

February 14, 2020

STEPHANIE GIORDANO STATEMENT

To Whom It May Concern:

Thank you for the opportunity to provide this written statement, which reiterates and/or supplements some of my answers given on February 5, 2020. Before I continue, I must make something absolutely and unequivocally clear. I am a lesbian women, who identifies racially/ethnically as Black and Hispanic. Additionally, I have a special needs child. As such, I have unfortunately experienced, both directly and indirectly, prejudice and discrimination, and understand better than most the pain, on every level, that this causes.

Accordingly, to publically declare, as *Newsday* did through “supposedly objective” expert opinions, that I engaged in racial and/or ethnic discrimination with regard to how I conduct myself in my chosen profession, was not merely professionally damaging and personally offensive, but emotionally devastating as well. To put it plainly, I never have engaged and never will engage in any type of discrimination, racial or otherwise, whether in my personal life or in my professional life. Likewise, I have never steered any client to a particular neighborhood either because of the neighborhood’s racial or ethnic make-up, or because of the client’s racial or ethnic make-up. Last, I have never treated one client differently than another because of his or her race or ethnicity. While I have received significant training from Charles Rutenberg Realty, (“CRR”), on Fair Housing issues, complied with my continuing education requirements and am generally knowledgeable about Fair Housing issues, I don’t need to be trained, be given continuing education or be provided literature to read to know that no person should be treated differently because of race or ethnicity with regard to housing, or anything else.

As I understand it, *Newsday* and its “experts” have generally claimed that I treated the Hispanic tester unequally, *i.e.*, not as well, in comparison with the White tester and I did so because of a discriminatory animus against the Hispanic tester based upon her race and/or ethnicity. While I categorically deny both unequal treatment and discriminatory motivation, and will address *Newsday*’s completely speculative conclusions in more detail below, any insinuation of such unequal treatment to the Hispanic tester or steering of the Hispanic tester to a predominately “minority” area is **extinguished** immediately upon recognition of the following, which *Newsday* notably did not address in the main body of its article:

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- The Hispanic tester asked to see and I unhesitatingly showed her two homes – one in Holbrooke and one in Ronkonkoma; upon information and belief, **Holbrooke is over 90% White, with a negligible Hispanic population and Ronkonkoma is over 83% White, with a negligible Hispanic population;**
- *Newsday* has video-tape of these two showings and although it refused to show them to me, the author of the *Newsday* article acknowledged, as he had no choice but to, that nothing about my conduct with regard to these showing evidenced any type of racial or ethnic discrimination or steering.

I received my Real Estate License in 2012. I became a Broker in 2014, at which time I started working in association with CRR. I left CRR in December, 2018, when I opened my own agency. No complaint, to my knowledge, has ever been lodged against me by a client on any basis, much less one claiming that I was discriminating against him or her on the basis of race or ethnicity.

For the following reasons, I challenge the fairness of *Newsday's* investigation, as well as its experts' speculative conclusions as to both my actions and motivations.¹

First, in order for *Newsday's* "experts" to conclude that I was engaged in "steering,"² they necessarily assumed that I was aware of the testers' respective races and/or ethnicity. Critically, I wasn't. Although I have no recollection of either of these two testers or the specific events from over three years ago, it has never been my practice to ask anybody their particular race or ethnicity as it is not only irrelevant to me for any business purpose, but it is illegal. Additionally, while I have no specific recollection of either of these two testers, based upon what I have seen and read in *Newsday*, as well as reviewing the tapes, there is nothing that would have identified either one to me as either Hispanic, or not Hispanic.

As for complexion, I could not, (and would not), make any judgment as to ethnicity based upon completion because individuals who identify as Hispanic, (**like I do**), can have skin color that is

¹ I also request that your respective agencies, as part of your investigation, do a thorough probe and analysis of the manner in which *Newsday* conducted these tests, the statistical data used to support its conclusions, and the due process provided me and other targets of *Newsday's* investigation.

² I must note that one expert suggested "possible steering," while other said "steering seems clear." Notwithstanding their respective different interpretations of my conduct, both of their conclusions are nevertheless completely wrong!

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either very white, (**like I have**), very dark, or in-between. In the *Newsday* article, it would appear that the Hispanic tester had a fair skin color.

As for the Hispanic tester's name, nothing about "Rita Viloría" would suggest to me that she was Hispanic. To me, this name sounds Italian. Indeed, I am a perfect example as to why first and/or last names cannot necessarily be trusted to identify one's race or ethnicity - - my last name sounds classically Italian - however, I identify as Hispanic. Moreover, a women's last name is a fundamentally unreliable indicator of that women's ethnicity. Likewise, the fact that the Hispanic tester may have in the course of an approximately thirty-minute conversation mentioned once to me, (in the context of getting an email address), that her husband's name was "Luis," even assuming that such a **trivial** piece of information even registered with me at that time, this would not cause me to conclude that either the tester or her fake-husband were Hispanic.

As for accent, after reviewing the tape a number of times, there is nothing about the Hispanic tester's accent or general speech pattern that would have led me to conclude that she was Hispanic.

Accordingly, the respective conclusions of *Newsday's* experts' are based entirely on a factual underpinning that simply does not exist -- that I was aware and/or concluded that the "Hispanic" tester was actually Hispanic. Without this foundational necessity, the remainder of their "flawed" conclusions are meaningless.

