UNITED STATES COMMISSION ON CIVIL RIGHTS
DISTRICT OF COLUMBIA ADVISORY COMMITTEE

EQUAL ACCESS TO FINANCIAL OPPORTUNITIES FORUM

5th Floor Conference Room
624 Ninth Street, NW
Washington, D.C. 20425

Thursday, March 15, 2001
8:45 a.m.

Committee Members Present

REV. LEWIS ANTHONY, Chair
EVA P. BRITT
CYNTHIA GRAAE
ANN F. HEUER
DAVID KIM
STEPHEN KURZMAN
ERNEST SKINNER
JOHN C. TOPPING, JR.

ORIGINAL

EXECUTIVE COURT REPORTERS, INC.
(301) 565-0064

A G E N D A

A G E N D A

PROCEEDINGS

8:52 a.m.

Welcome Remarks and Introduction of Members

REV. ANTHONY: Good morning. We live in a community where not only people live but also the documents of freedom that all of us corporately share.

The issue presented before us today is whether or not those freedoms, as they relate to economic placements, which are vital to any citizen's life, are freely and generally enjoyed by all in general and by minorities in particular.

This committee then advises the Civil Rights Commission, and as of two years ago has broken ground to report that all is not well, and we find it useful to have this forum to find out where, after this period of our first report, where significant progress has been made.

I'll make some other remarks, but having served in government for some time, I know the tyranny of the agent. We happen to have the Commission Chairman -- Director with us, and we're honored that he has decided to take time from his very busy schedule to join us, and I think it would be appropriate at this moment for him to welcome us to the endeavors before us.

I will call now Mr. Les Jim, who's the Staff Director of the Commission on Civil Rights, and I don't think it's inappropriate to give him some type of affirmation.

(Applause)

Welcome Remarks

MR. JIN: Thank you very much, Reverend Anthony, and thank you, the rest of the members of Washington, D.C., the District Advisory Committee.

I do thank you for inviting me to say a few words, and I say thank you for your participation in the state advisory committee. As you all know, the states advisory committee is a very important component of the U.S. Commission on Civil Rights. I can assure you that not only does the staff but the commissioners all recognize that and appreciate the hard work that you all do as volunteers especially.

I'm a fairly new staff director actually, and I think that this is actually my first opportunity to talk to a state advisory committee, and I think it's only appropriate that it be this one because not only do I work in the District but this is also my home.

So, again, I thank you. I know you have a very busy schedule today. You've got a very ambitious schedule. I believe you have three panels on Equal

Access, and I commend you for putting together such a panel with Mark Shapiro and the rest of it, and I wish you the absolute best, and if there's anything the staff director's office can ever do to help you make your job easier, feel free to give us a call.

REV. ANTHONY: Thank you, sir.

MR. JIN: Thank you.

REV. ANTHONY: It's a delight to meet you.

Frederick Douglass, who was a citizen of this community and a recorder of deeds in this ancient vintage, asked a question, which I think is a good focus for the meeting today.

The question he asked was whether American justice, American liberty, American civilization, American laws and American Christianity could be made to include and protect the life and commitment of all American citizens and the rights that had been guaranteed to them by the organic and fundamental laws of the land.

The focus, therefore, of this meeting is to see whether in the area of economic possibilities, these words of Douglass have currency for our time. You will find around the table today a very wonderful assortment of distinguished citizens who live here and who work here and who share their gifts and graces and talents here. They receive profound remuneration for their service on this panel. Their remuneration is the energy of being able to share and share excellently, and I'd like to introduce them to you.

There is Cynthia Gray. There is Ann Heuer, and this is a bipartisan group. If you think we have a political bent, we have both Democrats and Republicans. Do we have any Independents? There is Steve Kurzman, Winona Lake, Ernest Skinner, John Topping, and Eva Britt.

We're very grateful -- oh, and I'm sorry, and David Kim. We're very grateful for their presence, and I want to say finally in these preparatory comments that we owe an immense amount of gratitude to Ernest Skinner, the chair of our subcommission -- subcommittee that gave focus to this forum, and also to the indefatigable practice and gifts of the one who gives us leadership, Marc Pentino of the Eastern Region. The invaluable contributions of these two men and the committee in bringing forth this forum are immeasurable, and I would commend us all to give them some applause for their work.

(Applause)

REV. ANTHONY: Today's activities will reflect around three panels, and it's my happy delight to call for the first presentation the panel whose focus will be on "Statistics on Lending in the District of Columbia and Problems Encountered by Minority Borrowers".

Those persons present, if they would come, and I will then introduce you in turn.

(Pause)

Panel 1: Statistics on Lending in the District of Columbia and Problems Encountered by Minority Borrowers

REV. ANTHONY: I am delighted to welcome as the members of this useful forum today, the group that will deal with "Statistics on Lending in the District of Columbia". It is a very distinguished group made up also of distinguished citizens that serve in the community.

I ask that each one of you tap your microphone to make sure it's working. We're having several technical adjustments.

I'd like to present to you the panelists that shall share in this endeavor. There is John Taylor, President and Executive Director of the National Community Reinvestment Coalition, a person who has given 15 years of life to his organization and a useful thing in this very important area.

There is Attorney James Sugarman, with the AARP, who's one of a group that not only helps seniors but also keeps the conscience of the nation as relates to seniors, and finally, there is Valerie Kaufman, who comes to us from ACORN, a wonderful organization that has made sure that housing is not necessarily just for the privileged and the well-endowed.

