

1 BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON CONSUMER PROTECTION
3 AND
4 STANDING COMMITTEE ON INVESTIGATIONS AND
5 GOVERNMENT OPERATIONS
6 AND
7 STANDING COMMITTEE ON HOUSING, CONSTRUCTION,
8 AND COMMUNITY DEVELOPMENT
9 -----

10 JOINT PUBLIC HEARING:

11 PUBLIC HEARING ON LONG ISLAND REGARDING
12 REAL ESTATE AGENTS' DISCRIMINATION OF HOME BUYERS
13 -----

14 Student Center Theater
15 Mack Student Center
16 Hofstra University
17 Hempstead, New York

18 Date: December 12, 2019
19 Time: 10:00 a.m.

20 PRESIDING:

21 Senator Kevin Thomas, Chairman
22 NYS Senate Standing Committee on
23 Consumer Protection

24 Senator James Skoufis, Chairman
25 NYS Senate Standing Committee on
Investigations and Government Operations

Senator Brian Kavanagh, Chairman
NYS Senate Standing Committee on
Housing, Construction, and Community Development

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ALSO PRESENT FROM THE STATE SENATE:

- Senator Phil Boyle
- Senator John E. Brooks
- Senator James Gaughran
- Senator Todd Kaminsky
- Senator Anna Kaplan
- Senator John Liu
- Senator Monica Martinez

ALSO PRESENT FROM THE STATE ASSEMBLY:

- Assemblymember Charles Lavine

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1 SENATOR THOMAS: Hi, good morning, everyone.

2 Can everyone take their seat?

3 Thank you.

4 Today is December 12, 2019.

5 I want to welcome everyone to the hearing on
6 housing discrimination here on Long Island.

7 I am state Senator Kevin Thomas, a resident
8 of Levittown, and I will talk about that a little
9 shortly.

10 I also represent this district that you are
11 all in right now.

12 I also happen to chair the Consumer
13 Protection Committee.

14 And this hearing is also co-chaired by my
15 colleagues here:

16 We have Senator Skoufis of Investigations
17 Committee, and Senator Kavanaugh from the Housing
18 Committee.

19 Along with members of the Long Island
20 delegation, I have Senator Kaminsky and
21 Senator Brooks with me as well.

22 And we'll have more joining.

23 I am a resident of Levittown, and I'm saying
24 that because many of you here know the history of
25 Levittown, and how institutional discrimination

1 plagued that community.

2 And after the passage of the Civil Rights Act
3 and the Fair Housing Act, we would think this kind
4 of segregation and discrimination would end.

5 That's hardly the case, and it's evidenced by
6 "Newsday's" investigation, where they found unequal
7 treatment of individuals wanting the American Dream,
8 which is to purchase a house.

9 That's why we are having this hearing.

10 We have a number of panels coming up shortly,
11 so that we can get the facts, get recommendations,
12 and an opportunity for us elected officials that
13 represent you to act.

14 You know, while I sit here, I think of what
15 Martin Luther King said.

16 "An injustice anywhere is a threat to justice
17 everywhere."

18 With that, I'm going to turn this over to my
19 partner here, Senator Skoufis, from the
20 Investigations Committee.

21 Thank you.

22 SENATOR SKOUFIS: Thank you very much,
23 Senator Thomas.

24 And a very good morning to everyone who's
25 here.

1 We gather today in an attempt to begin
2 addressing an issue that strikes at the very core of
3 who we are as a state and as a people.

4 Ever since the Dutch and English co-existed
5 in the 1600s, New York State has long possessed a
6 reputation of unmatched embrace and diversity.

7 In the 1690s, accused witches in Salem,
8 Massachusetts, fled their colony for ours, knowing
9 they would find safe, inclusive refuge.

10 In the late nineteenth and early twentieth
11 centuries, New York's harbor would welcome
12 12 million individuals of varied races, ethnicities,
13 and religions, all seeking a shot at the
14 American Dream.

15 And over the last few years, people across
16 our country have looked to New York State for
17 inspiration amidst rampant xenophobia, a dramatic
18 surge in racism, and an unnerving resurgence of hate
19 crimes.

20 That is why, ladies and gentlemen, the issues
21 raised by "Newsday's" recent exposé must begin to be
22 addressed by this body.

23 These alarming allegations run contrary to
24 our proud 400-year history.

25 This is not who we are, or at a minimum, this

1 is not who we ought to be.

2 Make no mistake, discrimination has, and
3 likely will, always continue to linger throughout
4 society.

5 But to witness it in such stark, systematic
6 terms, here on Long Island, here in New York State,
7 is offensive, repugnant, and unacceptable.

8 Which brings us to today.

9 Our Senate committees will begin the process
10 of understanding what happened, how it happened, why
11 it happened, and more importantly, what safeguards
12 can be put in place to prevent it from happening
13 again.

14 As a final note, I would like to publicly
15 commend "Newsday" for their enormous undertaking and
16 public service.

17 At a time when some people in our country
18 odiously refer to the press as enemies of the
19 people, "Newsday's" exposé is the latest
20 demonstration of the exact opposite: they're the
21 conscious of our nation.

22 With that, I look forward to today's
23 testimony, and turn it over to my fellow co-chair,
24 Senator Brian Kavanagh.

25 SENATOR KAVANAGH: Thank you, Senator Skoufis

1 and Senator Thomas.

2 I will be brief.

3 This is the seventh hearing of the
4 Housing Committee.

5 We have been proud to do one of those
6 hearings previously, jointly, with the
7 Investigations and Government Operations Committee.

8 And I want to also begin by thanking
9 "Newsday" for the extraordinary work over the course
10 of many years.

11 And the -- I also would like to add my thanks
12 to the staff of our committees, and all the
13 committee members, who worked very quickly to pull
14 together this hearing together.

15 It's just a few weeks ago that we were, you
16 know, educated, and some of us enraged, by some of
17 the things we read in "Newsday".

18 And we thought it was very important that we
19 promptly engage in this very public forum, to
20 educate ourselves about what has been uncovered by
21 this investigation, what the various perspectives of
22 the folks involved in the industry, folks
23 responsible for overseeing the industry, are, and
24 hopefully, to look for steps we can take proactively
25 in the coming legislative session.

1 You know, the Housing Committee has been
2 engaged over the course of the last 11 months in
3 reviewing every aspect of our housing markets
4 throughout the state, with an understanding that
5 most people view housing in New York as an aspect of
6 our society that is in crisis.

7 We have people throughout New York State who
8 are unable to find homes that are adequate, where
9 the quality and safety standards are high, and where
10 they can afford to live and work in our communities
11 and raise their families there.

12 We took tremendous steps to alter the nature
13 of the rental market, not only fundamentally
14 changing the rent-stabilization system in New York,
15 to ensure that we closed loopholes that have, for a
16 very long time, diminished the effectiveness of that
17 system, but also through the Housing Stability and
18 Tenant Protection Act, addressing many inequities
19 between landlords and tenants in every aspect of the
20 manner in which they interact.

21 But we know, we knew even before, you know,
22 "Newsday's" publication on November 17th, that our
23 work is far from done, and that's because we know
24 that:

25 There are affordability issues;

1 There are people facing foreclosure, and
2 other issues;

3 There are housing-quality issues that we
4 uncovered in a related investigation on code
5 enforcement, and the deficiencies of that system,
6 which is something we'll also be taking up in the
7 next year.

8 But, of course, we know that the -- all the
9 work we do -- all the work we do in government, all
10 the work we do in our communities -- is diminished
11 if New Yorkers cannot count on fair and equal access
12 to housing, regardless of their -- the personal
13 characteristics of themselves and their families.

14 So, again, it's very important what we're
15 doing today.

16 We thank all of the witnesses in advance who
17 testify today.

18 And just to take -- this is the cover of
19 "Newsday" from the second day of their coverage, and
20 the headline is "Not Here."

21 And "Not Here" was a reference to the
22 apparent practice of steering certain families
23 from -- to particular communities, and excluding
24 certain communities from the work of realtors and
25 brokers who were dealing with families seeking

1 housing.

2 Hopefully, at some point, we can look at the
3 work we do here, and the work of people across this
4 great state, and "Not Here" will refer to the fact
5 that we do not tolerate these kinds of practices in
6 New York, either on Long Island or anywhere in the
7 state.

8 So, thank you.

9 SENATOR SKOUFIS: Senator Kaminsky.

10 SENATOR KAMINSKY: Thank you.

11 Having the privilege of representing
12 Long Island also means confronting its -- its
13 difficult challenges.

14 The "Newsday" reporting reflected in the
15 culmination of a three-year investigation, is a
16 scandal of the highest order.

17 This is a national embarrassment.

18 It's a -- it's a disgrace, and it's an
19 affront to everything that we stand for as
20 Americans, New Yorkers, and Long Islanders.

21 Today we are going to use the investigatory
22 powers of the Senate, which, frankly, for too long,
23 have gone unused and sat on a shelf. And we are
24 going to use them to try to, as best we can, uncover
25 what it is that could cause a headline this

1 startling.

2 As a former prosecutor, I believe in evidence
3 much more than I believe in rhetoric.

4 And the evidence of hundreds of hours of
5 recordings is overwhelming, that there is massive
6 systemic discrimination in the real estate business
7 that continues the legacy of segregation today.

8 That's something that we have to find a way
9 to dismantle, figure out what's at the root cause,
10 and those who are responsible for it must be held
11 accountable.

12 That's what today is about.

13 The one thing that's troubling every
14 Long Islander --

15 I was fortunate enough to grow up here, as so
16 many others were in this room as well.

17 -- is that: When has -- when has
18 discrimination, or any other crisis, become so
19 insidious, that people just go about their day,
20 knowing somewhere in the back of their head that
21 it's happening, yet not doing much about it?

22 "Newsday's" reporting has shaken us to our
23 very core, and has woken up this island to something
24 that many of have suspected or known has been there
25 all along, yet just treated it as the way it might

1 be, perhaps the way it is.

2 That's unacceptable.

3 We're going to get at the root of undoing
4 that today, and I'm very proud to be part of that
5 process.

6 Hopefully, if "Newsday" started this story,
7 this is the middle of that story, and I hope we take
8 strong action, going forward, to finish this story
9 and put us in a better path, going forward, for a
10 just and equal Long Island.

11 SENATOR SKOUFIS: Senator Brooks.

12 SENATOR BROOKS: Thank you.

13 Good morning, everyone.

14 My name is John Brooks. I represent the
15 southeastern portion of Nassau County and
16 southwestern portion of Suffolk County -- or, just
17 the opposite, southwestern Nassau.

18 This is a concern that all of us take very,
19 very seriously.

20 My family happens to have lived on
21 Long Island for over 400 years.

22 The community that we were, when my family
23 first came here, was one that was open to everyone.

24 Most of my family were old baymen. They had
25 houses along the shore and watched this community

1 grow.

2 It is alarming, the information that we see
3 in the "Newsday" report.

4 We should be in a situation where anyone that
5 lives here should live in the community of their
6 choice, not have that dictated to them by others.

7 I want to be very brief, but I want everyone
8 to understand, that all of us here take this
9 situation very, very seriously, and intend to take
10 corrective measures, going forward.

11 I welcome the comments of everyone today.

12 I think we are still in a discovery period,
13 but I think all of us, as a community, are
14 collectively concerned with what has been
15 demonstrated in this report, and what we have to
16 change, moving forward.

17 So I thank everyone for being here.

18 And I think we need to listen and learn
19 today, and then put together a plan that puts
20 corrective actions in the past -- in -- in the
21 position to move us forward.

22 Thank you.

23 SENATOR SKOUFIS: Thank you, Senator Brooks.

24 We're going to start with our first witness.

25 Arthur Brown, if you can please come forward.

1 Arthur Brown is the Long Island Divided
2 project director from "Newsday."

3 We felt, as committees here on the dais, that
4 it was important for "Newsday" to kick off this
5 hearing with a presentation of their investigation;
6 lay the groundwork.

7 We acknowledge that it is somewhat unusual to
8 have the press/the media here testifying at a
9 hearing.

10 And so, with that understanding, the
11 committees here have agreed, with "Newsday," to
12 simply receive your testimony and leave it at that.

13 We will not be requesting answers to
14 questions.

15 We really do appreciate your presence here.

16 ARTHUR BROWN: Thank you very much.

17 SENATOR SKOUFIS: Oh, please.

18 We're going to be swearing in each of the
19 witnesses.

20 So if, actually, you could please stand up
21 and raise your right hand.

22 Do you solemnly swear that you will tell the
23 truth, the whole truth, and nothing but the truth?

24 ARTHUR BROWN: I do.

25 SENATOR SKOUFIS: Thank you.

1 ARTHUR BROWN: Good morning,
2 Chairman Skoufis, Chairman Kavanagh, and
3 Chairman Thomas.

4 Good morning to all the senators who have
5 taken an interest and are participating:
6 Senator John Brooks, Jim Gaughran, Tom Kamin --
7 Todd Kamisky, Anna Kaplan.

8 And, good morning to everyone in the
9 audience.

10 I'm honored to represent "Newsday," and to
11 explain how "Newsday" conducted the three-year
12 investigation that led to our being here today.

13 I'm happy to do so, while noting that news
14 organizations rarely appear in this type of forum.

15 We leave our work to speak for itself.

16 With that in mind, I want to make two points
17 clear.

18 First, "Newsday's" report aimed for
19 transparency, including how we conducted the
20 investigation and how we reached our findings.

21 My statement will explain facts already in
22 the public domain in a way that I hope you find
23 helpful.

24 Second, "Newsday's" appearance here does not
25 suggest an opinion about any legislative action you

1 may or may not choose to take.

2 Long Island Divided reported evidence of
3 widespread disparate treatment of minority
4 homebuyers, based on a paired testing program, equal
5 on a local basis to once-a-decade nationwide surveys
6 by the department of housing and urban development.

7 "Newsday" conducted that program in
8 consultation with nationally-recognized experts in
9 fair-housing standards and enforcement.

10 We based Long Island Divided's findings about
11 individual tests on the judgments of two of those
12 experts: Fred Freiberg, executive director of the
13 Fair Housing Justice Center, and Robert Schwemm,
14 professor at the University of Kentucky, College of
15 Law, and specialist in fair-housing standards and
16 law.

17 "Newsday" cited a test only after Freiberg
18 and Schwemm independently detected evidence of
19 disparate treatment by a real estate agent, and only
20 after informing agents and their corporate
21 leadership about "Newsday's" tentative findings;
22 offering them the opportunity to review what
23 appeared to be the evidence, including undercover
24 videos, in private; inviting their comments or
25 explanations; and subjecting the evidence to fresh

1 review when agents or their companies provided
2 information that demanded consideration.

3 The general results were as follows:

4 40 percent of "Newsday's" 86 paired
5 tests (34) showed evidence of disparate treatment
6 according to the judgments of our two experts.

7 The rate for Black testers was 49 percent;

8 For Hispanic testers, 39 percent;

9 And for Asians, 19 percent.

10 It's important to remember that the rates
11 reflect evidence of disparate treatment as discerned
12 by the two experts.

13 They do not reflect conclusions of disparate
14 treatment or legal findings.

15 Those are the province of regulatory
16 authorities and the courts, not journalism.

17 Since shortly after the passage of the
18 federal Fair Housing Act a half century ago, courts
19 have recognized paired testing as the most viable
20 tool for documenting housing discrimination.

21 Two individuals with comparable
22 characteristics, except difference -- different in
23 race or ethnicity, present comparable requests for
24 housing to a real estate agent.

25 "Newsday" recruited 25 testers. They were

1 White, Black, Hispanic, and Asian. They ranged from
2 a 20-something student to a 60-something lawyer.
3 They included both ordinary citizens and actors.

4 "Newsday" paid testers \$16 an hour.

5 The Fair Housing Justice Center, which does
6 more paired testing than any organization in the
7 United States, gave "Newsday's" testers daylong
8 training in how to speak with agents.

9 A Fair Housing Justice Center staff member
10 helped develop testing protocols for "Newsday's"
11 investigation, and assisted in analyzing test
12 results.

13 Additionally, Professor Schwemm, who is the
14 author of "Housing Discrimination: Law and
15 Litigation," widely accepted as the definitive
16 treatise on the subject, gave "Newsday's" reporters
17 a seminar in the fair-housing law over the course of
18 two days.

19 Before they met an agent, "Newsday's" [sic]
20 matched two testers as closely as possible in
21 gender, age, and educational background.

22 "Newsday" equipped testers with comparable
23 undercover identities, including names, marital
24 status, and fictional addresses, employment, and
25 credit scores.

1 Testers memorized those details, and
2 "Newsday" drilled them on their identities.

3 "Newsday" also gave the testers the search
4 criteria each would present to an agent.

5 The criteria included:

6 The maximum house price.

7 In our test, prices ranged from \$400,000 to
8 \$7 million.

9 The number of bedrooms: 3.

10 And a geographic search zone; for example, an
11 hour from Manhattan, or 30 minutes from communities
12 such as Bethpage and Port Jefferson.

13 "Newsday" verified that agents had houses to
14 sell when meeting with testers, based on analyses
15 provided by Zillow, the online home site search --
16 home-search site.

17 Zillow draws an inventory of available homes
18 daily from the Multiple Listing Service of
19 Long Island, the computerized system used by agents
20 to track the market and select possible houses for
21 buyers.

22 The Multiple Listing Service informed
23 "Newsday" that it does not keep that kind of
24 historical data.

25 As permitted by New York law, "Newsday"

1 outfitted the testers with miniature hidden video
2 equipment that memorialized how the testers
3 conducted themselves, and how the agents responded
4 in meetings and on house tours.

5 A professional court reporter created typed
6 transcripts of the meetings between testers and
7 agents.

8 "Newsday" journalists reviewed the transcript
9 for accuracy, and used them to verify that the
10 testers had, in fact, presented matching profiles to
11 agents.

12 The transcripts of each test enabled
13 reporters also to detect whether testers had
14 inadvertently varied from script.

15 For example, one tester may have asked an
16 agent for help finding a home within 20 minutes of
17 Garden City, while the other tester focused
18 [audio malfunction] on an area 30 minutes from
19 Garden City.

20 "Newsday" disqualified tests where errors
21 like that occurred or recording equipment failed.

22 In the 86 tests where the testers matched up,
23 "Newsday" compared the transcripts for signs that
24 the agent had or had not given comparable
25 information or service to both testers.

1 On a different track, "Newsday" plotted the
2 5,763 listings provided by agents on maps down to
3 census tracts.

4 That allowed us to visualize whether an agent
5 had pointed two testers to overlapping or different
6 communities.

7 Determined the demographic makeup of
8 neighborhoods selected for each tester; in
9 particular, the percentage of the population
10 identified as White, and compute the average
11 proportion of White residents in the areas
12 recommended to White and minority testers.

13 When the transcripts and/or listings' maps
14 suggested the possibility of disparate treatment,
15 "Newsday" gave our experts, Fred Freiberg and
16 Robert Schwemm, summaries of the tests, relevant
17 transcript excerpts, and access to the listing maps,
18 and stood ready to answer any of their questions.

19 Mr. Freiberg and Professor Schwemm rendered
20 opinions in writing. Neither knew what the other
21 had found.

22 As I said before, "Newsday" cited a test as
23 showing evidence of disparate treatment only when
24 they reached similar conclusions.

25 Plotting the listings by census tract also

1 enabled "Newsday" to calculate, with the help of a
2 trained statistician, broad demographic patterns;
3 for example, agents selected houses for Black
4 testers most frequently in neighborhoods with
5 comparatively low White representations, and less
6 frequently in neighborhoods with higher White
7 concentrations.

8 And those phenomenon flipped when the testers
9 were White.

10 "Newsday" located the test in 10 zones, that
11 stretch from Nassau County's western most border
12 with Queens, out to the Hamptons, as well as the
13 Gold Coast on the North Shore, down to many
14 communities on the South Shore.

15 The 86 tests covered about 83 percent of
16 Long Island's 2.3 million-person population,
17 including 80 percent of the White population and
18 88 percent of the minority population.

19 So, that was an outline of how "Newsday"
20 conducted the Long Island Divided investigation.

21 All this information is both, available, and
22 placed in the context of "Newsday's" findings, at
23 www.newsday.com/divided.

24 There is plenty of to read and plenty to
25 view, including a behind-the-scenes video explainer

1 of the investigation, and a 40-minute documentary
2 that shows the investigation in progress, presents
3 its findings, and places them in historical context.

4 Given its importance, "Newsday" has moved the
5 project out from behind a subscriber-pay wall to
6 allow greater access, again, at
7 www.newsday.com/divided.

8 So I thank you very much for this opportunity
9 to have spoken to you about "Newsday's" work, and
10 I wish you well in all of your important endeavors.

11 SENATOR SKOUFIS: Thank you very much,
12 Mr. Brown.

13 We're very grateful for your presence here.

14 And we recognize it's unusual to have a
15 member of the media coming to testify, but I think
16 your outline really does set the stage for the rest
17 of this hearing.

18 We're very grateful.

19 Thank you.

20 ARTHUR BROWN: Well, thank you very much.

21 SENATOR SKOUFIS: I also want to acknowledge
22 that there are a number of other senators who are
23 here on the dais.

24 We have Senator Phil Boyle, who I know just
25 walked in; Senator Anna Kaplan;

1 Senator Jim Gaughran. And we've also been joined by
2 Assemblyman Chuck Lavine.

3 SENATOR THOMAS: We're going to go next to
4 Panel 1, local officials.

5 And I would like to call county executive of
6 Nassau County, Laura Curran, to testify.

7 LAURA CURRAN: Thank you very much,
8 Senator Thomas.

9 SENATOR THOMAS: Thank you, Laura.

10 Before you start, I want to swear you in.

11 Do you solemnly swear that you will tell the
12 truth, the whole truth, and nothing but the truth?

13 LAURA CURRAN: I do.

14 SENATOR THOMAS: Thank you.

15 Please.

16 LAURA CURRAN: Thank you very much,
17 Senator Thomas, Senators, Assemblyman, for convening
18 this testimony and inviting me to testify to you.

19 I want to start by thanking "Newsday" for
20 this comprehensive and thorough report.

21 I'm sure we all read every word, and I think
22 it's fair to say we were shocked, but not surprised.

23 So I'm here today to talk about what we're
24 doing on the county level to combat historic housing
25 discrimination.

1 Last month "Newsday" revealed results of a
2 three-year investigative project, revealing blatant
3 housing discrimination throughout our county and,
4 indeed, our island.

5 The investigation uncovered an inexcusable
6 reality that offends our most cherished values as
7 Americans: That all of us are created equal, and
8 all of us deserves an equal shot.

9 It is important to first acknowledge that the
10 practices revealed, racial steering and other
11 discriminatory practices, are not a new phenomenon.

12 Racial discrimination in housing has a long
13 and painful history on Long Island.

14 We must be honest in order to confront it and
15 clear about what we must do.

16 Housing discrimination is wrong and it is
17 illegal.

18 That's something the investigation showed.

19 The thing that I found quite troubling in
20 this investigation is that, often, people don't know
21 they are being discriminated against, which is --
22 makes it even more pernicious.

23 Housing discrimination closes doors of
24 opportunity and robs people of their shot at the
25 American Dream.

1 In Nassau County, we will not tolerate
2 unequal treatment of our residents.

3 That's why, since I've taken office, my
4 administration has made significant investments
5 promoting equal and fair access to housing for all
6 of our residents.

7 Earlier this year, the County reached an
8 important settlement of a 14-year lawsuit, where we
9 made a historic commitment to the promotion of
10 affordable housing across our county, especially so
11 in areas with access to good transportation and good
12 public schools.

13 As part of this settlement, we kicked off an
14 advertising campaign called "Welcome to Nassau,"
15 making clear our commitment to fair-housing laws.

16 But "Newsday's" report makes clear we have
17 much work left to do.

18 Last month, I stood alongside civil rights
19 leaders, stakeholders, and county legislators from
20 both parties to announce that Nassau County will
21 take comprehensive and bipartisan action to combat
22 housing discrimination.

23 We will do this through increased
24 enforcement, education, and community engagement.

25 I named Deputy County Attorney

1 Errol E. Williams, who is here with us this morning,
2 as special housing counsel, to be charged with
3 coordination of the County's action plan on housing
4 discrimination.

5 Errol Williams most recently played a lead
6 role in the historic settlement I spoke about
7 earlier, reached in March. And I am pleased that he
8 has accepted this new challenge.

9 The County is issuing, also, a request for
10 proposals for legal services through our county
11 attorney's office, that will increase enforcement of
12 and compliance with open housing laws through
13 enforcement of administrative proceedings, plenary
14 actions, and special investigations.

15 I was pleased to reach bipartisan agreement
16 with our county legislature to increase staffing at
17 the county human rights commission, including the
18 addition of an investigator and an administrative
19 law judge, to assist with the resolution of
20 fair-housing complaints.

21 I've also directed a review of existing
22 forums and processes at the human rights commission
23 to make sure we are handling housing complaints and
24 investigations as best we can.

25 Rodney McCray, who is executive director of

1 our human rights commission, will lead this effort.

2 We are establishing the Nassau County Fair
3 Housing Advisory Board. So this is a permanent
4 county entity, not temporary, to be comprised of
5 community stakeholders and advocates and those from
6 the real estate industry, and they're tasked with
7 advising and providing the county with
8 recommendations regarding the promotion of fair and
9 equal housing practices and policies.

10 We realize education is incredibly important.

11 Since most people often, as was found in this
12 investigation, don't know that they're being
13 steered, don't know that they're being discriminated
14 against.

15 So we must educate prospective buyers and
16 renters to ensure that they understand fair-housing
17 laws.

18 That's why I've directed my administration to
19 initiate a robust educational campaign, including
20 workshops and forums throughout the county, designed
21 to inform residents regarding housing rights and
22 resources that are available to them.

23 And there are resource available to them.
24 Sometimes the challenge is connecting people to
25 those resources.

1 In the coming weeks, we will announce the
2 first educational workshops, which will be
3 spearheaded by the human rights commission, and by
4 Bishop Lionel Harvey, who is our deputy director for
5 diversity and community engagement, and together
6 with the office of minority affairs, the office of
7 Hispanic affairs, and the office of Asian-American
8 affairs.

9 I've also directed my administration to
10 develop a new multimedia and multilingual
11 public-awareness campaign to increase awareness
12 about our commitment to and enforcement of
13 fair-housing laws.

14 We also know that zoning localities are
15 important partners in this effort, and that's why we
16 will engage the already-existing Nassau County Fair
17 Housing Committee Consortium members, which is
18 comprised of towns and villages, to promote
19 fair-housing policies at the municipal level as
20 well, which is incredibly important.

21 Lastly, I'm pleased that the Nassau County
22 IDA (Industrial Development Agency) Board has
23 directed its staff to review their incentive
24 policies, to ensure the promotion of fair housing,
25 and eliminate discriminatory practices with those

1 they do business with.

2 These actions represent a starting point,
3 I acknowledge that.

4 I look forward to working with you, Senators,
5 with my partners in -- and Assemblyman, and my
6 partners in state government, and at the local
7 government, to build the momentum.

8 I am grateful that the state Senate has
9 called this hearing, and has taken a real interest
10 in this incredibly important issue.

11 The problem we seek to address has deep
12 roots, and making real progress will require our
13 continued cooperation and resolve.

14 I will ensure that the -- that Nassau County
15 proactively cooperates with state authorities and
16 any ongoing or future efforts to hold real estate
17 brokers, property-management firms, and lenders
18 accountable regarding compliance with open and
19 fair-housing laws.

20 We can't guarantee equal outcomes in America,
21 but let's work together, to create a county, to
22 create an island, where kids from every background
23 can grow up knowing that, no matter what you are,
24 what you look like, where you live, you can write
25 your own story.

1 Thank you.

2 SENATOR THOMAS: Thank you, County Executive
3 Laura Curran.

4 We are also joined by Suffolk County
5 Executive Steve Malone.

6 Sir, can you please stand up so we can swear
7 you in?

8 Raise your right hand.

9 Do you solemnly swear that you will tell the
10 truth, the whole truth, and nothing but the truth?

11 STEVE BELLONE: I do.

12 SENATOR THOMAS: Thank you.

13 Please, be seated.

14 STEVE BELLONE: Good morning,
15 Chairman Thomas, Chairman Skoufis,
16 Chairman Kavanagh, members of the New York State
17 Senate who are here today, and Assemblyman as well.

18 It's good to be with you, and I thank you for
19 the opportunity to speak with you here today.

20 We're all aware, of course, of the "Newsday"
21 investigation that brought the issue of housing
22 discrimination out of the shadows on Long Island.

23 The results of this three-year investigation
24 were disturbing and unacceptable.

25 Using paired testers, "Newsday" found that

1 there were numerous instances where real estate
2 agents provided unequal treatment based on race, in
3 seemingly clear violations of fair-housing laws.

4 Almost immediately after this report was
5 published we took action.

6 My staff met with the New York State Attorney
7 General to discuss how we can improve enforcement
8 capabilities.

9 I also announced that the County would
10 initiate a four-point plan to combat housing
11 discrimination.

12 First, we said we would strengthen our
13 ability to conduct housing-discrimination
14 investigations.

15 We are issuing a request for proposals, to
16 select a qualified organization to partner with, to
17 enforce fair-housing laws, including funding the
18 kind of testing that was employed during the
19 "Newsday" investigation.

20 Second, we're expanding and strengthening the
21 capabilities of our human rights commission.

22 I've authorized the hiring of an additional
23 investigator for the purpose of examining alleged
24 fair-housing violations. And we will add additional
25 investigators as required by caseloads.

1 We are also in the process of hiring
2 three administrative law judges that will be there
3 to expedite claims of housing discrimination.

4 Third, we will issue a request for
5 qualifications, to partner with organizations, to
6 provide education and training.

7 We want the general public to understand
8 fair-housing laws, and what housing discrimination
9 looks like, and where they can go when they have
10 experienced it.

11 Fourth, knowing that this problem cannot be
12 solved alone, we've begun reaching out to leading
13 industry stakeholders, including the Long Island
14 Board of Realtors, to begin the process of
15 identifying solutions that would help ensure better
16 compliance of federal and New York laws for real
17 estate agents.

18 On the state level, I believe that we need a
19 consumer bill of rights regarding fair housing and
20 interaction with real estate brokers and mortgage
21 lenders.

22 There are currently several bills, I know,
23 that are pending in the state Legislature that
24 consider the concept.

25 I'd welcome the opportunity to meet with

1 members of the state Senate, to discuss ideas to
2 better inform potential homebuyers.

3 Currently, real estate professionals are
4 required to complete a total of 22 1/2 hours of
5 continuing education, with only 3 hours of
6 instruction concentrated in fair housing and
7 discrimination.

8 This investigation highlights the need to
9 thoroughly examine all aspects of the state's
10 education and training requirements and standards
11 involved in fair housing.

12 Finally, again, I want to thank each of you
13 for coming here today, and for highlighting this
14 issue and for focusing on this issue.

15 There are many advocates who have been
16 working on this issue for a number of years, of
17 working to address unjust and biased treatment.

18 Now is the time, this is a moment of
19 opportunity, to address a legacy of housing
20 segregation and discrimination that dates to the
21 very beginning of America's first suburb.

22 We have to address this challenge on a
23 regional basis.

24 And I want to thank my colleague to the west,
25 to my left, Nassau County Executive Laura Curran,

1 for her leadership on this issue.

2 Please continue to utilize me, and us, as a
3 resource, a partner.

4 And together we will work to break down
5 barriers and to create equal opportunity for all.

6 Thank you very much.

7 SENATOR THOMAS: Thank you to both county
8 executives for showing leadership after that
9 "Newsday" exposé.

10 It's very hard on people to understand why
11 this matters.

12 And both of your leadership, and this plan
13 that both have, basically, talked about in their
14 testimony, is -- is -- is very encouraging.

15 Before I start with questions, let me just
16 acknowledge Senator Liu who has joined us as well.

17 Senator Kaminsky.

18 SENATOR KAMINSKY: Thank you.

19 County Executive Curran, I have just a --
20 some quick questions for you.

21 And, very grateful for your leadership on
22 this. And we all look forward to working with you,
23 as well as County Executive Bellone, going forward
24 on this.

25 You were present when Mr. Brown testified

1 from "Newsday" and talked about the results of the
2 investigation.

3 For a good reason, we could not ask him
4 questions, but I wonder if you came away with the
5 same conclusion that I did?

6 That, based on how they scored what would be
7 disparate impact, that it seemed to me that they
8 were very conservative in how they judged that; only
9 wanted to make sure, in very demonstrable
10 situations, based on comparable evidence, and they
11 always erred on the side of throwing something out
12 that wouldn't reach that, that these numbers are
13 actually, probably, in practice, greater than what
14 they're reported to be.

15 In other words, the amount of discrimination
16 reported, by percentage, whether it's 49, 39, 19,
17 what have you, is probably more than that in
18 actuality.

19 Did you get that same impression?

20 LAURA CURRAN: Senator Kaminsky, yes, I did
21 have that same thought.

22 And as Arthur Brown testified here this
23 morning, and as was made very clear in the report,
24 they -- it is very clear to me that they erred on
25 the side of caution, and that the numbers are

1 probably not as low as -- as were reported.

2 The -- we heard Arthur Brown say that, if
3 there was any doubt, if there was any cloudiness in
4 the sound, if there was any shadow of a doubt, they
5 discounted that example.

6 So I believe that this shone -- this report
7 shone a very bright light on the problem.

8 And I -- I agree with your assessment that
9 the problem was probably even worse.

10 SENATOR KAMINSKY: I appreciate that.

11 And I think what that should mean for anybody
12 watching or participating in this hearing, going
13 forward, is, certainly, for African-Americans, and
14 perhaps for Hispanic or other groups, that we're
15 talking about an amount of discrimination that is
16 actually staggering.

17 It's probably a majority of whole groups of
18 people are being discriminated against, not just a
19 here and a there, or sometimes, or more often than
20 you think, but, almost all the time, or -- or -- or,
21 certainly, more than half the time.

22 And I -- I just find that to be even more
23 troubling than any of the -- you know, any of these
24 headlines can -- can suggest.

25 So, as we move into the fact-finding phase,

1 and as we work with both county executives, to
2 figure out what's going on, I just think it's
3 important that we understand the gravity of the
4 problem ahead of us.

5 And we're lucky to have two great partners to
6 work with as we move forward to tackle this problem.

7 LAURA CURRAN: Thank you, Senator.

8 STEVE BELLONE: Thank you, Senator.

9 SENATOR THOMAS: Senator Kavanagh?

10 SENATOR KAVANAGH: No, I'm good.

11 SENATOR THOMAS: Anna?

12 LAURA CURRAN: Thank you very much.

13 STEVE BELLONE: Thank you very much.

14 And, again, we look forward to working
15 together with you.

16 LAURA CURRAN: Absolutely.

17 SENATOR THOMAS: Thank you.

18 SENATOR SKOUFIS: And now I would like to
19 call up our next panel: Fred Freiberg from the
20 Fair Housing Justice Center, and Elaine Gross
21 from Erase Racism.

22 Before you sit down, if can you just raise
23 your right hands.

24 Do you solemnly swear that you'll tell the
25 truth, the whole truth, and nothing but the truth?

1 FRED FREIBERG: Yes.

2 ELAINE GROSS: I do.

3 SENATOR SKOUFIS: Thank you.

4 Welcome, and thank you for being here.

5 FRED FREIBERG: My name is Fred Freiberg.

6 I'm the executive director and co-founder of the
7 Fair Housing Justice Center, a regional civil rights
8 organization based in New York City.

9 Our mission is to eliminate housing
10 discrimination, promote policies and programs that
11 foster open, accessible, and inclusive communities,
12 and to strengthen enforcement of fair-housing laws.

13 [Audio malfunction] in 2005, we serve a
14 region that includes all of New York City and seven
15 surrounding New York counties, including Dutchess,
16 Nassau, Orange, Putnam, Rockland, Suffolk, and
17 Westchester.

18 Our service area contains, roughly,
19 65 percent of the state's population and 3 percent
20 of the nation's.

21 In terms of my personal background, I've been
22 working in fair-housing enforcement for nearly
23 44 years.

24 I've supervised more than 12,000 testing
25 investigations in 20 states, personally participated

1 in over 1500 tests.

2 I've been named as a witness in over
3 400 fair-housing cases.

4 I directed a national testing program for the
5 civil rights division of the department of justice
6 that I helped to establish in 1992.

7 I was the field director for two national
8 HUD-sponsored studies.

9 Relative -- relevant to the hearing today,
10 I was also a consultant, as you have heard, to
11 "Newsday" on a three-year investigation into real
12 estate sales practices.

13 From December 2015 to March 2017, "Newsday"
14 contracted with the FHJC to train testers, assist in
15 the design of testing protocols for the project, and
16 assist with coordinating some of the early tests.