Second, there is nothing about the substance of my conversations with either of the testers that supports even the inference of unequal treatment and/or steering, much less that I possessed a discriminatory motivation. As I am sure was noted by you when you reviewed the videos, my tone, demeanor, body language and professionalism was no different with regard to these two testers. Likewise, the time spent with both, the questions asked by me, the information provided by me and the general procedure outlined by me as necessary to pursue working with me were materially identical as between these two testers.

Moreover, I made no comments to either tester about the quality of any particular locality or school district, and did absolutely nothing during these meetings to suggest that they should look at one school district/locality over another! In fact, I encouraged the testers to do their own due diligence into the various school districts and, in particular, told the Hispanic testers that what school district she would want to reside in is "for you to decide." (6:56).

Instead, *Newsday* and its "experts" pull out a few words from approximately thirty minute conversations with the respective testers, omitting other comments I made that would not fit into *Newsday's* narrative, misrepresent what I actually said, and then rely on these few snippets to

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conclude that I engaged in steering. In this regard, *Newsday* states that I told the Hispanic tester that I “would focus the house search narrowly,” primarily keeping it in Brentwood and Bay Shore. I never, implicitly or explicitly, said that I would “focus the house search narrowly” in predominantly minority neighborhoods³. To the contrary, I repeatedly mentioned “Hauppauge,” a predominantly White area, to the Hispanic tester. In this regard, when discussing taxes, I specifically referenced Hauppauge on more than one occasion. (4:32); (6:20). Likewise, when I advised the Hispanic tester that I would “get you out and about in the areas,” (7:04), I then advised her that “you have to go around and see what Hauppauge looks like,” (7:05), and later mentioned Hauppauge again in the same context (15:52). Additionally, after advising the Hispanic tester that I would *initially* take her “a little east, then I’ll take you north and south,” (25:03), I followed by saying that “but right now, I’ll take a little Brentwood, a little Bay Shore and a little *Hauppauge*.” (25:13) I also quickly added that after that, and assuming she would be using the MLS link and other sources to do her own due diligence, the Hispanic tester would “have to tell me” (25:30) where she subsequently wanted me to take her. Notably, in the body of the article, *Newsday* does not mention, as it relates to the Hispanic tester,⁴ my repeated references to Hauppauge as an area that I would initially introduce her to.

Newsday also suggests that I, because of ill motives, provided the Hispanic tester more homes in Western Suffolk to view, in comparison to the White tester, citing this as evidence of my discrimination/steering. In so doing, *Newsday* blatantly misrepresents what I said, in addition to taking it out of context, and again completely omits a statement that I made that would obviously be inconsistent with its narrative. In this regard, *Newsday* presents in its article the Hispanic tester as indicating to me that “distance was not an immediate concern.” Based upon my view of the video-tape, that is not precisely as I see it. While *Newsday* correctly quotes me as saying – “I don’t want to bring you any further out east because you travel to New York [City]” – it leaves out the Hispanic tester’s response, which was “um ha.” [or a sound to that effect] (6:07).⁵ Her response, in my view, likely indicated to me at the time that she was in somewhat agreement with, or certainly not adverse to, my opinion as to not *initially* going further out East, thus likely influencing what areas I *initially*

³ It cannot be overlooked, as *Newsday* did, that this interview and limited interaction with the respective testers was simply the beginning of the process. My subsequent interaction with the testers, if they were legitimate potential buyers, would have been extensive. If *Newsday* would have permitted its testers to work with me for the number of months that I usually work with a client to find a house, then *Newsday* would have had the fullest picture of my professional ethics and would never come remotely close to accusing me of discrimination/steering.

⁴ In contrast, *Newsday* notes that I mentioned “Hauppauge” to the White tester.

⁵ Indeed, compare the Hispanic tester to the White tester on this issue, and you are not comparing “apples to apples.” The White tester worked in Bayside, (11:45), which is a significantly smaller commute than travelling over the river and into New York City. Moreover, the White tester also affirmatively said, in specific response to my inquiry as to whether “you may [the White tester] want to come west instead of more east. . .” (12:08), “**I’m thinking once we made the move, that I may look ... out here [for a job].**” (12:20). The Hispanic tester did not make a similar statement to my recollection.

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inputted on the MLS link. Not only did *Newsday* not mention this response in its article, it completely omitted what I said to her a few seconds later, (beginning at 6:08): “**but if you do just go a few exits east, you get a much more bang for your buck.**” Being that the more East you go in Suffolk County, the more predominantly White areas you will find, if I was going to steer a Hispanic buyer, who professed not to know Long Island, to a predominant minority community, why would I even put this thought into her head?

Newsday also incorrectly reported that I recommended to the White tester “searching in areas other than Brentwood,” which I did not. To support this erroneous statement, *Newsday* quotes me as saying “[i]f he’s in Brentwood, you’re gonna want to be in the – the surrounding areas.”

While this quote is accurate, it does not imply that houses in Brentwood would be excluded by me from any search and/or visits. Indeed, *Newsday* fails to mention that later on in the discussion, I said, as I was writing, that with regard to areas that the White tester was open to seeing:

you’re open to surrounding areas, uh, **in Brentwood[.]**

(11:35-11:39). This omitted portion of my conversation demonstrates that it was not my intention to remove Brentwood from an area to be considered.

Third, while *Newsday* devoted a considerable amount of its article concerning me to school district data, and given that this issue was addressed by the Investigators on February 5, I am compelled to address this again. I gave no advice to either tester concerning any particular school district -- all I emphasized was that they must do their own respective due diligence into any particular school district. Beyond being illegal to do, the other reason that I make no comment about a particular school district is because each school district holds a different value to every person. For example, I have a special needs child -- if a school district is known as having excellent special needs capabilities, that school district will hold more of a value to me than another school district that may perhaps be viewed as stronger academically. Likewise, a school district that has strong musical programs could be more important to parents with a child who loves to play the violin, for example, than a school district with a higher academic rating.

