add, at prime market interest rates or [2] below market interest rates, not at sub-prime [3] rates.

[4] Despite the NCRC report that we [5] just saw this morning, we believe our success [6] in reaching out to the minority community is [7] the result of our committed efforts on the part [8] of our loan originators and successful [9] partnerships with community-based [10] organizations.

[11] Additionally, we have created a [12] series of three financial/education workshops [13] covering the home buying process, credit [14] awareness and repair,

and budget development. [15] Our credit counselor, along with other staff [16] members, have presented over 60 of these [17] workshops during the past three years, which [18] have been attended by over 1,200 consumers.

[19] We are especially proud of our [20] relationship with Home Free U.S.A. We became [21] alliance partners with Home Free U.S.A. in [22] the crusade for home ownership in the summer

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[1] of 1995. Since the beginning of our [2] relationship, Home Free has provided [3] marketing outreach and home buyer education [4] to hundreds of prospective home owners.

[5] Through this process, the bank has [6] successfully funded over \$15 million in 145 [7] home loans. The majority of these loans were [8] to minority borrowers of low and moderate [9] incomes. At this time, I'd like to introduce [10] Marcia Griffin, who'll talk to you a little [11] bit about her insights into how successfully [12] assist minority homeowners.

[13] MS. GRIFFIN: Good morning. It's a [14] pleasure to be here. My name is Marcia [15] Griffin and I'm president of a non-profit [16] home ownership organization here in [17] Washington called Home Free U.S.A. I'm also [18] very pleased, I must say that certainly [19] representing the non-profit environment and [20] also being directly in touch with the [21] aspiring home owners as well as home buyers [22] in this area.

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[1] We are especially pleased to have [2] your organization and many others to be very [3] conscious of, you know, home ownership [4] pursuits and the position of minority, and [5] just sort of underserved communities across [6] the board. So I'm very happy to be here [7] today.

[8] Home Free U.S.A. is an organization [9] that has partnered with Chevy Chase Bank and [10] other lending organizations in the Washington [11] metropolitan area. Our job is to touch the [12] community and to really incite a sense of [13] hopefulness, if you will, within our [14] communities to not only let them know that [15] home ownership is possible for them, but [16] actually show them how to get through the [17] process of home ownership and actually become [18] home owners.

[19] We feel that in order to overcome [20] many of the inherent issues and problems in [21] the whole home ownership process, it really [22] requires three main tools, we find. One,

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[1] without question, education, we brought this [2] up earlier.

[3] Education, information and [4] motivation are three very, very important [5] elements that are needed in order to overcome [6] many of the obstacles that are faced by [7] minorities and low and moderate income and [8] just underserved people generally. The [9] issues that many people with regard to home [10] ownership, and you know, these are issues [11] that the lenders also face.

[12] The credit issues, the savings [13] issues, all of those, your know, are ones that [14] we engage everyday. We interact with [15] almost 1,000 prospective home owners a week. [16] We are involved very actively in a campaign [17] to encourage people to CDC as a place to [18] live, and to afford them the information that [19] they need to know about the financial [20] incentives there are to buy in D.C.

[21] Generally however, we know that [22] people need, they need a lot of information.

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[1] There is a significant amount of support that [2] people need, not just financial support, [3] which I must say that the lenders could do [4] anything. Those lenders, like Chevy Chase, [5] and with Riggs and others, who are able to [6] afford down payment and closing cost [7] assistance.

[8] This is absolutely needed within [9] our community. I'm not just saying it's [10] needed by even low income people. It's [11] needed by large income — high income people [12] also who have good credit, but just have not [13] been able to save.

[14] Clearly however, our mission and [15] within Home Free, we have created what we [16] view as a home ownership model which brings [17] people into an environment and really is [18] designed to uplift their financial [19] understanding. It's designed to get people [20] to understand what are the problems, the [21] obstacles to home ownership. If you have [22] credit problems, these credit problems really

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[1] need to be solved.

[2] Really, we take them under our wing [3] and really with a significant support that [4] we've had through Chevy Chase, you know, to [5] bring them under our wing and get people to [6] really be able to, not just understand what [7] an FHA mortgage is and you know, who Fannie [8] and Freddie are, but really get a real [9] understanding as to who's getting rich and [10] who's getting poor when you're using a lot of [11] credit cards.

[12] How to look at our spending [13] patterns so that even though it seems like [14] we're overwhelmed today with

bills and [15] creditors and everything else there, you [16] absolutely must save some money.

[17] When you're going to a lender, [18] you'll want to have some money of your own on [19] the table. This is possible. Within the [20] communities and the people we work also [21] with 133 churches here in D.C., there is a [22] tremendous, tremendous thirst, if you will,

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[1] among all people for information. They need [2] to talk to people who have become homeowners, [3] or people who are also going through the [4] process so that they know that when they get [5] to the end, and certainly in our environment, [6] every single person who's gone through the [7] Home Free process has been approved.

[8] We feel that people need to be [9] educated and informed about why some people [10] are approved and why some people are not [11] approved. There are many things that we as [12] individuals, that the prospective home buyer [13] can do, quite frankly, on their own to ensure [14] mortgage approval on the back end. So, you [15] know, we work with HUD and DHCD and Chevy [16] Chase and many other great institutions to [17] inspire home ownership, we're seeing [18] significant interest.

[19] As I said, in our classes, we have [20] on average about 100 people in every single [21] class. Quite frankly, we have an [22] infrastructure that is designed to hold onto

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[1] the person from that class all the way [2] through closing and two years afterwards [3] because what we find is that once a person [4] gets into that home, they really need to have [5] someone that they can call if they have any [6] questions. They need to still come to some [7] classes afterwards.

[8] Of the people that we have put into [9] homes which 145 have gone to Chevy Chase, you [10] know, many of the loans, have gone to almost [11] about 30 or so other lenders in the [12] metropolitan area. We have helped, in the [13] last about 15 months, to get over 300 people [14] into homes. The counseling is great. The [15] education is great. The opportunities are [16] great and we are here to just, you know, [17] thank you for your conscious effort to really [18] look out for people as they become home [19] owners.

[20] MR. SIMS: Thank you very much.