17 After March 2017, until the story was
18 released in November 2019, I continued to serve as
19 an unpaid consultant to "Newsday" on this project.

20 In my short remarks today I want to make
21 several points.

22 First: Let me begin by expressing my
23 appreciation to Senators Thomas, Skoufis, and
24 Kavanagh, and all the members of the Senate
25 committees they chair, for arranging this hearing,

1 and for providing me and others an opportunity to
2 share our thoughts and recommendations.

3 I'm here today with Elaine Gross of
4 Erase Racism, and we've provided your committee with
5 a joint set of recommendations in response to
6 "Newsday's" investigation.

7 It's a five-point plan, with recommendations
8 for the State of New York; the U.S. Department of
9 Housing and Urban Development; local, state, and
10 federal enforcement agencies; and the real estate
11 industry.

12 Second: I want to commend "Newsday" for the
13 truly remarkable commitment of resources and
14 personnel that it devoted to this investigation and
15 story.

16 It was a distinct privilege for me to work on
17 this project with an incredibly conscientious
18 objective and dedicated team of professional
19 journalists.

20 Third: I found the "Newsday" -- the results
21 of the "Newsday" testing investigation deeply
22 troubling, though not particularly surprising.

23 The results were entirely consistent with
24 what my organization routinely finds in many of our
25 testing investigations.

1 The problem of racial discrimination in
2 housing is systemic.

3 The problem is not limited to the sales
4 market or the real estate industry. The problem is
5 not limited to Long Island.

6 The start patterns of residential racial
7 segregation in our metropolitan regions were created
8 by the intentional and coordinated actions of the
9 housing industry, government, and other institutions
10 over many decades.

11 The segregation has been sustained to this
12 day by the very same institutions.

13 Our nation has never fully implemented or
14 vigorously enforced the federal Fair Housing Act.

15 Residential racial segregation on
16 Long Island, throughout the larger New York City
17 region, and in many parts of the state of New York,
18 creates a vicious cycle of inequality that continues
19 to inflict serious harm on people and communities of
20 color by locking African-American people and other
21 populations out of many opportunities.

22 Racial discrimination in housing not only
23 presents a formidable barrier to renting an
24 apartment or buying a home, and accumulating wealth
25 from that investment, but it can also limit access

1 to high-performing schools, employment
2 opportunities, health care, parks and recreational
3 facilities, safe neighborhoods, and even healthy
4 foods.

5 Where one lives still matters.

6 Residential racial segregation, reinforced by
7 discriminatory housing practices, has profound, and
8 often perilous and lasting, intergenerational
9 consequences for the populations that are excluded
10 and for the communities that are subsequently
11 divided.

12 Any remedies proposed to address racial
13 discrimination documented by the "Newsday" report
14 should be comprehensive in nature, and extend well
15 beyond the discriminatory and odious practices of
16 some real estate agents on Long Island.

17 The FHJC currently has one of the strongest
18 testing capabilities of any private fair-housing
19 organization in the nation.

20 We employ, on a part-time, as-needed basis,
21 about 165 testers, all professional actors, who
22 participate in undercover testing investigations.

23 It's a diverse pool of people who
24 collectively speak 28 languages.

25 Over the past decade or so, the FHJC testing

1 investigations have led to the filing of more than
2 100 successful legal challenges that have opened
3 more than 65,000 units of housing to
4 previously-excluded populations, and resulted in a
5 total monetary recovery of over \$39 million in
6 damages and penalties.

7 We have changed the way many housing
8 providers, governments, and others do business, and
9 obtained greater compliance with fair-housing laws.

10 The FHJC filed the only two federal lawsuits
11 against banks, alleging race and national-origin
12 discrimination, in the 51-year history of the
13 Fair Housing Act, based primarily on testing
14 evidence.

15 The FHJC conducted investigations into
16 discrimination based on race or national origin, and
17 land use and zoning practices, and in suburban
18 affordable-housing programs.

19 These investigations have resulted in federal
20 litigation against the Town of Smithtown in
21 Suffolk County; the Town of Oyster Bay, Village of
22 Garden City, and Village of Great Neck Plaza in
23 Nassau County; and the Town of Yorktown, the
24 Town of Bedford, and the Town of Eastchester in
25 Westchester County.

1 FHJC testing investigations also continue to
2 uncover widespread discrimination in the rental
3 market of the region, based on race, national
4 origin, disability, and source of income.

5 Fourth: The nature of housing discrimination
6 has changed over time.

7 Prior to the passage of the fair-housing
8 laws, discrimination was quite overt.

9 African-American homeseekers were frequently
10 met with slammed doors and racial epithets.

11 Today, the image of a slammed door has to be
12 replaced, to a large extent, with a revolving door,
13 where people are politely escorted in, out of, and,
14 ultimately, away from the desired housing.

15 It all happens in such a subtle manner that
16 the consumer is often unaware that discrimination
17 has occurred.

18 Violators simply have learned to conceal
19 their illegal conduct.

20 The real -- this reality calls into question
21 the complaint-responsive approach that most public
22 agencies have adopted to enforce fair-housing laws.

23 And it's really quite simple:

24 If victims of discrimination are unaware that
25 discrimination is occurring, no complaints will be

1 filed.

2 If no complaints are filed, no enforcement
3 action occurs.

4 If no enforcement action is taken, the
5 illegal discrimination simply continues.

6 While complaints of discrimination must be
7 thoroughly and expeditiously investigated, our
8 entire fair-housing enforcement paradigm needs to
9 shift to one that places a greater emphasis on the
10 proactive enforcement and use of testing to ferret
11 out subtle and systemic forms of housing
12 discrimination.

13 This is one of the key lessons of the
14 "Newsday" investigation.

15 The burden for enforcing our fair-housing
16 laws should not rest entirely on the shoulders of
17 those who continue to be victimized, or, on a media
18 outlet.

19 Testing is a tool used by private
20 fair-housing organizations to investigate
21 housing-market practices.

22 Testing can and should be used as often as
23 possible to investigate housing discrimination
24 complaints, because testing evidence often enables
25 victims of discrimination to meet their burden of

1 proof and prevail on their complaint.

2 But testing must also be used to conduct
3 proactive investigations into patterns of illegal
4 discrimination in the housing market.

5 Finally, let me briefly highlight some of the
6 recommendations contained in the document that
7 Erase Racism and FHJC have provided to you today.

8 Number one: New York State should fully
9 utilize its licensing power to better regulate the
10 real estate industry.

11 Two of our recommendations include:

12 Reviewing the results of the "Newsday"
13 investigation, to determine if any licensees engaged
14 in illegal conduct that merits disciplinary action
15 by the department of state's division of licensing
16 services;

17 And better screening of the qualifications of
18 trainers and the quality of curriculum developed to
19 provide instruction to licensees on fair housing.

20 Second: We need a well-resourced, proactive,
21 and better coordinated fair-housing enforcement
22 strategy.

23 Some of our recommendations include, more
24 public funding for systemic testing, better
25 coordination of fair-housing enforcement activities,

1 and a greater emphasis on conducting proactive
2 investigations into systemic discrimination.

3 The real estate industry should take
4 affirmative steps to ensure compliance with
5 fair-housing laws, this is number three.

6 Some of our recommendations include:

7 Reviewing the "Newsday" test to determine if
8 the conduct of any members violated the realtor code
9 of ethics;

10 Implementing affirmative hiring programs, to
11 create a more diverse real estate sales force;

12 Opening offices in communities of color to
13 ensure that service is being provided to all
14 neighborhoods;

15 And disseminating a model fair-housing
16 policy, detailing better and best practices for
17 non-discriminatory real estate marketing and sales.

18 Four: Local, state, and federal governments
19 need to affirmatively further fair housing in all
20 housing and community-development activities.

21 One of our central recommendations includes,
22 asking the State of New York to adopt an
23 affirmatively-furthering fair-housing law, to ensure
24 local governments, housing authorities, and state
25 agencies are taking meaningful steps to

1 affirmatively further fair housing in all housing
2 and community-development activities.

3 Fifth: New York State should implement
4 fair-housing legislative initiatives, policy
5 changes, and support for programs that expand access
6 to housing opportunities in all neighborhoods.

7 Some of our recommendations include:

8 Funding for regional mobility-assistance
9 programs;

10 Passing a strong co-opt disclosure law;

11 Amending the human rights law to explicitly
12 prohibit discriminatory land use and zoning
13 practices by public agencies, enacting a statewide
14 equitable-share housing program, and establishing a
15 statewide zoning appeals board.

16 As you consider legislative solutions, we
17 urge you to remember that housing discrimination and
18 segregation continue to inflict serious harm on
19 entire populations and communities.

20 Albert Einstein once said, quote: The world
21 is a dangerous place, not because of those who do
22 evil, but because of those who look on and do
23 nothing.

24 We can ill afford to look on and do nothing,
25 or pretend we are going to wait for hearts and minds

1 to change.

2 We need to muster the courage to act now.

3 We implore you, as policymakers, to
4 demonstrate real leadership on this issue.

5 The late-Martin Luther King, Jr., when
6 speaking about the need for civil rights laws and
7 their enforcement, would often say, quote: It may
8 be true that the law cannot change the heart, but it
9 can restrain the heartless.

10 "Newsday" made a major contribution by
11 shining a spotlight on one of the most hidden,
12 enduring, and virulent forms of bias: housing
13 discrimination.

14 Now it's up to all of us to do what we can to
15 restrain the heartless, and create more open,
16 equitable, and inclusive communities on Long Island
17 and throughout the state of New York.

18 I'm happy to answer any questions from the
19 committee members.

20 Thank you very much.

21 SENATOR SKOUFIS: Thank you.

22 ELAINE GROSS: Good morning, Committee
23 Chairs, members of the committees.

24 I'm Elaine Gross, and I'm the president and
25 CEO of Erase Racism.

1 It is an important -- it is important to
2 note, that renters on Long Island often have far
3 fewer housing choices because of the extreme
4 limitations on building multifamily housing on
5 Long Island, creating high competition for limited
6 number of rental units.

7 Whether for sale or for rent, there should be
8 no housing discrimination.

9 I speak from the perspective of an
10 African-American woman who was born and raised on
11 Long Island, and who currently owns a home on
12 Long Island.

13 In another state, I was a victim of housing
14 discrimination, so I also know, firsthand, the
15 emotional and economic toll of housing
16 discrimination.

17 Today I speak on behalf of Erase Racism, the
18 Long Island-based civil rights organization that
19 exposes and addresses the devastating impact of
20 historical and ongoing structural racism in our
21 region and in the nation, particularly in housing
22 and public school education.

23 In this role, my expertise derives from
24 Erase Racism's direct experience, successfully
25 advocating for changes in the fair-housing statutes

1 of both Nassau and Suffolk counties.

2 I also organized, in 2016, a statewide
3 coalition to amend the New York State Human Rights
4 Law to include lawful source of income as a
5 protected class.

6 That amendment became law in April 2019,
7 thanks, in part, to the work of an expanded
8 coalition which I co-led.

9 Since 2001, my experience also derives from
10 our research on Long Island in such areas as
11 residential segregation; segregation in public
12 school education; fair-housing enforcement policies
13 and practices, that's local, state, and federal; and
14 the investigation of housing discrimination,
15 including utilizing pair testing as a tool to reverse
16 disparate treatment, racial steering, and other
17 violations of fair-housing statutes.

18 The pair testing that we used was similar to
19 that conducted by "Newsday" for its landmark
20 investigative report, "Long Island Divided."

21 We did our fair-housing investigation prior
22 to "Newsday's," and on much smaller scale, but with
23 similar results; and in partnership with the
24 Fair Housing Justice Center.

25 Our goal was to determine whether Black

1 renters on Long Island were being discriminated
2 against in the housing options that they were
3 offered, or were, in other ways, the victims of
4 housing discrimination.

5 The pair testing revealed that, in both
6 Nassau and Suffolk counties, property owners and
7 management companies were showing rental apartments
8 to White applicants and not to Black applicants.

9 When Black individuals and couples inquired
10 about apartments, they were told, among other
11 things, that nothing was available, that there was a
12 long waiting list, that they should check back in
13 the future, and they were sometimes quoted higher
14 rent amounts.

15 Whites were shown available apartments and
16 encouraged to apply.

17 Erase Racism's investigation led to
18 successful litigation; resulted in court-mandated
19 settlements with the offending real estate
20 companies.

21 Our case in Minneola settled in 2014, and in
22 Commack in 2016.

23 I mention that because, even though we are
24 talking about home ownership today, I want you to
25 understand the full breadth of the housing

1 discrimination that is going on here on Long Island.

2 And as had been mentioned, it is not the
3 responsibility of those of us who are non-profits on
4 Long Island, nor a media organization, to be
5 responsible for shedding light on, and responsible
6 for the enforcement of, both the fair-housing laws
7 and the actions of real estate agents, nor the
8 actions of municipalities.

9 So I will not talk about "Newsday's"
10 investigation. You heard from them directly.

11 I, like everyone else, was not surprised, but
12 I cannot say enough in praise of what they did.

13 And the work that they did has created a sea
14 change in terms of the number and the breadth and
15 the depth of individuals and organizations on
16 Long Island that are now talking about and concerned
17 about and trying to make changes related to this
18 issue.

19 I would add that, you, the members of these
20 committees and the state Legislature, have an
21 essential role.

22 Real estate brokers need a license in
23 New York. That license comes from the
24 New York State Department of State.

25 And that department has not protected nearly

1 half of Black homeseekers on Long Island from
2 discrimination in the twenty-first century, if
3 looking at the "Newsday" investigation.

4 Not only does the state Legislature have an
5 oversight role inherent in Article III of the state
6 Constitution, the New York State Board of Real
7 Estate, the department of state -- state's division
8 licensing services, and the secretary of state, all
9 have some responsibility for the integrity of
10 systems that would ensure that real estate brokers
11 are acting within the law.

12 Put quite simply, when it comes to overseeing
13 fair-housing practices by real estate brokers and
14 companies, at least as they occur on Long Island,
15 the State is failing to do its job with rigor and
16 urgency.

17 Every aspect of this structure, and the
18 system inherent therein, need to be thoroughly
19 investigated to determine what is broken and, thus,
20 how to fix it.

21 This is the case for both the licensing of
22 real estate brokers, and punishment for
23 discriminatory actions, and the New York State
24 Division of Human Rights which is charged with
25 enforcing the fair-housing law.

1 I have a few recommendations that I'd like to
2 speak to. I will not repeat the recommendations
3 that Fred has summarized from our joint statement to
4 you.

5 First of all, fair-housing enforcement,
6 including the pair testing that Erase Racism and
7 other non-profits do, needs to be further
8 strengthened and supported by New York State. The
9 resources need to be put forward in an aggressive
10 manner.

11 Second: This form of housing discrimination
12 exists in other areas of New York State. Both
13 lawsuits and investigations by other non-profits
14 document housing discrimination.

15 The investigations on Long Island should lead
16 to statewide scrutiny, and result in rigorous
17 enforcement and uniform protections for all
18 New Yorkers.

19 Third: The practices of real estate agents
20 explored in these investigations are just one
21 component of the structural racism that drives
22 racial discrimination and segregation in housing,
23 and, therefore, in public schools and other
24 government services.

25 The practices of the real estate industry are

1 intertwined with myriad policies and practices that
2 produce and maintain residential segregation, long
3 established and perpetuated on Long Island and
4 elsewhere in New York.

5 The obligation to ensure fair housing exists
6 at all levels of government, and throughout the real
7 estate and banking industry, as does the obligation
8 to remedy violations of fair housing.

9 Fourth: A culprit in perpetuating that --
10 these myriad policies and practices is the State's
11 adoption of home rule, delegating specific powers to
12 local municipalities, including control of land use,
13 which enables exclusionary zoning.

14 Long Island's two counties include 13 towns
15 and 97 incorporated villages, creating a municipal
16 fragmentation that divides rather than unites.

17 In addition, with local control, local
18 municipalities use their power to maintain the
19 status quo: severe racial segregation.

20 Municipalities have engaged in such
21 discriminatory housing practices, as using
22 geographic preferences, exclusionary zoning,
23 know-as-of-right multifamily housing, and, finally,
24 concentrating affordable housing intended for Blacks
25 in communities that are already a majority minority,

1 and affordable housing for seniors intended for
2 Whites in communities that are majority White.

3 I recently wrote a paper that was
4 commissioned by the NYU Furman Center on this
5 particular topic.

6 And, finally, the State should amend the
7 Human Rights Law in two significant ways.

8 First: The human rights law should
9 explicitly prohibit discriminatory action by local
10 governments and public agencies that operate housing
11 programs, control land use and zoning decisions, or
12 engage in other housing and community-development
13 activities, to ensure that these programs and
14 activities are not perpetuating segregation by
15 making housing unavailable, or limiting access to
16 housing, based on race, national origin, et cetera,
17 which is discrimination.

18 Second: Similar to what the State of
19 California did in 2018, the Human Rights Law should
20 require state agencies and departments and local
21 jurisdictions, public housing authorities, and other
22 public entities, receiving state or federal funds
23 for housing and community development, to
24 affirmatively further fair housing, and take no
25 action that is materially inconsistent.

1 Thank you for these hearings, and I am happy
2 to answer any questions.

3 SENATOR SKOUFIS: Thank you both very much
4 for your contributions today, and, quite frankly,
5 more importantly, your work filling a vacuum that
6 ought to have been filled over the past many, many
7 years by different agencies.

8 I have a number of questions I'd like to
9 start with.

10 First, as a question on the onset here:

11 You're both experts, your organizations are
12 experts, in pair testing.

13 Can you speak to "Newsday's" testing, and
14 confirm or, I guess, deny, whether "Newsday's"
15 testing is similar or identical to testing that
16 enforcement organizations employ and academic
17 researchers employ?

18 FRED FREIBERG: Yes, the pair-testing
19 methodology employed by "Newsday," and I helped them
20 develop it, is very similar, if not identical, to
21 paired testing that we do in the enforcement realm.
22 And it's also similar to testing that's done by
23 national research organizations, like the
24 Urban Institute in the periodic HUD studies that
25 are conducted nationally every 10 or 12 years.

1 So it's very similar.

2 SENATOR SKOUFIS: Okay. Thank you.

3 You noted, Mr. Freiberg, and I agree, that
4 one of the lessons learned from this exposé is that,
5 enforcement agencies need to be more proactive, and
6 cannot rely on complaints before taking action.

7 That said, how do we better encourage
8 complaints?

9 Clearly, if -- you know, if we have to wait
10 for news organizations, or organizations like yours,
11 to expose discrimination, we're not going to be able
12 to expose all of it via complaints.

13 How -- how do we get on the ground, people
14 who are not involved in testing, average people who
15 are being discriminated against, to know that they
16 should complain, know how to complain; how do we
17 better encourage it?

18 FRED FREIBERG: Well, there are obviously
19 things that can be done. Campaigns -- advertising
20 campaigns, social media, and so forth, where you can
21 elicit people to file complaints.

22 But, again, I harken back to my testimony,
23 which was, that the real lesson, the underlying
24 lesson, of the "Newsday" investigation, was that,
25 most of the time, and it would be true of most of

1 the testers who were involved in the "Newsday"
2 investigation, they did not know they were being
3 treated differently than other people.

4 If you don't know you're being treated
5 differently, all the advertising in the world isn't
6 going to compel you to file a complaint.

7 So we have a problem that's more hidden.

8 We have a problem: violators have gotten more
9 sophisticated.

10 I talk to groups all the time about this.

11 You know, it shouldn't come as a great
12 surprise to us that some violators are clever enough
13 to disguise their practices now.

14 I mean, it's true of all -- all law
15 enforcement.

16 There's a reason why bank robbers wear masks.

17 There's a reason why burglars wear gloves, so
18 their fingerprints aren't found.

19 And there's a reason we all slow down on the
20 expressway when we see a squad car on the side of
21 the road, because we don't want to get caught
22 speeding.

23 Well, why do we think people who are involved
24 in the housing industry are any different.

25 They don't want to get caught, so they found

1 ways to elude detection.

2 So, therefore, my suggestion to you, is that,
3 what has to be done, is there has to be more
4 proactive testing done, people who pose,
5 essentially, as surrogates of real homeseekers to
6 ferret out this kind of illegal conduct.

7 It's what we do all the time, but it needs to
8 be done on a much larger scale.

9 And if I can take just one more minute,
10 I would say, if you look at examples, I mean, one
11 person once said to me, who was an aide for a
12 federal legislator: Well, government is mostly
13 reactive. We're not -- we're not inherently
14 proactive as a body. We tend to just react to
15 complaints.

16 Well, my response to that is, that isn't
17 always true.

18 I've lived in multiple cities around the
19 country, and I've gotten food poisoning four times,
20 only in New York City.

21 I've never had food poisoning before in any
22 other place.

23 Now, if -- it's interesting to note, there
24 are 27,000 real estate agents on Long Island.

25 There are 26,000 restaurants in

1 New York City.

2 The City pays the department of health enough
3 money to hire 100 investigators who are required to
4 make one unannounced visit every year to every
5 restaurant.

6 I dare say, if they did not do that, we would
7 not be here today, because --

8 [Laughter.]

9 FRED FREIBERG: -- because the abuses are so
10 great and there's a serious health hazard involved.

11 Well, we have to see this the same way.

12 There's a serious hazard out there that's
13 preventing people, based upon their race, their
14 national origin, their disability, their source of
15 income, from gaining access to a fundamental
16 necessary part of our lives: shelter.

17 So we've got to see it in the same
18 life-or-death kind of situation.

19 This is -- this is not something to be taken
20 lightly.

21 And so my big answer to your question is:

22 It's fine to do what we can to elicit more
23 complaints.

24 But we actually will not eliminate
25 discrimination unless we take a more proactive

1 stance, and go out and affirmatively identify
2 violators.

3 ELAINE GROSS: And I would also add that,
4 because people know that nothing is being done,
5 because there are so many -- I hear, personally, so
6 many stories about how a person of color, for
7 example, has been discriminated against. They might
8 have filed a complaint, they might have tried to get
9 something done about it.

10 And the story is: Nothing happened. Why did
11 I bother?

12 And so it almost makes it worse, pretending
13 that there is a system in place to deal with this
14 issue, and then have that system be so broken, that
15 both the perpetrators know that nothing will happen
16 to them, and the victims know, don't bother, because
17 nothing is going to be done, after they are
18 discriminated against, even if they try to file a
19 complaint or try to do something about that.

20 SENATOR SKOUFIS: And to that point, surely,
21 the department of state; surely, law enforcement
22 agencies, know that testing works, just like you
23 know that testing works.

24 FRED FREIBERG: Yes.

25 SENATOR SKOUFIS: Why do you think that these

1 enforcement organizations do not employ more
2 testing?

3 FRED FREIBERG: Well, that -- that is the
4 94,000-dollar question, but here -- there are
5 reasons.

6 One is, that government agencies,
7 particularly at the local and state level, are often
8 subject to the political winds, and, as leadership
9 changes, and so forth.

10 We know the department of state at one time
11 had a testing program, and they proactively had
12 people calling and investigating real estate agents,
13 and they were sanctioning real estate agents.

14 Why is that gone today?

15 I mean, it will be interesting to hear from
16 them today.

17 I think, you know, the problem with a lot of
18 local government agencies, and state agencies too,
19 is there's not the political will to actually
20 sustain it. The resources are not devoted.

21 I helped the New York Attorney General's
22 Office start its own testing program in 2008.

23 How many cases have you read about recently
24 based on testing done by the New York Attorney
25 General's Office?

1 I dare say, none.

2 You know, the government procurement
3 processes, hiring policies, and so forth, make it
4 very difficult for them to hire 165 professional
5 actors like I have, to operate on a part-time basis.

6 And you need a very large diverse pool of
7 people to do be able to do this -- do this kind of
8 testing.

9 So, I think there are a lot of practical
10 obstacles. Sometimes there are political obstacles.

11 But it is shameful that we know what works to
12 ferret out discrimination.

13 Government knows what works, and yet it
14 doesn't support it.

15 I mean, no fair housing -- there are six
16 fair-housing groups in the city of -- or, in the
17 state of New York, and not a single one gets a dime
18 from the State of New York to support its
19 activities.

20 We're in the city of New York, and we -- we
21 get a small contract to do some source-of-income
22 testing for \$20,000.

23 The Los Angeles fair-housing group gets
24 almost \$900,000 from the City and County of
25 Los Angeles.

1 So we're in a fair-housing desert here when
2 it comes to resources and funding for testing.

3 ELAINE GROSS: And I would add that, in all
4 of these agencies, we have people, and people have
5 their own conscious and unconscious biases.

6 I can't tell you the number of times I've
7 been told: Elaine, there really is no more housing
8 discrimination. It's only based on income.

9 And, also, the sort of combination is: You
10 know that you know Black people only want to live
11 with other Black people.

12 So we contracted with the survey research
13 firm to do telephone survey research in communities
14 on Long Island that were 60 percent or more
15 African-Americans.

16 And the findings of that survey indicated,
17 number one, that it's not true that Blacks only want
18 to live with other Blacks. Only 1 percent responded
19 in that way.

20 Blacks prefer to live in communities that
21 were multiracial.

22 The other thing that we found when we did
23 some research, looking at census data, and the
24 American Community Survey, is that it is true that
25 some populations, Whites, Asians, have higher

1 incomes, in general, than Blacks and Hispanics.

2 However, it's not true, when you look at the
3 residential patterns, that all of the high-income
4 Blacks and all of the high-income Whites and all of
5 the high-income Asians and Hispanics, they live in
6 certain census tracts. And then all of the middle
7 income, et cetera, et cetera.

8 What you see is that, in fact, it is about
9 race; that the Whites, whether they are sort of
10 wealthy, or less wealthy, are grouped in certain
11 tracts. And the Blacks, whether it's kind of
12 wealthy, or less wealthy, are grouped in certain
13 tracts.

14 Et cetera.

15 So, the myths are there, and sometimes people
16 don't even realize it, they're not thinking of it
17 consciously, but I think it influences how seriously
18 they take this issue.

19 If you have another narrative going on in
20 your head, that tells you this isn't really a big
21 deal, that it doesn't really happen, et cetera, you
22 will not be aggressive in your work. You will not
23 choose to put the resources that are required to do
24 the [indiscernible] -- to take care of the task.

25 SENATOR SKOUFIS: I have one final question,

1 briefly.

2 You made it clear that you don't believe the
3 department of state, the division of licensing
4 services, is taking this seriously enough.

5 For the record, on a scale of 1 to 10,
6 "1" being the, basically, not serious at all, and
7 "10" being serious -- the most serious, how would
8 you rate the department of state in their taking
9 discrimination -- housing discrimination in
10 New York State seriously?

11 ELAINE GROSS: I would put it at a minus 1.

12 FRED FREIBERG: I would agree.

13 I -- I think it depends on when you're
14 talking. But, right now, as of this moment, I'd say
15 it's a zero.

16 I don't think it's -- their efforts have
17 really demonstrated any success in this area.

18 Thank you very much.

19 Senator Thomas.

20 SENATOR THOMAS: Thank you both for your
21 testimony.

22 I have a question for Fred, and for Elaine.

23 I'll start with Fred, first.

24 Compared to the other tests that you have
25 conducted, is there anything about the results from

1 Long Island testing that stand out?

2 FRED FREIBERG: No, I don't think so.

3 I mean, I -- I sort of cut my teeth in this
4 field on doing sales testing back in 1976 in
5 Milwaukee, Wisconsin.

6 We did a large sales investigation, very much
7 like this, as part of a national HUD study. And we
8 found a 63 percent level of race discrimination in
9 that study.

10 Compare -- not that these studies can be --
11 you know, they're not apples and apples in terms of
12 comparison. But it certainly is shameful, if all
13 the progress we've made is, from 63 percent, to
14 49 percent, in 40-some years.

15 I don't think there's anything remarkable
16 about them.

17 Some of the tests were very similar to tests
18 I saw back in 1970.

19 Some of them are more subtle, but yet still
20 show the disparate treatment in some ways.

21 I mean, fortunately, testing can ferret that
22 out even when there aren't remarks made, or, you
23 know, direct evidence of discrimination.

24 SENATOR THOMAS: I heard from both of you, in
25 terms of the lack of action by state agencies and

1 municipalities.

2 You were here when both County Executive
3 Steve Malone and Laura Curran were testifying to
4 what they are now doing to mitigate all of this.

5 What are your thoughts on their testimony?

6 ELAINE GROSS: Well, certainly, their
7 testimony suggests that they are at the very
8 beginning of a process. And so there are, you know,
9 we would like to plan to do this. We are intending
10 to hire more investigators. We are intending to,
11 et cetera, et cetera.

12 So I think that these are definitely good
13 steps to take.

14 And I do believe, and maybe this is, you
15 know, the conservative aspect of my personality,
16 but, I do think the -- you have to see the -- you
17 know, the proof in the pudding.

18 So, I'm very pleased to have the county
19 executive step forward at this time, in a relatively
20 short period of time, and to say that they wish to
21 take action.

22 But I just caution everyone: This is not --
23 this is not a sprint.

24 This is more like a marathon, hopefully, a
25 fast marathon, a very fast marathon.

1 But I do believe that we have some -- we have
2 some evidence that we can begin to make -- make
3 change.

4 But it does -- sometimes it sounds a little
5 bit too much, like, let's see what we can do around
6 education. Let's see what we can do to -- you know,
7 to get people together. And -- and that kind of a
8 thing.

9 And we need legal action. People who are the
10 bad actors need to be held accountable, and that
11 include local governments.

12 So, I don't want us to forget that aspect of
13 it.

14 SENATOR THOMAS: Both of you testified about
15 the importance of testing.

16 Now, would you recommend that there be that
17 kind of testing in the plan of both the county
18 executives that testified today on what they would
19 be doing, going forward?

20 ELAINE GROSS: Absolutely.

21 There should be more systematic testing, not
22 necessarily saying that the counties should do that.

23 It would be good, perhaps, for them to
24 commission those that have done work like this in
25 the past, to do it, to continue to do it, and to do

1 it more robustly.

2 But there should be funds made available for
3 this work.

4 FRED FREIBERG: I would agree.

5 SENATOR SKOUFIS: Senator Kavanagh.

6 SENATOR KAVANAGH: Thank you both for your
7 testimony today, and for your -- your tremendous
8 work in many aspects of our housing markets, and our
9 continued effort to ensure fairness.

10 And I particularly commend you for -- as
11 someone who's worked on the non-discrimination
12 [indiscernible] source-of-income campaign.

13 Congratulations on that. A great achievement
14 earlier this year.

15 ELAINE GROSS: Thank you.

16 SENATOR KAVANAGH: Just, you --
17 Mr. Freiberg, you mentioned, you called it the
18 "94,000-dollar question," which I think is inflation
19 from the old show.

20 [Laughter.]

21 SENATOR KAVANAGH: But I actually would like
22 to get a sense, just -- let me start:

23 Is there -- is there a jurisdiction -- you
24 mentioned Los Angeles has a substantially larger
25 financial [indiscernible].

1 Are there jurisdictions beyond Los Angeles,
2 that you're aware of from your many years in this
3 field, that do this well?

4 FRED FREIBERG: Well, there are jurisdictions
5 that support local fair-housing groups to do
6 testing, and partner with organizations to do
7 testing, yes, there are a number of them.

8 But there is a general, and I've seen it come
9 and go over the years.

10 I mean, there was a time when the
11 Massachusetts Commission Against Discrimination had
12 a very aggressive program. But then when leadership
13 changed, it stopped being so aggressive.

14 So, again, the political winds, again,
15 dictate whether -- you know, the posture of the
16 local enforcement agencies.

17 I -- so I -- I -- I see good examples, but
18 how long are they going to be there?

19 And -- and that's always a fundamental
20 concern of mine.

21 There has to be an ongoing commitment to
22 carry on this work, and not just an occasional
23 dabbling in -- in fighting housing discrimination.
24 It should be sustained.

25 So I -- I think that's -- that's my real

1 concern.

2 The only people that have been able to
3 sustain this kind of activity have, generally, been
4 those involved in private civil rights
5 organizations, because we know it works.

6 Government knows it works too.

7 I mean, HUD, for all the resources they've
8 spent on testing nationally, they know that it's
9 more likely a complaint filed with them will end up
10 with a probable cause if there's a test done on the
11 complaint, yet they do not have a testing program.
12 They don't have one internally with their
13 enforcement program.

14 So there is this disconnect between what we
15 know works and what we actually commit resources to,
16 to do.

17 SENATOR KAVANAGH: And just to be clear:
18 You -- my understanding from your testimony is that,
19 testing is an important component of two different
20 aspects of this.

21 First of all, when there is a complaint, as
22 an appropriate means of investigating and
23 corroborating and validating that complaint.

24 But, also, given the nature of this field,
25 where, as was testified earlier, people often can't

1 be aware -- you testified to this, and Mr. Brown as
2 well, it's difficult for people to be aware that
3 they are experiencing discrimination, until -- and
4 because they're not present to see how other clients
5 might be treated.

6 FRED FREIBERG: That's correct.

7 And it should be used in both contexts.

8 SENATOR KAVANAGH: And do either of you have
9 a -- an opinion on, sort of, an appropriate scale of
10 funding?

11 If we wanted this kind of work to be done,
12 noting -- you note that it takes lots of resources,
13 it takes lots of people.

14 What would be the scale of a statewide
15 program that does adequate testing to identify these
16 issues as they arise?

17 FRED FREIBERG: Well, the curious thing is,
18 I mentioned HUD has funded testing for a number of
19 years. They have a fair-housing initiatives
20 program. And they give a one-size-fits-all grant to
21 every fair-housing group in the country, \$300,000.

22 So if you're in expensive New York City, or
23 you're in Grand Rapids, Michigan, or Bend Harbor,
24 you get \$300,000.

25 So, our dollars don't go very far in

1 New York.

2 And that number's actually gone down. It
3 used to be closer to \$350,000 HUD was giving. So
4 it's actually decreased over the years.

5 That barely sustains fair-housing groups
6 around the country.

7 It's a small part of our budget, but it's
8 90 to 95 percent of many fair-housing groups in the
9 country.

10 So, it has to be something above that amount
11 if we really want to get serious about this problem.

12 I think it -- it really has to be gauged,
13 based on how serious and aggressive you want to be
14 in fighting housing discrimination.

15 The City has determined it takes
16 100 investigators to visit all 26,000 restaurants.

17 When you consider lenders and real estate
18 companies and management companies and -- and
19 rental-housing providers, and so forth, all involved
20 in these activities, we have to talk about a
21 significant amount of money to sustain testing.

22 So, I would -- I'm hesitant to say this, but
23 if was a million dollars a year, it would only make
24 a dent in the problem right now.

25 So, I mean, I think we have to think big

1 about this issue, and what kinds of resources would
2 really make a difference in getting compliance.

3 We've had relatively modest resources and
4 we've gotten significant results with individual
5 housing providers, sometimes large providers.

6 But it's still a very fraction of the market
7 that we've been able to impact.

8 SENATOR KAVANAGH: Ms. Gross, do you have
9 anything to add to that?

10 ELAINE GROSS: I don't. Not -- not -- but
11 I'm sure that, Fred, if he were given an opportunity
12 to, and you said, Well, "give me a number, how much
13 would you like?" he'll come up with something.

14 [Laughter.]

15 SENATOR KAVANAGH: Okay, well, kidding aside,
16 you know, a hundred -- about 108 days or so the
17 state budget is due. And so we are beginning that
18 the process very soon.

19 So we look forward to having further
20 conversations with you and your organization and
21 your coalition about this topic.

22 FRED FREIBERG: Great.

23 SENATOR KAVANAGH: Thank you.

24 SENATOR SKOUFIS: Senator Kaminsky.

25 SENATOR KAMINSKY: Thank you, both.

1 Just want to dig into some of the questions
2 about what is, and then see how we can move forward.

3 So, in New York, let's take, in the last five
4 years, aside from "Newsday", how much undercover
5 testing was done at all?

6 FRED FREIBERG: In the New York City region?

7 SENATOR KAMINSKY: Yeah.

8 FRED FREIBERG: I can only speak to my
9 organization, but we usually are able -- we've got
10 three investigative coordinators who coordinate the
11 testers; they go out.

12 So it's largely dependent on how much of a
13 load those three people can take.

14 So it's about 200 -- 200 or so tests a year
15 that go out.

16 Some of those are in response to complaints,
17 but the vast majority are part of planned systemic
18 investigations.

19 SENATOR KAMINSKY: Okay, so the -- the State
20 does not do this themselves?

21 In other words, they don't have --

22 FRED FREIBERG: No.

23 SENATOR KAMINSKY: -- okay.

24 Are there other states that actually do it,
25 undertake it themselves?

1 FRED FREIBERG: There have been, over time,
2 there was a time when the State of Kentucky did.
3 There was a time when the State of Massachusetts had
4 a very aggressive program.