Mr. Taylor and Members of the Panel, I encourage you now to give your presentations.

MR. TAYLOR: Thank you, Mr. Chairman. Good morning, Mr. Chairman and Members of the Advisory Board.

I would also like to add my compliments also to the folks that are sitting here beside me from ACORN and from AARP because they've done some tremendous work in trying to fight economic injustice.

I think I was moved by your opening comments, Mr. Chairman, especially your quotation of Mr. Douglass's, who talked about American justice to include all peoples.

I happen to believe that we can, and I also happen to believe that the council does, too, and what concerns me is over the past 10 years, I think we've seen some real progress in economic justice, measurable progress, in which people of color began to share in the prosperity related to homeownership, and I think that, you know, we could give you statistics that showed dramatic rises in '93 and '94. For example, 50 percent jumps in homeownership for African Americans and Hispanics.

However, very rapidly, that success is being theorized. The advent of the subprime market and within that, as a subset, is undermining much of the --

(Pause)

MR. TAYLOR: Is that a plough through, Mr. Chairman?

REV. ANTHONY: Well, in my regular practice and profession, I understand when you have interruptions like this, we generally ascribe them to safety. We must be doing something right. So, proceed.

MR. TAYLOR: It might be synonymous. But in any event, I've lost my train of thought. I will regroup in a moment here.

We've seen much of the change that was recognized in the '90s begin to be undermined, and in fact, a new financial system evolve, a financial system which looks like it has a dual track, one track for whites, and one track for others, and we're here with a couple of studies which we want to show you.

One is on homeownership and related products in the subprime market for the D.C. area, and the other, at the request of a member of this Board, Ernest Skinner, we've done a small business report as well.

But I think the concerns we have now and we share with, I think, both lenders, political leaders, community leaders, is that the subprime market seems to be -- not seems to be -- excuse me -- is most definitely becoming the only market of choice for people of color when they go to refinance their homes, in particular in this city and many other cities in America.

And increasingly, the predatory lending scourge that's now visiting us is increasingly in the underserved neighborhoods of color, and the term "inaction" is taken. I think that this trend is going to continue, and we applaud the D.C. Government for enacting some anti-predatory laws that we think will be very helpful, and we were very pleased to work with our colleagues from NCRC who contributed to that effort.

In any event, I'd like to quickly go to the study, where we looked at the suburban jurisdictions as well as D.C., and I have for your viewing pleasure some graphic illustrations that will help us in this.

If you look at the top 30 lenders who do the most refinance loans in each of the jurisdictions, and we look at D.C., P.G. County and Fairfax County. If you look in D.C., for example, and also if you look -- well, let me make sure I'm looking at the right map here.

If you look in D.C., the subprime home lenders among the top 30 lenders, 24 percent of their refinanced loans in substantially minority tracks --

MR. SKINNER: John, hold on.

MR. TAYLOR: Sure, and Mr. Skinner and Mr. Chairman, you have these documents.

MS. HEUER: And which page are these documents?

MR. TAYLOR: Page --

MS. HEUER: Well, there aren't any pages, but it's --

MR. TAYLOR: Right. Well, it --

MS. HEUER: 1999 and 1994?

MR. TAYLOR: 1999. If you were to look at --

PARTICIPANT: After the written pages, Pages 1 through 4, the first bar graph compares D.C. to the other jurisdictions.

MR. TAYLOR: And the lighter-shaded area, as you can see, is '94, the darker area is '99, and you see the growth in subprime lending in substantially minority census tracks.

In D.C., for example, it went from slightly less than 25 percent to almost 40 percent, and in Prince George's County, from 31 percent to almost 40 percent, and that's in the span of five years.

MR. TOPPING: That's of the total lending? This is a proportion of the total lending that actually happened?

MR. TAYLOR: Correct. In P.G. County. What I'd like to do now is focus on D.C. in particular and lending by the five largest subprime and prime lenders in '94 and '95, and that would be, if you numbered your pages after Page 4, this would be Page 6, and if folks want to do that, they might be able to follow me. I apologize for not having these pages numbered, but if you begin to number these, it might make things go easier.

Page 6. You see the percentage of refinanced loans made by -- made to black borrowers by the top prime and subprime lenders in D.C. On the left, on Page 6, are the prime lenders, and you can see that in '94, about roughly 23 percent of prime lenders, that is offering the best loans with the most favorable terms and conditions and interest rates, they roughly last in the District received about 23 percent of those loans.

In '99, that jumped up to roughly 36 percent. So, there's some improvement there.

However, what's of concern is in the subprime market, in that it was already disproportionately high, and then it crept up even higher to over 70 percent by '99. Again, a trend that, I think, works against fairness in lending, and there shouldn't be the kind of disparity, but also a trend that continues to worsen in spite of, I think, a lot of efforts of people to make economic justice a reality in this country and in this city in particular.

If you look at -- I mean, essentially, African Americans made up 61 percent of the households in the District, according to the 1990 Census, and they received 36 percent of the refinanced loans made by prime lenders in '99, but 71 percent of the loans made by the subprime lenders in 1999. In '94, 1994, blacks received 63 percent of the refinanced loans made by subprime lenders. So, again the disparities have gotten worse.