Fourth, *Newsday* highlights the difference in the “Listings Given” to the Hispanic tester (76) and the White tester (155). Any reliance on this statistic as indicia of discriminatory treatment is fundamentally flawed for a number of reasons.

Primarily, the difference in the number of “Listings Given” is wholly unremarkable considering when I met with each of the respective testers. According to *Newsday*, I met with the

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Hispanic tester in early December, (12/02/16) -- early December is when the amount of houses on the market is traditionally at its lowest.⁶ In comparison, I met with the White tester, according to *Newsday*, in mid-June, (06/20/16), when the number of houses on the market is traditionally at or very near its highest.

Secondarily, I didn't select the specific house listings for the testers, as is inferred throughout the *Newsday* article.⁷ House listings are computer generated by the MLS website, based upon data that I initially input, (which is based upon my communication(s) with the client), but that can, and almost always will, change over time.

Fifth, *Newsday* also highlighted an apparent difference in the "Census Tracts," *i.e.*, locations of the house listings computer generated and provided to the respective testers. *Newsday* stated that:

[o]verall, Giordano provided the White tester listing in areas that averaged 81 percent White, while giving that Hispanic tester listings in areas that averaged 66 percent White.

Newsday's determination that this was indicia of racial/ethnic discrimination and/or steering is absurd.

Initially, I do not really know what "areas that average" means, or the statistical basis for that "finding." Nevertheless, it cannot be overlooked that a significant majority (65%) of the "Census Tracts"⁸ within which houses were available at a particular moment in time to the Hispanic tester were what *Newsday* referred to as predominantly "White." If I truly was going to steer a Hispanic client to a predominantly "minority," neighborhood, why would **two-thirds** of the houses generated by the MLS website be in localities that are predominantly white!

Additionally, while *Newsday*, emphasizes the supposed fact that "White tester listings [were] in areas that averaged 81 percent White[,]," this focus is misleading. Notably, the difference of an average of 15% when both averages were substantially more than 50%, is not, in my opinion, statistically significant. At the end of the day, both testers were provided computer generated listings of houses in areas that averaged at least 2/3 White, crippling any reasonable argument that I manipulated the data to steer the Hispanic tester into a "minority" predominate area. *Newsday* and its

⁶ Indeed, I specifically mentioned this during my discussion with the Hispanic tester. (22:07) ("this is the slowest time of year, December. . ."). Any expert in the real estate market in the Northeast, as well as any person who has looked for a home on Long Island, will attest to this reality.

⁷ *Newsday's* purported expert, Fred Freiberg, incorrectly stated that I provided the listings.

⁸ I also do not know what a "Census Tract" is as it is being referred to by *Newsday*.

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“experts,” respectfully, are grasping at straws, if they are relying on this purported statistical disparity to demonstrate racial/ethnic steering.

Moreover, I challenge the entire process in this regard and believe it was and remains fundamentally unfair. Critically, while I have no recollection of my interactions with these testers, if I was shown the search criteria I inputted into the MLS link for each tester, then I would certainly be in a better position to possibly recreate and explain my thought process as to why certain search criteria was used for each tester (to the extent search terms were even different). However, although apparently in existence, I have been refused an opportunity to review this information. How can I properly defend myself against the most heinous of accusations when I am deprived the opportunity to review information primarily relied upon my accusers to level this charge? In this regard, and what I consider to be critically significant, how can I be confident that the search criteria, after I inputted, it wasn't subsequently manipulated by the testers to achieve a result consistent with *Newsday's* narrative?

Sixth, *Newsday's* expert's speculation suggestion that I was steering the Hispanic tester is **DEAD ON ARRIVAL**, when one considers what I did subsequent to my meeting with the Hispanic tester. The Hispanic tester asked to look at two houses -- one in Holbrook and one in Ronkonkama -- both predominantly White communities. **I DID ABSOLUTELY NOTHING** to dissuade the Hispanic tester from looking at these houses and **I SAID ABSOLUTELY NOTHING** during these showings to dissuade the Hispanic tester from considering these houses.⁹ Had the White tester contacted me and sought to see a house in a predominantly minority neighborhood, *e.g.*, Brentwood, I would have conducted myself the exact same way.¹⁰

Newsday and its experts' opinion as to my conduct and motives are nothing more than unfounded (and profoundly erroneous) speculation. I did not treat the testers differently and I did not conduct myself with a racially discriminatory animus toward either tester.

⁹ Notably, *Newsday* refused to show me, much less provide me a copy of the respective video-tapes of these showings, and “Arthur,” who wrote the article, stated to me that there was nothing on the tapes that would support any claim of steering. I hope that “Arthur” is required to one-day explain why reference to these two visits and his opinion were noticeably omitted from the main body of the article written about me.

¹⁰ I suspect that whoever was directing the testers did not instruct the White tester to make this request out of concern that I would have, without hesitation, showed her this house, thereby fatally undercutting *Newsday's* narrative that racial steering was occurring.