5 It is very -- they've come and gone --

6 SENATOR KAMINSKY: Okay.

7 FRED FREIBERG: -- through different
8 administrations.

9 SENATOR KAMINSKY: And out of these 200 or so
10 tests, the State does not -- State, nor county,
11 funds any of these?

12 FRED FREIBERG: No, no.

13 SENATOR KAMINSKY: Okay. And that test
14 represents what type of impact on the whole market?

15 Is that, this "200," a robust number, or is
16 it a pittance?

17 What does it mean?

18 FRED FREIBERG: Well, for us, it's --
19 we're -- we probably file more lawsuits based on
20 testing than any fair-housing group in the country.

21 So we've had some impact, we've opened up a
22 lot of doors, and so forth.

23 But as -- and when you're talking about the
24 New York City region, and the number of housing
25 providers, I mean, there's 300,000 co-ops in

1 New York City alone -- or, 300,000 co-op units in
2 New York City alone. There's tens of thousands of
3 property management companies.

4 It's very hard to tell you that we've had a
5 massive impact, but we've impacted, where we have
6 found discrimination, we have changed the practices
7 of those housing providers.

8 SENATOR KAMINSKY: And what's happening
9 across the state?

10 Are people doing this in Syracuse, in
11 Buffalo, and Albany, and to what extent?

12 FRED FREIBERG: There are testing programs in
13 Syracuse, Buffalo, and Rochester.

14 SENATOR KAMINSKY: Okay.

15 So I think you've kind of -- without actually
16 saying this, but you've kind of equated this to,
17 like, an undercover officer. Like, someone going to
18 sell drugs, perhaps, would be on the lookout for
19 that. And it's obviously a deterrent that they
20 might be selling to an undercover officer, or,
21 someone in organized crime may have their phone
22 wiretapped, et cetera.

23 You -- you're saying that, on the whole, that
24 disincentive to do wrong is not very prevalent in
25 the real estate industry because the chance of being

1 detected in one of these tests is very low?

2 FRED FREIBERG: You're absolutely correct.

3 SENATOR KAMINSKY: Okay.

4 And if -- is there an example throughout the
5 country of a real estate company itself testing
6 itself?

7 FRED FREIBERG: There are lenders and
8 real estate companies that have their own
9 self-testing programs.

10 And that's our recommended best practice.

11 If I owned a real estate company, or a bank
12 or financial institution, I would do testing, to
13 make sure that my employees were complying with the
14 law.

15 I think it just makes good sense.

16 SENATOR KAMINSKY: Okay. And should one of
17 the things we be looking at, possibly requiring them
18 do that within their -- their own practices?

19 FRED FREIBERG: Yes.

20 However, you know, it's a little -- I mean,
21 I absolutely think it's a good practice.

22 Whether it will deter all of the
23 discrimination that's out there, though, that's --
24 that's another issue.

25 I think --

1 SENATOR KAMINSKY: Yeah --

2 FRED FREIBERG: -- you still need enforcement
3 action.

4 SENATOR KAMINSKY: -- right.

5 I mean, I would like to think that, if one is
6 going to commit a crime within the confines of a
7 corporate structure or within a company, that you
8 not only be worried about outside forces, but you'd
9 like to think someone inside the company wouldn't
10 want you doing it either.

11 FRED FREIBERG: Correct.

12 SENATOR KAMINSKY: Okay.

13 And has there been a system, that you know
14 of --

15 Because I -- I like the idea of this in my
16 own head, I'm about to say it out loud.

17 -- but why don't we have some of the
18 real estate companies that are contributing to the
19 racist outcomes help pay for testing from
20 organizations like yours?

21 FRED FREIBERG: Well, in our case, we do
22 often file as a co-plaintiff in the case, and we are
23 entitled to recover damages.

24 So that is part of the revenue we take in a
25 year from violators. So that is how -- how we've

1 helped sustain ourselves.

2 I've suggested, however, that the State might
3 find one -- one way to raise money to pay for
4 systemic testing across the state, is to raise the
5 fees for licensees.

6 And because it's a very modest rate right --
7 right now, and I think a fairly modest raise could
8 actually generate a great deal of revenue across the
9 state, that could be used for testing.

10 So I agree with your -- your concept.

11 SENATOR KAMINSKY: Okay.

12 Now, this is for both Elaine and Fred, very
13 difficult question.

14 But when -- what is your sense of what is
15 happening, when a minority couple walks into an
16 office, a real estate agent, just in a -- in a
17 disparate fashion, steers them to a community they
18 think would be more -- you know, more along their
19 lines of where they think they should go, not
20 exactly where the buyers would go if they had full
21 choices presented on them?

22 What -- what -- what is -- what is happening
23 in that room?

24 What is the real estate agent trying to
25 accomplish?

1 Where is this coming from?

2 And why, in 2019, are we -- are we -- are we
3 talking about this as if this is 50 years ago?

4 What's happening in that room?

5 What's happening in their mind?

6 What's happening in this room?

7 Where's this coming from?

8 ELAINE GROSS: So first of all, I would say
9 it's not possible for me to be inside the mind to
10 understand exactly what real agents are doing it,
11 and why it's motivating them.

12 But I can say that we do know that there are
13 a lot of people who have not, for example, taken one
14 of our two-day "Unravel the Racism" training
15 programs, where you really begin to look at
16 yourself, and understand, where have you gotten the
17 ideas that you have about people who are different
18 from you?

19 When was the first time that you learned that
20 people were treated differently based on race?

21 And where did you get those messages?

22 We get those messages not only from our
23 families, but from the media, big time.

24 And so it's all around us.

25 And unless you've been trained to understand

1 that, you assume -- you know, we're well-meaning
2 people, we assume that everything's just fine.

3 But we don't know the narrative that's going
4 on in the back of our head, that is telling us
5 things that are going to have a disparate impact on
6 people.

7 And so that's part what's going on, I think,
8 with the real estate agents.

9 You know, they are -- some of them may be
10 assuming that, as I said, in terms of our survey
11 work: This is where they want to go, this is where
12 they want to live. I'll take them over there.

13 Some of them may be intentionally saying, we
14 know that sometimes they have said, "I don't want
15 them" -- you know, "I don't want them in my
16 community, so I'll take them over there."

17 So it's a lot of different things.

18 SENATOR KAMINSKY: And -- and is it your
19 impression that one can become a real estate agent
20 on Long Island and have never been having this
21 discussion within their own company, within their
22 training, within their manuals, at all?

23 ELAINE GROSS: Absolutely.

24 SENATOR KAMINSKY: So that seems, to me, a
25 critical place where we want to focus; that one can

1 be in the position to have such an important, almost
2 influence in what happens in our society, yet never
3 have a conversation about diversity or race or
4 ethics within their own company before they get to
5 be in that position?

6 ELAINE GROSS: That's right, because, as a
7 society, we don't want to talk about race anyway,
8 you know.

9 FRED FREIBERG: And if [indiscernible
10 cross-talking] --

11 ELAINE GROSS: It -- it's -- it is really
12 considered -- I mean, some people even think, if you
13 talk about race, you must be racist.

14 I mean, it's crazy.

15 So, we -- there is a lot that needs to
16 happen, so that we are ready to have what is
17 obviously an uncomfortable conversation for folks.

18 But, they need to understand our history
19 around race, and how race has been enshrined in
20 government, in our policies, in our geography, and
21 how it is a part of all of us, whether we are
22 consciously aware of it at any given moment, or not.

23 So that kind of understanding is very
24 important for these gatekeepers. I mean, they are
25 the ones that are -- really take the -- the

1 opportunities that people would have, they have that
2 in their hands.

3 And what they do -- what happened to me
4 personally, when I wasn't allowed to access housing
5 that would have been cheaper for me, and nicer for
6 me, and I was sent to a place that had vermin, had a
7 big impact.

8 So this is not something that is just on
9 paper. This is something that is real.

10 SENATOR KAMINSKY: And -- and I -- I know,
11 Ms. Gross, I speak for all of us when we say that
12 we're so grateful to have you at the helm,
13 helping -- helping fight back.

14 And your expertise is going to be very
15 important to us, going forward, and your experience
16 has helped guide us today.

17 Lastly, Fred and Elaine, what -- what happens
18 to the enforcement side?

19 Let's say we're able to get money for
20 testing, let's say we're able to get good training
21 in place.

22 What happens when we find out someone is
23 operating improperly?

24 Do we have enough?

25 Is the system set up to do something, where

1 that, something will matter, something impactful
2 will happen?

3 Or, do we not have the penalties and/or
4 enforcement in place to do something if we're -- if
5 we're good enough to get to where you'd like us to
6 be?

7 FRED FREIBERG: Well, I think there's a
8 number of ways to answer that.

9 There -- the laws that exist right now, state
10 and federal laws, fortunately, have the private
11 right of action.

12 So when we have evidence of discrimination,
13 we could go to one of the government agencies that
14 enforce the laws and present our complaints there.

15 But we've had a dismal experience, frankly,
16 with that. Every time we've gone to the state
17 division of human rights, we practically had to go
18 to an Article 78 in state court and have their
19 decisions overturned. And we succeed each time,
20 too.

21 SENATOR KAMINSKY: Can you stop for a second?

22 So you'll go to a state agency and say, "Look
23 what our testers found," and they will say, what?

24 FRED FREIBERG: And -- and they will come out
25 with a finding that completely obliterates any sense

1 that there was disparate treatment, even though it's
2 obvious.

3 So we have to take it to state court to
4 overturn decisions.

5 And this happens time and time again.

6 The state agencies that are set up -- and
7 yous got a glimpse of this a little bit.

8 If you listened to the county executives, you
9 heard them say: We're going to get some staff now
10 for our human rights commission. We're going to get
11 an advisory board.

12 Well, is that to suggest that it was just
13 cosmetics before that?

14 And I think you'll find at the local level
15 that's often the case.

16 At the state level, however, you have real
17 agencies that, potentially, could enforce the law.

18 But, for instance, the state agency is very
19 consumed with employment discrimination, with other
20 kinds of discrimination.

21 Housing has been a fairly low priority for
22 them, and they haven't shown a real aptitude to
23 investigate and -- and actually sanction housing
24 providers.

25 We generally get six figures, seven figures,

1 in our cases as part of damages and remedies.

2 Show me the recovery from the state agency.

3 I'll match our list to their list any day of
4 the week.

5 And if you want to deter discrimination in a
6 capitalist society, you've got to have stiff
7 financial penalties to really dissuade people from
8 continuing to engage in this activity.

9 SENATOR KAMINSKY: I appreciate you assuming
10 the capitalist society.

11 FRED FREIBERG: Well, I think that's fair to
12 assume.

13 SENATOR KAMINSKY: Thank you.

14 SENATOR SKOUFIS: Thank you.

15 I want to acknowledge that
16 Senator Monica Martinez has joined us.

17 One very brief follow-up on
18 Senator Kaminsky's question -- or, request rather.

19 Could you supply our committees with the data
20 that you have about just how often your
21 organizations have overturned state decisions in
22 court on these matters?

23 FRED FREIBERG: Sure.

24 SENATOR SKOUFIS: Okay. Thank you.

25 Next up, Senator Gaughran.

1 SENATOR GAUGHRAN: Thank you, Mr. Chairman.

2 And thank you both, not just for being here,
3 but for your advocacy and what I know is your life
4 work.

5 I recognize that there is a lot that we have
6 to do in this area.

7 First of all, it's not a problem that's going
8 to be solved simply by the State of New York.

9 This is an area where we have federal law, we
10 have state law. We have counties. We have towns
11 and villages that control the zoning.

12 So it's got to be done at different levels.

13 And I also recognize that, and that's why
14 these hearings I think are good, because we're
15 probably going to have to pass a variety of new laws
16 to deal with this, as well as, perhaps, you know,
17 and I would be supportive, of trying to get
18 something in the budget, so that we can really help,
19 particularly with the testing issue.

20 But when I first read the "Newsday" articles,
21 the first thing I did was look at the law. And
22 I saw that the section of the law that licenses the
23 sales people, as well as the brokers, did not have
24 any specific language in it that would allow the
25 department of state to actually suspend or revoke a

1 license.

2 I mean, there's some language there. You
3 know it speaks of fraud, misrepresentation, and
4 trustworthiness, and competency.

5 So perhaps there's -- there's sort of some
6 threads that could be used, but it seemed to me that
7 there was nothing explicit.

8 So that's why I introduced legislation that
9 would add to the law, that a real estate broker or
10 sales person's license could be suspended or revoked
11 by the department of state.

12 I recognize it's not the whole solution to
13 the problem, but I guess my question is, on your
14 thoughts on that?

15 And it would also seem to me that, in my
16 mind, it would deal with the issue of, when you're
17 talking about, Fred, when we slow down when we see
18 the police officer, that, in the back of the minds
19 of some somebody in the industry who, you know, may
20 want to see what they can away with, at least they
21 will always have in the back of their head, you
22 know, I could lose my license, I could lose my
23 livelihood.

24 And -- but I think it also goes to the
25 question that was raised before, in terms of, but

1 how would this work if we're not getting people
2 filing complaints?

3 So, you know, perhaps that's where, in
4 conjunction with some funding, we would be able to
5 do that.

6 What -- what's your, both you, thoughts
7 [indiscernible cross-talking] --

8 FRED FREIBERG: Absolutely.

9 First of all, I commend you for the
10 legislation that you proposed, because I think it
11 makes it unambiguous then, that they have a duty and
12 a responsibility to investigate claims of
13 discrimination filed against licensees.

14 And I think that's important.

15 It was done, as you suggest, previously,
16 based on trustworthiness, misrepresentations, and so
17 forth, which is often part of the acts of
18 discrimination that occur. So they were on solid
19 ground to make those assumptions.

20 But I think your -- your law would make it
21 unambiguous, and I think that's a good thing.

22 I think where it could help, because,
23 actually, when I came to New York in 2004, by 2006,
24 we already had some recordings of agents, licensees,
25 who were involved in discrimination. And we went

1 and filed with the division of licensing services.

2 And lo and behold, investigators came to our
3 office. They were professional, they were thorough.
4 They listened to the recordings. They actually
5 wrote up findings. And they took back -- they took
6 it back to actually propose disciplinary action.

7 And we thought, well, this is a -- this a new
8 day. This is -- this is great.

9 And -- and then we proceeded to say, okay,
10 we've got some more licensees we've caught engaged
11 in illegal activities, so let's bring it to
12 licensing.

13 And then, by that time, we were told, Oh, no,
14 no, no. We can't do that anymore. If you come to
15 us with a judgment from a court, or a finding from
16 the state division on human rights, then we'll look
17 at it. But we're not just going to take your
18 recording and -- and investigate that.

19 Well, that really shouldn't be the case.

20 They should be able to look at any compelling
21 evidence, such as the recordings in the "Newsday"
22 investigation, and make some call as to whether that
23 constitutes a violation of the licensee's
24 responsibilities, or not.

25 SENATOR GAUGHRAN: So this is a follow-up.

1 So in that particular instance, do you think
2 this change in law would have given them the tools
3 to be able to act?

4 FRED FREIBERG: I would hope so. I would
5 hope that your law suggests that they don't have
6 complete discretion and options as to whether to
7 investigate acts of discrimination, but that there's
8 a "shall" in there somewhere.

9 And if there is, I think that's -- that would
10 be a sea change.

11 SENATOR GAUGHRAN: Okay.

12 Ms. Gross, did you have any thoughts?

13 ELAINE GROSS: Yeah, I don't have anything to
14 add to that, other than to thank you for putting the
15 law forward.

16 Being more explicit is always better.

17 I just don't want anyone to think that there
18 wasn't plenty of opportunity and evidence, in terms
19 of ethical, professional behavior, to bring forward
20 charges against those agents that were being
21 discriminatory.

22 SENATOR GAUGHRAN: Thank you, both.

23 SENATOR SKOUFIS: Senator Boyle.

24 AUDIENCE MEMBER: Excuse me.

25 [Inaudible comments from audience member.]

1 SENATOR SKOUFIS: Please we're not taking
2 comments from audience members. I'm sorry.

3 [Inaudible comments from audience member
4 continues.]

5 SENATOR SKOUFIS: We'll be happy to follow up
6 with you after the hearing.

7 AUDIENCE MEMBER: Thank you. But I need
8 everyone to know [inaudible comments from audience
9 member continues.]

10 SENATOR SKOUFIS: Please, we can't -- we
11 can't have this interrupted. I apologize.

12 [Inaudible comments from audience member
13 continues.]

14 SENATOR SKOUFIS: With all due respect,
15 ma'am, please, we have -- we have witnesses who are
16 waiting. We have witnesses here who are testifying.

17 [Inaudible comments from audience member
18 continues.]

19 SENATOR THOMAS: Let --

20 [Inaudible comments from audience member
21 continues.]

22 SENATOR THOMAS: -- ma'am --

23 [Inaudible comments from audience member
24 continues.]

25 SENATOR THOMAS: -- ma'am, let us -- let us

1 continue with --

2 SENATOR SKOUFIS: We are -- we are trying to
3 do the work that you're advocating for.

4 You're disrespecting the witnesses who are
5 here.

6 Please.

7 [Inaudible comments from audience member
8 continues.]

9 SENATOR SKOUFIS: Senator Boyle --

10 SENATOR BOYLE: Thank you.

11 SENATOR SKOUFIS: -- apologize for that
12 delay.

13 AUDIENCE MEMBER: I don't apologize.

14 SENATOR KAVANAGH: Let me just say, that's --
15 that's what we're here for.

16 SENATOR BOYLE: First, I'd like to thank
17 "Newsday" for their landmark series, and the Chairs
18 for holding this hearing.

19 And thanks, obviously, to the panelists
20 today.

21 My question is very specific, actually.

22 One of the things I noticed, that -- since
23 the series came out, I've talked to a number of
24 advocates and real estate groups. Long Island Board
25 of Realtors wants to be very proactive in this.

1 We're all very concerned about it.

2 And one of the things that was in the series
3 was that, a realtor might be asked by a tester --

4 Or, in actuality, I do a lot of real estate
5 law.

6 -- you know, "What about the school
7 district?"

8 Right?

9 That seems to be the number-one question that
10 people -- that the people ask when they're going to
11 realtors, whether they have kids, or whether they're
12 older and they're going to sell their house at some
13 point, going, "What about the school district?"

14 And I got the impression from the article
15 that perhaps they were thinking, Is this a code, or
16 a buzzword, or a dog whistle, as to who lives there
17 and what's their ethnic make-up, about the school
18 district?

19 Can you just tell me and the other panel --
20 panelists here, what -- what's the appropriate way
21 of saying that without being racist or
22 discriminatory?

23 FRED FREIBERG: Well, I guess I'll take the
24 first step, but I imagine you'll have something to
25 say about this too.

1 I -- I think the real -- real estate industry
2 know -- has known for a long time that references to
3 schools, particularly in areas like New York City
4 and Long Island where the schools are very
5 segregated, that it can become a proxy for race.

6 SENATOR BOYLE: Right.

7 FRED FREIBERG: And so the problem with a lot
8 of the conduct we viewed on the recordings, and in
9 the tests that were conducted, was agents -- and in
10 those cases, incidentally, just so you know, the
11 testers did not bring up the subject of, How are the
12 schools? or anything like this.

13 You may be describing the situation that a
14 real homeseeker might do, but that's not what
15 happened here.

16 The agents affirmatively brought up the
17 subject.

18 So I think the general rule of thumb is, that
19 agents are not experts on schools, and they ought
20 not to be rendering opinions on the qualities of
21 schools.

22 If they want to direct someone to a website
23 or to information, I think that's -- and they direct
24 everybody to the same information, then I think
25 they're on pretty solid ground.

1 But when they start offering their personal
2 opinions, "This school is bad," you know, "Elmont is
3 a terrible place for schools," even though the
4 Elmont High School is a 96 percent graduation rate,
5 and -- you know, has -- you know, has -- has a great
6 track record, I think they get into trouble, and
7 because they're really talking about the race of the
8 students, not -- not the performance of the school.

9 SENATOR BOYLE: Thank you.

10 ELAINE GROSS: Yeah, and I would just echo
11 that, and also say that, you ask about, "Is it a dog
12 whistle? or something."

13 And it goes back to the prior comment that
14 I said: Usually, when the realtors get into that,
15 they aren't giving everybody the same information.

16 And so, while you can't get into the head of
17 that realtor, the reality is, that they're using
18 that to talk about race.

19 And so -- and -- and it's clear, they're not
20 supposed to be doing that.

21 SENATOR BOYLE: Thank you.

22 SENATOR SKOUFIS: Next up, Senator Liu.

23 SENATOR LIU: Thank you, Chair Skoufis.

24 Thanks for being here.

25 I feel like -- I feel like it's 1950.

1 And that some of the things that I'm hearing
2 from the two of you, and reading in this report,
3 it's just -- it's an awakening. A rude -- a rude
4 and nauseating awakening, is what it is.

5 So I want to thank the Chairs for having this
6 hearing.

7 You know, "Newsday," and Arthur Brown and his
8 team --

9 And I've been on the receiving end from
10 Arthur Brown myself, so...

11 -- but, his report, their report, stop at the
12 confines of the Long Island borders. They don't --
13 they don't go beyond that [indiscernible] -- in
14 Suffolk counties.

15 But you -- the two of you are experts on this
16 matter.

17 What I would ask you: If this kind of
18 project was conducted anywhere else in the state of
19 New York, would you expect similar results?

20 I mean, this is not a problem that's isolated
21 on Long Island.

22 ELAINE GROSS: It's not a problem that's
23 isolated on Long Island, but Long Island's history,
24 which Senator Thomas spoke to at his opening
25 remarks, that history means that Long Island is

1 particularly pernicious.

2 And so -- you know, and we haven't had the
3 kind of investigation that "Newsday" did. I don't
4 believe that that's happened anywhere else in
5 New York State, certainly not in recent history.

6 So, you know, maybe we don't have that kind
7 of evidence, but I do think that, wherever it's
8 happening, and if it's a little better somewhere
9 else, or a little worse somewhere else, it doesn't
10 matter. It's -- it's all bad.

11 FRED FREIBERG: My answer to your question
12 would be: I think you could replicate this in most
13 metropolitan areas around the country and get the
14 same results.

15 It might be, as Elaine said, some slightly
16 worse, some slightly better. But I think you'll
17 find that the real estate industry has been given a
18 pass for many years.

19 The last big racial steering cases were
20 actually brought in the 1980s in this country. And
21 since then, there's been sort of a tacit assumption,
22 or, I don't -- I don't what -- you know, what the
23 actual word is here, but it strikes me that they --
24 they've not been scrutinized the way they should
25 have been.

1 And I've suspected all along the
2 discrimination is just as pervasive everywhere.

3 From my experiences in working in other
4 markets around the country, and the rental testing
5 I've done in Detroit and Miami and Los Angeles, and
6 other places, when I was with the department of
7 justice, told me that there weren't a lot of
8 variations between these metropolitan regions.

9 If they're very segregated, there's a good
10 chance that there are violators operating in the
11 housing market, and that race still infects, in a
12 systemic way, housing-market practices.

13 SENATOR LIU: So, we're going to hear from
14 some real estate executives, shortly.

15 I think, my guess, is that they will probably
16 say that they're complying with the laws. And to
17 the extent that they have violaters among the ranks
18 of their agents, they're bad apples and they'll be
19 dealt with.

20 Do you think that -- do you think the
21 companies, the real estates companies themselves --
22 I mean, we have small -- small brokerages or
23 agencies, but we have some very large companies
24 all -- as well, that -- that either give out
25 franchises, or operate their own company-run

1 brokerages. They provide training.

2 Are those companies responsible for some of
3 this, or, is it just bad apples?

4 FRED FREIBERG: Well, the companies are
5 responsible for the bad apples.

6 So if they have -- if they have agents who
7 are violating the fair-housing laws, the principal
8 brokers are -- are going to have to be looking at
9 the potential that they will be accused of
10 discrimination as well, because they're responsible.

11 If you run a business, and you have people
12 doing business on your behalf, you're responsible
13 for what they do.

14 So, it's incumbent upon these companies to
15 have solid policies in place, not just the three
16 credits of training that real estate licensees are
17 required to get, but internal policies.

18 If you or I ran a company, presumably, we
19 would want to make sure that our employees are
20 following our rules.

21 And I'm not so sure that companies are always
22 as conscientious about adopting solid fair-housing
23 policies internally and enforcing them with their
24 employees.

25 SENATOR LIU: Well, it was mentioned before

1 that, you know, part of the problem could be that
2 it's -- it's very difficult to be caught, or, it
3 would rare for some in -- either an agent or a
4 company to be caught in this kind of discriminatory
5 practice.

6 Is it -- is -- should the fines or penalties,
7 therefore, much more substantial than they currently
8 are?

9 And should it fall the individual agents, or
10 the companies more so?

11 FRED FREIBERG: Well, the --

12 ELAINE GROSS: I think --

13 FRED FREIBERG: -- yeah, go ahead.

14 ELAINE GROSS: I think it's -- it's critical
15 that we not try to say that, somehow, real estate
16 companies are different than other companies.

17 Companies would not say, Well, it's okay if
18 I have these people working here, and they're in the
19 finance department, but they really don't have
20 finance skills.

21 You know, no one would say that.

22 But, somehow, it's okay to have people
23 working in real estate companies, and -- you know,
24 but they're really up on what they can do, and can
25 do -- can't do, or what they're supposed to be

1 doing.

2 They really don't have a full appreciation
3 for what it means to offer quality service to
4 everybody who walks in your door; ethical service,
5 non-discriminatory service.

6 So, somehow, you know, there's a real
7 disconnect, that real estate companies, it's -- you
8 know, the agents are -- you know, they're just on
9 their own and they'll do what they do.

10 So, yes, the companies are definitely
11 responsible.

12 And if it was a priority, like it was a
13 priority for some other aspect of their
14 qualifications, then they would see to it that all
15 of the agents were doing what they're supposed to.

16 FRED FREIBERG: Let me offer one more
17 explanation. I was going to flip -- flip this on
18 its head with another question that was asked of me
19 before, but I think it's -- this is probably a good
20 opportunity to do it, and that is:

21 When you look at the history of real estate
22 from the very beginning, 1908 was the beginning of
23 the organized real estate industry in this country.

24 By 1913, they were advising all of their
25 members to not contribute to race mixing.

1 By 1970, they -- '17, they were handing out
2 race-restrictive covenants, and ordering their
3 members to comply.

4 By 1924 to 1950, they had their code of
5 ethics, which actually obligated a real estate -- a
6 realtor to discriminate. It was an ethical
7 obligation to discriminate. And they sanctioned
8 agents who didn't comply with that.

9 Not only did the industry do that, but then
10 they developed a model agreement, and sent it around
11 to all the state licensing agencies, and said,
12 "Adopt our code of ethics, and sanction licensees
13 the same way."

14 And 32 states adopted that code, [microphone
15 turned off] and did, in fact, sanction real estate
16 agents who did not comply with the requirement to
17 discriminate.

18 By 1927, they were circulating model
19 race-restrictive covenants.

20 By 1928, half of all homes owned by White
21 people in the United States have race-restrictive
22 covenants.

23 Now that's compliance.

24 [Microphone turned on.]

25 They know how to get compliance with their

1 membership, if they want to, because they did it in
2 segregating this society.

3 Now it's time to flip this on its head and
4 say to them, Show the same zeal now in enforcing
5 your code of ethics, which now requires agents not
6 to discriminate.

7 SENATOR LIU: So I'm not -- I'm detecting a
8 slight lack of confidence on your part about the
9 real estate [microphone turned off] industry.

10 [Microphone turned on.]

11 My question is: Should penalties be raised?

12 FRED FREIBERG: Penalties --

13 SENATOR LIU: Should they be --

14 FRED FREIBERG: Penalties for the division of
15 license and services certainly shouldn't be at
16 \$1,000. Those should be raised.

17 But the penalties under the fair-housing laws
18 are actually sufficient. It's just the lack of
19 enforcement that is the problem.

20 SENATOR LIU: Thank you.

21 Thank you, Mr. Chair.

22 SENATOR SKOUFIS: Next up, Senator Brooks.

23 SENATOR BROOKS: Thank you, Mr. Chairman.

24 A lot of comments that was made by several
25 people this morning, already, in terms of the number

1 of complaints and violations, is the fact that most
2 consumers don't recognize they've been discriminated
3 against.

4 How do we change that?

5 How do we get the folks that are dealing with
6 realtors, at whatever level, better understand what
7 services and what actions they should be expecting?

8 ELAINE GROSS: Well, there certainly can be
9 much more aggressive effort to tell people about
10 their rights, and to -- you know, there should be,
11 you know, the PSAs on television and the radio.
12 And the agencies responsible for enforcing fair
13 housing, and the licensing, you know, the realtors
14 as well, should be very up front.

15 Everybody needs to be much more vigilant and
16 persistent in letting the general public know that
17 they have rights, and what to do about it. And to
18 make it -- you know, make it easier for people to
19 file complaints, and that kind of thing.

20 But I think as Fred has said several times,
21 it's very hard for an individual, even if they knew
22 they had rights.

23 You know, when I was discriminated against,
24 the person was very nice to me.

25 I only found out about it after the fact,

1 that I had been discriminated against.

2 SENATOR BROOKS: Do we need a consumer's bill
3 of rights-type situation when dealing with realtors?

4 FRED FREIBERG: The problem, Senator, again,
5 I think is that, if -- if I was to send you out into
6 the housing market, and I had an African-American
7 man your age go out opposite you, and you went in
8 and you requested housing, and it was given to you,
9 you were shown units, and so forth, and your
10 African-American counterpart was treated very
11 nicely, very friendly, given all the courtesies, but
12 told, Uhm, I've got nothing here, but maybe I've got
13 another building somewhere else; who -- you wouldn't
14 file a complaint in this situation. And your
15 counterparty wouldn't either, because he would have
16 no knowledge that you were shown those apartments,
17 or shown those homes.

18 And that's -- that -- I apologize for
19 harkening back to that constantly, but this is the
20 point of the "Newsday" story: You can't know that
21 you're being discriminated against.

22 No amount of education.

23 I have worked with people with high
24 degrees -- educational degrees, who came back and
25 said, I didn't know I was treated differently than

1 my counterpart.

2 It has nothing to do with your awareness or
3 education, or anything.

4 It really has to do with the nature of the
5 discrimination itself, which has now been reduced to
6 a point where people, consumers, can no longer
7 detect that discrimination is occurring.

8 SENATOR BROOKS: It's absolutely something we
9 have to address.

10 I think, too, as many of these problems are
11 being identified, we have to look at
12 continuing-education requirements that have to go to
13 the realty community.

14 And there's been a quick discussion here in
15 terms of penalties.

16 And I think, Elaine, in your response to one
17 of the questions you had, your emotional reaction
18 demonstrates, clearly, the real damage that's being
19 done here, from an emotional standpoint.

20 And I think, realistically, when we look at
21 this, and we realize how flagrant it is in the end,
22 I think the penalty has to truly fit the crime.

23 ELAINE GROSS: And the best thing to do, is
24 that those individuals cannot be licensed real
25 estate agents. That's the best penalty.

1 And I understand, you know, there are
2 processes, and, et cetera, but that's where it needs
3 to end up, and it needs to get there in a fairly
4 speedy way.

5 SENATOR BROOKS: Thank you, Mr. Chairman.

6 SENATOR SKOUFIS: Thank you.

7 Rounding out this series of questions,
8 Assemblyman Lavine.

9 ASSEMBLYMAN LAVINE: I'd like to thank the
10 Senate for convening this critically important
11 hearing.

12 And I'd also like to thank my colleagues and
13 friends in the Senate for allowing me, as a mere
14 member of the Assembly, to participate.

15 And I want to thank as well, Elaine and Fred,
16 for your commitment to justice, and for being at the
17 frontline of the battle for human rights, not just
18 today, but for years.

19 [Applause.]

20 ASSEMBLYMAN LAVINE: That's a good applause
21 line.

22 Fred, you referenced the need, perhaps you
23 suggested the need, for a statewide zoning and
24 appeals board.

25 How would you -- and this is a question for

1 both of you: How would you imagine or envision such
2 an entity would function?

3 FRED FREIBERG: Well, we have a recent
4 example of a community right here in Nassau County
5 who was actually found liable for engaging in race
6 discrimination in their -- in exclusionary zoning
7 practices: Garden City.

8 It's taken 14 years to get an outcome on that
9 case.

10 Is this how we propose to override and deal
11 with exclusionary zoning on a community-by-community
12 basis?

13 I would hope not, because there aren't enough
14 attorneys to bring 14 years of litigation against
15 each community that's engaged in these practices.

16 We have to find way to create a state agency
17 that could -- would have the authority to override
18 local zoning where it appears that decisions are
19 being made for discriminatory reasons, or just to
20 delay and stall in order to elude their obligations
21 to produce some affordable housing.

22 And -- and we see this time and time again.

23 You just celebrated, I guess, the development
24 in East Northport that had been languishing for
25 40 years.

1 And now, at the end of the day, eight units
2 of affordable housing for people with disabilities
3 is the outcome.

4 That's pretty sad, when it started out as an
5 all-affordable development, and it took 40 years to
6 actually get any housing built at all.

7 This -- this can't be the way we provide
8 affordable housing on Long Island, or any anywhere
9 else in the state.

10 So our belief is -- and there was a zoning
11 appeals board in place at one point in our state's
12 history, but it was actually -- its authority was
13 taken away from it.

14 And -- and I know a little bit about the
15 history.

16 And I think we need to look at it again
17 because, without having -- there are cases where
18 people, even as of right, have an ability to build
19 housing, and there are delays by the locality to
20 give permits, to get back to developers, and they
21 try to stall as long as they can until the developer
22 loses interest or financing.

23 And that's got to stop.

24 There has to be a way to short-circuit that
25 process if it's known that it's being done

1 deliberately to try and avoid allowing this housing
2 in the community.

3 We need to expand housing choices for people
4 at all income levels. And -- and we have to find
5 some mechanism at the state level to facilitate
6 that.

7 And I know this is controversial, and I know,
8 in Long Island certainly it would be.

9 But I think this is a serious problem.

10 It's a problem in Westchester County.

11 It's a problem in Rockland County.

12 It's not peculiar to Long Island.

13 ELAINE GROSS: I'll just add just one other
14 footnote.

15 It was only a week ago, or two weeks ago,
16 when I was offering testimony, when the final piece
17 of funding to support the affordable-housing project
18 that Fred was referring to, in Huntington, came
19 before the Suffolk County Legislature.

20 And even after 30 years, after the
21 Supreme Court ruled that the Town had discriminated
22 against the developer trying to build the housing,
23 for that 30-year period, you would think that a
24 Supreme Court case would make everybody stand at
25 attention and do what they're supposed to do.

1 But it was 30 years later, and we also
2 weren't sure, at that Suffolk County hearing, when
3 they were voting on funding for infrastructure, that
4 would be the last little financial piece to allow
5 that development to move forward, it was not clear
6 up until the day that we had the votes.

7 So that just tells you that the -- the
8 persistence of being determined, that we are going
9 to keep that community White, you'll have to walk
10 over us in our grave before we'll change, I mean,
11 that is the -- that's the attitude.

12 ASSEMBLYMAN LAVINE: So let me -- let me say
13 this:

14 You have both highlighted the absolute need
15 for government involvement here to address this
16 crisis.

17 And after all, it's only fair because,
18 government, along with other major institutions,
19 certainly played a role in getting us to where we
20 are today.

21 But -- and you quoted some of the giants of
22 the twentieth century, Einstein and Dr. King.

23 I want to just add one other quote, that
24 I hope you'll use, and that is a quote of America's
25 greatest lawyer of the twentieth century,

1 Thurgood Marshall, who said, "Yes, laws really do
2 change the hearts of men and women."

3 And, finally, Elaine, you described what had
4 occurred to you with great emotion.

5 And we have -- we have felt that.

6 And, perhaps, and especially perhaps, given
7 what's going on in our nation today with hate,
8 hatred running rampant, and reasons for that lie
9 elsewhere other than this hearing today, but,
10 perhaps, each and every American of good faith must
11 rise to the occasion, and become not just someone
12 who has an interest in fairness, but become an
13 actual anti-racist.

14 Our nation depends on that.

15 And thank you both.

16 ELAINE GROSS: Thank you.

17 FRED FREIBERG: Thank you.

18 SENATOR SKOUFIS: I want to sincerely thank
19 you for your contributions today.

20 And I strongly suspect that in the coming
21 weeks and months we will continue to be speaking
22 with one another.

23 ELAINE GROSS: Okay. Thank you.

24 FRED FREIBERG: Thank you.

25

1 SENATOR KAVANAGH: Next up we have -- excuse
2 me -- Ryan Gorman, president and CEO of NRT, LLC.

3 Thank you, Mr. Gorman, for your -- first of
4 all, just to begin: Do you solemnly swear or affirm
5 to tell the truth, the whole truth, and nothing but
6 the truth?