One of the most outrageous things for me, if you look at Page 4 of the document that you have in your hand now, is this third paragraph that begins with "In 1994". It says, "... the top five subprime and manufactured home lenders made 80 refinanced loans for middle-income applicants".

I mean, this is particularly telling because if you control for income and go to the middle-income blacks as compared to whites, you continue to see an incredible disparity. So, even at higher incomes than low and moderate, the problem persists.

Now, for example, if you were an African American in 1999, you had a 71-percent chance -- if you were a middle-income African American, you had a 71-percent chance that you're going to get a subprime loan if you went to refinance. How does that compare to the whites in D.C.? The whites get -- they have a one-percent chance.

71:1 cannot be explained by some people having disparate credit or a worse credit history. They cannot be explained for any other reason than that there is discrimination and unconscionable treatment going on as it relates to race in this city. It is just simply unacceptable in this day and age to have this kind of record of lending, and I might add, and I want to say that the National Community Reinvestment Coalition is very pro banks. We're not anti-banking.

We see financial institutions as our best hope if they're ever going to be revitalized and be part of the American experience to its fullest and most beautiful sense. It's not going to happen in any neighborhood without the commitment of financial institutions.

And, so, we've been warning our colleagues in the financial community that you cannot have a subprime unit exclusively serving African American communities while your prime units serve white communities. That is racial discrimination.

It is a fair lending violation on a stick waiting to happen, and, you know, it's obviously preferable, I think, to any of the groups who work in economic justice to desire to have collaboration and partnership and for lenders to see the opportunities in these neighborhoods and not be in conflict with them.

But when you have numbers like this, 71:1, we have no choice but to pull out the stops and to fight as hard as we can to change this kind of activity. So, let me continue, if I could.

We were asked by the Commission to take a look at some particular neighborhoods, and if you stay on Page 4, you'll see we took a look at Columbia Heights, Capitol Hill, Mount Pleasant and Adams Morgan, and you'll see, well, in some instances, it's not a tremendous amount of loans.

For the most part, you see that the disparity continues and the disparate treatment, and I'll -- rather than reading statistics to you, I can -- I will leave that to the Commission and not take up the time of my colleagues for you to be able to look at those loans, but I'd ask that these documents be entered into the record, if we could.

REV. ANTHONY: Without objection, so ordered.

MR. TAYLOR: Thank you. I would like to now turn to the small business analysis, and again Mr. Skinner had asked us to perform this analysis.

What we do is we compared national trends with the trends on the D.C. Metropolitan level, and the story diverges in important ways when you compare national with metropolitan trends.

On a national level, between 18 and 20 percent of the small business loans made each year from 1996 to 1999 by CRA-covered lenders went to businesses located in low- and moderate-income census tracks. These tracks contain about 24 percent of the nation's businesses.

While the share of loans are lower than the share of businesses in these tracks, some commenters from the lending industry explained that red-lining is -- since the portion of loans was closer to portion of the nation's businesses in these tracks.

Yet if we believe that is assumed to be clear, for one thing, small business lending data does not include any information about race and gender of the small business owner or the actual size of the business receiving the loan.

This continues to be a shortcoming in our ability to get a clear picture of what lending institutions are doing in the way of small business lending as it relates to people of color and to women.

There is this cloak of secrecy that continues, that -- unlike home mortgage lending and related products to home mortgage refinancing and equity loans, we simply do not have the data to be able to paint as clear a picture or as specific a picture as we need to, and I'll say there was a time in history -- I'll compliment Mr. Skinner whose employer is Citigroup.

When Citigroup and Wells Fargo and Bank of America and Nations Bank at the time and some of the leading institutions called for the collection of this data, unfortunately, Regulation B controlled by the Federal Reserve Bank continues to sort of plod along on this issue.

To the credit of Chairman Greenspan, he did ask for public opinion and for public comment on whether they should allow the collection of this data and unfortunately came out with a rule which proposes that it be voluntary collection of data and disclosure, and the truth is, I doubt that there will be very many lenders who will voluntarily show what they're doing in small business lending while their competitors don't have to.

Unless and until this happens, we simply will not make the kind of progress we need to make in small business lending. So, I hope that the Commission on Civil Rights and the various advisory councils really understand this point and encourage the Federal Reserve Chairman Greenspan to remove the cloak of secrecy on what's happened vis a vis access to credit and capital for small businesses.

REV. ANTHONY: You have one minute remaining, sir. So, if you can summarize.

MR. TAYLOR: I will. Yes, Mr. Chairman. On the metropolitan level, small business in the District of Columbia receive the smallest portion of the loans relative to their presence. To be specific, small businesses and low- and moderate-income census tracks in the District received about 36 percent of small business loans in each year from 1996 to 1999. These tracks contain 42 percent of all the small businesses in the city. Also, more than two-thirds of the population of these tracks were minority.

In the suburbs of the Washington Metropolitan area, businesses and low- and moderate-income tracks received 19 percent of all the loans. These tracks had 21 percent of all businesses in the suburbs.

So, the loan share is in proportion to the small share of businesses. So, to repeat, small businesses in the District and low- and moderate-income tracks received a share of loans considerably smaller than the portion of small businesses in the city, and the overlay between low- and moderate-income tracks and substantially minority tracks is considerable.