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Stephanie Giordano



1/31/2020

To Whom It May Concern:

My name is Ruth Pfeffer and my UIDs are 10301210404 and 1030218039. I am an Associate Broker and Office Manager at Charles Rutenberg Realty Inc. in Plainview, NY and Bayside, NY. I have been employed with the company since March of 2007. I am very active in the Long Island Board of Realtors. I was a LIBOR Director between 2017-2019, I was President of my Board Chapter from 2018-2019 and I have served on the Grievance Committee from 2017 to the present day.

In my role as Manager, I believe in training and education. This is paramount in executing my job responsibilities. As such I take classes for CE and for personal knowledge regularly and always exceed the requirements to renew my license. Beyond the routine classes (of which there are too many to list), in 2015 I took Ethics from NYSAR and LIBOR, in 2017 I took Legal from NYSAR. In 2018 I took Professional Standards from NYSAR, and Ethics, Fair Housing and Agency from LIBOR. In 2019 I completed Fair Housing through LIBOR and Professional Standards and Legal through NYSAR. So far in 2020 I have taken NYSAR Professional Standards and Fair Housing through LI Housing Partnership. All of these classes address Fair Housing as a main topic or as an included unit. As you can see, I take education in this area very seriously and I do my best to stay apprised so that I can impart what I learn to our Agents.

I know that Charles Rutenberg Realty, Inc. stands for Fair Housing and Equal Opportunity. These are bedrocks on which we have built our entire company. We not only train our Agents accordingly but we also work in an environment where uniqueness is celebrated. We practice what we preach by becoming the most inclusive Real Estate company amongst our competition. More importantly, we provide incredible opportunity to our own Agents to succeed professionally.

Our company model is quite different from those of other large Real Estate companies. This provides an opportunity for every individual who chooses to work in Real Estate, thereby creating a company rich in diversity. Charles Rutenberg Realty Agents range between 18 and 90 years old. They speak over 50 languages. They live in every possible Borough, Town, Village, County and Zip Code in the NY metro area. They serve every neighborhood because they live in every neighborhood. We do not invest in huge numbers of brick and mortar buildings to house our Agents because that is not the direction of Real Estate in this decade. The public does not knock on the Real Estate door to find housing, they search on the internet. When they do, they will find a Charles Rutenberg Realty Agent who knows and lives locally. They will find an Agent

who can speak to them in a language they understand, who has been professionally trained and has the resources to help them to sell, buy or rent a home.

From the very moment that an Agent begins their career at Charles Rutenberg Realty, Inc. they are notified that we are invested in delivering housing opportunities to every individual who seeks our assistance. When they walk through the door, they see the Fair Housing Declaration in our lobby, when they enter our conference room to be interviewed it is displayed again, when they sign our New Agent paper work we include a NON-Discrimination document and a Compliance document that they must sign which outlines their obligations to adhere to the law.

All Agents are required to take our New Agent Orientation within 60 days of joining. I am the Instructor. We discuss Fair Housing and present written educational materials to help them understand their obligation to the public. They are instructed to check our website for additional resources that we have for them to better understand what they can and can't do, say or print. We outline our company best practices which include making sure to treat each customer/client identically, to document to the best of their ability, and to read all company updates regarding changes in the law.

We have a robust on line presence for our Agents, in addition to weekly (at a minimum) training. I host an on line chat for our Agents which is available 24/7. I also send a minimum of 3 emails a day with relevant updates, industry news or best practices to every Agent. Fair Housing and the law are common topics.

The rental market is an area where Fair Housing is often a topic of discussion. We run a class on a regular basis which includes industry experts. At that time, we convey the importance of equal treatment under the law. We use an Attorney to and a Tenant Screening expert. We mandate that this class is required for those in our office who work in the rental market.

I monitor every Agent's license renewal to remind them via email to meet their CE obligations and specifically mention the need for Fair Housing training. We do not keep any Agent on our roster who cannot or has not attested to taking Fair Housing training and renewed their license. Fair Housing is discussed in our NAR Ethics requirement. We monitor that as well. We ensure that each Agent has completed that class as well. We do Ethics training in our office, with a qualified instructor to make this easier.

Since the Newsday story has unfolded, we have ramped up our already comprehensive efforts to enforce and educate regarding Fair Housing. We have added the following policies in the last few months:

- Our Non- Discrimination Policy statement has to be signed yearly by all Agents.
- We have invested in providing Charles Rutenberg Realty emails to all Agents so that we can randomly monitor communications.
- We have developed a Fair Housing Service document which we have told all Agents must be signed by clients and customers so that they understand what an Agent can and cannot do.

(we know Gov. Cuomo has also advised something like this is in the works, but we are using our own until then).

- We are running a new class called 'Compliance Training' on a monthly basis.
- We are developing new training which will include role play exercises and we are investigating the possibilities of hiring our own Testers to randomly monitor our Agents performance in the field.

Some of the videos I have seen from the Newsday story are deeply disturbing to me. It saddens me that there is blatant disregard for Fair Housing law in our industry. However, I can honestly say that the videos I saw of our Agents and the interviews I had with our Agents following lead me to believe that our Agents were in compliance with all Fair Housing laws. I think they were serving these customers equally to the best of their ability with the information they got from the customers. These Agent are all hard-working Agents who are motivated by one color – GREEN. They listened to their customers, asked questions and then tried to provide service so that they could satisfy a need and earn a commission. All three of our Agents are of diverse backgrounds, live in diverse neighborhoods and service a diverse community of customers on a daily basis.

In conclusion, I am proud to work for Charles Rutenberg Realty, Inc. and I believe we work hard every day to do the right thing for our Agents and for our Customers/Clients.

Please let me know if you need anything further.