7 M. RYAN GORMAN: I do.

8 SENATOR KAVANAGH: Great. Thank you.

9 Okay, so, Mr. Gorman, first of all, you -- so
10 you understand you have an obligation to testify
11 truthfully here today.

12 Is there in you reason you cannot meet that
13 obligation?

14 M. RYAN GORMAN: No.

15 SENATOR KAVANAGH: Thank you.

16 Are you represented by counsel here today?

17 M. RYAN GORMAN: I have counsel here today.

18 I also have a written statement [inaudible].

19 SENATOR KAVANAGH: Okay.

20 Okay, thank you.

21 Why don't you begin with your open statement.

22 M. RYAN GORMAN: Sure.

23 Good morning, and thank you for the
24 opportunity to appear before you today, and to
25 participate in this important process.

1 My name is Ryan Gorman. I'm the president
2 and chief executive officer of NRT, LLC, the
3 company-owned real estate brokerage operations of
4 Realogy Holdings Corporation, headquartered in
5 Madison, New Jersey.

6 I've been with Realogy since 2004, serving in
7 a variety of strategic development and operational
8 roles.

9 I've served in my current role since January
10 of 2018, and I'm a member of Realogy's Corporate
11 Executive Committee.

12 Realogy is a global real estate services
13 firm, with both company-owned and franchised real
14 estate brokerages across six main brands:
15 Better Homes & Gardens Real Estate, Century 21,
16 Coldwell Banker, Corcoran, ERA, and
17 Sotheby's International Realty.

18 Realogy also offers a variety of real
19 estate-related services beyond brokerage, including
20 relocation, title, settlement services.

21 Finally, we maintain a residential
22 mortgage-lending joint venture.

23 While Realogy operates globally, the U.S. is
24 our largest market, and we have more than
25 10,000 employees and nearly 200,000 U.S.-based

1 independent-contractor real estate agents affiliated
2 with either our company-owned brokerages or our
3 independently owned and operated franchisees.

4 Realogy's company-owned real estate
5 brokerage, NRT, operates as Coldwell Banker
6 Residential Brokerage, the Corcoran Group,
7 Citi Habitats, and Sotheby's International Realty in
8 the state of New York.

9 In total, for those NRT brokerages, there are
10 4,300 real estate agents affiliated with our
11 company, operating out of 58 offices across the
12 state of New York.

13 Within those statewide numbers, on
14 Long Island, there are approximately
15 1,240 affiliated agents, and approximately 25 office
16 locations of our company-owned brokerages.

17 In short, Realogy is a global, national, and
18 local leader in residential real estate services.

19 And, as a leader, we embrace our implied
20 obligation to lead the industry in crucial areas of
21 both consumer service and consumer protection, both
22 in word and in deed.

23 For instance, fair-housing awareness and
24 acknowledgment have long been important components
25 of NRT's agent onboarding procedures.

1 As an example, when a real estate agent
2 affiliated with one of our company-owned
3 Coldwell Banker brokerages on Long Island,
4 affiliates, they're required to sign a fair-housing
5 pledge, in which they commit to provide equal
6 professional service to all, without regard to race,
7 color, religion, sex, handicap, familial status,
8 national origin, sexual orientation, gender
9 identity, or other protected status of any
10 prospective client, consumer, or resident of any
11 community.

12 Each of NRT's agents is also required to
13 maintain his or her real estate license with
14 New York State.

15 Accordingly, each agent must attend
16 fair-housing continuing-education classes to satisfy
17 the requirements of the New York State real estate
18 licensing regulations.

19 At present, the regulations require each
20 agent to complete three hours of fair-housing
21 training every two years.

22 [Audio malfunction begins.]

23 NRT agents also contractually agree to comply
24 with all federal, state, and local laws, including
25 fair-housing laws.

1 We take fair housing -- we take the recent
2 fair-housing-related reporting by "Newsday" very
3 seriously.

4 While many of the real estate agents tested
5 by "Newsday" served all testers well and equally, we
6 were deeply concerned with the actions and
7 statements of those agents featured in the report,
8 and did not [indiscernible].

9 Realty does not, and will not, tolerate any
10 notion of illegal housing discrimination.

11 Realty supports the Long Island Board of
12 Realtors' investigation of any members identified in
13 the "Newsday" report, so that all the facts and
14 circumstances can be assessed [indiscernible].

15 It's the realtor's duty to provide services
16 to all people consistent with New York law.

17 Realty also fully supports the actions
18 announced by Governor Andrew Cuomo, Long Island
19 [indiscernible], and will participate in any
20 continuing dialogue with state and local lawmakers
21 [indiscernible].

22 [Audio malfunction resolved.]

23 While we await results of the investigation
24 of the Long Island Board of Realtors, we are also
25 conducting our own inquiry, with the assistance of

1 an independent third party, and we will take
2 appropriate action based on our findings regarding
3 any of the agents affiliated with any company-owned
4 brokerage.

5 Further, these events have afforded us an
6 opportunity to evaluate the training NRT provides
7 and requires of its independent-contractor real
8 estate agents and employees in New York and around
9 the United States.

10 We'll be taking additional action to augment
11 that [indiscernible] require today, specifically
12 focused on fair housing and, potentially, other
13 consumer protections.

14 Beyond compliance, we will work to grow our
15 companies' and our industry's understanding of
16 unconscious bias, as well as unintended consequences
17 of even well-meaning actions that may be driven, in
18 part, by assumptions or stereotypes.

19 We also believe more can be done to expand
20 the scope and impact of existing fair-housing
21 regulations.

22 For example, Realogy is a committed and
23 active supporter of the Fair Housing Act, and is
24 actively advocating for the expansion of these
25 protections with the Equality Act.

1 In fact, we are proud to be the first
2 residential brokerage to sign on to the Equality Act
3 in HR 1447, to amend the Fair Housing Act to include
4 LGBTQ+ as a protected class.

5 We're also a major supporter of many industry
6 groups specifically focused on underrepresented
7 populations within our communities and within our
8 sales offices, working to help grow these
9 organizations and move their missions forward.

10 Realty is proud to receive the "World's Most
11 Ethical Company" designation by Ethisphere Institute
12 for eight consecutive years, and we continuously
13 encourage, and expect, our independent-contractor
14 real estate agents who choose to affiliate with us
15 to uphold and prioritize the same commitment to
16 ethics, including the ethical imperative of
17 equality.

18 Realty is committed to serving all consumers
19 well and equally during an important milestone
20 moment in their lives: the buying or selling of a
21 home.

22 We're proud that the work of our agents, and
23 that the work of our company, helps New Yorkers find
24 a place to call home, and helps the communities
25 across the state grow, prosper, and move forward.

1 As the largest residential real estate
2 brokerage and franchisor in the United States, we
3 accept our responsibility to lead the industry in
4 recommitting to understanding and upholding both the
5 letter and spirit of fair-housing laws, and, to
6 doing our part to ensure communities we serve have
7 equal and fair access to home ownership.

8 Thank you again for the opportunity to
9 testify, and I do welcome any questions.

10 Thank you.

11 SENATOR KAVANAGH: Thank you very much for
12 your testimony.

13 And just to note, we'll discuss this later,
14 but we -- there were a number of participants
15 [indiscernible] that were invited here today to
16 testify. And we'll be discussing, later in hearing,
17 our efforts to, you know, get that -- get them
18 before us.

19 But, you know, we do acknowledge that you are
20 a -- voluntarily here today to speak about these
21 very important issues, and -- and your company's
22 role in -- in the industry.

23 So we thank you for that.

24 Have you had a chance to review the
25 "Newsday's" reporting on its investigation in its

1 entirety?

2 M. RYAN GORMAN: In its entirety, I'm not
3 sure I have reviewed the "Newsday" reporting.

4 It's entirety, I'm not positive. There was
5 quite a bit of video.

6 So I'm not sure [indiscernible
7 cross-talking] --

8 SENATOR KAVANAGH: You reviewed it
9 extensively and thoroughly. Okay.

10 M. RYAN GORMAN: Yes.

11 SENATOR KAVANAGH: And did you, in
12 particular, have the opportunity to review the --
13 there were about four or so hours of videos
14 regarding employees or agents of NRT companies,
15 including Coldwell Banker Residential Brokerage?

16 M. RYAN GORMAN: Well, I can't speak to any
17 individual agents today.

18 I can say that I did review the video in the
19 main store, as well as, I believe, the follow-up
20 videos related to those agents.

21 SENATOR KAVANAGH: Okay, good.

22 Arthur Brown, the project director of
23 "Newsday's" investigations, testified earlier that
24 "Newsday" offered all companies the opportunity to
25 view videos and other evidence gathered during the

1 investigation, before publication.

2 Did you, or to your knowledge, anyone else at
3 NRT, take that opportunity before publication of
4 this article?

5 M. RYAN GORMAN: No.

6 I saw the videos when it was published.

7 We're, as I outlined, a large company.

8 I was not reached out to directly by
9 "Newsday," but I do believe individuals in the
10 company were.

11 And I did not take advantage of seeing the
12 videos. I don't think anyone in the company did.

13 SENATOR KAVANAGH: Okay. So you -- just --
14 to make sure I caught that, you're saying that you
15 believe that that opportunity was offered, but that
16 nobody from NRT took that opportunity, to your
17 knowledge?

18 M. RYAN GORMAN: I believe so, yes.

19 SENATOR KAVANAGH: Okay.

20 I'd like to move to a discussion of the
21 actions of some particular real estate agencies who
22 worked with NRT's companies, who are subject of the
23 investigation.

24 So, first -- we're going to show a video clip
25 in just a moment.

1 So first up, this is Akhtar Somekh of
2 Coldwell Banker Residential Brokerage of Great Neck.

3 And on August 16, 2016, Ms. Somekh met with
4 Kimberly Larkin-Battista, who was looking for a home
5 in the North Shore, near the water, at a price of up
6 to \$2 million.

7 And Ms. Larkin Battista was a "Newsday"
8 tester.

9 Have you -- maybe we should show the -- let's
10 just show -- can we show Clip Number 10?

11 [Start of Video Clip 10.]

12 [Unable to transcribe video clip; poor
13 audio quality and acoustics.]

14 [End of Video Clip 10.]

15 SENATOR KAVANAGH: First of all, let me
16 begin, the sound quality was not pristine.

17 Were you able to make out the dialogue in
18 that?

19 M. RYAN GORMAN: I believe much of it, yeah.

20 SENATOR KAVANAGH: Okay.

21 So just -- I would just note that:

22 Ms. Larkin Battista is a White woman.

23 And that the same comments made by the agent
24 there were not made to the paired tester, who was
25 Hispanic -- of Hispanic background.

1 So just -- let me just begin by asking:
2 What's your reaction to what you just saw and heard?

3 M. RYAN GORMAN: So I'm happy to participate
4 today, and speak to the larger issue, and what we
5 should do, moving forward.

6 But, with the ongoing attorney general
7 investigation, as well as Long Island Board of
8 Realtor investigation, and our own inquiry, I won't
9 speak directly to any individual agents today.

10 SENATOR KAVANAGH: So, just, you aren't
11 willing to comment today on whether what you saw
12 comports with the law or the standards of NRT?

13 M. RYAN GORMAN: Some of the topics that were
14 lifted up by that video, one was referenced earlier
15 today, in terms of school districts, as well as what
16 the real estate agent's role would be related to
17 school districts.

18 And I concur with some of the earlier
19 testimony, that real estate agents should be able to
20 point to alternative resources.

21 Real estate agents are not experts in school
22 districts, and should point to alternative resources
23 that a consumer can use to learn the information
24 they want to learn about those districts.

25 SENATOR KAVANAGH: Okay.

1 And just -- just to be clear, and, you know,
2 I'm not sure -- since it's a big room, I'm not sure
3 all of the audio was entirely clear, but, among the
4 statements, we just saw this quote:

5 "Recently we got a lot of Chinese/Oriental
6 coming in Great Neck.

7 "In the beginning they start going to south
8 because they have their friends and family,
9 everybody south, and it became overwhelmed.

10 "Usually, the great thing about Great Neck,
11 is they keep their amount of students smaller
12 than 20.

13 "They tried do it, but South School, when it
14 became very crowded, so they gave Kensington and
15 Great Neck a choice of North or South.

16 "This is the new rule."

17 And just to be clear: Do you believe that
18 that kind of commentary is appropriate?

19 M. RYAN GORMAN: So, again, while I can't
20 speak the to any individual agents, certainly, you
21 raised another topic, in terms of demographic
22 information, which is another topic where real
23 estate agents should not be participating in the
24 general discussion of demographic information.

25 SENATOR KAVANAGH: Okay.

1 To your knowledge, has NRT or Coldwell Banker
2 taken any action with respect to Ms. Somekh
3 concerning this incident?

4 M. RYAN GORMAN: So with respect to any
5 individual agent today, I won't be speaking to
6 individual actions.

7 SENATOR KAVANAGH: Okay. Can I -- I'm just
8 going to give you a copy of some commentary from the
9 "Newsday". We'll call this Exhibit A.

10 M. RYAN GORMAN: Thank you.

11 SENATOR KAVANAGH: And can you just read the
12 highlighted portion?

13 M. RYAN GORMAN: The Post-It note?

14 OFF-CAMERA SPEAKER: Correct.

15 M. RYAN GORMAN: And you would like me to,
16 what, read this into the record? Is this not --

17 SENATOR KAVANAGH: Yes, if you would.

18 M. RYAN GORMAN: -- okay.

19 So this is from the "Newsday" -- I guess
20 "Newsday" report, under "Agent and Company
21 Responses":

22 "Agent Akhtar Somekh did not respond with
23 an" -- "did not respond to an invitation to view
24 video recordings of her meetings with testers or to
25 follow up e-mails and phone calls requesting

1 interviews."

2 "The company provided the following
3 statement" -- I'm sorry.

4 "The company provided the following
5 statement:

6 "Incidents reported by "Newsday," that are
7 alleged to have occurred more than two years ago,
8 are completely contrary to our long-term commitment
9 and dedication to supporting and maintaining all
10 aspects of fair and equitable housing.

11 "Upholding the Fair Housing Act remains one
12 of our highest priorities, and we expect the same
13 level of commitment of the more than 750 independent
14 real estate salespersons who choose to affiliate
15 with Coldwell Banker Residential Brokerage on
16 Long Island.

17 "We take this matter seriously, and have
18 addressed the alleged incidents with the sales
19 persons."

20 I believe that's the conclusion of it.

21 SENATOR KAVANAGH: All right. Thank you.

22 And just -- so the question is: You stated
23 publicly that NRT and Coldwell have, quote,
24 addressed the alleged incident with the salesperson.

25 Can you just tell us what sort of action that

1 would entail?

2 M. RYAN GORMAN: Again, with respect to any
3 individual agent or circumstances of this inquiry,
4 I won't be speaking to individual agents.

5 SENATOR KAVANAGH: So just -- again, just --
6 we're trying to get some clarity of a statement the
7 company's already made publicly to the media.

8 You're unable to tell us how -- how, in what
9 manner, that the company has -- has addressed the
10 alleged incident, as you've said [indiscernible
11 cross-talking] --

12 M. RYAN GORMAN: I believe this statement is
13 a statement that preceded the publishing of the
14 story, if I'm not mistaken --

15 And someone from "Newsday" could perhaps
16 verify that.

17 -- where we were provided with letters, with
18 certain excerpts.

19 And based upon those letters, as outlined
20 here in this statement, action -- inquiry and action
21 was taken.

22 Subsequent to this, the videos were posted,
23 as you've mentioned, extensive videos were posted,
24 which we -- have now made their way into our
25 inquiry, and will make their way into our actions.

1 SENATOR KAVANAGH: Okay, again -- so just to
2 be -- just to be clear, you can't answer today
3 any -- anything about any inquiry or action that was
4 taken with respect to this agent?

5 M. RYAN GORMAN: Correct.

6 SENATOR KAVANAGH: Okay.

7 I'd like to turn to the actions of a second
8 agent who worked with NRT's companies as well.

9 This is Rose Marie Mirando [ph.] of
10 Coldwell Banker Residential Brokerage of
11 East Setauket.

12 Forgive my pronunciation. I'm
13 geographically-challenged on Long Island.

14 This is on May 27, 2016.

15 Ms. Mirando met with Lawrence Samuels, who's
16 seeking to purchase a home within 30 minutes of
17 Port Jefferson, for up to \$500,000.

18 Why don't we roll Clip Number 27, please.

19 [Start of Video Clip 27.]

20 THE AGENT: [Indiscernible] bath, basement,
21 two-car garage, you know, something like that. Yes,
22 so I'm already, in my head, thinking of certain
23 inventory for you.

24 [Indiscernible] Stoney Brook, it's okay.

25 I just -- I -- you know, you may -- you don't

1 really know certain areas --

2 THE TESTER: Uh-huh.

3 THE AGENT: -- what you're going to get next
4 door.

5 THE TESTER: Right.

6 THE AGENT: That's the problem. And there's
7 pockets [indiscernible] too, you know, down by the
8 train, any area there.

9 What I say is, always to women, Follow the
10 school bus.

11 You know, that's what I always say: Follow
12 the school bus. See the moms that are hanging out
13 on the corners.

14 Wherever you're going to buy diapers, you
15 know, during the day, go at 10:00 at night, and you
16 see if you like [indiscernible].

17 I mean, really, that's the way to really take
18 a look at.

19 I tell women this all the time.

20 THE TESTER: Right, right.

21 THE AGENT: There was one fellow who would --
22 like, insisted on this house. And the wife was
23 pregnant, had a little one, and I said to him,
24 I can't say anything, but I encourage you, I want
25 you to go there at 10:00, with your wife, and buy

1 diapers. Go to that 7-Eleven.

2 He didn't buy there. [Laughing.]

3 THE TESTER: No, that's great.

4 THE AGENT: I have to say it without saying
5 it.

6 You know, you have the knowledge of the
7 areas, you know.

8 THE TESTER: Yes.

9 THE AGENT: And, look, I care for families.
10 I'm a family person.

11 THE TESTER: Right.

12 THE AGENT: I care for my children.

13 And, you know, when you're putting them in
14 other people's care, I take first-time homebuyers
15 there all the time.

16 I don't want to use the word "steer," but
17 I try to --

18 THE TESTER: No, that's [indiscernible] --

19 THE AGENT: -- [indiscernible] I educate in
20 the areas, you know.

21 THE TESTER: Absolutely. That's
22 [indiscernible] --

23 THE AGENT: I was a first-time homebuyer
24 myself one time, and I remember what the first agent
25 told us, I don't know, 30 years ago.

1 And I'm, like, what a creep.

2 When you think about it now, you know, and
3 how much I've learned over the years, I mean, it's
4 all about the location.

5 THE TESTER: Right.

6 THE AGENT: And you're going to want to have
7 good resale value.

8 THE TESTER: Right.

9 [End of Video Clip 27 stops.]

10 SENATOR KAVANAGH: Okay. So, again, this was
11 during a 26-minute conversation between Ms. Mirando
12 and Mr. Samuels.

13 And can I ask just for your reaction to what
14 we just saw?

15 M. RYAN GORMAN: So with regard to any
16 individual agent, I won't be speaking about the
17 content or the company's reaction or action related
18 to the individual agents.

19 SENATOR KAVANAGH: Okay.

20 Without commenting on the -- on the specific
21 treatment of this agent, do you believe that the
22 activity you just saw, that kind of exchange, is
23 appropriate?

24 M. RYAN GORMAN: So generally speaking, it's
25 inappropriate for a real estate agent to comment on

1 individual areas in ways that involve demographics
2 and, in some cases, school information.

3 That is a segment that was just shown of
4 something larger.

5 So I can say, with regard to demographics and
6 school districts, it would be inappropriate to
7 reference.

8 SENATOR KAVANAGH: If a -- if an agent says
9 something as we just heard, like, "I don't want to
10 use the word 'steer,' but I try to -- I educate in
11 the area," do you think that the substitution of the
12 verb "educate" for the verb "steer" alters the basic
13 nature of that interaction?

14 M. RYAN GORMAN: So, again, I won't speak to
15 individual commentary of agents, but, certainly,
16 "steering," and any euphemisms for "steering," or
17 any proxies for "steering," are inappropriate and
18 unacceptable.

19 SENATOR KAVANAGH: Okay.

20 And I won't hand you Exhibit B, which is a
21 similar text from "Newsday".

22 But, again, this company stated that it
23 took -- it takes this matter seriously, and have
24 addressed the alleged incidents with the
25 salespersons in question.

1 Again, can you -- can you confirm that NRT
2 has, in fact, addressed the incidents with respect
3 to the salespeople in question, as you stated in a
4 comment to "Newsday"?

5 M. RYAN GORMAN: So, again, that statement
6 was prior to the release of the article, as well as
7 the video.

8 And I believe, subsequent to the video, the
9 commentary we provided to the committee, was that we
10 have launched our own inquiry, and we're also
11 participating here today with the attorney general's
12 process, as well as the Long Island Board of
13 Realtors process.

14 SENATOR KAVANAGH: But you had taken some
15 action in advance of publication, as you stated, in
16 the -- to "Newsday"?

17 M. RYAN GORMAN: Yeah, the statement made is
18 accurate.

19 SENATOR KAVANAGH: Can you tell us what, if
20 anything, was done in that stage, before the --
21 before the publication and the investigation?

22 M. RYAN GORMAN: No.

23 With regard to an any individual agent or
24 circumstance, I won't be commenting on that.

25 SENATOR KAVANAGH: Okay.

1 We'll continue that dialogue, going forward.

2 Can you speak to your -- some of your
3 prepared remarks touched on this, but I want to
4 discuss in more detail, NRT's actions, or your
5 subsidiary's actions, that you've taken to assure
6 compliance with federal, state, and local laws that
7 bar discrimination.

8 So you mentioned that -- I'll quote you here:
9 Fair-housing awareness and acknowledgment have long
10 been important components of NRT's agent onboarding
11 procedures.

12 Can you tell us how that works?

13 M. RYAN GORMAN: Sure.

14 In that particular instance, when an agent
15 joins our organization, they, literally, sign and
16 attest to a number of things, one of which is, their
17 current and enforced license, which, of course,
18 would require them to abide by New York State law.
19 And, having taken initial licensure, as well as
20 continuing-education courses that include Fair
21 Housing Act.

22 Two is, the signature to the -- our own
23 fair-housing policy, and acknowledgment, based on
24 our fair-housing pledge, that they would separately
25 acknowledge, separate and apart from the State

1 requirements.

2 And then ongoing from there, we have a number
3 of programs and procedures, and we touch on, of
4 course, fair housing, as well as other ethics and
5 compliance topics, throughout the year.

6 SENATOR KAVANAGH: And can you provide this
7 committee with a copy of that document that's
8 pledged, that your agents are asked to sign at the
9 beginning of their relationship with NRT or
10 [indiscernible cross-talking] --

11 M. RYAN GORMAN: I'm sure we can follow up.

12 It is publically available on all of our
13 websites as well.

14 SENATOR KAVANAGH: Do you -- is there a
15 standard process and a standard pledge throughout
16 all of the NRT companies, or is there -- does
17 that -- does that process vary among different
18 affiliates?

19 M. RYAN GORMAN: So NRT is an entity that's
20 grown through acquisition. And, so, as different
21 companies have become part of our organization,
22 they've adopted the approach that I just outlined.
23 But there is some variation among the different
24 entities. For instance, Sotheby's, Cocoran, and
25 Coldwell Banker in the state of New York have some

1 degree of variation.

2 SENATOR KAVANAGH: Can you talk about what
3 kind of variation that would be?

4 M. RYAN GORMAN: In terms -- for the most
5 part, it relates to what is augmented, in terms of
6 fair-housing-awareness training; programs that are
7 put on during the year.

8 They may vary.

9 For instance, between New York City and
10 Long Island, New York City has a specific set of
11 laws, I'm sure you're aware, and the training
12 related to those laws is specific to New York City;
13 where, Corcoran and Sotheby's operate, largely, and
14 Coldwell Banker, largely, does not on the
15 owned-brokerage side.

16 SENATOR KAVANAGH: So just -- just with
17 respect -- we'll talk a little bit more about
18 training in a minute.

19 But just with respect to this policy of
20 ensuring that everybody signs a pledge at the
21 beginning of their relationship, that -- you're
22 testifying that that is a -- a standard practice
23 across all of your -- your affiliates?

24 M. RYAN GORMAN: I can't say the same pledge
25 is standard across all of owned-brokerage

1 components.

2 The majority I can attest to, yes.

3 But I want to answer honestly, and I can't
4 say that it is every one of the divisions are
5 signing the exact same pledge. I don't know that.

6 SENATOR KAVANAGH: So it's standard practice
7 to have a pledge, and have it signed, but some
8 var -- perhaps some variation [indiscernible
9 cross-talking] --

10 M. RYAN GORMAN: Standard practice to have
11 acknowledgment of the fair-housing obligations and
12 procedures, but it may vary between the entities.

13 SENATOR KAVANAGH: Does NRT take any steps to
14 confirm affiliates' compliance with that policy?

15 M. RYAN GORMAN: I'm sorry, the agents who
16 affiliate to confirm it?

17 It is part of the onboarding procedure.

18 So, for instance, our onboarding team has a
19 checklist that they'll go through, and then make
20 sure that the files are as complete as they need to
21 be when an agent joins.

22 So this would be part of that -- that
23 compliance procedure.

24 SENATOR KAVANAGH: So there would be a review
25 of -- I mean, I guess I'm asking: So, Coldwell, for

1 example, which is one of the [indiscernible], is
2 there somebody reviewing whether Coldwell is
3 complying with that across their many agents?

4 M. RYAN GORMAN: So our
5 independent-contractor relations and licensing teams
6 would likely be the teams that are ensuring the
7 files are complete.

8 SENATOR KAVANAGH: Have you -- so let's talk
9 about training.

10 Actually, can you describe the training that
11 is available at that stage of their relationship.

12 M. RYAN GORMAN: At the onboarding?

13 There's not a specific training at the point
14 of onboarding.

15 There's training throughout the year, and
16 over the year.

17 So the number-one obligation, of course, is
18 that an agent maintains their license, and completes
19 whatever training is required by the State, which
20 I think you're aware of what that is at this point
21 in New York.

22 So that's required.

23 Additionally, throughout the year, there's,
24 both, continuing-education credit, you know,
25 eligible, as well as non-eligible, training that

1 will take place.

2 It does vary considerably over different
3 points in time and different areas, but fair housing
4 is a component of a lot of different -- of our
5 training programs.

6 Beyond that, we have partnerships with
7 industry organizations that focus on different
8 segments, and, typically, underrepresented segments,
9 of our population.

10 We're often attending those conferences, and
11 inviting individuals from those groups in.

12 We also have a number of programs, an example
13 of which, on the Coldwell Banker Residential
14 Brokerage side, is Agents of Change, which is an
15 inclusivity-focused program, that is sort of an
16 evolution of a program we've had for a while.

17 So, as an example, we've put on, I believe
18 six -- five or six of those in the last few months.
19 And we'll be doing more shortly.

20 Just -- that's a program that's evolved more
21 recently.

22 SENATOR KAVANAGH: Do you confirm -- I mean,
23 do you have -- you have brokers sort of certifying
24 that they've done the training, or do you sort of
25 affirmatively confirm that agents are receiving the

1 training they need, and that --

2 M. RYAN GORMAN: So for the State training,
3 the State's obligation would be to ensure that they
4 have completed the continuing-education
5 requirements. And our obligation is to ensure
6 they've met the State requirements.

7 In terms of beyond that, obligatory training
8 beyond that, that is, as I mentioned in my opening
9 remarks, something that we're looking at, to -- as a
10 potential augmentation to our current procedures, to
11 add additional obligatory training, not just in
12 New York, but nationally.

13 Today, that's not the case; there's not
14 obligatory additional training beyond their -- their
15 [indiscernible cross-talking] --

16 SENATOR KAVANAGH: Beyond -- beyond the
17 minimum required for the State -- the State's
18 licensing program?

19 M. RYAN GORMAN: Right.

20 There's considerable training provided, and
21 available, but not obligatory.

22 SENATOR KAVANAGH: And the -- from the
23 "Newsday" reporting, it sounds like most agents in
24 this area are meeting their training requirements
25 through Long Island Board of Realtors training

1 that's offered by that entity.

2 Is that your sense?

3 M. RYAN GORMAN: I can't speak to that.

4 Certainly, the Long Island Board could speak
5 to it.

6 Continuing-education eligible training is
7 available in a variety of places, both, online,
8 in-person, at conferences, and at state and
9 national.

10 So I can't speak to what the makeup is of it
11 today.

12 SENATOR KAVANAGH: There was some discussion
13 in the "Newsday" reporting about the quality of that
14 training, the extent to which the training included
15 the components that are required regarding fair
16 housing.

17 Has your -- have your companies ever made any
18 effort to assess the quality of that training --
19 the -- the quality of the training that's available,
20 the extent to which it meets minimum legal
21 requirements?

22 M. RYAN GORMAN: No, we've not eval -- to my
23 knowledge, we've not evaluated the specific training
24 available through Long Island Board of Realtors.

25 I can say that this process has led me to

1 believe that we need to have our own training, to
2 augment that which may be available or required from
3 the State.

4 SENATOR KAVANAGH: Okay.

5 [No audio/microphone turned off.]

6 M. RYAN GORMAN: [No audio/microphone turned
7 off.]

8 SENATOR KAVANAGH: [Microphone turned on at
9 very low volume.]

10 Is there any company policies that instruct
11 staff to report information that someone may be
12 working in violation of fair-housing laws?

13 M. RYAN GORMAN: Certainly.

14 So I mentioned earlier that ethics is
15 obviously core to us as a company; has been for a
16 very long time. And we speak extensively about
17 that, all manner of ethics.

18 So all of our employees receive training that
19 is obligatory about ethics, including how and when
20 to report complaints, how and when to field
21 complaints, and what action should be taken when a
22 complaint, or any ethical concern, frankly, you
23 know, arises.

24 SENATOR KAVANAGH: Including complaints about
25 fellow -- about colleagues in the industry, and

1 behavior --

2 M. RYAN GORMAN: Of course.

3 SENATOR KAVANAGH: -- they might --

4 M. RYAN GORMAN: In fact, those are the
5 specific instances we use in training, to make sure
6 awareness and understanding are high.

7 SENATOR KAVANAGH: Okay. Would you be
8 willing to share with the Committee the materials
9 you use for that training, and the -- and any
10 policies -- any formal policies that are distributed
11 to employees and affiliates around that?

12 M. RYAN GORMAN: We can certainly follow up
13 with the Committee's staff that we've been in touch
14 with already.

15 I believe there have been some requests for
16 information already.

17 SENATOR KAVANAGH: Have -- has NRT or your
18 affiliates received complaints of violations of
19 fair-housing standards?

20 M. RYAN GORMAN: I can't speak to individual,
21 you know, complaints, or sort of a number of
22 complaints.

23 We certainly are very large, and have
24 operated for a very long time. But I can't speak to
25 a specific, you know, number or set.

1 SENATOR KAVANAGH: Okay -- okay, can you
2 answer, to your knowledge, has NRT or its affiliates
3 received any complaints of violations of fair
4 housing in the last year, say?

5 M. RYAN GORMAN: And, truly, in terms of time
6 frame, I can't speak to that.

7 So I won't be speaking to individual
8 complaints that we've -- that we have received.

9 SENATOR KAVANAGH: Yeah, I mean, I'm not --
10 maybe we'll get there, but I'm not actually asking
11 you about the details of any individual complaints.

12 Just, has NRT or your affiliates received
13 complaints about any of your agents beyond --
14 outside of this "Newsday" investigation, have you
15 received any complaints of violations of
16 fair-housing laws and standards?

17 M. RYAN GORMAN: We as a company certainly
18 received complaints in -- of all manner.

19 So I -- forgive me if I won't get into
20 details about fair housing, or what was potentially
21 a component of a larger complaint regarding fair
22 housing.

23 But we have certainly received complaints.

24 SENATOR KAVANAGH: Received complaints about
25 fair-housing issues?

1 M. RYAN GORMAN: I think it's fair to say
2 that the scope our company, that's likely been the
3 case.

4 I can't speak individually to it.

5 I did attest to answer honestly, and I cannot
6 answer this question [indiscernible
7 cross-talking] --

8 SENATOR KAVANAGH: No, I appreciate that.

9 And I would -- I'm certainly not asking to
10 you attest to things that you're not familiar with.

11 Is there somebody in your company who would
12 know the extent to which the company has received
13 that kind of complaint?

14 M. RYAN GORMAN: Well, certainly, we take
15 complaints extremely seriously, both in the action
16 we take and the records we keep.

17 SENATOR KAVANAGH: But is there some person
18 in your company that you -- I mean, if you wanted to
19 find out that information, presumably there's
20 somebody you would ask --

21 M. RYAN GORMAN: I can defer to our in-house
22 counsel and the committee staff, if you'd like to
23 follow up.

24 SENATOR KAVANAGH: Okay.

25 Who -- just -- who is the in-house counsel?

1 M. RYAN GORMAN: Depending upon the part of
2 the company, in terms of realty, we have a
3 relatively extensive legal staff.

4 So, for instance, NRT, my legal counsel, a
5 gentleman by the name of Ken Hoffert, is our general
6 counsel at NRT.

7 SENATOR KAVANAGH: Okay.

8 All right, thank you.

9 Do you have a formal practice of
10 investigating complaints about fair housing and
11 other matters?

12 M. RYAN GORMAN: We have formal practices
13 about complaints in general.

14 We don't specify complaint type separately.

15 But we have former -- formal policies
16 regarding complaints, how they should be handled,
17 how they should be followed up.

18 SENATOR KAVANAGH: Can you just explain a
19 little bit about that, how that prac -- that policy
20 and practice works?

21 M. RYAN GORMAN: Sure.

22 In general, if a complaint is lodged, for
23 instance, related to a real estate agent, we have an
24 independent-contractor relations team, as well as a
25 legal team, each of which would be involved.

1 At their discretion, and honoring whatever
2 confidentiality is necessary for that -- that
3 inquiry, they would pull in the operations and
4 brokerage team as well, as necessary, to ascertain
5 additional facts, and then to either determine or
6 recommend what action should be taken from there.

7 SENATOR KAVANAGH: And are all -- all -- any
8 complaint is -- is the subject of at least a
9 preliminary investigation?

10 M. RYAN GORMAN: The term "any" being very
11 broad, I can tell you we have a robust complaint
12 procedure.

13 So, to my knowledge, any complaint that
14 appears to be a legitimate complaint of any kind, we
15 take very seriously, yes.

16 SENATOR KAVANAGH: Do you have any -- is
17 there anything that you can say today about -- from
18 your knowledge, about results of investigations,
19 actions taken by the company, with respect to
20 complaints about fair-housing matters?

21 M. RYAN GORMAN: Sure.

22 We've -- we've absolutely taken action
23 related to complaints, and into the broad scope of
24 ethics, for instance, which I would say this is, you
25 know, under the broad category of "ethics," we have

1 taken action, from training, additional explanation
2 and clarification, to separation, whether they be
3 employees or independent contractors, to additional
4 action even beyond that.

5 SENATOR KAVANAGH: So just to be clear, you
6 would -- when you say "separation," you're talking
7 about terminating the relationship between your
8 companies and a given agent, in response to a
9 fair-housing complaint, if that would be one
10 potential consequence if the complaint were
11 substantiated?

12 M. RYAN GORMAN: As a potential consequence.
13 So employees, of course, there would be
14 termination.

15 With regard to independent contractors, it
16 would be disassociation.

17 SENATOR KAVANAGH: Can you just answer, do
18 they have -- has -- have you, or -- to your
19 knowledge, has your company, or any of your
20 affiliated companies, actually terminated the
21 relationship or ended the relationship with an agent
22 based a fair-housing complaint?

23 M. RYAN GORMAN: I won't be speaking
24 specifically to that.

25 I'm happy to follow up and, you know, field

1 inquiries with the attorney general and others. But
2 I won't be speaking directly to actions we've taken
3 with regard to specific complaints.

4 SENATOR KAVANAGH: Okay, I'm not asking for
5 the action of a specific [indiscernible].

6 I'm asking whether your company has taken
7 that action in -- in any circumstance, that you're
8 aware of, without -- without asking you for the
9 specific agent involved, or even the specific
10 affiliate company involved?