We have to do this overlay because that's the only data that's really available. This is in direct contrast in the suburbs where businesses and low- and moderate-income areas fared much better, and businesses and low- and moderate-income suburban tracks were much less likely to be in minority neighborhoods.

I would leave you with this thought, Mr. Chairman. In 1999, one out of every four suburban small businesses received a loan compared to one of every seven small businesses in the city. This disparity was similar in earlier years.

I thank the Commission for the opportunity to comment.

REV. ANTHONY: Thank you, Mr. Taylor, for not only the excellent presentation but for the commitment in order to make sure that the playing field that we often hear is level indeed. Thank you, again.

May we now hear from Ms. Kaufman?

MS. KAUFMAN: Thank you, and I think the Commission for the opportunity to speak today.

I have been working with ACORN for nine years. I've been working on a national focus for two years, in which I've been primarily working on the issue of predatory lending.

For those who are not familiar with ACORN, we are a national organization of low- and moderate-income people. We're an activist organization. We have over a 100,000 members across the country and over 3,000 in the District of Columbia.

For over two decades, we've been waging a campaign against bank red-lining, working to increase access to credit in low- and moderate-income and minority neighborhoods, and 20 years ago, when we really began a lot of this work, we were told by a lot of lenders that we can't lend in these communities, and we worked through, you know, protests and negotiations so loans could be made in these communities.

Last year, we helped 35,000 homeowners in our program, and almost -- well, over 500 of them were in the District of Columbia.

Let me give you a little bit of background on our community issues. For the past several years, despite the progress that's been made by our member organizations, the banks have not stepped up to work in these areas or to open the door for these groups.

So, through people coming to our programs as well as to the inquiries we've made, we've found a lot of vacant homes and people who have been victimized by these lenders, and just for -- to give you an idea about what's happening with these loans, and in an effort to give you all the census track, we looked at last year, we were able -- subprime lenders compared to other lenders, and in the District of Columbia, not just as a metropolitan area but also within the city, we found that subprime lenders accounted for 36 percent of the refinanced loans made to African American homeowners, but only three percent of the refinanced loans went to white homeowners in the city.

African American homeowners who refinance are 12 times more likely to be in subprime loans than white homeowners were, and the racial disparity is even greater when you compare minority homeowners with white homeowners of the same income.

20 percent of the refinanced homes of African American homeowners were with subprime lenders compared to only two percent received by white homeowners. This is dramatic. I mean, I just -- all these numbers speak for themselves, although I keep hearing from subprime lenders that this is not -- this is something that we have to do.

But the thing is, is that, not all subprime loans have to be predatory in nature as well as the fact that estimates are 50 percent of the people receiving subprime loans were not qualified for other types of loans.

Unfortunately, I couldn't bring the information for the District of Columbia, but I can give you the story of a family that had good credit several years ago, when they first got a loan, and when they refinanced the loan in 1995, they wanted $93,000, and they were charged almost $5,500 in home discount points and $5,700 for 15-year credit life insurance policy. They paid over $12,000 in program costs for a $93,000 loan with good credit.

Unfortunately, that's not the end of their story because they refinanced, --

REV. ANTHONY: You're saying it was not

equitable.

MS. KAUFMAN: Of course. They completed refinanced again, and they had to pay the insurance again of over $10,000, and their interest rate is 11.49 percent. Not only were they charged $10,000 for credit insurance, they weren't even really aware of what they were purchasing. They're going to be paying 11.49 percent interest on a home loan, including the $10,000 for the credit insurance.

REV. ANTHONY: I'm curious to know, since you're on this line, do you have any sense from them as to why they were denied from the prime lender?

MS. KAUFMAN: They actually did not -- it's one of those things where there's a large amount of marketing. I mean, --

REV. ANTHONY: So, they never tried?

MS. KAUFMAN: Right.

REV. ANTHONY: Oh, okay.

MS. KAUFMAN: Right. When people are bombarded every day with mail and phone calls, you know, every day with debt consolidation, whether it's medical bills, which, you know, we all know you don't have to take out a mortgage on your house to pay your medical bills or if you don't pay your medical bills, they're not going to take your house. You don't pay your credit card, they're not going to take your house.

But people want to be responsible, and they want to pay their bills, and they keep receiving offers on here's a way in which you can do it, and, I mean, things -- I don't remember exactly the individual situation, but, you know, we need the money, and here's a way you can do it, and it'll cost you less than anywhere else. So, now they're actually thinking of refinancing, and they're looking to see if they have credit insurance, and most lenders don't know where to begin to look and don't remember, and they may have been told here's credit insurance. They don't remember it was there or were told that they still had to receive it, even if they received a disclosure and they signed it, no, I don't have to receive it.

In competitive terms, we -- if you're in a bind, term life insurance costs $10,000 over 10 years, as well as even if you got credit life insurance, it'd still cost less paying monthly or yearly than it would to pay them thousands of dollars up front to start with, never mind the interest you're paying on top of that.

Like we're saying, not all subprime loans are predatory loans, fortunately, and the manner in which they're targeting minority and low-income communities, it is definitely a civil rights issue. Higher-cost loans, and in the District of Columbia, you're dealing with the issue before voters, and I think another issue you're going to be dealing with, especially with bankruptcy reform, is to try to save the homes from foreclosures, which I think is a result of the foreclosure rate as a result of the cost of it.