[21] MS. GRIFFIN: Thank you.

[22] MR. SIMS: At this point, I'll

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[1] throw it open for questions and I think will [2] lead off with a question. It appears from [3] this panel that there has been incredible [4] outreach, education support for getting the [5] perspective buying public educated in terms [6] of how to get through the system and how to [7] be prepared to be a home owner.

[8] Going back to David's Berenbaum's [9] presentation earlier to the panel, the notion [10] of this partnering. There's another part of [11] the equation, which I don't know that I've [12] heard much of, and I'd ask David to come up [13] and respond to it. What's being done within [14] the association to either share best [15] practices and what's being done within the [16] banks in terms of internal compliance? [17] There's two parts of the equation.

[18] In my opening remarks, I mentioned [19] about maybe the large — the loan denial [20] rates are a result of a lot of non-qualified [21] people coming in, but maybe there's also part [22] of it in terms of an insensitivity, a lack of

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[1] training, a lack of programs, a lack of [2] evaluations or monitoring of the people that [3] are dealing with the public once they come [4] through the door.

[5] I'd like to ask David if anything [6] is being done by your association to get your [7] members sharing best practices or — and then [8] of the two banks, Russell mentioned your [9] quarterly penetration assessment to look at [10] where you're not doing business that you [11] should be. What other kinds of things and [12] systems do you have in place to begin to see [13] how your employees are responding to the [14] people that come in and ensuring that they [15] have a sensitivity to the concerns of those [16] consumers that come in wanting to get a loan [17] from the institutions?

[18] MR. SIMMONS: You want us to go [19] first? Well, I think the penetration [20] analysis is a business tool that's been a [21] useful tools. I don't think you could ever [22] have enough training with which a staff —

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[1] and it's just a constant review process and a [2] constant re-enforcement that you basically [3] treat all customers well and the same.

[4] We also have a couple levels of [5] second review, both within the mortgage [6] division as well as, there's a separate [7] second review committee within that [8] systematically, after the fact, looks at [9] large group samples. We see pattern going [10] over that sample

we corrected immediately [11] from a policy point of view.

[12] That, I think has served us well [13] because we haven't had any problems to date [14] with unfair practices. But overall, I think [15] using tools within the bank, using best [16] practices, certainly talking to you [17] colleagues frequently and finding out what [18] works, what doesn't. The competitive [19] market's sort of lets you know that....

[20] You know if you're not getting the [21] business, there's a reason for it and you [22] have to change to try to do that. Once you

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[1] decide to get into this business, and it [2] somewhat of a specialized business, but it's [3] not unlike any other specialized business [4] that a bank gets into, you get in, you find [5] out how to do it, and you compete.

[6] **MS. MAXWELL:** If I could just ask [7] my colleague, Richard Harvey, to talk a [8] little bit about how we handle, you know, [9] internal review.

[10] **MR. HARVEY:** To answer your [11] question in terms of whether or not there is [12] a sharing of best practices amongst the [13] institutions, I don't think a whole lot of [14] that goes on, but I don't think that there's [15] a whole lot of secrets either. I think we [16] may do things a little bit differently, but [17] we've got the same result orienting, you know [18] in terms of how we want to succeed. [19] I think David's point earlier on [20] was that senior management makes it known [21] that we won't tolerate discrimination. It's [22] going to trickle down and everyone will know

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[1] it. I think that's what we started Chevy [2] Bank. We also have a second review [3] committee.

[4] The policy that our senior [5] management has developed with respect to [6] mortgages, that no one individual can deny a [7] mortgage. It has to come to a committee. [8] That committee is empowered to determine [9] whether or not there's any way at all we can [10] make the loan.

[11] Not with the — you know, not [12] looking at — in terms of whether or not [13] we're going to deny it. The second committee [14] is made up of individuals that represent the [15] mortgage company, underwriting, processing, [16] compliance division and various other parts [17] of events.

[18] We were all trying to sit around [19] and determine whether or not there's any way [20] we can make loans. You know, like I said, I [21] don't think there's any sharing of that [22] information, but I

think that's something

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[1] that's pretty common now in terms of the [2] second review. Different organizations do [3] them differently.

[4] Ours is just that, you know, a man [5] from the top, that no one person's going to [6] make any decisions in terms of denial.

[7] **MS. MAXWELL:** Do you want to [8] address the issue of self test?

[9] **MR. HARVEY:** Sure, that's also [10] something that we engaged in. On an annual [11] basis, we do self tests. What I mean by that [12] is we hire outside companies to come and to [13] conduct mystery shopping. You ask Cheryl [14] here I guess, whether or not that is [15] something that we found helpful. We have.

[16] What we do is we take a look at [17] that data, and we make certain determinations [18] as to whether or not there are particular [19] individuals within the organization that may [20] be exhibiting discriminatory practices, [21] whether there are certain branches, not [22] certain individuals per se, but certain

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[1] branches that tend to be discriminating [2] against individuals. Then we take actions [3] based upon those findings.

[4] **MR. SIMS:** That's no small [5] statement. It's important that you present [6] that because again the notion is that if you [7] just focus on the consumer portion, you [8] negate the notion that in any relationship [9] there are at least two people or an [10] institution and, an individual.

[11] So the notion that you've got your [12] own self-testing begins to address at least [13] the testing that David and his group have [14] done which found the 41 percent in one case [15] were discriminated against, with Hispanics [16] and almost 100 percent in terms of questions [17] about credit.

[18] You may have some process that once [19] the application is filed, but how many people [20] never get to the application process because [21] when they make the phone call or they come in [22] to meet somebody, every indication is that

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[1] your not welcome? So, it is important. [2] I think that you folks emphasize as [3] much, the internal pieces that your doing, as [4] well as what you're doing to prepare the [5] consumer, David and then this gentleman?

[6] **MR. BERENBAUM:** I think that we're

[7] taking our first baby steps in collaboration [8] on these issues and that we're doing in this [9] area, particularly D.C., I hope will become a [10] model for the nation. The main things for us [11] to get to the same page as we're going to [12] find discrimination and what becomes a [13] problem from the marketing of fair housing [14] from a perspective.