11 M. RYAN GORMAN: Yeah, so speaking more
12 generally, in an attempt to be as helpful as I can,
13 with regard to ethics complaints, we certainly have
14 terminated relationships with both employees and
15 independent contractors.

16 SENATOR KAVANAGH: Thank you. That's
17 helpful.

18 Have you ever conducted paired testing, or
19 any other kind of proactive program, to determine
20 whether employees are, and agents are, complying
21 with fair-housing law?

22 M. RYAN GORMAN: So I've been in this
23 position since January of last year. And over that
24 time, no, I am not aware of any.

25 I believe, though -- again, I want to attest

1 honestly -- we as a company have in the past.

2 But since I've been in this position since
3 January of last year, no, we have not.

4 SENATOR KAVANAGH: Okay, so you believe --
5 you believe that your companies have actually --
6 have done that kind of proactive testing at some
7 point, but not since you've been there
8 [indiscernible] -- you said -- when you say "last
9 January," you mean January of two thousand and...?

10 M. RYAN GORMAN: '18.

11 SENATOR KAVANAGH: -- eighteen?

12 M. RYAN GORMAN: Yes.

13 SENATOR KAVANAGH: Okay, so in the last
14 couple years.

15 M. RYAN GORMAN: Yes.

16 SENATOR KAVANAGH: Who in the company would
17 be familiar with that longer history of that
18 practice within the company?

19 M. RYAN GORMAN: We can follow up.

20 Like, truly, I do not know.

21 We are -- our company is of considerable
22 scope, so we would have to do some work on that.

23 But, truly, I'd have to follow up.

24 SENATOR KAVANAGH: Okay, but you're willing
25 to provide this com -- these committees with

1 additional information about that practice in the
2 past?

3 M. RYAN GORMAN: I'm willing to have
4 additional conversation with the Committee staff
5 about that.

6 I want to be just very cognizant of the
7 additional investigations that are going on, with
8 the attorney general, as well as LIBOR, and others,
9 and make sure we take the appropriate steps.

10 SENATOR KAVANAGH: Okay. Thank you.

11 Moving on to a new topic, how many offices do
12 you and your affiliates have on -- in -- on
13 Long Island?

14 M. RYAN GORMAN: In terms of the
15 owned-brokerage operation, I believe it's 25 offices
16 on -- that would qualify Long Island-specific.

17 And I do not as have the total affiliate
18 count, meaning the franchisee count, on Long Island
19 with me today.

20 SENATOR KAVANAGH: And how do you -- how does
21 NRT and your affiliated companies choose office
22 locations?

23 M. RYAN GORMAN: So NRT -- I'll take the two
24 separately, if you don't mind.

25 NRT being the owned-brokerage segment, we

1 have history of growth through acquisitions. So,
2 for the most part, we have not opened new offices,
3 but, rather, acquired offices over time.

4 The most typical path would be for a
5 broker-owner -- an existing broker-owner to reach
6 out to us, to seek to be acquired, and for to us
7 evaluate that opportunity, and then decide whether
8 or not to move forward with the acquisition.

9 On the franchise side, the non-company-owned
10 side of the business, similarly, it would be an
11 existing broker-owner, typically.

12 We, typically, are not starting new
13 brokerages. We're, typically, a -- what we would
14 refer to as a "conversion franchise."

15 An existing broker-owner reaching out and
16 wanting to explore the opportunity with one of our
17 franchise brands, and then for them to meet with our
18 team, explore the brand, and decide whether or not
19 they want to sign up for a franchise.

20 SENATOR KAVANAGH: And just -- just to be a
21 little more specific, what factors determine whether
22 you choose to make an acquisition?

23 M. RYAN GORMAN: Well --

24 SENATOR KAVANAGH: To affiliate.

25 M. RYAN GORMAN: -- sure.

1 A lot of factors go into determining whether
2 or not to make an acquisition, including our
3 existing market presence, and what market presence
4 we desire.

5 But the financial profile and operations of
6 the company being one of the most determinative.

7 SENATOR KAVANAGH: Just any other factors
8 that you'd like to mention at this stage?

9 M. RYAN GORMAN: Myriad factors, but, no, I'd
10 probably not like to list them all.

11 SENATOR KAVANAGH: Okay.

12 So in terms of -- you said that, you know,
13 the market -- the market -- your current market
14 presence, and the markets you'd like to be in, do
15 your off -- do you have any other office in
16 communities where most residents are individuals --
17 people of color?

18 M. RYAN GORMAN: I honestly don't know the
19 racial breakdown of all the communities of our
20 offices. It's not something we've ever -- I've ever
21 seen.

22 SENATOR KAVANAGH: Okay. So I'm going to
23 list a few communities that are mentioned
24 specifically in the "Newsday" article.

25 Just, if you -- if you have -- if you can

1 say, yes or no, whether you have a presence in those
2 communities, that would be appreciated.

3 So, Fremont?

4 M. RYAN GORMAN: Forgive me, my answer is
5 going to be frustrating here.

6 I don't know all of the locations of our
7 affiliates, for sure.

8 We can definitely follow up on that. And,
9 obviously, feel free to list them.

10 But we can follow up with answers about where
11 our affiliates are.

12 SENATOR KAVANAGH: Okay.

13 So I just -- I -- we would ask about Fremont,
14 Elmont, Hempstead, Brentwood, Central Islip,
15 Union Dale, Roosevelt, and Wyandanch.

16 OFF-CAMERA SPEAKER: Wyandanch (correcting
17 pronunciation).

18 SENATOR KAVANAGH: Wyandanch. Forgive me.

19 I'm originally from Staten Island, not
20 Long Island, and I'm a Manhattan boy now.

21 But, Wyandanch. Thank you.

22 So, again, just to -- just to make a point,
23 "Newsday" noted that there was a lack of
24 larger-scale brokerage businesses in the market in
25 any of the communities in New York that -- in

1 Long Island that are predominantly minority. And
2 that those are serviced by smaller localized
3 brokers, and then, your company, and other
4 companies, have chosen not to locate there.

5 M. RYAN GORMAN: Chose not to locate offices
6 there [indiscernible cross-talking] --

7 SENATOR KAVANAGH: Or locate office
8 [indiscernible cross-talking] --

9 M. RYAN GORMAN: -- [indiscernible.]

10 The function of a real estate office today,
11 of course, being, for the most part, to service the
12 business of the real estate agent.

13 Consumers, typically, not spending much time
14 in our real estate offices. And there being fewer
15 of those offices every day, as agents are more
16 mobile, and as consumers prefer to interact with our
17 agents when shopping with home -- for homes, or
18 working in those agents' homes as well.

19 SENATOR KAVANAGH: But the off -- yeah, but
20 the offices do serve a role within your business of
21 providing access to your services?

22 M. RYAN GORMAN: The -- in terms of
23 consumers?

24 SENATOR KAVANAGH: Yes.

25 M. RYAN GORMAN: Yes.

1 So there was point in time where consumers
2 would definitely avail themselves of an agent's
3 services, primarily through the sales office.

4 That's definitely not the case today.

5 But they are a component of a larger service
6 profile, yeah.

7 SENATOR KAVANAGH: Yeah, but you're still
8 provide -- I mean, so if I, for example, were to
9 walk down the main street of West Hampton, and to
10 note that there are, you know, five or six brokerage
11 offices with storefronts there, I might conclude
12 that those companies -- and I don't know whether any
13 of your affiliates -- but I might conclude those
14 companies believe that that's a place where there
15 might be customers who are looking for services, and
16 want to avail themselves of a kind of an in-person
17 meeting in an office.

18 Is that a fair assumption?

19 M. RYAN GORMAN: It's certainly a fair
20 assumption the way the industry worked historically,
21 more so than today.

22 So, for instance, my decision on whether or
23 not to relocate an office, or shrink an office, or,
24 frankly, today, to consolidate an office, relates
25 much more to our real estate agent's work process,

1 and whether they work more in an office and prefer a
2 location as opposed to work more remotely.

3 SENATOR KAVANAGH: Yeah, and I'm less
4 concerned about the difference between working from
5 home and working from the office, so much as the
6 decision about locating particular offices in
7 particular places.

8 So, again, if you have -- you're saying, if
9 you have agents that want to work in particular
10 communities, you're more likely to have an office
11 there.

12 And you're -- I mean [indiscernible
13 cross-talking] --

14 M. RYAN GORMAN: [Indiscernible
15 cross-talking] --

16 SENATOR KAVANAGH: -- and you're -- I mean,
17 wherever this industry is going, you have dozens of
18 offices currently, so one presumes they're serving
19 some purpose?

20 M. RYAN GORMAN: Yep.

21 Yes, sir.

22 SENATOR KAVANAGH: Okay.

23 What steps, if any, do you take to promote
24 diversity among the agents working for you?

25 M. RYAN GORMAN: Considerable, I should note,

1 first, we don't know the racial profile of either
2 our employees or our agents.

3 It is a voluntary self-identification process
4 that we honor with regard to both.

5 The National Association of Realtors has done
6 some, I assume, mostly survey-generated work, that
7 shows that, in general, the profile of the average
8 real estate agent today lags behind the increasing
9 diversity of the country.

10 And I would argue, given our size, we
11 probably are somewhat akin to the National
12 Association of Realtors' profile.

13 We believe that that's a -- behind where it
14 needs to be, and we have a significant imperative to
15 grow that.

16 So some of the ways that we work, are
17 partnering with industry organizations that focus
18 specifically on groups that are underrepresented in
19 our industry, not solely on racial lines, but there
20 certainly are significant groups that do so.

21 For instance, the National Association of
22 Real Estate Professionals, National Association of
23 Real Estate Brokers, NAGLREP, AREEA, there are a
24 number of groups that focus on these groups.

25 We participate very close with them.

1 I personally participate very closely with
2 them.

3 But we, as a company, sponsor events,
4 participate in events, and bike groups, and partner
5 with them on things, like, our Agents of Change
6 initiatives, which are more locally based, but also
7 partnered nationally at our national and global
8 conventions as well.

9 So, it's certainly an imperative for us.

10 And we'll be doing, you know, more tomorrow
11 than we did yesterday, and, hopefully, more the day
12 after that.

13 But we have considerable work to do as an
14 industry and as a large industry player.

15 SENATOR KAVANAGH: Can you just quantify, or
16 at least give us a sense, of how far you think that
17 the industry is from being representative
18 [indiscernible cross-talking] --

19 M. RYAN GORMAN: I can't.

20 I mean, the only thing -- honestly, the only
21 thing that I've ever seen, to go on, is the National
22 Association of Realtors' member profile.

23 And I -- while I don't have that with me,
24 that is -- that is readily available, and we can
25 certainly follow up with it.

1 It -- I -- I can't say the percentage, sort
2 of, difference between the population served and the
3 population of the sales associates.

4 But I do believe it lags significantly across
5 a few major groups that I can recall, in terms of
6 African-American real estate agents, Hispanic real
7 estate agents, and Asian real estate agents.

8 SENATOR KAVANAGH: Thank you.

9 So in your testimony you stated that you are,
10 quote, conducting your own in -- NRT is conducting
11 its own inquiry with the assistance of an
12 independent third party.

13 Can you, with -- again, without getting into
14 the specific results or the specific findings about
15 agents, can you talk about -- a little bit about
16 what the inquiry would entail?

17 M. RYAN GORMAN: So without speaking directly
18 about these, I can say that, one, I and we are
19 taking extremely seriously the use of, for instance,
20 independent third parties, to ensure that we're
21 doing so in as clear-eyed and unbiased way as
22 possible, so that we can then determine what action
23 we need to take.

24 So while we're taking this event seriously,
25 and the agent's profile in this piece very

1 seriously, there's a much larger opportunity we see
2 here, to improve as a company and as an industry.

3 And so I'm quite focused on the actions that
4 would then flow from this, to try to change the
5 outcomes in the future.

6 SENATOR KAVANAGH: And when -- upon
7 conclusion of that investigation, would you be
8 willing to share the results with these committees?

9 M. RYAN GORMAN: I'd have to follow up on
10 that.

11 Again, I -- I -- I am unlikely to want to
12 share details of the internal investigations, for a
13 variety of reasons, including the attorney general's
14 inquiry. But -- but we can follow up.

15 SENATOR KAVANAGH: Okay.

16 I will note, we will be hearing from the
17 attorney general's office later today about this
18 matter as well.

19 Just -- Mr. Freiberg testified earlier about
20 the long and profoundly disturbing history of the
21 real estate industry affirmatively promoting
22 discrimination and exclusion as a matter of official
23 policy and practice.

24 Are you familiar with that history?

25 M. RYAN GORMAN: I think the level

1 familiarity in this room probably varies
2 significantly.

3 I don't know where I am in that spectrum.

4 I certainly have a relatively deep awareness
5 of our industry's history.

6 SENATOR KAVANAGH: Okay.

7 You testified that you are -- have been
8 designated among the world's most ethical companies.

9 That's quite a designation.

10 And you're, obviously, a major participant in
11 this industry.

12 Do you believe that NRT and your affiliates
13 an ethical obligation to affirmatively promote
14 inclusion beyond minimal standards set by federal,
15 state, and local fair-housing laws?

16 M. RYAN GORMAN: Yes.

17 SENATOR KAVANAGH: Okay.

18 And -- so that obligation would go beyond
19 being neutral with respect to race and ethnicity and
20 other protected classes, but, you know,
21 affirmatively working to ensure that our communities
22 in places like Long Island and elsewhere are
23 inclusive?

24 M. RYAN GORMAN: Yes, absolutely.

25 SENATOR KAVANAGH: Okay.

1 Is -- just -- you've testified for a while,
2 and I do want to allow my colleagues to -- to ask
3 questions.

4 Are there just any other activities or steps
5 that you haven't mentioned, that you'd like to
6 share, that are intended to promote that -- to
7 comply with that ethical obligation?

8 M. RYAN GORMAN: Well, I think the -- one of
9 the best ways to comply with the ethical obligation,
10 is to ensure that our real estate agent sales force
11 is diverse and reflective of the communities that
12 they serve.

13 The vast majority of consumers today select
14 their real estate agent based upon personal
15 relationships, as opposed to, you know, overtly
16 seeking them outside of their, sort of, you know,
17 sphere of friends and family and recommendations.

18 So, one of the best ways to make sure that
19 we're serving the full community is to make sure
20 that we reflect the full community.

21 So that is where a great deal of our efforts
22 are focused today, not just in our real estate
23 sales, independent contractors, but also our
24 employee population.

25 We have considerable work that has been done,

1 and will be done, on both fronts, to make sure that
2 we're making ourselves open and available to every
3 community, and overtly and proactively trying to be
4 a partner with communities, especially, that we
5 think have been underserved to date.

6 SENATOR KAVANAGH: Okay, so thank you.

7 And I'm going to -- yeah, I'm going to -- I'm
8 going to first defer to my colleague
9 Senator Skoufis, and I know we'll have other
10 senators with questions as well.

11 SENATOR SKOUFIS: Thank you.

12 And thank you for your appearance this
13 afternoon.

14 My first question: Did you or anyone you
15 know within NRT direct or advise your real estate
16 agents to not appear at this hearing today?

17 M. RYAN GORMAN: No.

18 To not appear today, no.

19 SENATOR SKOUFIS: Okay.

20 Would you describe the discrimination
21 revealed in the "Newsday" investigation as
22 systematic?

23 M. RYAN GORMAN: Based upon the percentages
24 of the story, it certainly would appear to be
25 pervasive, based upon the testing.

1 I don't know the definition necessarily of
2 "systematic," but it certainly seems to be severely
3 problematic, deeply concerning, and requiring
4 urgency of action.

5 SENATOR SKOUFIS: Just to dig into that a
6 little bit further, you know, unless one believes
7 that 49 percent of people -- or, real estate agents,
8 are racist or have unconscious bias, surely, this
9 must be systematic, because that is the percentage
10 of real estate agents here on Long Island in the
11 "Newsday" exposé that discriminated against
12 African-Americans.

13 And so can you speak to how in the world
14 49 percent of real estate agents have taken
15 discriminatory actions against African-Americans
16 here on Long Island?

17 Clearly, this must be systematic.

18 How did it get to that level here on
19 Long Island?

20 M. RYAN GORMAN: Well, I can't speak to
21 necessarily the percentages.

22 I can speak to what action we think needs to
23 be taken from here.

24 This morning, for me, frankly, was, I spent
25 listening, and learning, to some of the best

1 practices that are recommended by professionals who
2 spent their careers focused on this matter.

3 And it seems like there's a lot of work for
4 many to do.

5 We as a company are certainly focused on
6 taking action and raising, not just awareness, but
7 understanding, of not just the law, but the spirit
8 behind the law, and especially focusing on things
9 like unconscious bias and the implications of
10 actions.

11 So that's where we'll be focusing our
12 training efforts, our requirements, as we move
13 forward, and our actions.

14 SENATOR SKOUFIS: I appreciate your focus on
15 being prospective, and I think that's certainly an
16 important element of this, for not only the industry
17 and your company and affiliates, but, certainly,
18 here in the Legislature as well.

19 But I do think it is important to reflect
20 upon how this is happening and how this happened.

21 So I don't want to move on from this just
22 quite yet.

23 Do you believe that real estate agents, among
24 themselves, communicate about avoiding the word
25 "steering" and using this language instead?

1 Do you believe that even directives come down
2 from executives, or, you know, higher-ups,
3 management, to their real estate agents, Here's how
4 you avoid fair-housing laws?

5 To reach 49 percent discriminatory --
6 49 percent of real estate agents discriminating
7 against African-Americans here on Long Island,
8 clearly, you know, this is not a coincidence --
9 right? -- where half of agents are doing,
10 effectively, the same exact thing.

11 Do you believe these practices are shared
12 amongst one another, or are directed to agents?

13 Can you speak to that?

14 M. RYAN GORMAN: So the portion of your
15 question related to, for instance, directives,
16 I believe I can speak to at least for our
17 organization.

18 So, I have no awareness of ever, ever, any
19 directive of that nature occurring.

20 And, certainly, if it did, we would treat it
21 with the gravest of seriousness and take significant
22 action.

23 While we are one player, we are a large
24 player.

25 I don't know that that's reflective of the

1 larger population, but it's certainly reflective of
2 us as a company.

3 SENATOR SKOUFIS: Do you believe that, at the
4 agent level, these practices are shared amongst one
5 another?

6 M. RYAN GORMAN: I honestly can't -- can't --
7 can't speak to it.

8 I think fair-housing training takes place.

9 And as part of the story, there was an
10 examination of the efficacy of fair-housing
11 training, which appeared lacking, and in need of
12 considerable attention.

13 But I can't speak to what, you know, beyond
14 that.

15 SENATOR SKOUFIS: Is it fair to say that,
16 given that nearly half of agents discriminated in
17 the "Newsday" exposé, that it's not a coincidence
18 that this many agents are discriminating?

19 That they're all, effectively, exhibiting
20 some shared practices here, this is not a
21 coincidence?

22 M. RYAN GORMAN: Well, it's certainly fair to
23 say that this requires action.

24 And if it were not pervasive, or were not
25 concerning, it wouldn't require action.

1 So, I think it's very fair to say that this
2 requires action beyond pinpoint action; but, rather,
3 pervasive, probably, relatively sweeping, action.

4 We as a company will certainly be looking
5 into what we require broadly, not just in New York,
6 but across the entire country, as we move forward.

7 SENATOR SKOUFIS: Do you believe that NRT
8 and, quite frankly, the industry, owes an apology to
9 people of color here on Long Island?

10 M. RYAN GORMAN: I honestly don't know what
11 is owed.

12 I can say what I personally will give, which
13 is the deepest apology for not having done more.

14 And the best apology I think I can give is
15 doing more, and that's exactly what we're committed
16 to doing.

17 SENATOR SKOUFIS: Thank you very much.

18 SENATOR KAVANAGH: I think Senator Thomas has
19 some questions.

20 SENATOR THOMAS: I just have one question.

21 We had panels prior to this. You probably
22 heard their testimony.

23 They talked about needing testing of
24 real estate agents.

25 Do you agree or disagree with that?

1 M. RYAN GORMAN: I believe any action that
2 would prove to be effective in progressing the
3 spirit and mission of the Fair Housing Act is
4 something that should absolutely be considered.

5 If the assumption is that, that testing is an
6 effective means of doing so, which I realize was
7 somewhat debated this morning, but, if it was viewed
8 as effective, then we would fully support effective
9 measures to progress the mission of the Fair Housing
10 Act.

11 SENATOR THOMAS: Do you believe that state
12 agencies have not done enough to stop the
13 discrimination and segregation of localities?

14 M. RYAN GORMAN: I think what was uncovered
15 in the "Newsday" investigation was severely
16 disappointing.

17 Who is specifically to blame, or what group
18 and groups are to blame for that, I can't say.

19 I can say that it would appear, from the
20 testimony earlier of experts, far more expert than
21 I am in terms of fair housing, they appear to have a
22 strong belief that it requires State action to
23 really get the kind of outcomes that I think we all
24 seek.

25 SENATOR THOMAS: But in your opinion, do you

1 believe that state agencies have failed communities
2 when it comes to this?

3 M. RYAN GORMAN: I believe the "Newsday"
4 investigation demonstrated that we as a society have
5 failed.

6 I personally don't know which components of
7 those.

8 I can say we, as a company, will do more, for
9 sure. And we'll certainly support the State in
10 exploring what more the State should -- should and
11 could do.

12 SENATOR THOMAS: All right. Thank you.

13 SENATOR KAVANAGH: Senator Kaplan.

14 SENATOR KAPLAN: Thank you.

15 So, first of all, I want to thank everyone
16 here for their testimony today.

17 As it's mentioned, it is a big problem, and
18 there's no single way to solve this. So we really
19 have to look at this in many different ways, and all
20 different, really, stakeholders to take action on
21 this.

22 You talked about, a little bit, that your
23 affiliates and your agents come -- when they come
24 on board, they sign a pledge; a fair housing pledge.

25 How about, possibly, would you consider,

1 adding a new policy that they would sign this pledge
2 every year?

3 Because just signing it once when they come
4 on board, and then it goes on file, and just stored
5 away somewhere, maybe is not enough. But possibly
6 doing this every year brings a certain amount of
7 reminder how important this commitment is, and bring
8 more awareness.

9 M. RYAN GORMAN: It's certainly one of the
10 things that we'll be considering.

11 So what we want is a really effective outcome
12 in raising not just awareness, but understanding.

13 Awareness may, in fact, even be high, but
14 understanding an action may still be lacking.

15 And so we'll be exploring additional training
16 requirements, additional attestation requirements,
17 as part of that.

18 What specifically we'll land on, I cannot
19 say, but it's certainly part of that exploration.

20 SENATOR KAPLAN: And you talk about that they
21 have to go through this training every two years.

22 Possibly, maybe, if it's a three-hour
23 training, maybe this could be down a yearly basis
24 again.

25 Something that could --

1 M. RYAN GORMAN: It's possible.

2 I think the -- I think it's a very healthy
3 debate about what should be required of licensees,
4 and over what time period, as well as, in that
5 portfolio of requirements, what weight fair housing
6 should have, as well as, some of the components of
7 fair housing are mentioned by some of the earlier --
8 the earlier witnesses providing testimony, that it
9 may be not just awareness of law, but, really, the
10 underlying, you know, spirit behind the law, the
11 biases, the unconscious biases, and stereotypes.

12 SENATOR KAPLAN: Thank you.

13 SENATOR KAVANAGH: Senator Kaminsky.

14 SENATOR KAMINSKY: Thank you.

15 So we're being tough, and are going to
16 continue to be tough, on you today.

17 But it's shameful that you are the only
18 person who showed up out of the myriad companies and
19 agents that were requested to be here today.

20 And in a moment Chairman Skoufis is going to
21 opine on that.

22 But, for now, I just want to state for the
23 record, that it's completely shameful that, at a
24 table of, you know, a number of seats that are
25 empty, you're sitting there with no one surrounding

1 you.

2 No one bothered to come.

3 Everyone, obviously, thought it was their
4 duty to either look out for themselves or to ignore
5 this completely, and that is just unacceptable.

6 That being said, my understanding is that, we
7 are not the only body asking questions, and there
8 are other enforcement agencies that are
9 investigating this as well.

10 Is that your understanding?

11 M. RYAN GORMAN: So right now I'm aware of
12 the attorney general, as well as the Long Island
13 Board of Realtors.

14 If there are others, I'm not yet aware of
15 those.

16 SENATOR KAMINSKY: Okay. And have you
17 received subpoenas or search warrants from the
18 attorney general's office?

19 M. RYAN GORMAN: I know we've received
20 communication from the attorney general's office.

21 What specifically that communication
22 included, I'm -- I'm not certain.

23 SENATOR KAMINSKY: Okay, but you haven't, for
24 example, seen agents with, like, raid jackets,
25 pulling computers out of your office?

1 M. RYAN GORMAN: I have not; I have not seen
2 that, no.

3 SENATOR KAMINSKY: Okay.

4 SENATOR KAVANAGH: You would have noticed
5 that.

6 M. RYAN GORMAN: I probably would have
7 noticed that, yes.

8 [Laughter.]

9 SENATOR KAMINSKY: And is it your intention,
10 or is it your current position, to be complying or
11 cooperating with the attorney general's
12 investigation?

13 M. RYAN GORMAN: Absolutely. We have every
14 intention of cooperating, to the extent that we can,
15 with all of the work that's being done on this
16 front.

17 And that's inclusive of third-party
18 organizations that are just working to improve the
19 outcomes in general.

20 SENATOR KAMINSKY: What does that mean?

21 M. RYAN GORMAN: So, for instance, there's
22 a -- there are other groups, including industry
23 trade groups, that we work with, who are taking this
24 as an opportunity to shine a light on a problem that
25 needs attention.

1 SENATOR KAMINSKY: What is -- what are the
2 communications from your office to your employees
3 about how to deal with investigators?

4 M. RYAN GORMAN: Any investigation that came
5 in would likely be leveled up to our -- likely our
6 legal team, for guidance on how and who should
7 respond.

8 SENATOR KAMINSKY: And is your legal team
9 telling the attorney general's office not to
10 interview employees without their attorneys present?

11 M. RYAN GORMAN: I'm not certain the attorney
12 general's office has asked questions to which that
13 would even be a viable answer.

14 So I don't know.

15 SENATOR KAMINSKY: And are you providing
16 attorneys for -- private attorneys for clients;
17 like, are you funding their defense?

18 M. RYAN GORMAN: So any -- any employee or
19 independent contractor associated with our company
20 is entitled to defense, depending upon the reason
21 for the inquiry.

22 As you can imagine, there are things that
23 live outside of that entitlement, depending upon the
24 actions that the individuals took.

25 SENATOR KAMINSKY: Let me ask you about your

1 reaction to the videos we saw today, and the
2 evidence, overall, documented in the "Newsday"
3 story.

4 What was -- what was your reaction?

5 Were you appalled? shocked? stunned? -- any
6 of those things?

7 M. RYAN GORMAN: I'm here today because
8 I believe that the "Newsday" story shone a light on
9 serious, serious, issues that we have, that are not,
10 to the early discussion, individual in nature, but
11 are larger and more pervasive, and require more
12 serious action.

13 We as a company, regardless of this hearing
14 or other procedures, would be taking action based
15 upon merely what we learned in the "Newsday" story.

16 But certainly, now, this gives us an
17 opportunity to hear from other experts, and partner
18 with other organizations who can lift up best
19 practices, of which, perhaps, I wasn't aware, that
20 we can then implement not just locally, but
21 nationally.

22 SENATOR KAMINSKY: Okay. And the
23 compensation structure for the agents, like the
24 agents we saw in the video, is based on, I assume,
25 some form of, "the more you sell, the better you

1 do"?

2 M. RYAN GORMAN: So an individual agent is
3 compensated -- an individual independent-contractor
4 sales associate, typically --

5 I can speak to our organization, and this is
6 a good proxy for the industry.

7 -- on a per-transaction basis.

8 That transaction closes.

9 The consumers involved in the transaction
10 paid a commission.

11 That commission is paid to a real estate
12 brokerage. And then that commission is split or
13 shared between the real estate agent, who typically
14 receives the majority of that commission, and the
15 real estate brokerage.

16 SENATOR KAMINSKY: So that's a long way of
17 saying "yes"?

18 M. RYAN GORMAN: Well, your question was,
19 I think, more about the progressive nature of it.

20 It's a transaction-by-transaction basis.

21 SENATOR KAMINSKY: Okay. But if you're an
22 agent who has more transactions, you're -- you're --
23 you're -- you receive --

24 M. RYAN GORMAN: Oh, certainly --

25 SENATOR KAMINSKY: -- a more lucrative pay?

1 M. RYAN GORMAN: -- yes. All compensation is
2 per transaction.

3 SENATOR KAMINSKY: And is there any
4 compensation -- is there any measure of
5 compensation, without your company, for agents who
6 either act more ethically than other agents, or work
7 toward more inclusive practices, or anything other
8 than raw sales factored into it?

9 M. RYAN GORMAN: No. The
10 independent-contractor relationship with the sales
11 associate, we honor that in all its many forms.

12 In other words, the compensation is clear:

13 It's based upon their work, and we have
14 supervisory obligations. But it is their work.

15 And so when they -- when they conduct their
16 business and close the transaction, they're entitled
17 to the compensation that was in the original
18 agreement with them.

19 There's not other forms of, sort of, to your
20 point, the valuation, or more subjective analysis,
21 that would adjust their compensation.

22 SENATOR KAMINSKY: Does your company have
23 like corporate good-citizen requirements, like,
24 doing things in the community? Showing up to -- you
25 know, I know sometimes you'll see a whole

1 community -- a whole company wearing the same
2 T-shirts, cleaning up a given area.

3 They must have --

4 M. RYAN GORMAN: Sure.

5 SENATOR KAMINSKY: -- some type of thing they
6 need to check the box on.

7 Like, where do you go?

8 M. RYAN GORMAN: Oh, well, we certainly have
9 no "check the box," we have no requirement.

10 We are extensively involved in our
11 communities.

12 I think, most likely, many of you have seen
13 us in your communities.

14 So the very practice of real estate is all
15 about communities. And so it's a large part of
16 [indiscernible cross-talking] --

17 SENATOR KAMINSKY: Well, I think we see today
18 it's all about some communities.

19 M. RYAN GORMAN: So -- you know,
20 unfortunately, we are examining some unfortunate
21 elements of the work.

22 But there is a lot of work, that, hopefully,
23 all of you have taken advantage of at some point in
24 time, that our real estate agents do in building
25 their communities, shaping their communities.

1 Well outside of the work that they do,
2 they're typically involved in community
3 organizations, community work, philanthropic and
4 voluntary work, throughout the world.

5 It's something we support very strongly.

6 SENATOR KAMINSKY: Okay. Can we have a
7 commitment to you today, that those who engage in
8 these discriminatory processes will be held
9 accountable, and that you will have a way, going
10 forward, to ensure compliance with best ethical
11 practices, going forward?

12 M. RYAN GORMAN: So we stand firmly on the
13 side of ethics, firmly on the side of compliance; we
14 always have.

15 What is true today, after reviewing some of
16 the "Newsday" stories and videos, that we can,
17 should, and will do more, very specifically, and
18 very soon.

19 SENATOR KAMINSKY: Hey, look, in all
20 fairness, before I conclude, I think I would say --
21 I would underscore that a lot more than you have in
22 a calm, cool fashion.

23 But, clearly, there's a lot going on in your
24 company that you guys have no idea about, that is
25 extremely troubling, and that is obviously occurring

1 far more than the random examples that happen to be
2 test and documented.

3 So I would urge you guys to turn everything
4 upside down to try to get this thing in order.

5 M. RYAN GORMAN: Absolutely, it's an
6 opportunity for us to improve dramatically as a
7 company and industry.

8 SENATOR KAVANAGH: Thank you,
9 Senator Kaminsky.

10 Senator Liu.

11 SENATOR LIU: Well, thank you,
12 Mr. Chairman.

13 And I want to thank Senator Kaminsky for
14 being kind and generous, which he is not always kind
15 and generous.

16 You should hear him behind closed doors.

17 And you may actually still have the chance to
18 do so.

19 But, you know, I -- earlier, I think you
20 said, you know, you weren't sure if it was
21 systematic, but certainly be -- it certainly seems
22 to be a pervasive problem, as opposed to an isolated
23 incident, or a couple of isolated incidents.

24 I mean, I imagine that the videos you saw
25 probably made you cringe a little bit, even though

1 you were kind of cool on the exterior?

2 Inside you were, like, cringing, trying to
3 hide somewhere?

4 It was embarrassing.

5 Right?

6 I certainly would be embarrassed if I was the
7 president and chief executive officer, and I saw my
8 employees conduct themselves this way.

9 M. RYAN GORMAN: As an individual, and as an
10 industry, this is embarrassing, and requires,
11 obviously, urgent action.

12 SENATOR LIU: And so these -- these
13 individuals, they are facing sanctions; legal
14 sanctions? other sanctions by your company?

15 M. RYAN GORMAN: So I can't speak to
16 individual --

17 SENATOR LIU: I know, I know, you're taking
18 the Fifth on pretty much everything.

19 However, my question is, like:

20 You say -- say one of these -- these agents
21 has -- has been doing this for a long time. Over
22 the years, even the last few years, they've
23 generated a number of sales. You know, they
24 probably get half their commiss -- half of the
25 commission, and the company gets half the

1 commission.

2 So if this person gets fired by your company
3 or faces other legal sanctions, you know, what kind
4 of penalties will your company face?

5 Because you've already taken at least tens of
6 thousands of dollars of commissions generated by
7 that person who is guilty of this wrongdoing.

8 Does the company face any kind of penalty?

9 M. RYAN GORMAN: If you could clarify the
10 question, penalty of what nature?

11 SENATOR LIU: Okay, well, I mean, I --
12 I think that your company will fire some of these
13 employees.

14 That's just me. I don't have to take the
15 Fifth here.

16 But I think that's what -- I think that's
17 what you will probably have to do, even just to
18 cover yourselves.

19 But say that employee is fired.

20 They've already generated huge amounts of
21 commissions based on these, to put it kindly,
22 unsavory practices.

23 What consequence is there to NRT once this
24 person is fired, other than you lose potential
25 revenue from this agent that you probably could

1 replace with other agents?

2 Is there any consequence to the company?

3 M. RYAN GORMAN: So I can say a decision
4 related to an independent-contractor sales
5 associate, continuing to be affiliated with our
6 company, when I'm evaluating, for instance, an
7 ethical issue under the broad category of "ethical
8 issue," I do not take into account the productivity
9 of that individual agent.

10 We take into account the actions that were
11 taken, and whether or not we need to take actions as
12 a result.

13 SENATOR LIU: I mean -- all right.

14 Well, you know what?

15 To be fair to you, Mr. Gorman, you said
16 earlier that this is a problem that is not --
17 really, not just the fault of your company, but
18 society as a whole.

19 We have failed on a number of fronts,
20 including government, including state government,
21 I'll be very frank with that.

22 Which is why our Chairs have convened this
23 hearing.

24 We feel some responsibility to take action.
25 Since we're legislators, we feel responsibility to

1 take some kind of legislative action. Perhaps,
2 strengthen the law to prevent this kind of thing
3 from happening. Perhaps, increased penalties on
4 companies such as NRT.

5 Because as I -- as I'm listening to all this
6 stuff, and reading the report, it doesn't seem like
7 NRT faces any kind of consequence, other than having
8 to fire employees.

9 The company has already reaped lots and lots
10 of commission dollars from these said employees.

11 And all the company has to do, going forward,
12 is fire these employees, but NRT doesn't really face
13 any kind penalties whatsoever, as far as I can tell.

14 And so what that leads me to is that, you
15 know, Senator Kaminsky was -- was kind to let you
16 off the hook, allowing you to say that -- that,
17 maybe, you know, the company didn't know of these
18 practices.

19 Unfortunately, sir, I'm not that generous.

20 I think NRT has been fully aware of all these
21 practices, and has, at best, been turning a blind
22 eye to this, because, what consequence do you face
23 when your employees do this?

24 If you -- if someone gets caught, which they
25 have, the company just fires those employees, faces

1 no other consequence.

2 Maybe some reputational risk.

3 But because you have such a large market
4 share, it doesn't really do that much in terms of,
5 finding new customers, finding new homebuyers and
6 sellers.

7 So I think that this is a much more pervasive
8 problem.

9 And -- and -- and the company, you know,
10 I don't want to personalize this, Mr. Gorman, but
11 I -- I have no doubt that executives at NRT are
12 aware of what's happening, and turned a blind eye.

13 And I think that, legislatively,
14 Mr. Chairman, Mr. Chairman, and Mr. Chairman,
15 we need to take some action. We need some
16 penalties. We need some kind of consequence that
17 will dissuade this kind of activity from happening
18 in the first place.