Sincerely,



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MAURICE JOHNSON STATEMENT

To Whom It May Concern:

Thank you for the opportunity to provide this written statement, which reiterates and/or supplements some of my answers given on February 13, 2020. I am an African-American male who has been subjected to direct and indirect discrimination and/or racial prejudice, both in my personal and professional life. Consequently, because of my experiences and background, I am not only extremely sensitive to treating everybody equally, but I try to be involved whenever I can in organizations that promote equality and opportunities for minorities. In this regard, for example, I am actively involved with the Neighborhood Assistance Corporations of America, (“NACA”), often speaking about housing related issues to first-time home buyers, most of whom are minorities.¹

Moreover, while I have and have had clients who are White, the substantial majority of my business comes from Black and Latino individuals. Therefore, to publicly declare, as *Newsday* did through “supposedly” objective expert opinions based upon nothing more than two approximate 45

¹ According to NACA’s website:

- NACA “is a non-profit, community advocacy and homeownership organization. *NACA’s primary goal is build strong, healthy neighborhoods in urban and rural areas nationwide through affordable homeownership.* NACA has made the dream of homeownership a reality for thousands of working people by counseling them honestly and effectively, enabling even those with poor credit to purchase a home or modify their predatory loan with far better terms than those provided even in the prime market.”
- [s]tarted in 1988, NACA has tremendous track record of successful advocacy against predatory and discriminatory lenders as well as providing the best mortgage program in America with \$10 billion in funding commitments. *NACA is the largest housing services organization in the country[.]*
- [w]hile advocacy campaigns are an important part of everyone’s work at NACA, staff spends the majority of their time providing comprehensive housing services to low- and moderate-income people. NACA offers tremendous opportunities for job growth and career development. NACA seeks staff with a positive and open attitude, a willingness to work hard, and the determination to achieve NACA’s mission. NACA is an equal opportunity employer *and strongly encourages minorities and bilingual people to apply.*
- [t]he NACA staff work extremely hard and are dedicated *to our mission of affordable homeownership and fighting for economic justice.* The staff has a seamless communication with our Members. . . . In addition, *the NACA staff is overwhelmingly minority at all levels.*

(Emphasis added).

minute conversations and an “analysis” of computer generated house listings separated by three weeks,² that I engaged in racial and/or ethnic discrimination³ with regard to how I conduct myself in my chosen profession, was not merely personally offensive and likely professionally damaging,⁴ **but patently absurd.**

Succinctly, I have never engaged and never will engage in any type of discrimination, racial or otherwise, whether in my personal life or in my professional life. Likewise, I have never steered any client to a particular neighborhood either because of the neighborhood’s racial or ethnic make-up, or because of the client’s racial or ethnic make-up. Last, I have never treated one client differently than another because of his or her race or ethnicity. While I have received significant training from Charles Rutenberg Realty, (“CRR”), on Fair Housing issues, complied with my continuing education requirements and am generally knowledgeable about Fair Housing issues, I don’t need to be trained, be given continuing education or be provided literature to read to know that no person should be treated differently because of race or ethnicity with regard to housing, or anything else.⁵

As I understand it, *Newsday* and its “experts” have generally claimed that I treated the Hispanic tester unequally, *i.e.*, not as well, in comparison with the White tester and I did so because of a discriminatory animus against the Hispanic tester based upon his race and/or ethnicity. I categorically deny both unequal treatment and discriminatory motivation, and will address *Newsday*’s completely speculative conclusions in more detail below. For the following reasons, I challenge the

² It cannot be overlooked, as *Newsday* did, that these conversations and limited interaction with the respective testers was simply the beginning of the process. My subsequent interactions with the testers, if they were legitimate potential buyers, would have been extensive. If *Newsday* would have permitted the testers to work with me for the number of months that I usually work with a client to find a house, then *Newsday* would have had the fullest picture of my professional ethics and would never have come remotely close to accusing me of discrimination/steering.

³ I must note that even *Newsday*’s experts differed in their respective analysis – one said my conduct “raises a concern about possible racial steering,” while the other said “lots of steering here.” Each expert’s speculative conclusion was wrong – I engaged in no racial steering.

⁴ I have been asked to comment on how *Newsday*’s public charges have impacted my business. Given that a substantial number of my clients come from the Internet, no potential client is going to contact me unsolicited and say, for example, *I wanted to use you but I won’t now because I saw that Newsday called you a racist.* Therefore, I am not in a position to answer that question. However, I cannot imagine how such an irresponsible charge levelled against me publicly has not harmed my professional reputation.

⁵ I received my Real Estate License in 2006, at which time I started working in association with CRR. No complaint, to my knowledge, has ever been lodged against me by a client on any basis, much less one claiming that I was discriminating against him or her on the basis of race or ethnicity.

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fairness of *Newsday's* investigation, as well as its experts' speculative conclusions as to both my actions and motivations.⁶

First, there is nothing about the substance of my conversations with either of the testers that supports even the inference of unequal treatment and/or steering, much less that I possessed a discriminatory motivation. As I am sure was noted by you when you reviewed the videos, my tone, demeanor, body language and professionalism was no different with regard to these two testers. Likewise, the time spent with both and the general procedure outlined by me as necessary to pursue a professional relationship with me were materially identical as between these two testers.

Consequently, in the wholesale absence of any actual communication to either tester pushing them into or out of a particular neighborhood that they were interested in looking at,⁷ *Newsday* and its experts pull out a few words from my approximate forty-five minute conversation with the White tester, take them entirely out of context and submit to its readership a misrepresentative portrayal of what I said.