[15] I think it's important for the [16] commission also to take note from the other [17] lending issues. Small business loans, in [18] particular, are a major issue in the [19] community to expand entrepreneurship, loan [20] protected classes in this nation. It's [21] unfortunate that many protected classes have [22] to, in fact, take second mortgages on their

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[1] homes just to start a small business. [2] It's a much larger statistic than [3] their white counterparts trying to be in [4] small businesses. This is an issue we need [5] to address. Also, other related loan [6] products such as the refinance market, such [7] as home improvement loans.

[8] It's interesting that we still [9] receive a large number of complaints in those [10] areas from throughout the metropolitan area. [11] The relationship between appraisal and the [12] lending process — I spoke with a number of [13] individuals in this room. The problems that [14] the lenders are encountering aren't [15] technically a fault of their own because [16] they're using an outside appraiser, but that [17] appraiser as the representative of the [18] financial institution, if in fact they are [19] unprofessional or violate our nation's civil [20] rights laws, that creates a liability [21] situation.

[22] All of this gets back to the

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[1] systemic and complex nature of discrimination [2] in our nation. We cannot — and this is our [3] approach now, the total approach cannot look [4] lending as an issue unto itself. It is not, [5] for example, the lending institutions call to [6] this nation that we have a segregated housing [7] market, just as much government and realtors [8] and every other aspect of our marketplace.

[9] I think the charge for all of us is [10] to be innovative and think of new ways to [11] reinvent the process. Litigation alone is [12] not getting us there. I say that as a person [13] who's filed over 60 different civil rights [14] complaints. Voluntary compliance alone is [15] not getting us there either because we still [16] have the problems within our corporate [17] structures about how products are marketed.

[18] But if we can work together as [19] civil rights commissions, with fair housing [20] planning agencies, with city

councils, with [21] the corporate area, and agree on what are the [22] best approaches and it's all of the things

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[1] we've been doing plus new things, then we're [2] going to get there. So, I'd like to say that [3] the best practices approach is working even [4] though I don't know the methodology of 30 of [5] the different financial institutions doing [6] self testing, but it's being done.

[7] Now the doubting Thomas and the [8] civil rights folks will say, oh that's just [9] done so they can document compliance 100 [10] percent of the time. The lenders would say [11] we're out to get them because we're suing [12] them. We're beyond that. That's the point [13] to be made to the nation, equal professional [14] service, equal access to mortgage products [15] based on your individual qualifications.

[16] I'll add mortgage products for the [17] rental marketplace for the commercial side as [18] well because there will always be a portion [19] of the American public, despite the noble [20] dreams of Andrew Cuomo and the federal [21] government, that will never be home owners, [22] and we have to be sure that housing stock is

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[1] there that is quality and renewing itself, [2] both from infrastructure upgrades as well as [3] new construction. There needs to be more [4] mortgage products out there for rental [5] housings of opportunities as well.

[6] **MS. KRUVANT:** I have a question. [7] Were you going to make a comment to the [8] question?

[9] **MR. SIMS:** Sure, go right ahead.

[10] **MS. KRUVANT:** If you were going to [11] make a comment to the question, I would [12] suggest —

[13] **MR. BERENBAUM:** A comment.

[14] **MR. SIMS:** Were you going to make a [15] comment adding —

[16] **MS. KRUVANT:** Sorry. I heard today [17] two things that were extraordinarily positive [18] to us, particularly as we have gone through [19] the different deliberations internally [20] throughout the years. We heard from the [21] member, Mr. Simmons from the Riggs Bank, that [22] it is good business to lend to minorities.

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[1] Then indeed it has been good for your bank.

[2] We've also heard from you that [3] indeed the members of the communities that [4] are going to be borrowing money, they need to [5] thoroughly be educated/informed, but looking [6] at issues of

saving practices is one of the [7] critical concerns to prepare yourself to be [8] ready to borrow money.

[9] From the other perspective, are [10] there some things that now that we hear that [11] it publicly and with data that indeed it is [12] good business to lend to minorities? Are [13] there some things in terms of regulations or [14] regulatory approaches or the system that it [15] is making it too cumbersome for you and for [16] the borrowers to be able to succeed?

[17] If our goal is to make it [18] available, and I'd like to hear particularly [19] from you and from the banks or anybody else, [20] are there some things that need to change so [21] you could continue doing good business of [22] more than anything that the borrowers have

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[1] access to funding?

[2] **MR. SIMMONS:** That's a dangerous [3] question to ask bankers.

[4] **MS. KRUVANT:** I'm usually good at [5] it.

[6] **MR. SIMMONS:** We are probably the [7] most regulated industry in this country. [8] You're asking me if there are regulations [9] that we could do away with?

[10] **MS. KRUVANT:** Well, you know, it's [11] time that we all look at ourselves [12] differently. In the past, we used think [13] ourselves as people on two different sides of [14] the table and with different concerns. I [15] think some of the results are allowing for us [16] to have a different type of conversation and [17] also sometimes to address some other issues, [18] if maybe some of the issues were created.

[19] **MR. SIMMONS:** Mm-hmm.

[20] **MS. KRUVANT:** At different times.

[21] **MR. SIMMONS:** Certainly the [22] regulations and the laws that were peddled on

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[1] both — were needed or when this thing first [2] started, and some of them are probably are [3] still needed. We are so heavily regulated [4] that it's just tremendous costs that you have [5] to bear to do all the regulations.

[6] Certainly I think, and while I [7] can't say we don't want this regulation or [8] that regulation, I think we need to look very [9] carefully at that because the savings from [10] this, I mean, can be passed to the consumer. [11] It costs us a tremendous amount of money to [12] meet the regulations across the board, from [13] CRA to safety in towns. Along that [14] suggestion that we not have any of them, but [15] I will suggest that we, both government and [16] industry, look

very carefully at regulations, [17] the cost of them.

[18] It's often, it's much like a [19] band-aid approach. You have a problem here, [20] you put a band-aid on it. There's another [21] one over here. Over the years, you have this [22] tremendous cadre of regulations that are for

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[1] this reason, and that reason — and when you [2] look at them as a whole and put them [3] together, you've got smorgasbord of things [4] that often don't make sense and that are [5] awfully expensive and take a lot of time, a [6] lot of resources to carry out, that are [7] really not germane today as they might have [8] been 10 or 15 years ago when the seats came [9] in.