19 And executives, such as yourself -- and
20 I don't mean to personalize this -- such as
21 yourself, you need to face some kind of reality as
22 to what's happening. You cannot -- the penalty
23 cannot only be limited to, embarrassment, or some
24 minor reputational risk.

25 There has to be some real penalty.

1 And -- and the last point I'll -- I'll --
2 I'll make, since it's not really a question, is:

3 You know, according to the letter that you
4 responded to, to the Senate invitation with, it does
5 appear that you're here on behalf of all the people
6 who work for you.

7 We sent invitations to many of the people
8 affiliated with NRT, to testify, to tell us what's
9 happening.

10 Maybe -- maybe they didn't really know what
11 was happening.

12 But you're here, basically, in lieu of all of
13 them. I think those were your own words.

14 Your testimony "will be in lieu of multiple
15 company employees appearing to testify."

16 So you're here to take the Fifth,
17 collectively, on their behalf.

18 And that's why you're in the hot seat, and
19 you're going to continue to be in the hot seat, and
20 we're going to need to take some legislative action.

21 That is my opinion.

22 Thank you.

23 SENATOR KAVANAGH: Thank you, Senator Liu.

24 M. RYAN GORMAN: I appreciate your comments.

25 May I?

1 SENATOR KAVANAGH: Yes.

2 M. RYAN GORMAN: So for clarification
3 purposes, I want to make sure that we're on the same
4 page.

5 I am appearing in lieu of the employees that
6 were noted.

7 The independent-contractor sales associates,
8 which I believe was part of the question, I am not
9 here in lieu of anyone else, or anyone else in the
10 industry, or franchisees; but, rather, our
11 employees.

12 I was not asked to appear.

13 Some of our other employees, who report up
14 through the organization to me, were asked to
15 appear.

16 I decided to appear.

17 So just a clarification on that.

18 I appreciate your hesitancy to make it
19 personal, but I also appreciate that this issue is,
20 in fact, personal.

21 It's deeply personal for those who are
22 negatively impacted by it, and they're taking it
23 personally, as they should, and we all should, for
24 sure.

25 What more needs to be done?

1 I completely agree, vastly more needs to be
2 done.

3 I will say, on the record, and under oath,
4 definitely, I, and to my knowledge, we, were not
5 aware of practices of this nature, which
6 I understand, it may not be in comportsing with your
7 perspective.

8 But I can say that, had these been raised
9 differently, or earlier, we would have taken action
10 then, and it's action that we will be taking now.

11 SENATOR LIU: So something that happens
12 pervasively within your company, you have no idea
13 about?

14 M. RYAN GORMAN: So this particular issue
15 that's highlighted, that does appear in the
16 "Newsday" reporting to have been pervasive, is not
17 unknown to the industry; however, the practices that
18 we have undertaken to try and ensure that we are
19 leading the industry in compliance with not just the
20 letter, but the spirit of the law, do appear to have
21 failed to be effective.

22 And that is something that I realized from
23 this reporting.

24 SENATOR LIU: So you're prob -- you're aware
25 this probably happens in the rest of the industry,

1 but not in your company?

2 M. RYAN GORMAN: We certainly take action to
3 ensure that we're leading. We are a large company.
4 That means we can have a significant impact on the
5 industry.

6 And that's what we intend to do.

7 SENATOR LIU: Okay. Thank you.

8 Thank you, Mr. Chair.

9 SENATOR KAVANAGH: Thank you, Senator Liu.

10 Just for the record, I'll stipulate that
11 Senator Kaminsky is not overly generous or nice
12 person.

13 SENATOR KAMINSKY: I appreciate that.

14 Next up, Senator Gaughran.

15 SENATOR GAUGHRAN: Thank you, Mr. Chairman.

16 Some perspective buyers walk into a real
17 estate office, one that's -- that, you know, your
18 organization is affiliated to.

19 So I presume buyers may have some
20 preconceived notion that they would express of, you
21 know, what they're looking for in terms of a house,
22 size, et cetera.

23 Somebody comes in from out of town.

24 Are there any standard practices in terms of
25 questions that an agent would ask a buyer?

1 Like, I presume you would ask them size of a
2 house, something about property?

3 M. RYAN GORMAN: Yeah, so every agent will
4 have their practice, but there are many checklists,
5 for lack of a better term, that an agent might walk
6 through with a prospective buyer.

7 SENATOR GAUGHRAN: So what would some of the
8 things that would be on a checklist?

9 Size of property? Number of bedrooms?

10 M. RYAN GORMAN: Yeah, for most part, trying
11 to get a sense of the consumer.

12 So their -- their timeline.

13 The reason for their desire to move.

14 The reason for their contact with this agent
15 in this particular area.

16 What their knowledge is of the area, if they
17 have friends or family in the area, that may help
18 the agent to have a better understanding of what
19 level of knowledge, you know, they're dealing with.

20 What type of home they want to buy; type in
21 all nature.

22 So, you know, single-family detached. What
23 type of architecture may be important to them.
24 Bedrooms, bathrooms.

25 Family needs. The -- how those needs may

1 change over the near term.

2 How long they wish to stay in the property;
3 whether they're viewing this as a potential
4 investment property that would need rental income in
5 the future, or an owner-occupied property.

6 I mean, I could go on, but those are the --
7 those are some of the key questions that may be
8 asked.

9 SENATOR GAUGHRAN: Would be -- would school
10 district be one of the questions on that checklist?

11 M. RYAN GORMAN: Well, certainly, school
12 districts are often extremely important to, you
13 know, parents. And so that's high on the mind of
14 lots of consumers, sure.

15 SENATOR GAUGHRAN: So a question might be
16 asked: What school district -- do you have a school
17 district in mind that you would like your family to
18 live in?

19 M. RYAN GORMAN: I think it's a very common
20 thing put forth by consumers, and a very common
21 question that agents may ask if they're not certain
22 what the criteria is that the consumer is looking
23 for.

24 Typically, consumers will have, if they're
25 familiar with the area, towns in mind, potentially

1 school districts in mind. Sometimes those overlap
2 and sometimes they don't. So, oftentimes, agents
3 will be directing consumers to resources where they
4 can learn more about school districts.

5 SENATOR GAUGHRAN: Would it be possible to
6 present some of these checklists to this Committee?

7 M. RYAN GORMAN: Well, those checklists are
8 individual agent checklists.

9 SENATOR GAUGHRAN: Sure.

10 M. RYAN GORMAN: There could be
11 [indiscernible cross-talking] examples.

12 SENATOR GAUGHRAN: Perhaps you could reach
13 out?

14 I would presume that there's a standard
15 checklist that one, you know, brokerage firm might
16 use?

17 M. RYAN GORMAN: So, to my knowledge, we do
18 not have one standard checklist.

19 Our agents have -- have many. And there's
20 lots available online. [Indiscernible
21 cross-talking] --

22 SENATOR GAUGHRAN: So maybe we could get
23 samples of them from some of your --

24 M. RYAN GORMAN: Possibly.

25 We can follow up.

1 I truly don't know that we have a standard.

2 SENATOR GAUGHRAN: And once an agent takes in
3 all that information, what do they do with it?

4 Do they run it through a program to come up
5 with possible homes?

6 M. RYAN GORMAN: It's relatively
7 idiosyncratic, and person-specific, how an
8 individual agent will work with a consumer.

9 So, for instance, some consumers want to
10 begin looking right away, but they're comfortable
11 doing so online.

12 Others don't want to decide on what next step
13 to take until they gain a very -- a more physical
14 familiarity with an area. So they might get in a
15 car with an agent, to drive around and explore
16 areas, or look at available properties to get a
17 better sense of what the community may be.

18 So it really does differ considerably.

19 SENATOR GAUGHRAN: But are there any
20 particular sites, or software, or program, that an
21 agent might use if somebody just comes in and has
22 done, you know, no research ahead of time?

23 M. RYAN GORMAN: In order to educate consumer
24 about --

25 SENATOR GAUGHRAN: In order to come up with a

1 specific list of listings to show them.

2 M. RYAN GORMAN: So most real estate agents
3 in most areas will rely upon their MLS, or
4 third-party tools that use MLS information, for
5 existing available inventory, to then get some
6 feedback from the consumer on what reactions are to
7 different inventory that's available.

8 SENATOR GAUGHRAN: And with that MLS, they
9 can plug in all these criteria that they may have
10 gotten off the checklist?

11 M. RYAN GORMAN: Many of those that we
12 discussed, they cannot. Some they can, of course.

13 Even square footage, for instance, varies
14 dramatically by area, as to whether or not it's a
15 criteria that's available in an MLS or on an
16 individual listing.

17 SENATOR GAUGHRAN: What criteria could they
18 not use?

19 M. RYAN GORMAN: Well, as an example, the
20 size of the home, that does vary, through -- due to
21 various litigation over time. And some areas, size
22 of home is not something that is an MLS criteria any
23 longer for active listings.

24 SENATOR GAUGHRAN: But school district is
25 standard?

1 M. RYAN GORMAN: Most programs, for instance,
2 consumer-facing websites, use third-party firms,
3 that take the address of a home, and then match it
4 up against third-party databases of school
5 districts, in part, because school districts do
6 change on occasion, and, in part, because the
7 providers of those websites don't want to
8 necessarily take liability for incorrect information
9 being provided to a consumer.

10 SENATOR GAUGHRAN: Okay.

11 Thank you very much.

12 SENATOR KAVANAGH: Thank you.

13 So just one more question for me, and then
14 I'm going to turn it back over to Senator Skoufis.

15 You testified that you are considering a
16 very, sort of, proactive [no audio] enforcement, and
17 investigation methods, within your company.

18 And we've had a lot of testimony today that
19 additional enforcement and investigation is
20 necessary, perhaps not just on Long Island, but
21 statewide.

22 We are, as has been noted, going into a new
23 legislative session, with a new state budget
24 process.

25 And you and your industry are well

1 represented in Albany.

2 Would you support addition -- based on what
3 you've seen in this investigation, and your
4 knowledge of the industry and issue, additional
5 efforts, additional resources, provided by the state
6 government to ensure this kind of practice is
7 properly investigated?

8 M. RYAN GORMAN: In general, yes,
9 I definitely would.

10 Specifically, what, we would be happy to, you
11 know, provide feedback on any individual proposals.

12 But, any efforts that we think could be --
13 "we," collectively, believe could be effective in
14 achieving the outcomes that were sort of promised by
15 the Fair Housing Act in the first place, we would
16 fully support.

17 SENATOR KAVANAGH: Okay.

18 Thank you.

19 Back to Senator Skoufis.

20 SENATOR SKOUFIS: Thank you.

21 Thank you very much for your testimony.

22 And I don't have any -- I don't think any of
23 us have any further questions for you.

24 I do just want to make a note, as a matter of
25 fairness, that, certainly, while there are a number

1 of stakeholders within your company and your
2 affiliates who were involved in the discrimination
3 found by the "Newsday" exposé, I believe two of your
4 affiliates were exonerated.

5 And I do just want to make that point for the
6 public record.

7 But thank you very much for your attendance
8 today.

9 M. RYAN GORMAN: Thank you.

10 Thank you all for the work you're doing.

11 SENATOR SKOUFIS: Before we call up the next
12 set of witnesses, again, as my -- as my colleagues
13 noted, we want to thank Mr. Gorman for his
14 testimony; equally, his compliance with our request
15 to appear.

16 And so it's at this point I'd like to note
17 that we issued requests for testimony to
18 35 real estate agents and 33 representatives from
19 real estate companies that were involved with
20 "Newsday's" exposé.

21 With the exception of Mr. Gorman, the
22 remaining 67 individuals either neglected to respond
23 to our request or outright refused to provide
24 testimony.

25 As is often the case, there is an easy way to

1 go about things, and there is a hard way.

2 It's unfortunate that 67 of 68 individuals
3 chose the hard way.

4 Following today's hearing, subpoenas will be
5 served to many of these 67 individuals in order to
6 compel future testimony.

7 We look forward to their participation.

8 Thank you again.

9 Next up we'll call Richard Helling and
10 Johnny Mae Alston, who were testers in the "Newsday"
11 investigation.

12 And I just want to confirm Lenora Smith is
13 not here.

14 If she is, she certainly should come up at
15 this time as well.

16 Thank you for your attendance.

17 Who would like to go first?

18 Do you have prepared testimony --

19 RICHARD HELLING: [Inaudible.]

20 SENATOR SKOUFIS: -- you'd like to share?

21 JOHNNIE MAE ALSTON: No.

22 SENATOR SKOUFIS: No?

23 Okay. So then we'll jump right into
24 questions, then.

25 Can you briefly explain how you became

1 involved in the "Newsday" effort?

2 JOHNNIE MAE ALSTON: I was -- I was notified
3 through an acting magazine.

4 When I first got it, they asked -- you know,
5 I -- I turned them down a couple of times. And then
6 I spoke with one of their representative [sic],
7 Bill.

8 And we were -- we went through training -- he
9 told me what it was about, he told me to come and
10 check it out.

11 So I came and checked it out.

12 And they gave us a couple of days of
13 training.

14 And I thought it was a great idea. It was
15 sort of like my kind of work.

16 I'm a background actor, basically.

17 And, you know, it was just a new challenge,
18 and an exciting challenge for me.

19 SENATOR SKOUFIS: And you, sir?

20 RICHARD HELLING: Oh, for me it was, a friend
21 of my husband's was already involved with the
22 project.

23 And so I met her at a party, and she talked
24 with me about the project. And that's how I became
25 involved.

1 SENATOR SKOUFIS: Very good.

2 Did either of you or both of you have any
3 expectations to the scope of the discrimination that
4 was ultimately found in "Newsday," heading into this
5 effort?

6 JOHNNIE MAE ALSTON: I had no idea what was
7 out there.

8 You know, being an African-American, you
9 always have in the back of your head, there's always
10 somebody trying to get over on you all the time.

11 But I had -- I never even thought about this
12 when I went into it.

13 You know, I'm, like, you know -- you know,
14 you think that there's nothing out there, but, we'll
15 test it and see.

16 But I didn't think anything of it, to be
17 quite honest with you.

18 RICHARD HELLING: And I'm relatively new to
19 Long Island, so I really didn't know Long Island.
20 So, yeah, I had no expectations.

21 SENATOR SKOUFIS: Okay.

22 There came a point, eventually, where the --
23 the results of your pairing were made apparent to
24 you. Is that correct?

25 JOHNNIE MAE ALSTON: Yes.

1 RICHARD HELLING: That's right.

2 SENATOR SKOUFIS: And can you describe,
3 briefly, your feelings when you were told what
4 happened with those you were paired with?

5 JOHNNIE MAE ALSTON: When I was told what --
6 what happened, I didn't know until we actually did
7 the taping.

8 And even though I know in the back of my head
9 that I'm always going to be discriminated against in
10 some way, I really didn't think about it, because,
11 when I went to these places, these people were
12 absolutely wonderful.

13 We were actors, but they were better actors,
14 you know.

15 And I didn't feel at all that I had been
16 discriminated against, except for, like, one person
17 that I had went to, that really, like, said to me,
18 Oh, no, no, no, no, and shooed me away.

19 That was the only one out of all the tests
20 I did that I felt like, you know, she's kind of
21 crabby.

22 And -- but, otherwise, I would have never
23 known. I thought I was treated very well.

24 SENATOR SKOUFIS: And you, sir?

25 RICHARD HELLING: Yeah, I was shocked when

1 I saw the footage, and that was the first I really
2 had an inkling of the scope of what the problem was.

3 There were a few times on the individual
4 tests that I heard sort of inappropriate comments.

5 But, without knowing what was happening to my
6 counterpart tester, I had no idea of how they were
7 being treated.

8 SENATOR SKOUFIS: And this question is
9 primarily for Miss Alston.

10 So you were clearly surprised, and you were
11 both surprised, when you were told what had
12 happened.

13 What were the rest of your feelings like?

14 Did you feel betrayed?

15 Certainly, I suspect you were personally
16 hurt.

17 JOHNNIE MAE ALSTON: I was very hurt.

18 I was very hurt.

19 You know, it's, like, in life, things go
20 around in a circle, and you think that everything is
21 so good and so great, things have changed.

22 But in reality, it just goes around in a
23 circle and come back to where you started off in the
24 beginning.

25 I was very hurt.

1 It like hurts you to your heart, because,
2 you're a human being, and everybody should be
3 treated the same.

4 And I felt that I wasn't treated the same.
5 I was -- I was -- I was treated differently because
6 of the color of my skin, which I thought is so -- is
7 so unfair, because there's so much potential in
8 everybody.

9 And it's, like, one thing I had -- one job,
10 I had \$500,000 to put down.

11 It didn't matter, didn't care, about what --
12 how much money I had to put down.

13 So that, to me, that was no issue at all.

14 She was just looking at the color of my skin.
15 She wasn't looking at nothing else.

16 Once I walked in the door, that's all the
17 person saw, was the color of my skin.

18 They didn't see me.

19 SENATOR SKOUFIS: Thank you for sharing that.

20 One of the tests that you were involved with
21 was a real estate agent by the name is
22 Anne Marie Queally Bechand.

23 JOHNNIE MAE ALSTON: That's the one.

24 SENATOR SKOUFIS: She's with
25 Signature Premier Properties in Cold Spring Harbor.

1 I'd like to play you a clip, which I'm sure
2 you've seen, showing a conversation between this
3 agent and Cindy Perry.

4 Ms. Perry is White.

5 So if you could please play Clip Number 32.

6 Sorry, one second.

7 This is right, yep, yep.

8 JOHNNIE MAE ALSTON: No.

9 OFF-CAMERA SPEAKER: It's Clip 30.

10 SENATOR SKOUFIS: 30.

11 JOHNNIE MAE ALSTON: That's not Cindy.

12 OFF-CAMERA SPEAKER: Excuse me --

13 OFF-CAMERA SPEAKER: This is 32.

14 OFF-CAMERA SPEAKER: -- this is 32?

15 Play 32. My apologies.

16 OFF-CAMERA SPEAKER: This is 30.

17 OFF-CAMERA SPEAKER: Are we playing 30, or

18 32?

19 OFF-CAMERA SPEAKER: You're playing 32.

20 My --

21 OFF-CAMERA SPEAKER: Okay, okay.

22 [Start of Video Clip 32.]

23 THE AGENT: Just because we want to be on the
24 ground here, is to start in this area, and fan our
25 way out.

1 THE TESTER: I'll let you [indiscernible] --

2 THE AGENT: Okay, so then --

3 THE TESTER: -- [indiscernible] --

4 THE AGENT: -- what I'll do is, I'm going to
5 be sending you, obviously, an email, some houses to
6 look at. [Indiscernible] have photos.

7 I also, with that, send a map of where they
8 are.

9 THE TESTER: Uh-huh.

10 THE AGENT: So you'll get e-mails that, when
11 you open it up, it will have a map up front, with
12 all the little numbered houses, and then the
13 listings below it, with the details on the house and
14 the photos on it.

15 THE TESTER: Okay.

16 THE AGENT: It's something -- that's why
17 photos are so important on listings.

18 If something strikes you, or you're just a
19 little bit curious, or you're not sure, we make an
20 appointment. You tell me what you want.

21 THE TESTER: Okay.

22 THE AGENT: And then the -- again, the
23 benefit of working with an agent, is you're not
24 going to [indiscernible] houses. You're actually
25 saying, okay, I'm available on Wednesday afternoon,

1 starting at twelve. And then I just -- and I -- you
2 know, you decide, we want to see five on in a day,
3 we want to six in a day. Maybe [indiscernible] more
4 that in a day. Maybe not.

5 And then [indiscernible cross-talking] --

6 THE TESTER: How long, from your experience,
7 does it take to --

8 [End of Video Clip 32.]

9 SENATOR SKOUFIS: Can you also play 33?

10 [Start of Video Clip 33.]

11 THE AGENT: How many times [skip in video.]

12 You want to know about the taxes, and you
13 want to go over the closing costs with him.

14 THE TESTER: Right, yeah.

15 THE AGENT: How many times have you spoken to
16 Richard?

17 THE TESTER: Just once.

18 THE AGENT: Oh, good. Okay, because all of
19 that [indiscernible] next conversation will
20 definitely be covered.

21 THE TESTER: Yeah, yeah, no, they just
22 mentioned it [indiscernible cross-talking], started
23 the process. [Indiscernible.]

24 THE AGENT: Okay, so they will, next time you
25 speak to them.

1 THE TESTER: Uh-huh.

2 THE AGENT: Let's see.

3 I'm giving you this. This is just your
4 [indiscernible.]

5 THE TESTER: [Indiscernible.]

6 THE AGENT: And take these, because there's
7 my number on it, so you'll always have it with you.

8 THE TESTER: Okay.

9 THE AGENT: [Indiscernible.]

10 THE TESTER: Oh, that's so cool.

11 THE AGENT: Isn't it, though? I know.

12 THE TESTER: Yeah, that's so cool.

13 THE AGENT: I love my pen.

14 And, like I said, I'll send out an
15 introductory e-mail to you, so you have my
16 information in your phone. And then I'll put some
17 listings together and send them to you as well.

18 THE TESTER: [Indiscernible.]

19 THE AGENT: If you're ready this week, we'll
20 go out later this week.

21 If you want to wait and start fresh next
22 week, then we'll do that.

23 THE TESTER: Oh, okay. Yeah, sure.

24 THE AGENT: You let me know.

25 THE TESTER: Uh-huh.

1 THE AGENT: If I have something, as you know,
2 I'll tell you I have something.

3 [End of Video Clip 33.]

4 SENATOR SKOUFIS: Thank you.

5 I know the audio is a little bit foggy, but
6 do you know how long the real estate agent there and
7 the potential client spoke for?

8 JOHNNIE MAE ALSTON: That wasn't Anne Marie.

9 OFF-CAMERA SPEAKER: That was the clip
10 [indiscernible] --

11 JOHNNIE MAE ALSTON: That wasn't Anne Marie.

12 SENATOR SKOUFIS: Okay, I'm getting some
13 conflicting information here.

14 Regardless, the conversation that took place
15 with the real estate agent I described, do you know
16 how long that conversation took place with, with the
17 White tester?

18 JOHNNIE MAE ALSTON: No.

19 SENATOR SKOUFIS: Over an hour.

20 JOHNNIE MAE ALSTON: Oh.

21 SENATOR SKOUFIS: And as you probably know,
22 she was not asked to provide a pre-certification
23 letter -- a mortgage pre-certification letter.

24 And I want to, hopefully, put up the clips of
25 you speaking with the real estate agent, Marie.

1 Clip 30.

2 [Start of Video Clip 30.]

3 THE AGENT: So it's just you and your
4 husband?

5 THE TESTER: Yes.

6 THE AGENT: How many bathrooms?

7 THE TESTER: It doesn't matter.

8 THE AGENT: Okay. So at least one and a
9 half?

10 THE TESTER: Anything.

11 I don't know. We've never looked at houses
12 before.

13 THE AGENT: Okay.

14 Are you pre-qualified? [Indiscernible] --

15 THE TESTER: My husband is working with
16 somebody in the bank.

17 THE AGENT: Which bank?

18 THE TESTER: I am not sure.

19 He's taking care of that. And then he had to
20 go out of town to do a training.

21 So, I don't know about that.

22 I have to get to him about that, because I've
23 been running like a dog.

24 THE AGENT: I know.

25 So I really need that. I won't take out

1 anyone unless you have a pre-qualification letter.

2 THE TESTER: So that means [indiscernible] --

3 THE AGENT: [Indiscernible] pre-qualify for a
4 mortgage.

5 THE TESTER: Oh. So that means I can't go
6 out to see anything --

7 THE AGENT: I won't -- I won't do it.

8 You can try another person, but I don't have
9 the time to do that --

10 THE TESTER: Uh-huh.

11 THE AGENT: -- because I need to know that
12 you're serious.

13 THE TESTER: Uh-huh.

14 THE AGENT: I really need a pre-qualification
15 letter.

16 It also shows on that your price range.

17 THE TESTER: Yeah, my price range is, like,
18 \$500,000.

19 THE AGENT: Okay.

20 So -- but I need to have the bank say, yes,
21 that's your price range.

22 THE TESTER: Okay.

23 THE AGENT: You may think it's fast.

24 Maybe it's a little more, maybe it's a little
25 less. But if we're at that range that the letter

1 says, then I know we're full steam ahead.

2 THE TESTER: Oh, okay.

3 THE AGENT: That's why -- that's why it's
4 really important.

5 Also, what's great about that, it tells you
6 how much in taxes you can afford.

7 THE TESTER: Uh-huh.

8 [End of Video Clip 30.]

9 SENATOR SKOUFIS: If you couldn't hear, the
10 agent says, "So I really need that," meaning, a
11 pre -- a mortgage pre-certification --

12 JOHNNIE MAE ALSTON: Yes.

13 SENATOR SKOUFIS: -- letter.

14 "I won't take out anyone unless you have a
15 pre-qualification letter. So I need to know that
16 you're pre-qualified for a mortgage."

17 And then you note, "I didn't realize I needed
18 that," effectively.

19 And the agent replies, "I won't -- I won't do
20 it. You can try another person," and she goes on
21 for a little bit after that.

22 I'd like to now play the final clip here,
23 which is Clip Number 31.

24 [Start of Video Clip 31.]

25 THE AGENT: And then as soon as you get that

1 pre-qualification, that would be wonderful.

2 THE TESTER: Okay.

3 THE AGENT: And here is this [indiscernible].

4 THE TESTER: Oh, okay, you have a brochure.

5 THE AGENT: [Indiscernible.] Here's our
6 contracts.

7 THE TESTER: Okay.

8 THE AGENT: And, that's it.

9 THE TESTER: How do you say your last name?

10 THE AGENT: Bechand.

11 THE TESTER: Bechand?

12 THE AGENT: Yeah.

13 THE TESTER: And how do you spell your middle
14 name?

15 THE AGENT: Anne Marie Queally.

16 THE TESTER: Bechand?

17 THE AGENT: Yeah.

18 THE TESTER: Okay.

19 What is that, is that French?

20 THE AGENT: Yeah. [Indiscernible.]

21 THE TESTER: Okay. All right.

22 Okay. Thank you so much, Anne, for your
23 time.

24 THE AGENT: I'm so sorry for your running
25 around.

1 THE TESTER: Oh, well, I made it here.

2 [End of Video Clip 30.]

3 SENATOR SKOUFIS: So there, again, she
4 requests a pre-qualification, a pre-certification.

5 JOHNNIE MAE ALSTON: Yes.

6 And also, before, she did ask me for
7 pre-qualification. And I told her that my husband
8 was working on it.

9 SENATOR SKOUFIS: Okay.

10 What's your reaction to watching those clips
11 again?

12 JOHNNIE MAE ALSTON: She really didn't like
13 me at all.

14 She --

15 SENATOR SKOUFIS: Did you know that at the
16 time?

17 JOHNNIE MAE ALSTON: -- she -- you know what?
18 She made me feel like she was annoyed.

19 She's the only one that made me feel like she
20 was annoyed, and that, you know, I would, like, come
21 in there without, you know, any pre-qualifications.
22 And, like, I don't know what I'm doing, so here's
23 what you have to do. You got to do this, this, and
24 this, but I really can't.

25 It's, like, there's no way that she was going

1 to take me out.

2 You know, I just -- you feel it.

3 Sometimes you just know when somebody is,
4 like, I'm not with you at all.

5 But she -- out of everyone, she made me feel
6 unworthy.

7 SENATOR SKOUFIS: Did you know at that time
8 that you did not need a pre-qualification letter --

9 JOHNNIE MAE ALSTON: Yes.

10 SENATOR SKOUFIS: -- to be able to see homes?

11 JOHNNIE MAE ALSTON: Yes.

12 SENATOR SKOUFIS: You did?

13 JOHNNIE MAE ALSTON: Yes.

14 SENATOR SKOUFIS: And, so, did you realize
15 then that you were being discriminated against?

16 JOHNNIE MAE ALSTON: With her, yes, only
17 because of the way that she spoke, and her adamancy
18 about, "I'm not taking you out."

19 SENATOR SKOUFIS: And --

20 JOHNNIE MAE ALSTON: And even -- because
21 I had been out with other people before, even
22 without it I [indiscernible] been out.

23 SENATOR SKOUFIS: If you weren't a tester, if
24 you weren't acting out a situation there, and that
25 was actually happening to you as a real prospective

1 homebuyer, would you have filed a complaint after
2 being treated that way?

3 JOHNNIE MAE ALSTON: No, I probably wouldn't
4 have. I probably would have just went on to
5 somebody else, and told everybody what a lousy
6 person she was, because I wouldn't have known that
7 I could do anything, or could tell anybody what
8 happened. And I'm thinking that it's, just, it
9 happens all the time to everybody --

10 SENATOR SKOUFIS: I think --

11 JOHNNIE MAE ALSTON: -- of color.

12 SENATOR SKOUFIS: I think you've -- you've
13 hit the point here, which is, that, yes, we know the
14 discrimination is existing. And certainly now we're
15 aware of the scope of that discrimination.

16 But equally as important, we cannot -- as was
17 noted by a couple of the previous witnesses, we
18 can't simply rely on complaints to drive a solution
19 here.

20 Would you agree?

21 JOHNNIE MAE ALSTON: You can't, because a lot
22 of people just get fed up and they'll go someplace
23 else.

24 And then, as I said, it's hard to get people
25 to believe what you say without proof.

1 Without proof, you ain't got nothing, unless
2 you take a tape recorder and a video camera every
3 time you go, and say, Well, look at this.

4 And then you send one of your White friends
5 in and -- with the same scenario.

6 That's the only true way you're going to find
7 out.

8 SENATOR SKOUFIS: Do you recall how many
9 agents each of you spoke with, met with?

10 RICHARD HELLING: Oh, I would say it was
11 probably about 15, or so.

12 JOHNNIE MAE ALSTON: I would say about that
13 many, also, yeah.

14 SENATOR SKOUFIS: Okay.

15 And now knowing what you know, and seeing the
16 results of this exposé, would you characterize this
17 discrimination as systematic?

18 JOHNNIE MAE ALSTON: Yes.

19 RICHARD HELLING: Absolutely.

20 SENATOR SKOUFIS: Do you believe that these
21 practices are shared amongst real estate agents,
22 where they talk with one another, hey, you know,
23 this is the way I treat these kind of situations,
24 these are how I handle these types of people, if you
25 will?

1 Do you think that --

2 JOHNNIE MAE ALSTON: Yes.

3 SENATOR SKOUFIS: -- those conversations
4 happen?

5 JOHNNIE MAE ALSTON: Yes, yes.

6 RICHARD HELLING: I can't -- I can't speak to
7 what the --

8 JOHNNIE MAE ALSTON: I think so.

9 RICHARD HELLING: -- real estate agents are
10 thinking.

11 SENATOR SKOUFIS: But, surely, I -- actually,
12 I shouldn't lead you.

13 Do you believe that it's a coincidence that
14 49 percent of African-Americans were found to be
15 discriminated against, or do you think there --
16 there is really something more there, and this is --
17 this is truly systematic, and there are practices
18 that are shared amongst the people who are doing
19 this?

20 RICHARD HELLING: I think that it's
21 absolutely systematic.

22 But whether practices are intentionally
23 shared between realtors, that's -- you know, I don't
24 know.

25 SENATOR SKOUFIS: Do you feel that your

1 training was adequate?

2 JOHNNIE MAE ALSTON: Yes.

3 RICHARD HELLING: Yes.

4 JOHNNIE MAE ALSTON: They did -- we did tests
5 before we even went out on tests.

6 They questioned us about our scenarios that
7 we had. They would quiz us before we went out.

8 And even with the testing that we had,
9 I think we had a great testing -- great training.

10 RICHARD HELLING: Yeah, and I think the
11 question has come up earlier, too, about the rigor
12 of the testing.

13 And I've been involved with research in the
14 past. And I was very impressed at the
15 professionalism and the quality that the journalists
16 put into this project, so as to -- that we -- our
17 role was to gather information. And -- and we did
18 it in a very professional way.

19 SENATOR SKOUFIS: Thank you.

20 And not just for your presence here, but,
21 more importantly, certainly, on being an
22 instrumental component of bringing this all to
23 light, you know, quite frankly, I would say the
24 central component of bringing all this to light.

25 I now will turn it over to Senator Kaplan.

1 SENATOR KAPLAN: So I have a quick question
2 to ask you.

3 You talked about, knowing what you know now,
4 would you file that complaint?

5 And you said -- at the time, you said you
6 wouldn't have filed it. You just moved on to the
7 next person.

8 Can you give us, as someone who's gone
9 through this process, any insight what we could do
10 to actually inform people, like yourself, when
11 they're going through this process, to actually take
12 that step to report this?

13 JOHNNIE MAE ALSTON: You know what? I think
14 that, you know, there's always information out
15 there.

16 Everything you do, there's plenty of
17 information, but the problem is, where do you find
18 it?

19 You know, everybody has this information.

20 And it's, like, now, since I've been in it
21 and I've done a couple of jobs for a couple of other
22 people, I would know where to go.

23 But prior to that, like, from today,
24 I wouldn't have known, because, since I've done it,
25 I know.

1 That's the only thing.

2 But I don't know if there's any way to make
3 it better, besides putting out information so that
4 people can see it and know about it. That's about
5 it.

6 SENATOR KAPLAN: So you've gone through it
7 now, and now you know where to look -- correct? --
8 at least ask the questions.

9 If you were -- someone asked you before, do
10 you have any suggestion how we could actually reach
11 out to all these people who really don't want to be
12 bothered to -- and they don't know where to look?

13 JOHNNIE MAE ALSTON: Well, I think every
14 office is supposed to have a -- something up in
15 their offices about discrimination.

16 So that -- that would help if you would see
17 them in the offices when you go there, that you have
18 a right, if you feel like you were discriminated
19 against, blah blah blah.

20 A lot of people, they don't have the
21 discrimination disclosure in their offices.

22 I think that would be a good one, but it's
23 got to be so people can see it, because sometimes
24 the things that are posted, it's not posted where
25 people can see it.

1 It's either on a back wall over here, so if
2 anybody asks, they'll say, Oh, yeah, we have that
3 discrimination notice.

4 But, it's in the back room, so nobody gets to
5 see it.

6 SENATOR KAPLAN: Thank you. I think that
7 actually is very helpful. Maybe that's something we
8 could look into, and have something that has to be
9 posted, that's really in plain view, and readable by
10 a lot of people who visit these offices.

11 JOHNNIE MAE ALSTON: Yeah, and not in tiny
12 print.

13 SENATOR KAPLAN: Right.

14 SENATOR SKOUFIS: Senator Gaughran.

15 SENATOR GAUGHRAN: Well, thank you both
16 for participating in something that looks like
17 it's going to be something very important for
18 Long Island.

19 And appreciate your testimony.

20 Ms. Alston, question for you.

21 Did I hear you correctly that, with -- with
22 this agent that you were talking about, you
23 communicated that you had \$500,000 --

24 JOHNNIE MAE ALSTON: To put down --

25 SENATOR GAUGHRAN: -- to put down?

1 Okay.

2 JOHNNIE MAE ALSTON: -- yes.

3 That was Anne Marie, yeah.

4 SENATOR GAUGHRAN: Was there a price of a
5 home that was being discussed?

6 JOHNNIE MAE ALSTON: No, no, no.

7 I was telling her how much I had to put down.

8 Like, usually you have money in your savings
9 or checking account.

10 SENATOR GAUGHRAN: Right?

11 JOHNNIE MAE ALSTON: And then you have your
12 money, and you say, well, I can put down \$500,000.

13 So that -- that's just to give you a hint,
14 like, I do have money --

15 SENATOR GAUGHRAN: Right, I mean --

16 JOHNNIE MAE ALSTON: -- you know, that I can
17 put down.

18 SENATOR GAUGHRAN: -- 'cause -- 'cause
19 I think, even in today's real estate market, if
20 you're putting down \$500,000, for most homes on
21 Long Island, you're probably going to be able to buy
22 the house and qualify for a mortgage, because you're
23 putting so much of your money into it.

24 Just seemed -- that seems a real red flag to
25 me.

1 JOHNNIE MAE ALSTON: No, I got to change
2 that.

3 \$100,000 down for a \$500,000 house.

4 SENATOR GAUGHRAN: Oh, one hundred for
5 \$500,000?

6 JOHNNIE MAE ALSTON: Yes.

7 SENATOR GAUGHRAN: Okay, okay.

8 But thank you for what you did, what you both
9 did.

10 SENATOR SKOUFIS: Senator Kavanagh.

11 SENATOR KAVANAGH: Thank you,
12 Senator Skoufis.

13 So, Mr. Helling, I just want to go into a
14 particular -- one of the particular [indiscernible]
15 you had.

16 You were involved in a paired test, Test
17 Number 96, that was designated by "Newsday,"
18 involving a real estate agent,
19 Leanne Vicari [ph.][sic], then of Keller Williams
20 of Hauppauge.