There are a lot of numbers here today, and we have a study that you have a copy of, and there is a full text which covers the District and metro area, and D.C. is not the worst. However, it's no where near the best in the situation, and I don't know of any study where you can say it's not having serious problems.

REV. ANTHONY: Well, among the list of factors, where do we rate?

MS. KAUFMAN: Well, usually when we do -- well, when we do a study, we'll pick a few cities, and, you know, the examples are the worst of the problem. You know, I would definitely say usually cities with a larger African American population range the highest than cities which have -- Baltimore, Philly, Detroit. But D.C. is in that -- you know, towards the --

MR. SUGARMAN: Reverend Anthony, if I might, we do have twice the foreclosure rate of the national average in D.C., and I think it's larger because of subprime lending.

MS. KAUFMAN: Thank you. And even Prince George's County has a high rate of foreclosures.

REV. ANTHONY: You said twice the rate. Is that twice the rate of national foreclosures?

MR. SUGARMAN: Yes.

MS. KAUFMAN: Right, and that's one of the things that I think is another area for study in the District is, you know, where are the foreclosures happening, and why.

But this is not an isolated instance, an isolated lender. Household and Beneficial are the largest subprime lenders in the country, and they use many of the same practices, and, you know, this week, we actually did a protest at their Government Relations Office, trying to get them to actually change their practices, and they did make some promises on changing their practices, but in a city that also has the added responsibility that they have to make prime loans, they need to make sure that -- being lenders and being too specific here because there are over 200 lenders in manufactured housing.

But as much as this is a civil rights issue, these bank lenders and the prime lenders need to ensure that they are not concentrating these loans in minority neighborhoods and to minority borrowers, and, unfortunately, the data on most lenders is that they engage in subprime lending or own subsidiaries that engage in subprime lending, so that they're not making enough loans in these communities still, and especially if they're also engaging in subprime lending, I feel that they also have a greater commitment to ensure that they are making more prime loans in their communities than subprime lending.

I'd like to hear what other folks have to say about this, but as an example, I think of what can be good moral subprime loans is that we actually negotiated a lending agreement with Ameriquest, which is one of the largest subprime lenders in the country, which limits the payment penalty, easier to pay, on top of the loan, as well as they will not be selling single premium credit insurance with their loans. So, it will not be financed in, and we think those kinds of agreements and lending practices can be very important in helping to turn the tide as well as, of course, increase regulations and civil protections not just at the federal level but at the local level, whether it's through foreclosures or through a city not investing their money and lenders engaged in these practices.

Similar legislation is being considered in

Baltimore, Philadelphia and Oakland, and those are some things, as well as on the regulatory side, New York, Massachusetts have both dealt with this issue. On the regulation, New York is also now dealing with legislation, and some of those are similar to the North Carolina model legislation or even the federal legislation that I believe -- I think it's either being introduced or will be introduced shortly.

MR. TAYLOR: In the House side, it's being introduced today, and on the Senate side, soon.

MS. KAUFMAN: Right, right. Whether Sarbanes may or Shumer, someone will be, but importantly enough, we can't wait on the federal level. It's been so long, and the lenders have shown they're not self-regulating.

MR. TAYLOR: Can I steal 10 seconds of her time to reinforce a point that --

REV. ANTHONY: If she'll yield.

MS. KAUFMAN: I'll yield.

MR. TAYLOR: First, I'll say I think ACORN does great work, and I really applaud their efforts, but just so the Commission understands how things work, if you're a lender that has a subprime unit and a prime unit, you market the subprime to African American and Latino communities. You market the prime to the white. That's as a general statement true for most lenders.

If an African American in P.G. or D.C., P.G. County or D.C., comes into the subprime unit, there is no mechanism, and they're a perfect credit, and they should be getting the best product available, there is no mechanism for them to go out of the subprime shop into the prime shop of the lenders.

Now, that is very much part of the problem, and to the credit of Citigroup, as Valerie has pointed out, it's promised at this point, but the promise is that by December of 2001, this year, every single outlet for Citigroup will now have a referral-up system, and this ought to be industry-wide. This just ought to be the standard.

The person who comes in ought to be channeled to or given the best product that they're eligible for. They shouldn't, because the lender determines to put only the subprime most expensive products in a particular neighborhood, all people shouldn't necessarily be subject to that being the only product that's available, particularly if the institution offers an array of product.

REV. ANTHONY: So, in that scenario, I gather it would be possible that I could apply to the prime lender, have impeccable credentials, --

MR. TAYLOR: Subprime lender.

REV. ANTHONY: No, no.

MR. TAYLOR: Okay. Prime lender.

REV. ANTHONY: Prime lender, have impeccable credentials, and then somehow get carried off to the other one.

MR. TAYLOR: Well, --

MS. KAUFMAN: Well, it's usually a problem the other way around.

REV. ANTHONY: I know it's a reverse, but what I'm trying to get at is that scenario's possible, given --

MR. TAYLOR: They do have a referral-down system, if that's the question.

REV. ANTHONY: Yeah.

MR. TAYLOR: Industry-wide, they --

REV. ANTHONY: They deny me --

MS. KAUFMAN: Even if they don't have a subprime lender, they will refer you to someone else.

REV. ANTHONY: Yeah. So, if you deny me, it's very likely you're going to give me to your child, since you're the parent, and then the child is supposed to remember they're granted through the parent's beneficence, and then, you know, take it from there. I see. So, you still get the money, even though it's coming through another source.