[10] **MS. KRUVANT:** Thank you.

[11] **MS. MAXWELL:** I would make two [12] comments. First of all, with regards to [13] mortgage lending, you know, most of us [14] lenders cannot afford to just go out and make [15] the loans and let them sit on the shelf [16] for 30 years. We do have to access the [17] capital market. So therefore, who's really [18] pulling the strings when it comes to the loan [19] programs and the criteria of those programs? [20] You know, those are the secondary agencies, [21] Fannie Mae, Freddie Mac, and the government [22] agencies had MVA.

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[1] Of course, they're balance [2] everything against, you know, an issue of [3] risk. So, there's constant change in the [4] programs based on what kind of history may [5] have developed in that program. We've seen [6] just in the last five years some major [7] changes in the — what I would call the low [8] down payment, but the industry views high [9] risk mortgage loan.

[10] I know we've worked very closely [11] with Home Free and Freddie Mac to bring out a [12] mortgage product called the Freedom Fund [13] loan, which we hope will address some of the [14] needs in the minority community. So it's an [15] evolving process and it — you could say that [16] it might be an impediment, but it's also, you [17] know, a business reality. So I think we have [18] to keep that in mind.

[19] The other comment that I would make [20] is that I find these meetings very [21] interesting, but I'm always somewhat [22] bothered, again when we talk mortgage

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[1] lending, that the representatives from the [2] real estate industry are not here. They have [3] a tremendous amount of

influence. Anybody [4] who has found their dream home and knows that [5] that realtor is really the one who's going to [6] get that home for them, you know, understands [7] how important they are to the process and how [8] influential they are.

[9] So, I think there needs to be more [10] dialogue with the real estate community. I [11] know that David in his efforts in the Fair [12] Housing Council, they have tried to address [13] that very specifically, but I think all of us [14] lenders and most of the community-based [15] organizations would say that it would be [16] helpful to have them more involved.

[17] **MR. SIMS:** Yeah, I do think we [18] reached out to the real estate industry to [19] invite their participation. It's duly noted. [20] The gentleman right — and then we'll go back [21] to you, Josh.

[22] **MR. EARL:** I'd like a moment to see

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[1] whether it's still morning. It is. Good [2] morning. My name is Maurice Jourdain Earl. [3] I am managing director of CLC Compliance [4] Technologies. We are a Washington, [5] D.C.-based compliance technologies consulting [6] firm. Our client base essentially are [7] lenders, DOJ and others involved in [8] discrimination in lending.

[9] We have quietly, for the last six [10] years, been doing a lot of the heavy lifting [11] behind the scenes. We go in and we work with [12] institutions one-on-one to analyze their [13] systems, to analyze their lending practices, [14] to do studies with respect to their outcome [15] of a loan application — obtaining the loan [16] applications, but more importantly, what [17] happens to their loan application once it is [18] obtained?

[19] I'm here kind of filling up because [20] I see what the issues really are in terms of [21] the exemplary lenders, are the ones that are [22] truly looking to manage fair lending. It's

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[1] those people who would add to and put the [2] resources to Fair Lending as they would to [3] managing the bottom line.

[4] So hearing the exemplary lender [5] story, the best practices if you will, are [6] ones where from the top down and bottom up, [7] they're truly involved with trying to find [8] out where the bottlenecks are, where are the [9] policies and procedures and the practices [10] that are breaking down, that prevents people [11] from all races, all colors, etcetera, from [12] having an equal opportunity to update in a [13] loan.

[14] But at the same time, I see so many [15] lenders fall to the trap of having the [16]

confusion between affordable housing and fair [17] lending. So we're constantly fighting this [18] battle of getting them to open up and see [19] clearly that affordable housing is different [20] than fair lending, that you could have an [21] affordable housing program that reaches [22] everybody based upon income, yet at the same

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[1] time, still have fair lending problems, that [2] you can also have an outstanding CRA rating [3] and still have a fair lending problem.

[4] So it's a function of what are you [5] doing to identify the fair lending issues and [6] risk that are associated with the [7] institution?

[8] So to that end, I'm truly pushing [9] today, from a broad policy perspective, the [10] use of comparative file audits in fair [11] lending testing, pre-application testing [12] versus post-application testing. [13] Pre-application testing essentially is the [14] mystery shopping that you've heard about and [15] there's a lot to be learned about [16] pre-application.

[17] However, once that application is [18] obtained, if there is no match pair testing [19] taking place behind the scenes, you will not [20] know whether or not a fair lending issue from [21] that perspective is occurring. To that end, [22] after thousands of loan files that we have

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[1] reviewed during a comparative file audit, I [2] can tell you where the paradigm shift needs [3] to take place with respect to managing fair [4] lending. It is here.

[5] The issue has been that the [6] industry by and large has been focusing on [7] denials, black denials, Hispanic denials. So [8] programs and practices have been set up for [9] second reviews, trying to see whether or not [10] the denials are justified. Quite frankly, [11] based upon the guidelines, most of the time, [12] denials can be justified. However, the [13] paradigm shift needs to be — to begin to [14] look at white approved loans.

[15] When you begin to study white [16] approved loans and you find differences with [17] respect to the quality of assistance, [18] differences with respect to how someone may [19] have been coached and told about little [20] nuances and wrinkles, given advice as to how [21] to go about getting a gift or how to go about [22] getting some down payment assistance, or how

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[1] to go about paying out some additional debt [2] in order to qualify, to get within the [3] guidelines of the ratios.

[4] It's the quality of assistance that [5] takes place, whether it be based upon a [6] cultural affinity. The cultural affinity of [7] course comes about by virtue of the fact that [8] you have very few people of color on the [9] front line, as loan officers or brokers in [10] this industry. Okay?

[11] It is still by and large a very, [12] very white industry. So with that lack of [13] diversity, you have differences with respect [14] to how people communicate. They don't have [15] the same level of comfort because they go to [16] the same church or belong to the same health [17] club, to sit down at the kitchen table, then [18] really dig out how you can best situate [19] yourself to get qualified.