21 As part of this test you were paired with
22 Kelvin Toon [ph.] who is African-American.

23 On November 18, 2016, Mr. Toon met with
24 Agent Vicati [ph.], and I'd like to play the clip of
25 that, if we can.

1 It's Clip Number 96.

2 [Start of Video Clip Number 96.]

3 THE AGENT: [Indiscernible.]

4 THE TESTER: Hi, yes, my name is Kelvin Toon.

5 How you doing?

6 THE AGENT: [Indiscernible]?

7 THE TESTER: Yes, [indiscernible].

8 THE AGENT: Hi, how are you?

9 THE TESTER: Me and my wife are looking to
10 purchase a home --

11 THE AGENT: Okay.

12 THE TESTER: -- in the Brooklyn area.

13 THE AGENT: Okay.

14 THE TESTER: Do you have a couple of minutes
15 to talk to us?

16 THE AGENT: Sure. Come on in.

17 THE TESTER: Thank you.

18 [Indiscernible] all those -- all those are
19 agents that work for the company?

20 THE AGENT: Yes.

21 THE TESTER: She was told -- she thought she
22 was that this was a big real estate agency. Is it
23 [indiscernible] --

24 THE AGENT: It is. Actually, the largest
25 company in the world.

1 This is the only Suffolk office.

2 THE TESTER: Okay?

3 THE AGENT: And we're actually -- I actually
4 just looked at the market share the other day.

5 THE TESTER: Uh-huh, yes?

6 THE AGENT: So out of 978 offices in
7 Suffolk County, we're Number 14.

8 THE TESTER: Wow. Okay.

9 She said [indiscernible]. Well, I guess you
10 [indiscernible] --

11 THE AGENT: This is such a wonderful office.

12 THE TESTER: She didn't send me on a wild
13 goose chase?

14 THE AGENT: No, she didn't.

15 THE TESTER: Okay.

16 THE AGENT: Come sit down.

17 THE TESTER: Okay. Thank you.

18 THE AGENT: [Indiscernible.]

19 THE TESTER: [Indiscernible.]

20 THE AGENT: You live in Brentwood right now?

21 THE TESTER: No, I live in New York.

22 THE AGENT: Oh.

23 THE TESTER: [Indiscernible.]

24 THE AGENT: In the city?

25 THE TESTER: In the city, yes,

1 [indiscernible].

2 THE AGENT: What brings you out here?

3 THE TESTER: Well, she's found a job.

4 [Indiscernible.] She works for -- at NYU,

5 [indiscernible].

6 THE AGENT: Oh, how nice.

7 THE TESTER: And she's coming here to the

8 Brentwood area to work.

9 THE AGENT: But I have to tell you, my
10 clients in Brentwood are the nicest clients.

11 I always tell everybody that.

12 Every time I get a new listing in Brentwood,
13 or a new client, I get so excited because they're
14 the nicest people.

15 THE TESTER: [Indiscernible.]

16 THE AGENT: [Indiscernible], I don't know
17 why, [indiscernible] Brentwood is like my -- my
18 favorite areas to work because people are so nice.

19 THE TESTER: Oh, okay. This sounds good.

20 THE AGENT: Yeah.

21 [End of Video Clip 96.]

22 SENATOR SKOUFIS: So, just again, I think
23 that because the sound quality in the room may vary,
24 there was just one -- one -- this is from the
25 transcript:

1 "I have to tell you my clients in Brentwood
2 are the nicest clients. I always tell everybody
3 that, every time I get a new listing in Brentwood,
4 or a new client, I get so excited because they're
5 the nicest people."

6 So we have -- I'm just going to give you,
7 I guess this is Exhibit B of this hearing, but this
8 is the text from a text message you received from
9 the same agent.

10 Would you mind just reading that?

11 RICHARD HELLING: Sure, sure.

12 And also, just to clarify, that the "Newsday"
13 team were handling all the text messages at this
14 point.

15 I wasn't the one who was handling that --

16 SENATOR KAVANAGH: Oh, I see.

17 You didn't receive it? You were -- you
18 were --

19 RICHARD HELLING: -- no, no.

20 They were doing it on my behalf, as part of
21 the test.

22 SENATOR KAVANAGH: Got you.

23 RICHARD HELLING: So...

24 "Remarks made to White tester, agent in a
25 text message:

1 "Hi, Dean.

2 "You may want to look into recent gang
3 killings in the Brentwood area online.

4 "As mentioned, please kindly do some research
5 for the gang-related events in that area, for
6 safety."

7 SENATOR KAVANAGH: So how do you interpret
8 that message relative to what was given to the --
9 the other tester in this pairing?

10 RICHARD HELLING: It's disgusting.

11 I mean, she's -- she's warning me about
12 something that she didn't share with my counterpart.

13 SENATOR KAVANAGH: Fair to say you're not
14 getting the message that they're the nicest people
15 over in Brentwood?

16 RICHARD HELLING: That would be the message.

17 I mean, if -- if I were an actual buyer and
18 looking at this, I would pause, thinking, you know,
19 even though part of that test was, I wanted to be in
20 a specific area near to Brentwood.

21 So that was -- and -- and she was -- looked
22 like she was steering me away from Brentwood.

23 SENATOR KAVANAGH: Okay.

24 Again, thank you.

25 I don't know if we have any other?

1 Again, I'd just like to thank you for your
2 participation today.

3 And, also, your participation was incredibly
4 important to the investigation.

5 We really appreciate it.

6 RICHARD HELLING: Thank you very much.

7 JOHNNIE MAE ALSTON: Okay, thank you.

8 SENATOR THOMAS: All right, next up we have
9 Panel 5.

10 We have Kimberly Kinirons from the New York
11 State Attorney General's Office, Suffolk Regional
12 Office;

13 We have Theresa Sanders, president of the
14 Urban League, Long Island;

15 And, Lorraine Collins, director of public
16 policy and external affairs at Enterprise Community
17 Partners.

18 Welcome.

19 Before you start -- before everyone starts,
20 can all three please stand up?

21 They're not paying attention.

22 Can all three please stand up, please?

23 Raise their right hand.

24 Do you testify -- do you solemnly swear that
25 you will tell the truth, the whole truth, and

1 nothing but the truth?

2 [All three witnesses say "Yes."]

3 SENATOR THOMAS: All right.

4 Take a seat.

5 You may start.

6 KIMBERLY A. KINIRONS: Good afternoon,
7 Chairs Skoufis, Kavanagh, and Thomas, as well as
8 every other distinguished person who remains at this
9 time.

10 My name is Kimberly Kinirons. I'm an
11 assistant attorney general in charge of the Suffolk
12 regional office of the attorney general,
13 Letitia James.

14 As you're aware, and as has been mentioned
15 earlier today, our office has already announced an
16 investigation into the allegations of discriminatory
17 practices here on Long Island by real estate agents
18 which are the subject of today's hearing.

19 For that reason, I'm somewhat limited in what
20 I'm able to say today; however, we wanted to make
21 clear that the office of the attorney general takes
22 these allegations seriously, and we look forward to
23 working with all of you, and all of the players,
24 that can help address these issues.

25 We look forward to bringing changes, and

1 finding the appropriate set of remedies.

2 Our office held a roundtable discussion
3 in Melville on December 2nd, where
4 Attorney General James and our staff had the
5 opportunity to hear from elected officials,
6 advocates, business leaders, and others, some of
7 whom have come before you today.

8 The consensus was, that while these
9 allegations are disturbing, they are far from
10 surprising. Long Island remains one of the most
11 segregated areas in the country.

12 However, we also saw at the roundtable, the
13 commitment, and the will, to make a real change.

14 It is in that spirit that I'm here before you
15 today.

16 The civil rights bureau of the New York State
17 Attorney General's Office enforces laws that protect
18 all New Yorkers from discrimination in housing based
19 on race, color, or national origin, including the
20 Fair Housing Act and the New York State Human Rights
21 Law.

22 These laws generally prohibit agents from
23 making statements about the racial makeup of a
24 community, or providing disparate services based on
25 a customer's race or ethnicity.

1 If your constituents have experienced such
2 discrimination, we hope you will urge them to
3 contact our office.

4 We've prepared some cards that perhaps can be
5 given out if anybody is spurred on by everything
6 that's going on, and comes in and does wish to make
7 a complaint.

8 Fair access to housing is a basic civil right
9 that all New Yorkers, including Long Island
10 residents, are entitled to.

11 The pattern of discrimination uncovered by
12 "Newsday's" reporting is deeply disturbing and calls
13 for decisive action.

14 Along with our ongoing investigation, we look
15 forward to working with you, and the rest of the
16 Legislature, to find measures to better prevent such
17 discrimination, going forward.

18 To be clear, housing discrimination is not
19 unique to Long Island.

20 Just last week, our office took action to
21 fight discriminatory housing practices that have
22 occurred in the town of Chester and Orange County.

23 In the town of Chester and Orange County,
24 there are actions that have been utilized to prevent
25 members from the Jewish community from moving into

1 that area.

2 Attorney General James filed a motion to
3 intervene in a lawsuit against the Town of Chester
4 and Orange County, alleging that they have engaged
5 in a concerted and systematic effort to prevent
6 Hasidic Jewish families from moving to Chester by
7 blocking the construction of a housing development.

8 The original lawsuit that was filed in
9 July 2019 outlined countless discriminatory and
10 unnecessary actions that Chester and Orange County
11 had taken to stop the homes from being built, in
12 order to prevent Jewish families from purchasing and
13 occupying them, which we allege constitute gross
14 violations of the Fair Housing Act.

15 Now, more than ever, our state must step up
16 and fight this pernicious sort of discrimination,
17 which bars New Yorkers from accessing a basic human
18 right, based on fundamental identity.

19 Over the past three years, the federal
20 government has dramatically curtailed its
21 enforcement of fair-housing laws, freezing fair
22 Housing Act actions against local governments and
23 businesses, and suspending a rule that would have
24 required cities and towns that get federal funding
25 to look at housing patterns for signs of racial bias

1 and discrimination.

2 In recent months, Attorney General James led
3 a coalition of 22 attorneys general in fighting
4 back a rule change that would have all but
5 eliminated disparate impact investigations under the
6 Fair Housing Act.

7 The current rule protects against
8 discriminatory housing and lending practices that
9 have the effect of harming individuals based on
10 their race, color, religion, national origin, sex,
11 disability, and familial status.

12 The proposed changes would create uncertainty
13 and make it harder for states to ensure equal
14 housing opportunities for all Americans.

15 In this case, as in others, we will do
16 everything in our power under the law to protect the
17 civil rights of New Yorkers, and ensure that no one
18 is denied housing based on their personal
19 background.

20 We know that we have strong partners in the
21 Legislature with whom we will work to protect
22 against the type of discrimination that's the
23 subject of this hearing.

24 We look forward to working with you to ensure
25 that these wrongs are righted, and that New Yorkers

1 all across this state are safeguarded against such
2 bias, going forward.

3 I thank you for giving me the opportunity to
4 speak today, and for holding this hearing.

5 SENATOR THOMAS: Thank you.

6 Theresa.

7 THERESA SANDERS: Thank you to the Chairs,
8 Senator Kavanagh, Senator Skoufis, and
9 Senator Thomas.

10 Thank you for having us here, and to everyone
11 that took time out of their schedule to attend this
12 important hearing.

13 I want to take this opportunity to share my
14 views, channeling over 25 years of experience as the
15 president and CEO of the Urban League of
16 Long Island, and 13 years as a history professor at
17 State University of New York, College at
18 Old Westbury, and a resident of Long Island for the
19 past 56 years.

20 I was born in Harlem, New York, and my
21 introduction to Long Island was in 1963, where my
22 father, an NYPD officer, enlisted in the Navy, and
23 moved his family from Harlem to a military base in
24 East Meadow called Mitchell Field. I was enrolled
25 in Bottomwood Elementary School in East Meadow.

1 And it was a turbulent time in America, with
2 the Civil Rights Movement for racial justice gaining
3 support from a broader sector of Americans, while,
4 at the same time, facing resistance from those
5 indoctrinated with an ideology that there is a White
6 race that is superior to all races and cultures,
7 and, therefore, should have access at the expense of
8 others to the basic of all human rights, such as
9 safe and clean housing, quality education and health
10 care, and access to engagement in voting, and other
11 basic constitutional rights, without the fear of
12 intimidation, violence, or incarceration.

13 While racism is morally unethical, it also
14 has an economic impact on everyone.

15 In the "Equity Profile of Long Island,"
16 released in 2017 by the State of Black Long Island
17 Equity Council, with the membership of Black leaders
18 and others fighting racism, the region's economic
19 economy would have been nearly \$24 billion stronger
20 if its racial gaps in income had been closed.

21 This report is available on the Urban League
22 of Long Island website.

23 To build a sustainable Long Island economy,
24 public, private, and non-profit leaders across the
25 region must commit to advancing policies and

1 strategies that increase health equity, wealth, and
2 economic resilience for all Long Islanders.

3 Relative to the topic at hand, it is
4 important that I first reinforce for the Committee
5 that the real -- the reality of Long Island is that,
6 in 2019, we still remain one of the 10 most
7 racially-segregated metropolitan regions in the
8 United States of America.

9 Severe racial segregation in housing and
10 schools means that families live in racial
11 isolation.

12 As a result, there are very few occasions
13 where residents from different racial groups can
14 interact with one another.

15 This, in my judgment, is tragic, yet all too
16 common occurrence in modern America and in this
17 multicultural world.

18 To tackle destructural [sic] racism
19 underpinning this segregation, last year the
20 Urban League of Long Island partnered with a
21 co-host, to co-host a Long Island-wide public
22 discussion, "How Do We Build a Just Long Island?"
23 which was launched by Erase Racism, who you heard
24 from the CEO, Elaine Gross, earlier.

25 This launch consisted of 5 public forums held

1 over 12 days in November and December in Nassau and
2 Suffolk counties.

3 The forums were co-hosted also by such
4 leading institutions as the Long Island Association,
5 The Center for the Study of Inequity Social Justice
6 and Policy at Stony Brook University, the National
7 Center for Suburban Studies at Hofstra Universities,
8 the State of Black Long Island Equity Council, and
9 the Town of Riverheads Anti-bias Task Force.

10 In addition to this constructive dialogue
11 that was generated through the forums, new evidence
12 of structural racism and discrimination is
13 documented on such a large and massive scale by this
14 three-year investigation by "Newsday" that was
15 published, the "Long Island Divided."

16 And I won't go into the details about the
17 investigation, because I believe you've heard it all
18 today and -- from the authentic researchers and from
19 the testers.

20 And while the "Newsday" investigation found
21 that these agents continue to steer Black
22 Long Islanders, you know, I've had personal
23 experience, not only as a fair-housing tester in the
24 early '90s, when I worked for the Long Island
25 Housing Partnership Services, residents had let

1 their dogs out on me in the yard or called me
2 offensive names, but, also, this personal experience
3 was when my father was discharged from the military
4 and we were seeking to stay on Long Island.

5 Although we were only a couple of miles away
6 from Levittown, we were not shown homes in
7 Levittown.

8 My family used their GI bill, and they were
9 steered to other communities on Long Island.

10 Real estate steering on Long Island occurs
11 when homeseekers are guided by housing providers to
12 communities where their race is already highly
13 concentrated.

14 So as people of color channel to integrated
15 or predominantly non-White neighborhoods, and Whites
16 are shown homes primarily in White communities, this
17 steering contributes directly to the segregated
18 housing patterns that have long persisted in urban
19 and suburban communities, and the many causes
20 associated with that separation.

21 From my organization's experience, steering
22 on Long Island has historically taken several forms:

23 "Information steering," which occurs when
24 minority homeseekers are shown or given information
25 on fewer homes or neighborhoods that non-White --

1 I mean, than non-minority homeseekers;

2 "Segregation steering," which occurs when
3 minorities are shown homes in areas with large
4 minority populations;

5 And "class steering," which occurs when
6 neighborhoods shown to minority homeseekers are of
7 lower socioeconomic status than those shown to
8 non-minorities.

9 New evidence of this discriminatory patterns
10 unearthed by "Newsday" concluded that several actors
11 in the housing industry actively engaged in
12 steering.

13 Mortgage lenders, insurance agents, often
14 provide less information, and offer fewer and more
15 expensive and lower-quality products to non-White
16 households or residents of non-White communities
17 than they do for Whites in predominantly White
18 communities.

19 These practices influenced the location and
20 range of housing options for minority families;
21 however, racial steering is most closely associated
22 with the practices of real estate agents, who are
23 often the gateway to housing opportunities, which
24 often differ for White and non-White families.

25 You will shortly hear, and have heard,

1 corroborating evidence of this today.

2 From my vantage point, racial steering has
3 been motivated by several factors.

4 Real estate agents on Long Island generally
5 serve selected neighborhoods and rely heavily on
6 word-of-mouth advertising to recruit new clients.

7 Many fear loss of business if they introduce
8 a minority family into a White neighborhood.

9 Historically, some agents feared strong
10 reprisals [sic] from area residents if they
11 introduced the household that would have been
12 detrimental and have a detrimental effect on home
13 values.

14 Some maintain they are simply responding to
15 the preference of renters and buyers who prefer to
16 live in neighborhoods that look and feel just like
17 them.

18 If overt racial discrimination has declined
19 in recent years across the nation, the more subtle
20 variety, in the form of racial steering, clearly
21 persist at high levels in the nation's suburban and
22 metropolitan communities, such as Nassau and Suffolk
23 counties, and steering has increased.

24 Steering, along with other forms of
25 discrimination, contributes to the ongoing

1 segregation of American cities and many social
2 costs.

3 Segregation nurtures the concentration of
4 poverty and, particularly, the concentration of
5 people of color, as the values in the wealth
6 accumulation associated with home ownership are
7 undercut for racial minorities because of their
8 continued isolation for more favored neighborhoods.

9 Consequently, African-Americans and other
10 people of color are disproportionately trapped in
11 neighborhoods where school achievement is lower,
12 crime rates are higher, and most public services and
13 private amenities are of lower quality.

14 Despite these clear and present headwinds,
15 I am here to argue that consumer education and
16 fair-housing enforcement is a solution, and it
17 appears to be working.

18 For example, in some areas, reductions in
19 discrimination during the '90s suggest that
20 efforts of HUD and other law enforcement
21 authorities, along with the work of non-profit
22 fair-housing organizations around the country, had
23 the intended effect.

24 During this period, lawsuits filed by
25 non-profit housing centers generated more than

1 180 million for plaintiffs. But the fair-housing
2 agenda remains unfinished and is under attack at the
3 federal level.

4 Racial steering is clearly one of the issues
5 that should be the focus of future enforcement
6 efforts, persisting high levels of discrimination,
7 even if lowered in previous years, indicate that
8 equal housing opportunity through the law of the
9 land is not yet to be reality on Long Island.

10 To be perfectly clear, what propelled the
11 infamous era of redlining, and the current status of
12 predatory lending and other standard industry
13 practices outlined by "Newsday," that produced
14 discriminatory effects is, in fact, racism.

15 But from the standpoint of industries, those
16 policies and practices were, and remain, legitimate
17 business decisions. They are protecting investments
18 and making a profit.

19 Here is where the legislative and regulatory
20 powers of New York State Legislature must focus.

21 Similarly, local governments on Long Island
22 and elsewhere have a major role to play, though we
23 must also confront the fact that these units of
24 local government historically protect their
25 communities of primarily White residents by

1 systemically excluding Black people through housing
2 policies that include geographic preferences.

3 If you already live in a community, you can
4 access affordable housing there.

5 But if you live outside the community
6 boundaries, you are denied. The stated region --
7 reason, is to give preference to existing residents.

8 But given the existence of racial composition
9 of current residents, this housing policy of
10 geographic preferences is producing a discriminatory
11 effect.

12 This is but one form of the example.

13 I wholeheartedly applaud the New York State
14 Senate, through the Committee on Housing,
15 Construction, and Community Development; the
16 Committee on Investigations and Government
17 Operations; and Committee on Consumer Protection,
18 for holding this unique and urgent joint field
19 hearing, and for documenting throughout the region a
20 pattern of housing discrimination that can no longer
21 be ignored.

22 Its existence, it's proven.

23 The question now is: What will government,
24 real estate, and civic leaders do?

25 While "Newsday's" focus report on practices

1 of real estate industry, those practices intertwined
2 with various policies and practices that produce and
3 maintain residential segregation long established
4 and perpetuated on Long Island.

5 In my view, and in the view of the National
6 Urban League, the obligation to ensure fair housing
7 exists at all levels of government throughout the
8 industry.

9 The failure to do so exist in all those areas
10 as well.

11 Thank you for the opportunity to share my
12 views and perspectives.

13 I'm available to answer any questions you may
14 have.

15 SENATOR THOMAS: Thanks, Theresa.

16 Lorraine.

17 LORRAINE Y. COLLINS: Good afternoon.

18 My name is Lorraine Collins, and I'm the
19 director of public policy and external affairs for
20 the New York office of Enterprise Community
21 Partners, a national affordable-housing non-profit
22 whose mission is to create opportunity for low- and
23 moderate-income people through affordable housing in
24 diverse, thriving communities.

25 Enterprise invests capital to create and

1 preserve quality affordable homes, reinvest revenues
2 to develop programmatic solutions, and scale these
3 solutions through policy change.

4 One of our organization's top priorities is
5 advancing fair housing and racial equity through
6 housing and community-development policies and
7 programs.

8 And as a national organization, Enterprise is
9 committed to furthering fair-housing work across the
10 country.

11 On behalf of Enterprise, I would like to
12 thank Chair Thomas, Chair Skoufis, and
13 Chair Kavanagh for convening this hearing, and for
14 the opportunity to testify today about the
15 persistent housing discrimination facing people of
16 color, especially Blacks and Hispanics, here on
17 Long Island.

18 While the recently reported findings of the
19 "Newsday" investigation are appalling, they are not
20 surprising, as you've heard.

21 Residential segregation in the New York City
22 metropolitan region remains among the most
23 persistent in the country, and our local
24 fair-housing partners have long understood the
25 systemic barriers that some New Yorkers face when

1 trying to secure housing in the communities of their
2 choice.

3 As you are aware, most of the work of the
4 affordable-housing industry has centered around
5 multi-family development; however, Enterprise and
6 many other organizations have overseen several
7 homeownership programs over the years, since we
8 believe in the importance of an array of housing
9 options available to households of all incomes.

10 Renters may eventually become homeowners, and
11 homeowners transition to rental housing.

12 We strive to improve the quantity and quality
13 of options available in either scenario.

14 In recent years, Enterprise has funded both a
15 local community land trust and two land banks on
16 Long Island. Both programs provide affordable
17 homeownership opportunities to Long Islanders who
18 might not otherwise become homeowners.

19 We continue to consider ways in which to
20 deepen the equity considerations inherent in both
21 programs, particularly through a racial-equity lens.

22 Also in recent years, we have been engaged in
23 work furthering fair-housing initiatives in a
24 broader form of the housing industry in the
25 New York City metro area and beyond.

1 In October 2017, Enterprise co-convened with
2 the Fair Housing Justice Center, a regional,
3 affordable, and fair-housing roundtable.

4 A dynamic working group comprised of nearly
5 30 affordable-housing, fair-housing,
6 disability-rights, community-development, education,
7 faith-based, and for-profit and non-profit,
8 organizations.

9 Three of the participating organizations are
10 based on Long Island, with several others engaged in
11 business here.

12 Over a yearlong process of deep discussions,
13 immense trust-building, and cross-sector education,
14 the roundtable published "Closing the Divide:
15 Creating Equitable, Inclusive, and Affordable
16 Communities," a shared-policy agenda, highlighting
17 several recommendations for further fair housing in
18 the region and statewide.

19 This process underscored that
20 facially-neutral land-use barriers, like
21 exclusionary zoning, have also historically been
22 used to maintain racial residential segregation, an
23 issue that our partners at Erase Racism and
24 Long Island Housing Services have been battling.

25 Today, these barriers keep communities

1 segregated by effectively preventing families of
2 color from accessing housing opportunities in many
3 areas.

4 Two policy recommendations, some of which
5 were mentioned earlier today, the group highlighted,
6 to try to stimulate more development of affordable
7 housing in affluent White neighborhoods in suburban
8 communities, were creating a statewide
9 equitable-share housing plan and a housing appeals
10 board.

11 The equitable-share housing plan would
12 establish a minimum affordable housing goal for
13 every community in the state, offering financial
14 incentives to develop housing that reaches lower
15 income bands, as well as supportive in accessible
16 housing.

17 A state-level housing appeals board would
18 have the authority to override local zoning
19 decisions in the face of local opposition to
20 affordable developments and fast-track proposals
21 that have zoning as of right.

22 This could include both affordable rental and
23 affordable homeownership developments.

24 Members of the roundtable were part of a
25 successful campaign to address discrimination

1 experienced by many New York State residents who
2 attempt to use non-wage sources of income to pay for
3 their rent.

4 This discrimination is pervasive, and is
5 often used as a proxy for racial or disability
6 discrimination.

7 This year, the Statewide Source of Income
8 Coalition, which was started by Erase Racism, and is
9 now co-lead by Enterprise, successfully advocated to
10 expand statewide protected classes to include lawful
11 source of income, and prohibit discrimination
12 against tenants using non-wage income to pay for
13 housing.

14 However, legislation is not enough to protect
15 individuals and families from housing
16 discrimination.

17 We are now shifting our efforts to advocating
18 for enforcement and education resources.

19 The State does not currently fund
20 fair-housing groups to carry out their housing
21 activity, and as you now see, these resources are
22 desperately needed.

23 During the summer of 2016, Enterprise
24 partnered with the local design studio, designing
25 the WE, to bring their exhibit, which highlights the

1 federal -- a major federal housing policy whose
2 impact still lingers today.

3 "Undesign the Redline" is an interactive
4 exhibit connecting the intentional and systemic
5 racial housing segregation of the 1930s to political
6 and social issues of today through powerful
7 narratives of the people and communities affected by
8 the redlining and its legacy.

9 The exhibit invites participants to interact
10 with its -- with this history and these stories to
11 invent the future of undoing structural inequities.

12 Since its Enterprise debut over two years
13 ago, the exhibit has been displayed at all of our
14 regional market offices, and returned to New York
15 this year, with a focus on the New York City
16 metropolitan area.

17 Given the profound impact that redlining has
18 had on housing on Long Island, the exhibit
19 establishes critical grounding for work in equitable
20 housing policy, highlighting local stories, such as
21 "The Creation of Levittown."

22 We are challenging those who have the
23 "Undesign the Redline" experience to go beyond just
24 educating -- or, just being educated about the
25 historic facts that not only divided our communities

1 and intentionally demobilized wealth-building
2 opportunities for Blacks, but to consider ways in
3 which corporations can operate differently,
4 community-development corporations can engage more
5 strategically, and elected officials can enact
6 policies that will help to undo, or "undesign,"
7 redlining.

8 Enterprise hosted members of both the state
9 Senate and Assembly housing committees for a tour
10 and post-tour discussion earlier this fall.

11 And I'm happy to report that leadership has
12 expressed an interest in bringing "Undesign the
13 Redline" to Albany in 2020, and this was before the
14 "Newsday" investigation.

15 If this is some of the good that can come out
16 of the reporting, I am more hopeful that we can all
17 work together to ensure that more of your colleagues
18 and New York State residents and guests can be
19 educated about this history, and can participate in
20 the "undesign" challenge.

21 In closing:

22 I would like to thank you again for the
23 opportunity to testify here today.

24 The systemic forms of housing discrimination
25 can only be addressed through policies that will

1 attempt to get at the root of the discriminatory
2 practices, and investment in fair housing and civil
3 rights organizations.

4 More strategic proactive enforcement methods,
5 such as testing, are required to root out the
6 housing discrimination we see today, as proven by
7 the "Newsday" investigation.

8 I am happy to answer any questions, and
9 I look forward to working with you to ensure that,
10 after years of illegal, unequal treatment and
11 disinvestment, all people in New York, especially
12 those who bore the biggest brunt of the
13 discriminatory burden, will have access to safe,
14 affordable housing, whether they are a renter or a
15 homeowner.

16 Thank you.

17 SENATOR THOMAS: Thank you to all three for
18 your testimony.

19 My first round of questions is for Kimberly
20 from the attorney general's office.

21 So when an agency, like the attorney
22 general's office, gets involved in fair-housing
23 discrimination cases, what is the process?

24 KIMBERLY A. KINIRONS: So I can only speak
25 generally --

1 SENATOR THOMAS: Yeah, of course.

2 KIMBERLY A. KINIRONS: -- obviously, because
3 we have an ongoing investigation.

4 SENATOR THOMAS: Uh-huh.

5 KIMBERLY A. KINIRONS: But, at this
6 juncture --

7 SENATOR THOMAS: Can you speak into the mic?

8 KIMBERLY A. KINIRONS: This one?

9 SENATOR SKOUFIS: Yeah, they're dual mics.

10 KIMBERLY A. KINIRONS: You got me twice.

11 Okay.

12 At this juncture, like any investigation, we
13 begin by collecting information.

14 And so that -- that is a process that
15 sometimes can take some time, to both collect the
16 information, and then carefully review the
17 information, and then decide what actions can be
18 taken.

19 I know that's a broad response, but that's
20 the general footprint of opening an investigation.

21 SENATOR THOMAS: In the past year, how many
22 of these investigations have you started?

23 KIMBERLY A. KINIRONS: You know, I don't know
24 the answer to that question.

25 We have a bureau that is specifically

1 designated, staffed with attorneys and staff
2 members, just to work on civil rights cases.

3 I run the regional office. And while we
4 partner with them to address those issues, it's not
5 information that I have at hand.

6 I'm certain it's something I can you, but
7 I do not know the answer.

8 SENATOR THOMAS: Just a few panels ago we had
9 Fred Freiberg, the co-founder of the Fair Housing
10 Justice Center, testify that he worked along with
11 the AG's office to create the testing.

12 Are you familiar with the testing part of
13 this?

14 KIMBERLY A. KINIRONS: I'm familiar with what
15 I learned from the "Newsday" investigation, and the
16 use of testers in other situations.

17 But what he referred to, I don't have
18 personal knowledge of.

19 SENATOR THOMAS: Okay. Do you know, within
20 the past year, how many testers went out from the
21 AG's office?

22 KIMBERLY A. KINIRONS: I don't know the
23 answer to that question, I'm sorry.

24 SENATOR THOMAS: Does the agency at least
25 conduct similar tests to what "Newsday" did, in the

1 past three years?

2 KIMBERLY A. KINIRONS: Again, I'm going to
3 cautiously say yes, because I'm aware, broadly, of
4 investigations that our civil rights bureau has done
5 in the past.

6 In other areas, and we do use investigators
7 and certain type of testing mechanisms.

8 But I can't answer as to what's been done
9 recently.

10 Again, I'm not in the civil rights bureau,
11 but I do know that that is something that's very
12 valuable, and it's a tool used in investigations if
13 warranted.

14 SENATOR THOMAS: Okay.

15 The next couple of questions are for Theresa
16 and Lorraine.

17 Were you here for the testimony of both the
18 county executives?

19 THERESA SANDERS: Yes.

20 LORRAINE Y. COLLINS: I was en route.

21 SENATOR THOMAS: Okay, you were en route.

22 But maybe Theresa can answer this question.

23 They talked about some policy changes, and
24 what they're going to be doing now.

25 What's your opinion?

1 Are they going far enough?

2 Do you recommend that they do more?

3 THERESA SANDERS: Well, I'm hopeful that this
4 has garnered so much attention, that they're in a
5 position that they have to respond to their
6 constituents.

7 I'm a little more closer to what happened in
8 Suffolk. Our SOB LI counsel has been meeting with
9 the county executive for several months about the
10 SOB LI agenda, and how we can improve the economic
11 condition of Black Long Islanders, based on the
12 baseline data that we provided in our report.

13 So as a result of that, he's put together
14 some things that I believe are going to be helpful
15 in sustaining any efforts of making sure, not only
16 in the real estate market that we have equity, but
17 in other markets.

18 SENATOR THOMAS: Okay.

19 Lorraine, in your testimony, you basically
20 said legislation is not enough.

21 I may have missed this, but what more can we
22 do as legislators here?

23 LORRAINE Y. COLLINS: I'll use the source of
24 income as an example.

25 I think, during our expert panel with Fred

1 and Elaine, they made reference to it as well, and
2 by "legislation being not enough," meaning that
3 enforcement has to come with legislation.

4 It's not enough just to pass a law, and the
5 law sit on the books, if there aren't resources that
6 are going to be provided to the enforcing agencies
7 to ensure that the law is effectively being
8 implemented.

9 SENATOR THOMAS: Okay.

10 Senator Kavanagh.

11 SENATOR KAVANAGH: Thank you.

12 Again, I'm not sure if you can answer this on
13 behalf of the attorney general's office, but, is
14 the -- is the investigation -- is it -- has it been
15 established whether the investigation that you're --
16 that are in the preliminary stages is a criminal
17 investigation or civil investigation, or potentially
18 both?

19 KIMBERLY A. KINIRONS: I can't answer that.
20 It is an ongoing investigation.

21 I can tell you that, generally speaking, when
22 we look at some type of misdeed, we consider all of
23 our options, which usually encompass both criminal
24 and civil options.

25 SENATOR KAVANAGH: Okay. And, again, if you

1 can answer, has -- have subpoenas been issued in the
2 course of this current investigation?

3 KIMBERLY A. KINIRONS: That, I can't answer.

4 SENATOR KAVANAGH: I guess, for Ms. Collins,
5 first of all, I did have the opportunity to view the
6 redlining exhibit, and found it, you know, very --
7 it was a very compelling story.

8 And although I'm somewhat familiar with that
9 history and that issue, it really -- it really was
10 eye-opening in many respects.

11 So, you know, thank you for that, and for my
12 colleagues who are working on bringing that exhibit
13 to Albany sometime during the session, so that
14 people will have an opportunity to view it there.

15 Can you just talk about -- you mentioned, you
16 know, you've been involved in this coalition that
17 was discussed earlier as well, to get
18 source-of-income discrimination to be one of the
19 protected for -- sort of, illegal forms of
20 discrimination in New York.

21 Can you just talk about how discrimination,
22 based on income, and other factors, intersects with
23 discrimination and race and ethnicity, in your view?

24 LORRAINE Y. COLLINS: Yes, certainly.

25 Well, oftentimes, when we hear "source of

1 income" or "non-wage income," some of the items that
2 initially come to mind are Section 8 voucher
3 holders, although there is an array of different
4 types of non-wage incomes, whether it's social
5 security, spousal support, child support.

6 With the Section 8 voucher holder and that
7 rental assistance, oftentimes what comes with that
8 is a negative perception.

9 Oftentimes what comes with that is an idea
10 of, okay, when I say "Section 8 voucher holder," who
11 am I thinking of in the back of my mind?

12 And, quite frankly, oftentimes it's the image
13 of a single Black woman, who is uneducated, not
14 working, with multiple children.

15 And although that may be an experience, or
16 there may be someone who fits that mold, that isn't
17 the full, because there's also the single Black
18 woman, who is a divorcée, who is educated, who is
19 working, but still needs the supplemental support.

20 And so, with Section 8, it's often,
21 "those people."

22 I don't want "those people" in my
23 neighborhood. So, if there's a way to get around,
24 you know, specifically directing to race and
25 ethnicity, I'll use another route, and that other

1 route being the rental assistance.

2 From a disability perspective, they're
3 similar.

4 So, without saying "I don't want someone with
5 a physical disability in my building," I'll get
6 around that by saying, oh, well, I don't accept this
7 type of non-wage income.

8 SENATOR KAVANAGH: Thank you.

9 And you mentioned, and I'm somewhat familiar
10 with the work that, you know, Enterprise was
11 involved in convening this broader group of
12 stakeholders, to talk about access and fair-housing
13 issues, and produced the report you mentioned.

14 I -- again, I'm somewhat familiar with the
15 report, but just to refresh my recollection: Were
16 there -- were realtors or real estate agents or
17 their representatives involved in that process?

18 LORRAINE Y. COLLINS: No.

19 So for the members of the roundtable,
20 primarily, the executive directors of organizations
21 that fit one of the buckets that I made reference
22 to. So, either affordable housing, fair housing,
23 civil rights, the disability community, education,
24 LGBTQ, seniors.

25 So it was, primarily, that was our target

1 audience in getting -- you know, pulling together to
2 work on this process.

3 However, at the end of our initial year,
4 together, we did hold a summit, which we extended an
5 invitation to a much broader group, and held a
6 summit of upwards of five -- or, 400 participants,
7 which some of them I think were real estate agents.