You've got three minutes.

MS. KAUFMAN: I'm done, unless there's any questions.

REV. ANTHONY: Well, thank you very much for your presentation. Thank you even more for raising so much and making sure things get done.

Mr. Sugarman?

MR. SUGARMAN: Thank you. I'd just like to preface by saying that feel free to fire any questions at me because I really like it that way. I like for people to understand what I'm saying sometimes if I'm not being as clear as I ought to be, being a lawyer.

I work for --

REV. ANTHONY: There are other professions that are muddy as well.

MR. SUGARMAN: Yeah. All right.

REV. ANTHONY: We all have moments when lucidity doesn't work here.

MR. SUGARMAN: I would say bankers make things pretty clear.

REV. ANTHONY: They seem a little fuzzy at times.

MR. SUGARMAN: I work for Legal Counsel for the Elderly. It's part of AARP Foundation, and I represent -- I specialize in financial abuse of the elderly, and in this case, in D.C., it means predatory lending.

I represent exclusively low-income elderly people and residents of Washington, D.C., and, so, that's my perspective on this issue. I -- basically we're supposed to have 15 open cases while we're working for this organization. Because of the level of abuse in this area, I have 90 open cases, and I turn people away every week. I tell them I'm sorry, I can't represent you, I don't have time.

If you're under 60 years old and have an issue like this in Washington, D.C., you're pretty much out of luck. I have a very hard time. I'm not allowed to represent you. There are other people that sometimes I can cajole into taking a case pro bono, for free, but for the most part, you're going to have a very hard time, regardless of how flagrant the illegalities in your lending getting representation, and the reason I'm telling you this is because I think the level of litigation around this issue, it does not indicate the level of the problem. It is so hard for anyone to find a lawyer who will take a case like this, that it just -- it is the very tiniest tip of the iceberg.

I wanted to basically give a more human face to some of the statistics they were talking about here and to understand the issue. Well, you have, for example, an industry and some members of Congress who say I don't know what predatory lending is. I can't get anyone to tell me.

Senator Gramm actually said, "I can't get anyone to tell me what predatory lending is." So, I want to give you an idea, a very firm idea of what predatory lending is. Senator Gramm didn't ask me what it was.

Reverend Anthony, when you were asking questions, you asked questions as a person who is educated as a professional, who identifies a credit need, and you asked why didn't they go to a conventional lender or were they sent back down to a non-conventional lender or a subprime lender?

What we found is that our clients and the people who come into my office are not looking for loans. They haven't sat back and said, well, I have $7,000 in various credit card debts, I need to go out and consolidate this loan, or my windows are leaking, I need to go find a loan and find a contractor and get this loan. That's not what they're doing.

They're sitting at their home, and they're being called, I think the fellow mentioned being called daily on occasions by people offering them credit products. They're being -- people are coming to their doors, knocking on their doors, offering them credit products, and they don't say, well, let me shop around, let me find a better product. They take whatever is given to them because they are led to believe that that is all they are entitled to.

They don't say, well, what's the interest rate going to be? They don't say, well, what's the amortization of this loan going to be? They say, well, I'm not sure if I can afford that monthly payment. Sales people are taught to sell the monthly payment.

My clients are all on a fixed income. They'll say I couldn't possibly afford that. I can only do 400 a month, and inevitably the person who approaches them will say, well, we can work around that, and then they will come back to them on the day of closing without any disclosure of the terms of the loan whatsoever, and in D.C. law, you have to disclose the terms of the loan three days prior to making that loan.

Unfortunately, there's variations because certain banks, as you know, are regulated by the Federal Government rather than local government. They still have to disclose certain terms prior to the loan as well.

I have yet to find in the subprime people who come into my office, someone who has made those disclosures. They're not given. They are routinely ignored or purposely not used, so that the terms of the loan are kept from the person until they are sitting there at the closing table.

Another routine practice is that the closing is done in the person's home when they are alone. They get the person alone. It is unlawful to close a loan in D.C. in someone's home. It is routinely ignored. They sit at the table. They have them fan through the documents and sign them. The person signs, signs, signs.

If they happen to be able to read or if they happen to be able to read loan terms, they will see all kinds of facts and figures, and then they might see actually a monthly amount of the loan, but they will not see that this is a discounted adjustable rate mortgage that will inevitably jump up two percent, three percent, four percent over the life of the loan, that it will be at that loan figure for two years, and it will inevitably jump up a hundred dollars to $700, I've seen, over the life of the loan.

This is the way that lending is done as a rule to elderly people in Washington, D.C. It's not anecdotal, which is, you know, I'm constantly being accused of you're -- the cases you're talking about are anecdotal. I have 90 anecdotal cases in a small city.

REV. ANTHONY: And others you've turned away.

MR. SUGARMAN: Right. I'd like to take a look at the documents for a second. Starting --

MS. GRAAE: Which document?

MR. SUGARMAN: I'm going to tell you right now. It says, "Adjustable Rate Note". It's in the middle of the clump that starts on this -- with this index. If you go through the documents, I put in a little blurb from a recent court decision, which talks about how this is actually a violation of the Fair Housing Act, to make loans like this in the way that they do, which is an encouraging development. It's not been like that in every jurisdiction, although it's starting to change, and I'm not going to bore you going through that, but you're certainly welcome to look at it.