[20] So diversity is really a — still a [21] major issue. Then, with respect to studying [22] that white approved loan, when you begin to

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[1] find the kind of underwriting exceptions that [2] are made, and begin to apply those exceptions [3] to that same black and Hispanic deny [4] population, I pretend that many of those [5] black and Hispanic denied Africans would get [6] approved if the same rules were applied.

[7] But lenders still today, focus [8] predominantly on concentrating and studying [9] the black and Hispanic deny population [10] without looking at the white approval. So [11] I'm pushing for a comparative file audits as [12] the really bottom line, guts up during fair [13] lending testing.

[14] Lastly, I want to ask the [15] Commission to begin to focus on some other [16] broader issues that are beginning to occur, [17] and that is the use of credit scoring in [18] lending. It's being driven, largely by [19] Fannie Mae and Freddie Mac, through the use [20] and the phenomenal increases in the use of [21] technology today. It's gotten to the point [22] where now we're trying to do with mortgage

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[1] lending, where it's a black box. Okay? [2] If you don't fit the box, [3] essentially you're out. Credit scoring is [4] driving that box. There are still issues [5] with respect to credit scores. I'm looking [6] at a credit report yesterday. Four different [7] credit scores from four different [8] repositories. Okay?

[9] So it's not only the issue of the [10] score itself, what's in the formula? But [11] just as importantly, how is it being used? [12] What policy does that lender have to say [13] which credit score do I use? Okay? Mind [14] you, the range was a low of 570 to a high [15] of 683. Okay? So, if someone wanted to deny [16] that loan, they'd simply use the 580 or [17] the 570.

Okay?

[18] All kinds of issues there, and I [19] think that the Commission has a good [20] opportunity to begin to look at the [21] influences of the secondary market, Fannie [22] Mae and Freddie Mac in particular, that's

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[1] driving a lot of this. Okay? Because the [2] lenders are sometimes stuck wanting to do [3] affordable housing and minority lending, [4] etcetera, but they cannot afford to take the [5] risk of putting those loans in their books [6] without knowing it as a ready market [7] available for those loans to be sold.

[8] That's particularly the mortgage [9] bankers because mortgage bankers don't hold [10] loans. They simply make them and with the [11] purpose of selling them. The depository [12] institutions at least have the opportunity to [13] put the loan in portfolio. But even they got [14] into trouble when they had too many of them [15] and interest rates went crazy because they [16] would choke on them.

[17] So the point is, we need to have [18] more of a focus on a broader scope as to [19] where the bottlenecks are in this country, [20] and mind you, Fannie and Freddie being [21] quasi-public entities, need to play a better [22] role with respect to what's going on here.

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[1] Thank you.

[2] **MR. SIMS:** Any other questions or [3] comments?

[4] **MR. SILVER:** I'd just like to make [5] a comment —

[6] **MR. SIMS:** Yes, I'm sorry, Joshua.

[7] **MR. SILVER:** On a question about [8] regulatory burden. NCRC would humbly submit [9] that the community re-investment act has [10] worked and has done tremendous things, and it [11] needs to be strengthened. That's the way the [12] regulation needs to be fixed. A couple of [13] years ago, actually, there was a re-work of [14] the community reinvestment act regulations. [15] As you've heard, you know, in passing, banks [16] are examined by federal regulators for a CRA [17] compliance, how many loans they're making to [18] low and moderate income borrowers and low and [19] moderate income communities.

[20] These exams where we worked a [21] couple of years ago, rather than you know, a [22] few years ago, you'd actually have the CRA

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[1] examiner look at how the board of directors [2] of a bank were involved in CRA program, kind [3] of a process, now that the emphasis is much [4] more on the

performance. Where are the loans [5] actually being made?

[6] There was pretty much of consensus [7] among the lenders and community groups that [8] that was the way to go. So the exams have [9] been reworked and there's three different [10] exams, small bank, large banks, and limited [11] purpose banks. Let's just say again that [12] since 1977, there's been \$1 trillion dollars [13] of CRA commitments made by lenders [13] to low and [14] moderate and minority communities.

[15] You know, with CRA conversations [16] between lenders and community organizations, [17] how to serve community organizations would [18] not be taking place. And — you know, there [19] was — and actually I should say the 1997 [20] HMDA data is supposed to be released any day [21] now.

[22] So we're all waiting eagerly and we

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[1] hope that the progress continues. Some of [2] the trends Maurice Jourdain Earl talked about [3] are really some trends, credit scoring and [4] other issues like that.

[5] **MR. EARL:** Sub-prime lending.

[6] **MR. SILVER:** Sub-prime lending, [7] other issues like that. So I will end by [8] saying that CRA should be extended. As [9] Mr. Berenbaum was saying, you have to look at [10] the total picture, not only what lenders are [11] doing, but what insurance agents are doing. [12] NCRC has advocated the extension of CRA to [13] other types of lenders, and credit unions, [14] mortgage companies.

[15] Mortgage representatives will not [16] be too happy to hear about that. But anyway, [17] but also to a community re-investment [18] obligations for insurance companies and [19] securities firms. You may have heard that [20] Congress is considering financial [21] modernization legislation that would [22] basically allow banks, insurance companies

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[1] and securities firms to all own one another.

[2] Now if they all own one another and [3] CRA only applies to the bank, what's going to [4] happen? The assets may go from the bank to [5] the other parts — the insurance and the [6] securities firm. So, and even some bank — [7] actually a lot of bankers say CRA should be [8] extended to other — to level the playing [9] field and won't say so publicly.

[10] I guess it was — actually there [11] was a credit union bill a couple of days ago [12] that was approved by Congress. Should a [13] Community Reinvestment Act be applied to [14] credit unions? That was an issue with that. [15] So that's how

things should change if there [16] is a CRA community reinvestment obligation [17] for the insurance companies, you would [18] have — in HMDA-like data for insurance [19] companies, you have these conversations [20] occurring with community organizations and [21] insurance companies.

[22] It's an additional level of

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[1] scrutiny and accountability that would help [2] all of us do the job of reinvestment. Than [3] you very much.

[4] **MR. SIMS:** Thank you. Yes?