8 I know we had extended an invitation to local
9 officials as well.

10 SENATOR KAVANAGH: And is there a follow-up
11 that's coming from that -- that was sort of a
12 presentation of the work that had been done by the
13 initial roundtable.

14 Is there sort of a -- sort of a follow-up
15 report, or sort of subsequent recommendations, that
16 are coming from that sort of broader airing of the
17 issues?

18 LORRAINE Y. COLLINS: Yep.

19 Well, for 2019, several members of the
20 roundtable were engaged, in some form or fashion, in
21 the tenant protection laws that were passed.

22 SENATOR KAVANAGH: Yes, they were.

23 LORRAINE Y. COLLINS: So whether it was
24 specific to SOI or to the Tenant Protection Act.

25 And what we are now in the process of doing,

1 is pulling together our 2020 policy priorities,
2 which will also include tenant protections, but is
3 going to touch into some of the exclusionary zoning
4 areas, and increasing density, that I mentioned
5 earlier.

6 SENATOR KAVANAGH: Great.

7 Well, it's been a long day, so I know we have
8 another panel of witnesses, and I'll keep my
9 questions short.

10 But, just, thank you to all of you for the
11 work you do, you know, for being here today, and
12 also the work you do every day, to ensure that
13 fairness is the norm throughout our housing markets.

14 Thanks.

15 SENATOR THOMAS: Last set of questions from
16 Senator Kaminsky.

17 SENATOR KAMINSKY: Hi, Ms. Sanders.

18 Thank you for being here today, and for
19 your -- for your compelling testimony.

20 Could you tell us what you'd like, whether in
21 broad strokes or in detail, up to you, what would you
22 like the members sitting in front of you today to do
23 when we get up from this hearing?

24 THERESA SANDERS: Support the funding of
25 consumer education.

1 I hear a lot about education for realtors and
2 the bankers.

3 But I really believe the strength lies with
4 the consumer, so that they understand what their
5 rights are, so that they can recognize the
6 discrimination when they're going into a situation.

7 And then the second one is the enforcement,
8 so that, if there is a report, that there's
9 something punitive that happens, because people will
10 continue their behavior if they think nothing will
11 happen.

12 SENATOR KAMINSKY: Okay, so that -- and that
13 and -- that -- you would like that to be the main
14 focus?

15 THERESA SANDERS: Yep, consumer education,
16 and enforcement.

17 SENATOR KAMINSKY: Okay.

18 And how do you feel about the comments
19 before, about requiring more education within the
20 companies, self-testing within the companies, and
21 just a mandatory training regimen or ethics regimen,
22 that you would think happens in most of corporate
23 America, but has obviously missed this -- missed
24 this industry?

25 THERESA SANDERS: You know, I'm a history

1 professor, so, historically, the outcomes of
2 self-monitoring are not that great.

3 And it's nice to ask people to monitor
4 themselves, but I don't have that much faith,
5 because, if you are a corporation or an industry
6 making a lot of money, and if you do happen to
7 uncover some malfeasance by your employees, who's
8 going to go to the Senate or to a regulatory agency
9 and go, look, this person in my company is doing
10 this stuff?

11 They're not, because they're ultimately
12 responsible.

13 SENATOR KAMINSKY: So outside oversight is
14 what's required?

15 THERESA SANDERS: Absolutely.

16 SENATOR KAMINSKY: Okay.

17 Thank you very much.

18 THERESA SANDERS: Thank you.

19 SENATOR THOMAS: Thank you all.

20 And go for our next panel.

21 THERESA SANDERS: Thank you.

22 AUDIENCE MEMBER: [Inaudible comments.]

23 SENATOR KAVANAGH: So there are two
24 microphones here. I think one is feeding the --

25 AUDIENCE MEMBER: [Inaudible comments.]

1 OFF-CAMERA SPEAKER: [Indiscernible] talking
2 about, you're very hard to hear.

3 SENATOR KAVANAGH: Oh, the senators are hard
4 to hear.

5 Is that better?

6 AUDIENCE MEMBER: Yes. [Inaudible comments.]

7 SENATOR KAVANAGH: Okay.

8 I was duped by there being a second mic, and
9 I thought one -- I thought they were both working
10 equally.

11 But I appreciate [indiscernible] your
12 mentioning that.

13 All right, so, first of all, before we begin,
14 if you could raise your right hand.

15 If you want to stand.

16 Do you swear or affirm to tell the truth, the
17 whole truth, and nothing but the truth?

18 MOSES SEURAM: I do.

19 DUNCAN MACKENZIE: I do.

20 SENATOR KAVANAGH: Thank you.

21 So you have, I think, prepared statements?

22 DUNCAN MACKENZIE: We do.

23 MOSES SEURAM: Yes.

24 SENATOR KAVANAGH: Why don't you begin.

25 MOSES SEURAM: Good afternoon, and thank you

1 for this opportunity to testify.

2 My name is Moses Seuram, and I am the 2019
3 president for the New York State Association of
4 Realtors.

5 In addition to serving as the NYSAR
6 president, I'm a licensed real estate broker who
7 lives and work in Queens.

8 I am joined by Duncan MacKenzie, NYSAR CEO.

9 NYSAR is a trade association with
10 approximately 60,000 members statewide.

11 We represent, roughly, 30,000 members in the
12 Long Island and the New York City metro area.

13 Not all real estate licensees are realtors.

14 We are a voluntary membership trade
15 organization.

16 We provide a variety of services to
17 residential and commercial real estate brokers,
18 real estate appraisers, and property managers.

19 Every realtor member belongs to a local board
20 of realtors; a state association of realtors, like
21 NYSAR; and the National Association of Realtors.

22 There is no room for illegal discrimination
23 in the realtor community.

24 As a condition of membership, every realtor
25 subscribes to an industry-leading code of ethics and

1 must complete an ethics education program on a
2 regular basis.

3 NYSAR's statement of policy, which is
4 reviewed and approved annually, clearly outlines
5 where we stand on illegal housing discrimination.

6 It reads as follows:

7 "We believe that equal opportunity in housing
8 is a fundamental right. We oppose all illegal
9 discrimination."

10 If there is one message we want to convey to
11 you today, it is this:

12 We are appalled by the action reported by
13 "Newsday," involving real estate licensees. And
14 NYSAR wants to work with New York State to be part
15 of the solution, moving forward.

16 So how can we help?

17 First, you know -- first you should know,
18 that NYSAR has a long history of fighting against
19 illegal housing discrimination.

20 In 2006, NYSAR was the primary advocate for
21 requiring fair-housing education as a core learning
22 module.

23 That year NYSAR won legislative and
24 gubernatorial approval that three hours of
25 State-mandated continuing education training be

1 dedicated to the topic of -- topic as a requirement
2 of license renewal.

3 The law became effective in 2008.

4 In 2010, NYSAR was one of the first state
5 association in the country advocate for sexual
6 orientation to be protect -- protective class in the
7 realtor code of ethics.

8 That inclusion was finalized in 2011.

9 In 2013, NYSAR helped lead the fight to add
10 gender identity as a protective class in the realtor
11 code of ethics.

12 That inclusion was finalized in 2014.

13 During 2016 and 2017, NYSAR pushed for the
14 inclusion of three hours of advanced fair-housing
15 and fair-lending training to the real estate broker
16 qualifying course.

17 The revised curriculum became effective in
18 2018.

19 In 2019, NAR's [sic] code of ethics was
20 amended to prohibit brokers from refusing to
21 cooperate with other brokers on the basis of a
22 broker's race, color, religion, sex, handicap,
23 familiar [sic] status, national origin, sexual
24 orientation, or gender identity.

25 As a state realtor association, NYSAR's

1 primary role on the topic of fair housing is member
2 education, and legislative and regulatory advocacy.

3 Providing educational opportunity for the
4 realtor membership is a primary goal of NYSAR and
5 the Long Island Board of Realtors.

6 We both independently and jointly offer
7 courses on real estate-related matters.

8 Upon learning about the "Newsday" report,
9 NYSAR took immediate action.

10 We suspended NYSAR-sponsored classes taught
11 by independent contractors course instructors.

12 We then set a new requirement, that any
13 instructor wanting to teach fair housing in the
14 future must complete a comprehensive retraining
15 program.

16 The retraining will be provided by
17 fair-housing organization from across the state and
18 who are totally independent of the realtor
19 community.

20 We are also undertaking a comprehensive
21 retraining effort that will be available to realtor
22 members, including managers, brokers, and
23 local-board course instructors.

24 Looking forward, one area where NYSAR would
25 recommend proactive action, and, indeed, have been

1 advocating for it since 1992, is battling the end
2 discrimination in the purchase and sale of co-ops.

3 Today, New York law provides co-op board the
4 ability to unfairly deny housing opportunity to
5 persons deemed undesirable by simply taking no
6 action on valid purchase applications.

7 Nothing in current law requires a response to
8 an applicant from a co-op board.

9 When an applicant is denied the ability to
10 purchase a unit, nothing requires the co-op board to
11 provide a reason.

12 To address this opportunity of illegal
13 discrimination, NYSAR has advocated for legislative
14 en -- legislation entitled "The Fairness and
15 Cooperative Homeownership Act."

16 This legislation will significantly improve
17 the transparency of the cooperative-purchase process
18 to the benefit of all parties.

19 It adds uniformity and predictability to the
20 application procedures.

21 The Senate passed this legislation in 2016,
22 59-to-2, and we urge its passing again in 2020.

23 NYSAR strongly supports the Long Island Board
24 of Realtors' investigation of those members
25 identified by "Newsday".

1 If any member is found to have violated the
2 realtor code of ethics, the member can face
3 penalties that includes expulsion from our
4 association.

5 This is in addition to any disciplinary
6 action initiated by governmental agencies.

7 NYSAR also fully supports the action
8 announced by Governor Cuomo on November 21st.

9 We look forward to working with the
10 New York State Division of Human Rights, Division of
11 Human and Community Renewal, and Department of
12 State, towards a shared goal in combating illegal
13 discrimination.

14 We will also participate in any continuing
15 dialogue with the State and local lawmakers on this
16 important matter.

17 No effort should be spared to combat the
18 scourge of illegal discrimination.

19 Thank you again for the opportunity to
20 testify, and I welcome any questions you may have.

21 SENATOR KAVANAGH: Thank you.

22 So -- okay, so we just have one.

23 Okay, I just wanted to make sure.

24 Thank you.

25 So can you just begin, so "Newsday" obviously

1 identified many people by name, who, apparently,
2 participated --

3 AUDIENCE MEMBER: [Inaudible comment.]

4 SENATOR KAVANAGH: Let's try this again.

5 Is that better?

6 "Newsday" identified many people by name,
7 who, apparently, participated in behavior that
8 appears to be discriminatory.

9 Are -- have you identified whether those are
10 members of your association?

11 DUNCAN MACKENZIE: Yes, some of them are
12 members.

13 SENATOR KAVANAGH: Okay.

14 And -- just, also, you spoke about LIBOR and
15 their investigation.

16 Is LIBOR a component of NYSAR?

17 Are they related, are they affiliated, in
18 some way?

19 DUNCAN MACKENZIE: I would say "related" is a
20 good way to put it.

21 SENATOR SKOUFIS: [Indiscernible] mic closer.
22 Can you pull your mic closer?

23 DUNCAN MACKENZIE: This one?

24 SENATOR SKOUFIS: Yeah.

25 DUNCAN MACKENZIE: Okay. Is that better?

1 Okay.

2 I'd say "related" is a good word to use.

3 So both NYSAR and LIBOR are, in essence,
4 franchises of the national association. We have
5 charters with them.

6 LIBOR has its own independent governance
7 structure, as we do.

8 So we work together on many things, but we
9 are self-governed, as is LIBOR.

10 SENATOR KAVANAGH: And members of -- people
11 might be members of LIBOR and also members of your
12 association?

13 DUNCAN MACKENZIE: They all are.

14 So if you are a realtor, to use that term
15 "realtor," you must belong to a local board, the --
16 a state association, and the national association.

17 SENATOR KAVANAGH: I see.

18 So by definition, a member of LIBOR is also a
19 member of your association?

20 DUNCAN MACKENZIE: That is correct.

21 SENATOR KAVANAGH: Okay.

22 And you mentioned that you have suspended
23 courses by independent contractors.

24 Can you explain why you made that decision?

25 DUNCAN MACKENZIE: Yes.

1 We were concerned that -- that, from the
2 report in "Newsday," that, perhaps, the courses were
3 not being taught the way we would like them to be
4 taught.

5 We do not have a way at the present time to
6 monitor them.

7 So what we did is, decided we just wouldn't
8 have any more classes dealing with fair housing
9 until we could retrain all of our trainers.

10 SENATOR KAVANAGH: And is that statewide?

11 DUNCAN MACKENZIE: That's statewide.

12 It's important to know, that, so, we have our
13 own instructors for courses that we sponsor.

14 The local boards will have, sometimes, their
15 own instructors that they would sponsor.

16 So these are only -- this will only apply to
17 the instructors that we would be sponsoring for
18 coursework.

19 SENATOR KAVANAGH: And you're distinguishing
20 between independent contractors and -- and --

21 DUNCAN MACKENZIE: They're all independent
22 contractors.

23 All the instructors are not -- they're not
24 employees of ours. They're independent contractors.

25 SENATOR KAVANAGH: Okay. So

1 [indiscernible] -- so when you say you suspended
2 training offered by independent contractors, you're
3 effectively saying, you suspended all training that
4 your association is offering?

5 DUNCAN MACKENZIE: That deals with
6 fair housing, yes.

7 SENATOR KAVANAGH: Okay.

8 And can you -- have you done -- previous to
9 the "Newsday" report, had you ever done an
10 assessment of the quality of the training, the --
11 the effectiveness at conveying the obligations of
12 realtors, with respect to fair housing laws?

13 DUNCAN MACKENZIE: The only measurable that
14 we use for our instructors is comments from the
15 participants.

16 So the instructor will collect a sheet at the
17 end of each coursework, which will have an
18 evaluation by the people taking the class.

19 So, previously, that has been our only way of
20 having a measurable of the classes.

21 We also will have, where we can, a person
22 from the local board sit in on the class, or at
23 least part of it, to do part of the evaluation. But
24 they don't often stay from the beginning till the
25 end.

1 At least that's my understanding.

2 SENATOR KAVANAGH: And those -- does that
3 result in some sort of formal report to your
4 association about the quality of what they -- at
5 least what is witnessed in [indiscernible
6 cross-talking] --

7 DUNCAN MACKENZIE: Correct.

8 So those evaluations will help us decide if
9 we will continue to employ those instructors in
10 future.

11 SENATOR KAVANAGH: Did -- and so you've
12 suspended it now.

13 Is that -- that's for the purpose of
14 retraining the trainers?

15 DUNCAN MACKENZIE: That's correct.

16 SENATOR KAVANAGH: Okay. And then you -- is
17 there a time where you expect to be relaunching
18 training as a service that you're offering?

19 DUNCAN MACKENZIE: So we have our first
20 retraining in February, and will hold several of
21 them throughout the year. So there will be a number
22 of opportunities for trainers to go through the
23 process that we think is necessary.

24 SENATOR KAVANAGH: And is training offered by
25 your organization or the local affiliate -- the

1 local related organizations, in your view, the most
2 common way in which realtors are receiving this --
3 the -- the training that's required under state law?

4 DUNCAN MACKENZIE: Well -- so you're talking
5 about for continuing education?

6 Generally, our fair-housing education is for,
7 we offer what they call "designations."

8 So, realtors have an opportunity to get
9 specialties, to have certain additional skills, to
10 just being a licensee.

11 And so we will teach fair housing as a
12 component of what we call our "Graduate Realtor
13 Institute," that may also be eligible for
14 continuing-education value.

15 But we don't often, ourselves, offer
16 CE courses for fair housing.

17 SENATOR KAVANAGH: So to the extent LIBOR --
18 I mean, there was -- there was -- the "Newsday"
19 reporting on training indicated that, in many cases,
20 present and former executives of LIBOR itself were
21 the trainers.

22 And, I mean, there was some very
23 disturbing -- I want to keep this brief -- but there
24 were some very disturbing assertions about what was
25 going on in that training, including, in one case, a

1 trainer apparently telling a class that it's
2 supposed to be about fair housing. That, fair
3 housing is sort of like being a taxi driver and
4 speeding, and having a client who is late to get to
5 the airport. And, you know, it's your choice
6 whether to speed; it's your choice whether to obey
7 the law or not.

8 Can you -- I mean, maybe just start by, can
9 you comment on that as a -- assuming that is
10 somebody who is a leader in your industry, how --
11 just -- your feelings about reading that portion of
12 the "Newsday" reporting?

13 DUNCAN MACKENZIE: We didn't think that was,
14 obviously, a very effective way to teach fair
15 housing.

16 And that is part of the reason that we
17 suspended our fair-housing education until we can
18 retrain all of our educators.

19 SENATOR KAVANAGH: I just -- from my
20 perspective, "ineffective" [sic] might be something
21 of an understatement.

22 DUNCAN MACKENZIE: I wouldn't necessarily
23 disagree, Senator.

24 SENATOR KAVANAGH: Okay.

25 Do you believe, based on what you now know,

1 and your decision to suspend your courses, which are
2 not -- not necessarily the core courses that people
3 are required to take by law, that there are
4 additional steps that state government and your
5 industry ought to take to ensure the ongoing quality
6 of the training that is -- that is offered, and --
7 and is that -- that is the basis for realtors and
8 others in the industry meeting their legal
9 obligations to be trained?

10 DUNCAN MACKENZIE: We're open to that
11 discussion, Senator, and it has been a relatively
12 short period of time since the "Newsday" report.

13 One of the things we've come here to tell
14 you, is that we're willing to work with you on the
15 solution; on what is the best way to educate
16 licensees, not just realtors, but all licensees, on
17 what the fair-housing laws are and how they should
18 be following them.

19 We also support the Senator's bill that was
20 recently introduced, that would require a
21 disclosure, a fair-housing disclosure, as part of
22 the real estate process.

23 So, we're really open to new ideas, and we're
24 here to tell you that everything is on the table.

25 We'd like to talk about how we can -- you

1 know, how we can solve this problem.

2 SENATOR KAVANAGH: And we had a conversation
3 with Mr. Gorman earlier about the practices of NRT
4 and its related companies.

5 Does your association offer any kind of
6 standard, any model policies, that you believe that
7 participants in the industry ought to be adopting?

8 DUNCAN MACKENZIE: We don't have -- we have
9 our code of ethics. I suppose that could be used
10 for that purpose.

11 And it very clearly talks about -- Article 10
12 of our code of ethics talks specifically about fair
13 housing, and how we support that, and how we believe
14 that's a really basic tenet of housing.

15 SENATOR KAVANAGH: It -- it -- we've had
16 several people testify today that a core part of an
17 effective strategy [no audio] is testing -- paired
18 testing, as we saw "Newsday" do.

19 And, obviously, that required [no audio].

20 [Microphone turned off] There was a specific
21 proposal to fund that by raising fees that licensed
22 participants in the industry have to pay.

23 [Microphone turned on.]

24 Can you comment on that proposal?

25 DUNCAN MACKENZIE: We'd be happy to talk

1 about that as well.

2 We certainly think that qualified [microphone
3 turns off] testers, and testing in general, is a
4 valid activity.

5 We can certainly talk about where the funding
6 comes from.

7 SENATOR KAVANAGH: [Microphone turned off.]

8 You talk about it in possibly -- (microphone
9 turned on) you're open to supporting that?

10 DUNCAN MACKENZIE: We're open to discussing
11 it, for sure.

12 SENATOR KAVANAGH: Okay.

13 DUNCAN MACKENZIE: I don't have the authority
14 to commit to that, Senator. So we have a due
15 process, I need to go through that.

16 But we are committed to dealing with the
17 issue before us, and, again, everything is on the
18 table.

19 SENATOR KAVANAGH: Okay, we'll take your
20 commitment to assess it for -- at least for today.

21 Do we have other senators with --
22 Senator Skoufis.

23 SENATOR SKOUFIS: Hey, thank you.

24 And thank you both for your appearance today,
25 and your testimony.

1 And I've been in the state Legislature for
2 seven years, and, certainly, I -- you know,
3 I respect the profession.

4 I've worked with NYSAR, and your affiliate in
5 the Hudson Valley, well over seven years.

6 And I appreciate your remarks that this was
7 startling to you all, and you share the disgust that
8 many of you us have expressed with what was revealed
9 in the "Newsday" exposé.

10 I do have a few questions.

11 DUNCAN MACKENZIE: Sure, please.

12 SENATOR SKOUFIS: I'd like to first have you
13 comment, if you will, on the lack of appearance by
14 the real estate agents who were requested to testify
15 today, many of whom, no doubt, are your members.

16 And, specifically, as you comment on that,
17 are you aware of any discussion, directive,
18 e-mails, any conversation, that advised those
19 individuals to not appear today?

20 DUNCAN MACKENZIE: So on the decision not to
21 appear, that is a personal decision.

22 I don't know what is going on in each
23 individual's head for that decision, so I don't have
24 any way to come on that.

25 SENATOR SKOUFIS: But there's no

1 communication between NYSAR --

2 DUNCAN MACKENZIE: Oh, no.

3 SENATOR SKOUFIS: -- and those individuals
4 about today's hearing.

5 DUNCAN MACKENZIE: Oh, gosh, no.

6 SENATOR SKOUFIS: Okay.

7 Has there been any conversation about the
8 Long Island Board of Realtors who was also requested
9 to appear today?

10 You know, I suspect there was -- whereas an
11 individual, perhaps, may not be available, I suspect
12 there was someone in LIBOR who could have come
13 today, but they chose not to.

14 Are you aware of why they're not here?

15 DUNCAN MACKENZIE: I am not.

16 That -- as I said, they have their own
17 individual governance structure, so that's something
18 you'd need to ask them directly.

19 SENATOR SKOUFIS: Okay.

20 If it comes up, I certainly, strongly,
21 encourage you to urge your members, and LIBOR, to
22 comply with any subpoenas they might receive, moving
23 forward.

24 Testing was brought up.

25 I -- I'm curious, has there ever been

1 self-testing, you know, within your affiliates, your
2 organization of members?

3 DUNCAN MACKENZIE: Not that I'm aware of.

4 SENATOR SKOUFIS: Okay.

5 Has there been -- in light of, you know, what
6 we've seen last month in this exposé, do you think
7 there should be any consideration of self-testing,
8 if you will, within the profession?

9 DUNCAN MACKENZIE: It's something -- it's a
10 new concept to me, Senator, so I really don't know.

11 It's an interesting one.

12 I think I agree with one of the previous
13 folks who testified just before us, that
14 self-testing tends to be something that creates a
15 problem by itself, because, when you're testing
16 yourself, there's the inherent sense that there
17 might be a conflict.

18 I think independent testing makes more sense
19 in terms of getting to a positive outcome.

20 But, again, not knowing a lot about
21 self-testing and how it might work, I don't know
22 that I can comment on that.

23 SENATOR SKOUFIS: Yeah, thank you.

24 And when I say "self-testing," I do mean, you
25 know, basically, hiring an independent entity to do

1 that testing.

2 The word's come up a number of times.

3 Do you consider the discrimination that was
4 revealed systematic?

5 DUNCAN MACKENZIE: I guess I don't know the
6 word I would use.

7 Again, I go back to say, it's just incredibly
8 disturbing.

9 I don't know how you quantify it, but it was
10 incredibly disturbing, and it's something that
11 really was a call to action to us, and to you as
12 well.

13 SENATOR SKOUFIS: Do you think it's a
14 cultural problem within the profession?

15 You know, it's -- it's hard -- at least to
16 me, it's hard to explain how 49 percent of instances
17 involving an African-American resulted in
18 discrimination if it's not systematic.

19 There's no way, you know, by coincidence,
20 half of those situations resulted in discrimination.

21 So what do you think is the root of the
22 problem?

23 DUNCAN MACKENZIE: I don't know, Senator.

24 I don't know.

25 It seems to be something deep-rooted,

1 I think, in our culture, and not just in the
2 real estate industry, but in many areas.

3 So, it's hard to say what's in someone's
4 heart, and why they make the decisions they make.

5 But we do our best to try and make sure our
6 members are aware of their responsibilities under
7 the fair housing laws.

8 And the decisions after that are individual
9 ones.

10 SENATOR SKOUFIS: Do you think that there
11 ought to be some inflection into that point?

12 You know, is NYSAR going to try and -- not
13 just respond, which is, obviously, very important,
14 but, understand why this happened, fundamentally?

15 DUNCAN MACKENZIE: I think that's a challenge
16 for us to do, absolutely.

17 SENATOR SKOUFIS: Okay.

18 I raised the question to some of the experts
19 earlier today, and I would like to ask you the same
20 question.

21 On a scale of 1 to 10, how serious do you
22 believe the department of state treats housing
23 discrimination currently, "1" being little to no
24 seriousness, and "10" being the most serious?

25 DUNCAN MACKENZIE: I have to put an asterisk

1 on that, because I think they care about it.

2 I'll say they care a "10."

3 I would say that they do not have the
4 resources at the present time to conduct the kind of
5 investigations that you and I think we would like to
6 see.

7 So I don't think it's a lack of will or a
8 lack of desire.

9 I think it's a lack of resources in many
10 ways.

11 SENATOR SKOUFIS: You think it's just a lack
12 of resources?

13 DUNCAN MACKENZIE: Yes.

14 I can't believe that the department of state
15 puts -- turns a blind eye to something like illegal
16 discrimination.

17 I just don't believe that.

18 I do believe that, if they had the resources,
19 that they would do things, as they have at one point
20 in the past. I do believe they had testers at one
21 time.

22 But, as you know, New York State has limited
23 resources, and even more limited in recent years.

24 And I think it's probably fallen upon the
25 department of state as well. And then not having

1 the resources, they have to make decisions.

2 Would they make different decisions now based
3 on what they know?

4 Perhaps.

5 But I think a lot of this is a resource
6 issue, and not an issue of will.

7 SENATOR SKOUFIS: Do you have a sense, or an
8 approximation, of how many housing-discrimination
9 complaints, including steering, have been filed,
10 let's say, over the past year --

11 DUNCAN MACKENZIE: I don't know.

12 SENATOR SKOUFIS: -- against your members?

13 DUNCAN MACKENZIE: I don't know that.

14 SENATOR SKOUFIS: Okay.

15 You had raised -- and I'm aware of this, and
16 I applaud it -- NYSAR's advocacy to help end co-op
17 discriminations. And you raised a number of other
18 items that you've all advocated for in the past.

19 My question is, and I know it's -- it's, you
20 know, not even a month later after this exposé came
21 out, do you have any new advocacy?

22 I mean, you talked about previous advocacy.

23 Do you have any new advocacy that you're
24 proposing, or anticipate proposing, in light of what
25 was revealed?

1 DUNCAN MACKENZIE: Not at this moment, but we
2 are really hoping that this is going to be an
3 ability to focus on Senator Kavanagh's bill, really,
4 on the co-op disclosure.

5 It has been an insidious way, that, in this
6 area, co-op housing is entry-level housing in many
7 cases.

8 And as you know, even in the -- in the
9 Lower Hudson Valley area, it's -- it's -- it's --
10 it's a way for co-op boards to say "you're not
11 welcome here" for any reason that they want to.

12 They're shielded by the business-judgment
13 rule, and they don't have to follow same rules that
14 a rent -- a normal landlord might have to.

15 SENATOR SKOUFIS: I agree with your
16 sentiment, and I personally support the legislation,
17 but let's be clear what was revealed in "Newsday."

18 You know, the majority of those situations
19 were not co-ops. Right?

20 DUNCAN MACKENZIE: Yep.

21 SENATOR SKOUFIS: And so there needs to be
22 more than that.

23 DUNCAN MACKENZIE: Sure.

24 Again, we're here to -- right, in a month, we
25 haven't had the time to come up with anything new.

1 But I'll just reiterate, we're here to work
2 with you on that.

3 SENATOR SKOUFIS: Okay.

4 As you're well aware, when we start
5 legislative session in, literally, a matter of
6 weeks, and so I -- I'm sure that we all will be
7 coming forward with some ideas and proposals.

8 And we certainly welcome your conversation
9 and input.

10 But my hope is, speaking for myself, that you
11 too will come with some ideas, and not just be
12 responsive to ideas that we come forward with.

13 DUNCAN MACKENZIE: We will do that.

14 SENATOR SKOUFIS: Thank you.

15 I appreciate you being here.

16 DUNCAN MACKENZIE: Thank you.

17 SENATOR KAVANAGH: Senator Kaplan.

18 SENATOR KAPLAN: Thank you.

19 So what steps does the New York State
20 Realtors Association takes to identify potential
21 violations of the Fair Housing Act by its members?

22 DUNCAN MACKENZIE: Sure.

23 So we -- in terms of that, we are a
24 self-policing organization.

25 So it would, for the most part, take another

1 realtor to accuse another realtor of violating
2 Article 10 of our code of ethics. And then we have
3 a process of adjudication that would be carried out.

4 SENATOR KAPLAN: Okay. What are the steps
5 you take after receipt of these complaints?

6 DUNCAN MACKENZIE: So it would go in --
7 I have to say I'm not an expert in all the exact
8 steps, but, we have a grievance committee.

9 Every local board, and the state association,
10 have a grievance committee.

11 They will review the accusations.

12 If they are found to be valid, then they
13 would go through a process where both the parties
14 would have due process. And then there would be a
15 determination based on a hearing.

16 SENATOR KAPLAN: And do you have any type of
17 penalty for the members if they are found --

18 DUNCAN MACKENZIE: Sure.

19 There are financial penalties. And you could
20 also be expul -- you could have your realtor status
21 taken away.

22 SENATOR KAVANAGH: Just one follow-up to
23 that.

24 DUNCAN MACKENZIE: Sure.

25 SENATOR KAVANAGH: Do you have any -- any

1 sense of the number, the frequency, of those
2 complaints, the -- kind of, the various dis -- the
3 frequency of various dispositions, whether they're
4 found to be -- you know, whether they're founded or
5 unfounded, and what the results are?

6 DUNCAN MACKENZIE: We don't have that as the
7 state association.

8 They are mostly done at the local-board
9 level.

10 Occasionally they come to us for
11 adjudication, but, generally, they're done at the
12 local-board level.

13 So we could poll the local boards and ask
14 them, but I don't have that data in front of me.

15 SENATOR KAVANAGH: Okay.

16 So -- I mean, you know, the realtors often
17 emphasize that, as realtors, you're -- if you're
18 using a realtor, you're getting somebody of a
19 particular quality with particular training.

20 I gather, because you're here today, you
21 agree that -- you know, that you and your industry
22 have some work to do to live up to that?

23 DUNCAN MACKENZIE: Absolutely.

24 SENATOR KAVANAGH: Okay.

25 Any other questions from senators?

1 Okay.

2 I think -- are we going to do any closing?

3 Or...

4 SENATOR SKOUFIS: I think Todd wanted to say
5 something, and at least one of us should.

6 SENATOR KAVANAGH: Okay.

7 So, again, thank you for your testimony.

8 I think we'll have some closing remarks from
9 a few of the senators here today.

10 But -- so maybe we will begin with
11 Senator Kaminsky.

12 SENATOR KAMINSKY: Thank you.

13 I really wanted to thank the Chairs for
14 convening this today, and having what I thought was
15 a very important hearing that will be the
16 jumping-off point for a good deal of action.

17 But I particularly want to thank, and
18 underscore the importance of, Senator Skoufis, the
19 Chairman of, the Investigation Committee's actions
20 today.

21 For a very long time, the Senate powers
22 embodied in its investigation's committee, along
23 with the use of subpoena power, but, generally, its
24 ability to draw attention to important topics, and
25 find important facts, to help move legislation along

1 has languished.

2 It's really sat on a shelf and has not been
3 used barely ever meeting.

4 That took a significant change last year.

5 And today I think marks a watershed moment in
6 the use of the Senate's beneficial use of its
7 investigatory powers.

8 I hope we continue to do so.

9 I look forward to following where the facts
10 lead in this case.

11 And I'm proud to serve on a committee under
12 the Chairman's leadership, as we continue to pursue
13 facts in favor of justice on behalf of the public.

14 SENATOR THOMAS: Thank you so much, everyone
15 that showed up today.

16 This was a huge undertaking ever since
17 "Newsday" exposed the unequal treatment of
18 homebuyers on Long Island.

19 The three Chairs here, including myself, we
20 and our staff did a lot to get to where we are right
21 now.

22 And like I said in my opening statements,
23 this hearing we convened, to get the facts, to get
24 recommendations, and for us to act accordingly.

25 And just like Chair of Investigations,

1 Senator Skoufis, said, a lot of real estate agents
2 did not show up.

3 And the power that we have, those subpoenas
4 are going to go out pretty soon. And they will know
5 we are deadly serious about discrimination here on
6 Long Island, and segregation, we must end this.

7 I want to thank my staff, and staff of the
8 two Co-Chairs here, for everything that they have
9 done today to make this happen.

10 And thank -- of course, our audio-visual team
11 here, thank you so much.

12 SENATOR KAVANAGH: Thank you.

13 Senator Kaplan.

14 SENATOR KAPLAN: Thank you.

15 I echo the same sentiment.

16 I thank everyone who participated in today's
17 hearing.

18 I think we all realize that we have a lot of
19 work ahead of us.

20 But I think it's really important to see
21 everyone that was here from the Senate Conference.

22 This is something that we truly care about,
23 and we understand there's a lot of work to do.

24 And we're all working together, and it's
25 going to take all the different stakeholders to work

1 together, to, hopefully, resolve this.

2 Thank you.

3 SENATOR KAVANAGH: Thank you.

4 SENATOR SKOUFIS: Want me to go?

5 SENATOR KAVANAGH: Go ahead (motioning).

6 SENATOR SKOUFIS: Go ahead.

7 SENATOR KAVANAGH: Thank you.

8 So I'll just wrap up by saying, you know, the
9 Senate Housing Committee has a very broad and
10 ambitious agenda, that is intended to give life to
11 the notion that many of us have, but is not often a
12 reality, that, every New Yorker has a right, and
13 should able to expect a right, to be honored to a
14 decent affordable place to live, whether they be
15 renters or homeowners, potential renters, potential
16 homeowners; whether they be living in single-family
17 homes or two-family homes or multiple dwellings.

18 And, obviously, the work we're doing today to
19 ensure fair-housing laws are complied with is an
20 important part of that.

21 And I will just say that, you know, we have a
22 lot of work to do in many areas of the law.

23 But it's particularly gratifying to have such
24 partners in the Investigations Committee and the
25 Consumer Affairs Committee, bringing their expertise

1 to this particular issue [no audio] and working
2 together to achieve something [no audio] this coming
3 session.

4 Thank you.

5 SENATOR SKOUFIS: There's not much more to
6 say.

7 I'll just -- I join my colleagues in thanking
8 all the witnesses, everyone who participated, and
9 made this the compelling hearing that it was.

10 And, certainly, I want to thank my two
11 Co-Chairs, Senator Kavanagh and Senator Thomas.

12 You know, this came together pretty quickly.

13 We decided just a number of weeks ago,
14 following the "Newsday" exposé, that this was called
15 for, this was needed, and that we needed to begin to
16 address this.

17 And all three of our offices worked very
18 hard, very diligently, to get us to this point.

19 I want to particularly note, in my office,
20 Sara DiBernardo and Michael Mazzariello from our
21 investigative team, joined with the staffs of my
22 colleagues' offices, in really putting this
23 together.

24 I certainly want to thank Senator Kaminsky,
25 Senator Kaplan, and all the other senators who spent

1 a great deal of time here today.

2 And let me be clear, as others have said,
3 this is just the beginning.

4 There will be further testimony.

5 We hope that, once subpoenas go out, that the
6 individuals who receive those subpoenas comply.

7 And it is critical, some of the very most
8 important people that we needed to hear from today,
9 were not here, and these are the individuals who
10 participated in the alleged discrimination that was
11 revealed in the "Newsday" investigation.

12 We need to hear from them directly, why they
13 did what they did, and how they came to embody that
14 discrimination that we saw in the compelling video
15 statements, et cetera, from "Newsday."

16 And we will hear from them.

17 So this is the start.

18 We return to legislative session in just a
19 few weeks, as was just noted a short while ago.

20 And we, as a Legislature, are taking this
21 with the utmost seriousness.

22 This won't just be hearings. We will be
23 addressing this in the legislative process as well.

24 So thank you to everyone, again, who
25 participated.

1 Thank you, especially to "Newsday".

2 Certainly, it goes without saying, again,
3 that this wouldn't exist if you didn't reveal what
4 you revealed.

5 And I wish everyone a happy holidays and new
6 year.

7 Thank you.

8 (Whereupon, the joint committee public
9 hearing concluded, and adjourned.)

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