After that --

MS. GRAAE: Are you talking about violations of the D.C. Fair Housing Act, you're saying?

MR. SUGARMAN: No, ma'am. It's federal, Federal Fair Housing Act.

MR. SKINNER: Jim, I'm not so sure we have the document you were talking about.

MS. GRAAE: Yeah. We do. You're talking about the court case?

MR. SUGARMAN: That's the court case. This is the front of it, Mr. Skinner.

MR. SKINNER: We two don't seem to have it.

MS. GRAAE: It looks like this.

MR. SKINNER: We'll get them. We'll get them.

MR. SUGARMAN: I've got an extra, if you'd like.

MR. SKINNER: All right.

MR. SUGARMAN: Okay. If you go past that court case and go to something that says, "Adjustable Rate Note" at the top, it looks like this. I've typed things in that are -- have little black marks around them, like that. This is -- those are things I've just put for your reference.

This is something that is presented to my clients. This is an actual client. This is an adjustable rate note. It's a discounted Libor. Now, I know many of you are in the financial industry or understand the financial industry, but you probably don't see too many products like this.

This is not an adjustable rate note in the sense that you're used to, and that it could go down, it could go up, it's a conscious decision on someone's part to start with a lower interest rate. This starts at 10.49 percent. It is discounted like a credit card, although no one really knows what that means when they enter into it.

It's set to an index called the London Interbank Offered Rate, which is an obscure index where banks trade dollars in Europe, and you take that index, and you add 6.5 percentage points for it to adjust to the actual interest rate that you're going to be paying on this loan, which in this case, I think, is two years. They have two-year and three-year adjustable rates.

So, while you look at this, if you were careful enough to look, you'd think you were getting -- if you look at Paragraph 2, I'm getting a 10.49 percent interest rate, well above market, you know. At that time, I think it was seven percent or something like that, and then you'd look down and say I'm paying $397 a month.

However, the first jump of this, when it starts to adjust, which is in two years, if you were able to figure out, you would go to the Wall Street

Journal in two years, and you would look at the Libor average, and you'd say, oh, the Libor's at -- when this loan was made, the Libor was at 6.1 percent. You'd go all right, 6.1, I'm going to add that 6.5, and, so, my interest rate's going to be 12.6. Of course, it's rounded down under a formula.

So, it's actually -- if you looked up to where I've written it, at the top there, it's going to be 12.5 percent loan. This is a 12.5 percent interest rate loan. It is not a 10.49 percent in any meaningful way. 28 years now, this will -- for 28 years of this loan, it will be 12.5 percent. For two years, it may be lower, and the monthly payment is going to go up to 463.

In this gentleman's case, this was more than he made every month for 63. He was, you know, a retired welder. He had very little money, and he was raising six kids. So, this is not anecdotal. This is the product that I see people bringing in all the time, discounted adjustable rate notes.

Now, in terms of what these notes are used to pay, you know, why are people taking these out? One, they don't understand them. I've never had someone walk in and say -- know what they had. One person knew that she had an adjustable rate, but what she'd been told was it's going to go down. These notes can't go down. They have the floor set at the initial rate.

Also, if you look three pages back, the pre-payment rider, if someone finds out that, whoa, this is a bad deal, I've got to get out of this thing, they have the prepayment penalty. They're going to have to pay a penalty to get out, to refinance this with a conventional loan. So, they've got them if they stay, they've got them if they leave.

REV. ANTHONY: What's the penalty on this one?

MR. SUGARMAN: This one is about two months' payment. Two -- you know, it's -- I think it's 400 -- $800.

MS. KAUFMAN: Some of them are in the thousands of dollars.

MR. SUGARMAN: Yeah. This is a very low -- for a very low loan amount. It escalates. You know, typically the loans I see are from $80 to a $150,000. So, the monthly will shoot farther up.

REV. ANTHONY: So, this was generous larceny in this instance.

MR. SUGARMAN: Yeah. Well, it's funny. This guy didn't even know he was getting a loan. He was applying for a loan is what he thought. A man was in his house telling him to sign these papers, saying we need you to sign these papers so that the bank knows you're serious, that you want this loan, and he signed them all, and then he went on making his monthly payment, and they started sending his monthly payment back. His mortgagee sent that payment back, and he goes what's going on here?

Next thing you know, he gets a check for $7,000. What's this about? And he calls up the person who sent the check, and they said, well, it's for your new loan, and that was this loan. He had a conventional loan before this, just a straight amortizing loan, and he couldn't get them to realize, even though he didn't cash the check, he sent the check back to them, they said no, no, that's it, that's yours. That's your money, you've got to keep this loan. So, you know, a year into the litigation now, and I don't see an end in sight on this one, regardless, you know, of it's a small loan. They're standing on principle.

MR. TAYLOR: One of the things that this loan points out, too, that much of what this is -- what has happened is actually legal, as long as it's disclosed, and, so, just enforcing the laws, clearly getting at a lot of the brokers and the disreputable practices, enforcing the law, some of the existing laws, will help, but this is an example like if they ultimately disclosed everything to this person, they can argue in court like, well, it's right there on paper, he signed it, you know.

So, it's a bigger problem than simply enforcing the laws. Sorry.

MR. SUGARMAN: No. That's good. Thank you. The other issue is what the loans are being used for. I haven't seen anyone yet putting a kid through college on the subprime loan. I haven't seen anybody using it for any productive use at all. There's no new money coming into the community from these loans. They're being used to pay off credit cards, almost exclusively what I see, to pay off credit cards and to pay off hospital bills.