[5] **MR. HARVEY:** I just wanted to make [6] a comment. Well, financial institutions are [7] committed I'm sure to fair lending. I mean [8] at Chevy Chase Bank I can tell you, we [9] certainly are committed. However, it's a [10] little disheartening, and sometimes I think [11] the picture is not as clear as it ought to [12] be, when we see consistently reports that [13] talk about, for example, denial ratios and [14] denial numbers and other things that don't [15] really give a full picture.

[16] I guess what I'm concerned about is [17] when applicants or you know, consumers hear [18] about these reports, are they going to be [19] discouraged from even getting in the process? [20] They aren't always an accurate picture.

[21] I think I read in your report the [22] fact that it was brought out that

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[1] institutions that had high concentrations of [2] applications from minorities, high approvals [3] of minorities, also had high denial ratios. [4] You know, it's sort of like that Catch-22 [5] that's talked about there. These reports, if [6] they don't accurately reflect why these [7] things happen, for example, the HMDA data [8] doesn't go into — it doesn't give you, you [9] know, reason to know that there is in fact [10] discrimination. I don't see any of the [11] reports really talking in terms of what are [12] the reasons for these denials?

[13] I mean at Chevy Chase Bank, what we [14] do is we go back and we try and find out what [15] are the major reasons for the denials. We've [16] done that process over and over again, year [17] by year. By far, there are two issues that [18] continue to prop up. One is credit history [19] and the other is debt to income ratios.

[20] With respect to the credit history, [21] we take the applicants as they come. We [22] can't change their credit history. What we

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[1] try to do is get involved with them through [2] organizations like Home Free. You know, we [3] catch them before

they even come to table and [4] we educate them in Home Free assistance, in [5] straightening out any kind of credit problems [6] that they may have. I think it's important [7] for the picture to be a little bit more [8] clear.

[9] **MR. SILVER:** I'd just like to say [10] real quickly in response to that — I'm [11] sorry, but I do want to say real quickly in [12] response to that, the denial thing in our [13] report was only one of six indicators. We [14] did give things credit for marketing and for [15] offering a whole lot of loans — offering [16] loans to low income in minority communities. [17] So we try to look at a holistic — I just [18] want to make that real quick comment that we [19] took a holistic approach in our report. It's [20] just not the denial way.

[21] **MS. HEUER:** Well, I was going to [22] make a comment that while we were doing this

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[1] report, I was in fact a real estate agent. [2] So I was very conscious of — and didn't [3] agree with a lot of things that came up [4] actually because as an agent, I felt that I [5] worked as hard as I could to get the best [6] loan from any bank. One of the things that [7] we were always conscious of was — and asked [8] what do you base on the credit scoring? I [9] mean, are you going to deny?

[10] I would not ever go to somebody [11] that I felt that was going to do credit [12] scoring. I think it's probably one of the [13] worst things that's happened. Do you feel [14] that there will be any effort to ease this [15] credit scoring?

[16] **MR. BERENBAUM:** There is a lot of [17] discussion now on multiple levels about the [18] black box of credit scoring. It's being [19] looked at different ways. National Fair [20] Housing Alliance and the professional [21] organizations have been invited by some of [22] the secondary market players such as Fannie

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[1] and Freddie to start on. They're just [2] looking at the issues.

[3] I've been very, very clear on the [4] issue in the community, that if we feel that [5] a declination is wrongfully based on the [6] credit score, we're going to file a [7] complaint. We really feel that it is danger [8] in all the accomplishments that we have made. [9] There must be the human to look at [10] credit and explain what happened to the [11] individual or to correct a problem, to look [12] at the disparities and who is the source of [13] the credit scoring. This is a major, major [14] issue, but it's being looked at very closely. [15] So I'm very optimistic within six months we [16] may see some —

[17] **MS. HEUER:** Could I just ask one [18] question briefly? Do Fannie Mae and — do [19] they have a certain criteria? In other [20] words, if your credit scoring is below —

[21] **MR. EARL:** 620.

[22] **MS. HEUER:** That you cannot give a

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[1] loan?

[2] **MR. BERENBAUM:** I've been [3] approached by underwriters at some of the [4] major financial institutions here in [5] the giving their advice right now. We [6] want to work along, but they know they can't [7] sell the product. That's unfair.

[8] **MR. BAER:** Credit scores are only [9] one component to like debt ratios and down [10] payment aspects of the transaction. A lender [11] that's relying simply on a credit score to [12] make an underwriting decision is playing with [13] fire, and I think that's a lesson some of us [14] have already learned. Again, you know, each [15] lending institution has their own practices, [16] but in general, I think the consensus is [17] don't rely on simple credit score.

[18] If you've got a 620 credit score [19] like Maurice says, you know, that's a symbol [20] of exercising caution. Well, I can tell you [21] there are good borrowers out there with [22] credit scores below 600, that if you take a

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[1] look at the whole picture, and you look at [2] the mitigating circumstances that drove that [3] score down, they're good risks. Secondary [4] programs allow things like that.

[5] **MR. EARL:** However, at the same [6] time, here is something that I know what's [7] happening right now in this industry. It [8] happens before the loan even gets to the [9] lender. The loan officer is immediately [10] asking for permission to pull a credit report [11] to give a credit score and making a decision, [12] a determination right at that point, as to [13] whether they are even going to take this [14] person on as a client.

[15] No questions asked with respect to [16] why explanations of derogatory credit, but [17] just based upon this score under the guise of [18] saying, "I'm asking for this so that I can [19] determine what loan product to put you in." [20] However, when the score comes back for [21] something less than what they think is going [22] to make the cut, the next word is "next."

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[1] Okay? 513 is where that particular one goes.

[2] Now we found this out by doing some [3] mystery shopping. Okay? In particular, [4] and this is down in Florida, but it is [5] widespread practice across lenders, it is [6] beginning to happen because quite frankly —

[7] **MS. HEUER:** Are you talking about [8] pre-qualification?

[9] **MR. EARL:** Pre-qualification, [10] that's exactly right, but it's a very [11] efficient process.

[12] **MS. HEUER:** Mm-hmm.

[13] **MR. EARL:** However, it is clearly [14] discriminatory.

[15] **MR. SIMS:** Florida also is one of [16] the hottest sub-prime markets in the nation [17] just as a footnote.