In this regard, *Newsday* said that "Johnson told [the White tester] that Half Hollow Hills, at the time 59 percent white, was a 'good district' and expressed regret that, in his view, the law would bar him from warning a customer away from overwhelming minority Wyandanch, where, he said 'the school district underperforming.'" This is a complete misrepresentation of my conversation and, moreover, I object to the obviously purposeful use of the "warning."

As is clear from my conversation with the White tester, I never compared the relative performance rankings of the Half Hollow Hills School District to the Wyandanch School District, as *Newsday* leaves the reader to believe. Indeed, as will be addressed in more detail below, not only did my reference about the Half Hollow Hills School District occur in a completely different context than my reference to the Wyandanch School District, my reference to the Wyandanch School District occurred more than three minutes (17:35) after my reference to the Half Hollow Hills School District being a "good school district," (14:17). Further, I did not tell the White tester, (who said he knew nothing of Long Island), that Wyandanch borders Dix Hills/Half Hollow Hills, thus negating any

⁶ I also request that your respective agencies, as part of your investigation, do a thorough probe and analysis of the manner in which *Newsday* conducted these tests, the statistical data used to support its conclusions, and the due process provided me and other targets of *Newsday's* investigation.

⁷ During my meeting on February 13, 2020, I was asked what my definition of steering is. I believe steering is where I purposefully direct, through words or conduct, a potential buyer either not to look at homes in a particular area(s), or to only look in a particular area(s). Such steering would be discriminatory if it was based upon, for example, one's race, color, ethnicity or religion. I engaged in no such steering.

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reasonable inference that I was negatively comparing Wyandanch to Dix Hills. None of this was mentioned by *Newsday*!

Moreover, my specific reference to the Wyandanch School District as “underperforming” is fundamentally irrelevant to the question of whether I was steering this particular White tester away from Wyandanch, which is an overwhelmingly minority area. The lack of any relevancy is obvious because the White tester **was not looking at houses in Suffolk County!** The White tester was looking for houses within a 20 minute drive of Garden City – which could only include looking at houses within the borders of Nassau County.

As is also clear from the video with the White tester, but which *Newsday* fails to mention because, in my opinion, it would not fit with its narrative, is that my reference to the Half Hollow Hills School District was in the context of encouraging him to undertake his own investigation into the performance rankings of school districts. Rather than steering, I was doing nothing more than providing him with a representative example highlighting the reality on Long Island that there may be neighborhoods at his \$500,000 price point which border neighborhoods with a higher price point, placing him into a school district associated with the more wealthy neighborhood.⁸

Critically, I mentioned two specific neighborhoods – Wheatley Heights, (14:26), which borders Dix Hills and the Half Hollow Hills School District, (in Suffolk County), and Valley Stream, (14:52), which borders Hewitt/Woodmere (15:10). Upon information and belief, approximately 27% of the population of Wheatley Heights is White, and 53% is Black or African American. Upon information and belief, in Valley Stream, approximately 32% of the population is White Alone, 25% is Hispanic or Latino, and 23% Black or African American Alone. **If I was engaged in steering, how would *Newsday* reconcile the fact that I specifically mentioned two majority-minority areas, one of which is in Nassau County, to the White tester.** It can’t, and it didn’t even attempt to in its article.

Second, *Newsday* emphasizes that I “suggested [to the White tester] that he might like to live in waterfront communities,” but that “I did not mention the waterfront” to the Hispanic tester. *Newsday* was correct in noting that I made a few references to the White tester to Baldwin Harbor as being very close to the water where \$500,000 houses within 20 minutes of Garden City range can be found. (25:28); (26:04). However, other than noting this part of my conversation correctly, *Newsday*’s experts do not articulate how my reference to Baldwin Harbor to the White tester, (or the lack of reference to the Hispanic tester), is any indicia of steering.

⁸ As I said to both testers, the costlier the houses, the better the neighborhood and generally the better the school district. There is nothing shocking about this Long Island reality.

Newsday nevertheless completely misrepresents my references to Baldwin Harbor when it says “I suggested” to the White tester “that he might like to live in waterfront communities.” My initial reference to Baldwin Harbor, (25:08), was in the context of discussing taxes that normally would be associated with a \$500,000 house, and was nothing more than an example of an area where a house at \$500,000 might have higher than average taxes for that price range, because it was on the water. My next reference to Baldwin Harbor was in direct response to the White tester’s comment that “I just assumed waterfront would be way out of our price-range,” (26:02), which at that time likely suggested to me that he may be interested in looking at waterfront property at his price-point.

Beyond this misrepresentation, the statistical data identified by *Newsday* **seriously undermines** its speculative conclusion of steering. In this regard, *Newsday* notes that Baldwin Harbor is a majority-minority area (51% minority). If I was going to steer the White tester only to predominantly white areas, why would I mention Baldwin Harbor⁹ to him at all.

Moreover, the foundational requirement for *Newsday*’s insinuation concerning my so-called “waterfront” conversation with the White tester disintegrates into powder when considering the number of listings in Baldwin Harbor identified by *Newsday* in its article that were provided to the respective testers – equal if not more to the Hispanic tester, than to the White tester. This would appear, on its face, to be wholly inconsistent with some racially/ethnically motivated desire on my part to “push” waterfront areas only onto the White tester!

Third, *Newsday* highlights the difference in the number of “Listings Given” to the Hispanic tester (100), and to the White tester (147). Any reliance on this statistic as indicia of discriminatory treatment is fundamentally flawed for a number of reasons.

Primarily, the difference in the number of “Listings Given” is wholly unremarkable and absolutely expected, considering when I met with each of the testers. According to *Newsday*, I met with the Hispanic tester in mid-April, (04/13/16) - - mid-April is when the amount of houses on the market is just beginning to increase from its low in December, January and February. In comparison, I met with the White tester, according to *Newsday*, in early May, (05/3/16), when the number of houses on the market would have risen significantly from mid-April. For sake of comparison, there would no doubt be significantly more houses on the market at the end of May as opposed to the beginning of May.

⁹ Given that I did not mention Baldwin Harbor to the Hispanic tester, and given that *Newsday* has implied that I was “steering” the White tester to Baldwin Harbor, one would reasonably think that *Newsday* would be entirely supportive and, in fact, publicly complimentary of a real estate agent specifically identifying to a White tester a racially and ethnically diverse community such as Baldwin Harbor to consider.

Secondarily, I didn't select the specific house listings for the testers, as *Newsday's* experts stated throughout the *Newsday* article. House listings are computer generated by the MLS website, based upon data that I initially input, (which is based upon my communication(s) with the client), but that can, and almost always will, change over time. As will be discussed in more detail later on, my general practice would have been to input "Nassau" as the area for MLS to search for house listings for both testers, since neither was specific in the areas they wanted and merely sought houses within a 20 minute drive of Garden City.¹⁰

Fourth, *Newsday* also highlighted an apparent difference in the "Census Tracts." According to *Newsday*, the Hispanic tester was provided listings by MLS in areas that averaged 56% White, while the White tester was provided by MLS listings in areas that averaged 64% White. *Newsday's* conclusion that this was indicia of racial/ethnic discrimination and/or steering is ridiculous.

Initially, I do not really know what "areas that average" means, or the statistical basis for that "finding." Regardless, it cannot be overlooked that a majority of the "Census Tracts"¹¹ within which houses were available at a particular moment in time to the Hispanic tester were what *Newsday* referred to as predominantly "White." If I truly was going to steer a Hispanic client to a predominantly "minority" neighborhood, why would a majority of the houses generated by the MLS website be in localities that are predominantly white!

Additionally, while *Newsday*, emphasizes the supposed fact that the White tester listings were in areas that averaged 64% White, this focus is misleading. Notably, the difference of an average of merely 8%, when both "Census Tract" averages were more than 50% White, is not, in my opinion, statistically significant and certainly doesn't suggest steering or discrimination. Last, both testers were provided computer generated listings of houses that averaged at least 55% White, fatally undercutting any reasonable argument that I manipulated the data to steer the Hispanic tester into "minority" predominate areas. *Newsday* and its "experts," respectfully, are grasping at straws, if they are relying on this purported statistical disparity to support their narrative of racial/ethnic steering.

Moreover, I challenge the entire process in this regard and believe it was and remains fundamentally unfair. Critically, while I have no recollection of my interactions with these testers, if I was shown the search criteria I inputted into the MLS website for each tester, then I would certainly be in a better position to possibly recreate and explain my thought process as to why certain search criteria was used for each tester (to the extent I inputted something other than "Nassau"). However, although apparently in existence, I have been refused an opportunity to review this information. How

¹⁰ Given that this would cover a substantial part of Nassau, it would not be my general practice to exclude any area within Nassau County and, as previously stated, I would just do an all "Nassau" search.

¹¹ I also do not know what a "Census Tract" is as it is being referred to by *Newsday*.

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can I properly defend myself against the most heinous of accusations when I am deprived the opportunity to review information primarily relied upon by my accusers to level this charge?

Last, I was asked in my interview on February 13, 2020, to address the opinion, (16:50-19:30), I gave to the White tester concerning a real estate agent's inability to provide his or her client with any specific, but truthful, information concerning the relative performance rankings of school districts on Long Island, and have subsequently been specifically asked to address this as part of the Department of State's request for a Written Statement. As part of this inquiry, I am also being asked to address why I gave this opinion to the White tester and not the Hispanic tester.

First, I find it very troubling that I am being asked by New York State in general, and from the State's licensing agency directly responsible for my livelihood in particular, to explain myself with regard to my personal opinion concerning how laws enacted by the Federal and New York State governments concerning Fair Housing have been interpreted. Inasmuch as there was absolutely nothing said by me, within the context of the specific opinion given by me as to what information I am and am not allowed to provide to a client, which to any degree represents discrimination or steering, I do not understand the relevance of this specific inquiry. Although I am not a lawyer, I would like to think that I have a First Amendment right to express any opinion I like as to any law, or interpretation of same, enacted by any governmental body, without fear of governmental oversight, inquiry and reprisal.

Second, my "opinion" did not, under any reasonable interpretation, constitute steering or discrimination. I simply advised the White tester, in sum and substance, that I do not agree that I should be prohibited from giving my clients all necessary information that would enable them to make the most informed decision possible. Accordingly, I am at a loss to understand the relevancy of the Department's request of me to explain why I provided this opinion to the White tester and not the Hispanic tester.

Third, this request incorrectly presupposes that there necessarily had to be a reason for why I gave my opinion to the White tester, and not the Hispanic tester. Indeed, had my conversation with the White tester occurred either immediately before or immediately after my conversation with the Hispanic tester, than perhaps there would be some ability for me to even attempt to answer this question. However, that is not the case - - these conversations took place three weeks apart. For all I know, I could have in that three week period expressed the same opinion to other clients and potential clients, a substantial majority of whom are minority.