[18] **MS. GRIFFIN:** I'd like to just make [19] a couple of comments. In working with [20] thousands of home buyers, this credit score [21] issue is a significant issue. It really is. [22] People, even before they begin going to

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[1] realtors or lenders, they are aware of the [2] credit score. This is a big issue with [3] Fannie and Freddie.

[4] It really does — you know, when [5] they say something, it impacts the lenders. [6] It impacts the home buyers. It impacts [7] everyone.

[8] You know, just to sort of tag along [9] with a lot of the things that Maurice said, [10] from a community standpoint, we are losing a [11] lot of people to the sub-prime mortgage [12] brokers, who are out here, who when a person [13] has a small credit issue and could serve to [14] work that credit issue out you know, over a [15] period of just a couple of months, they have [16] a loan officer who is telling them, "Look I [17] can get you into a home right now, you know, [18] but you've got to pay three and four [19] extra —"

[20] Well, we've even had people who [21] have paid eight points. Those are the people [22] that — eight points and three percent

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[1] interest rates. I mean those are the people [2] that David and those are working with and [3] should address.

[4] This is a problem and minority [5] communities, particularly the African [6] American community and the Latino community [7] are targets for this type of lending. You [8] know, certainly where the credit score is [9] concerned, that credit score is too low.

[10] A lot of lenders, a lot of loan [11] officers — we even look, quite frankly, at [12] credit scores ourselves. You know, because [13] we are so aware of what Fannie and Freddie [14] are looking at where the industry is going. [15] Really, I

mean your commission — this would [16] be a wonderful task for you all to engage [17] because it will impact the home ownership in [18] this country.

[19] **MR. MCKETHAN** : I'm not sure I [20] understand, when you say sub-prime rates. [21] Are you talking about sub-prime rate with [22] interest rates that are penalty-like?

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[1] **MS. GRIFFIN**: Yes, exactly.

[2] **MR. MCKETHAN**: Okay, so if I get a [3] three percent interest rate from a — and I'm [4] the institution, I have to pay like you said, [5] eight points?

[6] **MS. MAXWELL**: Well, no, it'd be a 3 [7] percent add on to today's market rate.

[8] **MR. MCKETHAN**: Oh.

[9] **MS. GRIFFIN**: Yeah, exactly.

[10] **MS. MAXWELL**: Market rate is [11] sitting at a half, if you're talking about —

[12] **MR. BAER**: Sometimes it's termed [13] predator pricing.

[14] **MS. MAXWELL**: Right.

[15] **MR. BAER**: There's another [16] development in the industry that I think is [17] very worth while mentioning to this group, [18] and that is the introduction of automated [19] underwriting practices both through Freddie [20] Mac and Fannie Mae.

[21] I can cite examples where we've had [22] borrowers approved at my company with credit

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[1] scores in the 570s and the 580s, have gone [2] through these automated underwriting systems [3] and had been approved for loans sold to [4] Fannie and Freddie. Okay?

[5] I'm talking about fixed rate, prime [6] pricing, 6 1/2 percent, zero point type [7] transactions. So there is some development [8] going on, that in, you know, in the beta [9] testing, took place about 3 years ago on the [10] desktop underwriting system and now is [11] utilized on a very widespread basis across [12] the nation.

[13] Not every lender's out there is [14] subscribing to it. So they're relying on [15] people that bring poor judgment to the [16] equation. So there is development taking [17] place on the positive side.

[18] **MR. SIMS**: Any other — yes? [19] Ki-Tack?

[20] **MR. CHUN**: I have a question, [21] please. To what extent is that accessible to [22] the data which you mentioned, that is the

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[1] loan officer's conduct and the use of credit [2] scoring, and then given I

presume it is. I [3] presume he has limited access. Do you have [4] any suggestions as to how we, for instance, [5] chance of absence of penetration?

[6] **MR. EARL**: Well, the only public [7] data set, and this is the best set of data [8] available, the HMDA data. HMDA data is [9] limited in what it can tell you. It can tell [10] you essentially race, geography, income of [11] the applicant, geographic location of the [12] property, and the action taken on the [13] application, but it gives you no qualifying [14] information, not the LTB or the loan to value [15] or the housing ratio, the debt to income [16] ratio, nor the credit score.

[17] So to that extent, the best that [18] you can do with HMDA data is to do studies [19] with respect to what the broad lending [20] patterns are by a lender.

[21] You can't come to any conclusive [22] decision with respect to discrimination in

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[1] lending, but with respect to that, you can [2] begin to analyze it, to determine whether [3] it's smoke. Because generally where there is [4] smoke, there is going to be some fire. While [5] it may require further study because quite [6] frankly, if you are doing a very good job of [7] marketing and going and getting loan [8] applications from a population that may have [9] more problems than others, you will have a [10] higher denial rate.

[11] But at the same time, that means [12] that you need to focus also on looking at [13] what is the origination rate disparity [14] because there's a good story there. As a [15] matter of fact, the industries that we use, [16] we have four of them. We call it the ODI, [17] DDI, FDI and TDI.

[18] The ODI is the origination break [19] disparity between black and white. The DDI, [20] denial rate disparity and the fallout rate, [21] which is another very critical area, fallout [22] in terms of HMDA. There's three categories

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[1] of HMDA for action codes that does not result [2] in a denial, nor an approval.

[3] That is, the loan application was [4] approved by the lender, but rejected by the [5] applicant. Or the loan application was [6] withdrawn. Or lastly, the loan application [7] was incomplete. We sum all three of those [8] action codes together to call it fallout.

[9] There's a serious story that can be [10] told by analyzing fallout because it may ask [11] questions with respect to quality of [12] assistance. It may have questions with [13] respect to steering, with respect to a lack [14] of trying to help someone get a loan.

[15] But when you look at the whole [16]

picture, you begin to get a sense for what is [17] a lender doing and where, because I tell you [18] that the view that you get when you look at [19] the NSA level is one thing. When you begin [20] to look at the county level, it's another. [21] When you zoom in and look at the central city [22] level, it's even more dramatic.

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[1] So while many of the studies for [2] purposes of ease will focus on MSA, when you [3] zoom in and look at the city, that's when the [4] story really is being told.