Respectfully, the Department's inquiry is not capable of being properly responded to. I am not a robot and I do not have a script. I interpret verbal responses, facial reactions and body language

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when I have a discussion with a potential client/client, as I do, (and everybody else does), in virtually every verbal communication I have in my life. What I say to a potential client, (or to a client), when I say it and how I say it is determined in large part by the human interaction I have with that particular person at that particular moment, and likely influenced as well by my emotional and/or physical state due to the events surrounding my work and personal life at that particular moment, as is the case with everybody. Accordingly no two conversations are ever alike and every conversation can go in markedly different directions depending upon various and multiple factors.

Newsday and its experts' opinion as to my conduct and motives are nothing more than unfounded (and profoundly erroneous) speculation. I did not treat the testers materially differently and I did not conduct myself with a racially discriminatory animus toward either tester.

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Maurice Johnson

January 31, 2020

EDWIN TORRES STATEMENT

To Whom It May Concern:

Thank you for the opportunity to provide this written statement, which reiterates and/or supplements some of my answers given on January 17, 2020. Before I continue, I must make something absolutely and unequivocally clear. I never have engaged and never will engage in any type of discrimination, racial or otherwise, whether in my personal life or in my professional life. Likewise, I have never steered any client to a particular neighborhood either because of the neighborhood's racial or ethnic make-up, or because of the client's racial or ethnic make-up. Last, I have never treated one client differently than another because of his or her race or ethnicity. While I have received significant training from Charles Rutenberg Realty on Fair Housing issues, complied with my continuing education requirements and am generally knowledgeable about Fair Housing issues, I don't need to be trained, be given continuing education or be provided literature to read to know that no person should be treated differently because of race or ethnicity with regard to housing, or anything else. I am offended that my name was publically identified as someone who would engage in such conduct.

I am forty-one years old. Both my parents are of Hispanic descent and I am Hispanic. I became a Real Estate Agent in 2004 and have been a Real Estate Associate Broker since 2008. I have been an independent contractor affiliated with Charles Rutenberg Realty, ("CRR"), since approximately 2009. Since joining CRR, CRR has provided training and other education/information every year with regard to Fair Housing issues. No complaint, to my knowledge, has ever been lodged against me by a client on any basis, much less one claiming that I was discriminating against them on the basis of race or ethnicity.

My sole motivation is making sales and earning the best living possible. It does not matter to me the race of any client – in fact, approximately 90% of my clients for whom I have brokered sales in the last 5 years would be considered racial or ethnic minorities. Likewise, it does not matter to me where my client wants to look for a house. The only factors that ultimately matter to me are how interested, *i.e.* serious, a potential client seems to be in purchasing a house and how much they want to spend on a house. Each of these factors go to the very essence of what I try to do every day – brokering the sale of a house for my client in the most time efficient manner as possible.

The focus of our discussion on January 17, 2020 was on my interaction with the respective "testers" in 2016. According to *Newsday*, I engaged in racial discrimination with regard to my interaction with the Black tester. *Newsday* is simply wrong. As I am sure was noted by you when you reviewed the videos, my tone, demeanor, body language and professionalism was no different

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with regard to these two testers. Likewise, the time spent with both, the questions asked by me, the information provided by me and the general procedure outlined by me as necessary to pursue a mutually beneficial professional relationship with me were materially identical as between these two testers.

I acknowledge that there was one, but in my opinion, non-material difference in my initial assistance of the respective “testers.” Notwithstanding my then general practice of not providing any informational links showing available houses and/or visiting a house with a client until that client has received a “pre-approval,” (for the reasons stated on both of the videos), I nevertheless provided the White tester with an online link to see some available houses, as well as a few days later visited one house with him. However, this relatively minor difference in treatment had absolutely nothing to do with race or ethnicity, and everything to do with the respective interest shown by the different testers. Moreover, and of critical importance, subsequent to this one visit with the White tester, my communications/interactions and ultimate relationship with the respective testers were identical – there was none.

As stated, this differing treatment had nothing to do with race or ethnicity, and everything to do with the profoundly different level of interest in beginning the process with me, (and seeing a house), that was demonstrated by the White tester, as opposed to the Black tester. Any fair and objective comparison of the two videos will show that I was entirely consistent with both as it concerns my general practice regarding providing an online link and subsequently showing any houses - a pre-approval was needed.

However, any fair and objective review of the video of the White tester will also demonstrate that he was relentless with regard to his pursuit of an online link. His relentlessness paid off - he showed so much interest that I decided then that he was serious about looking for a house and that he would expeditiously seek and receive a pre-approval. Since I am in the business of brokering the sale of houses, I decided to make an exception to my general practice, take a chance and send him a link. The Black tester did not show a similar level of interest in starting the process with me. A few days later, based upon the White tester’s continued level of interest, I showed him one house that week.

However, I had no further involvement with the White tester after this one showing for the simple reason that based upon the timeliness of his responses to my subsequent texts and/or his actual responses, I concluded that he was no longer a serious buyer. Consequently, between one and two weeks after the showing, I terminated his access to this link. Therefore, once the White tester showed the same level of interest, (or lack thereof), in doing what was necessary to proceed with a professional relationship with me, I treated him **no differently** than I did the Black tester.

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Newsday and its experts' conclusion as to my motives are nothing more than unfounded speculation. In my opinion, the videos contradict any conclusion that I acted in a racially discriminatory manner towards the Black tester.


Edwin Torres