[5] For instance, 30 percent minority [6] for the Washington, D.C. MSA is a far cry [7] from the 50 percent minority in the District [8] of Columbia or 50 percent in P.G. County. [9] Okay? So if you look at P.G. County versus [10] looking at D.C., versus looking at the [11] Washington, D.C. metropolitan area, [12] phenomenally big, different story.

[13] **MS. HEURER**: What was your TDI?

[14] **MR. EARL**: Oh, TDI. I'm sorry. [15] Good Ann, you're listening. TDI is the total [16] disparity index. Okay?

[17] **MS. HEURER**: Okay.

[18] **MR. EARL**: So it's the sum of all [19] three of them. We've basically come up with [20] this methodology to use to do a comparative [21] analysis of lenders.

[22] **MR. SIMS**: Jody and then David.

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[1] **MS. WILDY**: I just have a question. [2] In terms of credit scoring, are most of these [3] statistics based on first time home buyers or [4] is there any — or is it just in terms of [5] whether you're purchasing your second house, [6] or whatever?

[7] **MR. EARL**: It doesn't matter. It [8] doesn't matter.

[9] **MR. BERENBAUM**: Freddie Mac has [10] just completed a report, which I think they [11] have released or about to release. It looks [12] at credit scoring, but it analyzes as if in [13] fact credit scoring was to be implemented [14] hypothetically, what would be the impact both [15] based on income as well as based on race? [16] It's a fascinating study that was presented [17] at — or at least there was a preview of it [18] at the National Fair Housing Rights Meeting.

[19] But that is a response to your [20] question, and it's going to be a fascinating [21] report on what hypothetically would be the [22] impact rolled out. There were many

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[1] different levels to it, you know, depending [2] on if you were looking at race or income. In [3] some cases expanding opportunities.

[4] **MR. EARL:** Well, the issue there is [5] though, I mean we have to look this at a [6] broader setting. If you are the last hired [7] and first fired. If you've been [8] disenfranchised for 400 years. If you have [9] lack of an opportunity to get a decent [10] education and now all of a sudden we get to a [11] point in time where we can use technology to [12] come up with a score, all of the baggage that [13] you brought to the table is going to [14] still be [14] with you when that score is taken.

[15] So unless there's some intervention [16] to again to realize that it's broader than [17] just a score or broader than just the issues [18] with respect to loan underwriting, that [19] people are dealing with. We're dealing with [20] people's lives and we're dealing with their [21] homes. We're dealing with how they develop [22] and where the kids go to school and what kind

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[1] of police protection's going to be involved.

[2] So it's a lot broader from a social [3] perspective when we try to reduce it down to [4] a single score that may be flawed, [5] particularly if it's going to bring into [6] focus the number of inquiries, or bring into [7] focus the type of credit that someone has.

[8] For instance, finance companies [9] credit is deemed less desirable than [10] non-finance company credit. Well, if the [11] only company that's around in your [12] neighborhood is a finance company, that's [13] where you're going to get your loan. So you [14] automatically have some internal, intrinsic [15] things that are going to be going against [16] you, without your ever even knowing it.

[17] **MR. HARVEY:** Even absent of credit [18] scoring, you have those factors that are [19] coming against you, and that's what I mean [20] when I say that financial institutions take [21] people as they are. If they're carrying that [22] kind of societal baggage with them, that's

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[1] what we're looking at it.

[2] **MR. SIMS:** David saying that credit [3] scoring in and of itself — experience has [4] been somewhat problematic, that you have to [5] look at it more holistically if you're going [6] to do a more accurate assessment and not put [7] yourself in a position.

[8] **SPEAKER:** Don't lead them blind?

[9] **MR. SIMS:** Yeah, exactly.

[10] **MR. EARL:** Well, one of the last [11] comments that I have to make is to do a study [12] of who owns these sub-prime lenders. Okay? [13] Many of them are owned by our major banks. [14] So we

walk into a room on one day, and we [15] have, you know, the person with the nice suit [16] on, but around the corner, they own Nations [17] bank Credit or Fleet owns Option One out of [18] Los Angeles, which is a sub-prime lender.

[19] Weyerhaeuser was sold out to a [20] company called WMC, which is a sub-prime [21] lender. CIT is owned by Chemical. Chemical [22] also owns, and Travellers owns a piece of

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[1] Commercial Credit. Okay? So we have one [2] face with respect to the A lender, but that [3] many of these A lenders also own B and C and [4] we saw where one lender rated the Z loan.

[5] **SPEAKER:** What is that?

[6] **MR. EARL:** That's the loan for [7] anybody that's got a heartbeat. It exists, [8] but the question was at what rate. Okay? [9] HMDA data again can't even get you to that.

[10] **MR. SIMS:** Are there any other [11] questions, comments, issues that?

[12] **MR. SILVER:** I just say watch the [13] Federal Reserve Board because over the spring [14] they asked us, we're thinking about doing a [15] new proposal for HMDA. What are your [16] thoughts about HMDA data? NCRC said, "We'd [17] like to see the annual percentage rate on the [18] HMDA data so you can get a sense of, you [19] know, prime lending versus sub-prime [20] lending," which we can't really do right now [21] through our studies.

[22] We also would like to see the

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[1] credit score on the HMDA data. So our [2] minorities with the same credit score as [3] whites are being treated the same. So it may [4] come out in the fall with a proposed rule. [5] So, you know, I would invite U.S. Commission [6] of Civil Rights to monitor that and to get [7] involved in that process.

[8] **MR. SIMS:** Thank you very much. [9] Thanks to our panelists. Thank you for those [10] that took time this morning with other [11] hearings and things going on in the [12] Washington area to be with us. Let me say [13] that the State Advisory Committee will be [14] meeting in September.

[15] We will take forward the [16] recommendations in terms of follow-up issues [17] for the initial report and that we will be [18] issuing, as I said, issuing an addendum to [19] the report that based on the feedback [20] information that was submitted to us and [21] shared with us today. There being no other [22] business to come before us, I'll call this

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[1] meeting adjourned. Thank you very, very [2] much.

[3] (Whereupon, the PROCEEDINGS were [4] adjourned.)

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