Now, I know a hundred different ways to deal with the credit card company in terms of doing a payment schedule. They're very flexible, and they will work with you if they know that they're going to get paid. But people who are -- don't have representation panic, and they want to pay those loans. They start getting the calls every day, you know, outrageous accusations from the credit card companies about you're going to jail, this is -- I've had ones posing as the sheriff's office, which is funny because D.C. doesn't have a sheriff's office, but they say the sheriff's office, we're coming down right now to get you to pay that debt, and my clients are very trusting and believe people when they tell them things like that.

MS. GRAAE: Is there any referral from credit card companies to these subprime lenders?

MR. SUGARMAN: Absolutely. They tell them all the time, you know, you can pay this off. There was an agreement between -- do you know? There was an agreement between one collection agency and a subprime lender referring directly to, and frankly it doesn't make a lot of sense to name the names in some ways because it's so widespread, you know, I don't know if it's productive to concentrate on one person, but they do always say you can get a loan against your house.

The first thing they ask them when it's a high debt is do you own your home? How long have you owned your home? So that they can assess whether this is someone who can go pay it off with a --

MS. GRAAE: So, even though the credit card company has Mechanism A, whereby if you talk to them, especially with representation, you can get some kind of help in restructuring your payment, so that you can pay off your loan, they still refer down to System B, even if it may be another company with a kickback to it and so forth.

MR. SUGARMAN: Right. And that's -- I mean, that's -- it makes sense to them whether there's a kickback or not because they can pay off the entire debt in a relatively easy way and add whatever fees, you know, they have pay-off fees and fax fees and delivery fees and all. So, that all gets bundled in, and they get paid off.

MS. HEUER: Well, do the credit card companies also sell the debt to those -- do they sell them to these subprime lenders?

MR. SUGARMAN: Only to the extent that they actually -- the way that the subprime lenders decide to pay off the debt is they pull the credit history. They'll call you on the phone. If you say you're interested, they will immediately pull your credit history and see what debts you owe, and then they'll just list those in the next page that we have here.

If the person takes the time at the closing to read this Part 1, this settlement statement and the reams of documents that they got, they will see that they're paying off unsecured debt, and there are often times, the interest rate will be lower than their unsecured debt. They'll have a $5,000 debt at 18 percent interest, and their subprime loan will be 12 percent, but for low-income people especially and moderate-income people, to pay off your credit cards with your house is financial suicide.

It's crazy, regardless of the amount of interest you might save in one year over the life of the loan, you will pay much more, and worse yet, I don't think anyone would lose their house over a $5,000 loan. I think someone had mentioned this before. Even if they got a judgment against them and couldn't pay it ever, you're not going to lose your home. You're going to get your bank account garnished.

With this, you will lose your home without going anywhere near a court. With these subprime loans, you know, it's a non-judicial foreclosure, although the new D.C. law will make some loans judicially foreclosable, which is nice.

Let's take a second and look at this settlement statement. I just wanted to show you what exactly is being paid with these loans, what they're using. This is completely representational of the other loans I have. This is not an unusual situation here.

MS. HEUER: Which page are we on now?

MR. SUGARMAN: If you look at -- after the first loan document we discussed, --

MS. HEUER: The settlement statement is what we're looking at?

MR. SUGARMAN: Yes, ma'am. That's the one. If you look at the first charge there, that's $9,999 to make the loan, just in settlement charges.

MR. TOPPING: Is there some reason for a $10,000 settlement charge?

MR. SUGARMAN: That's interesting. That's a claim I haven't made yet, but I'm not going to look into that one.

REV. ANTHONY: Jim, hold a second. Some of the members.

MR. SUGARMAN: After the prepayment penalty --

MS. HEUER: Oh, this page here? Settlement charges, $9,999, is that what we're talking about?

MR. SUGARMAN: Four pages from the last document. Four pages from the back. You didn't know you were getting your three credits here for financial --

REV. ANTHONY: Go ahead.

MR. SUGARMAN: Okay. All right. As you see, they paid off $10,000 in closing fees. Right below it, they paid off the same mortgage company that had had their previous loan in the amount of $83,998.

Now, this is going to be a -- well, we won't get into that yet. All right. Below that, credit card, $11,953, a whopping credit card debt, you know. A woman who was living beyond her means. However, there are other ways to deal with that. Another credit card, $7,000. Another credit card, $2,000, for a total of a 115. It says down at the bottom, 3,248 to borrower. That wasn't actually paid to her. She used it for credit cards as well. I don't know why they split it up like that, but sometimes they split it that way.

I'm not going to get into the details of this. If you go to the next page, you will see incredible closing costs, about a thousand dollars in just attorney fees and search fees and crazy things to do this.

They say, just as an example of the kind of rampant fraud in these transactions, they say they paid the Government of the District of Columbia $165 to record this transaction. I know for a fact that the Recorder of Deeds and Frederick Douglass must be spinning his grave, the Recorder of Deeds will charge you about $65 for recording this transaction at the most, if you have all kinds of riders. So, that is just a blatant lie. That was pocketed by the -- probably by the title company that closed this loan.

You see down below something called "Yield Spread Premium", $1,190. That was paid to the broker, the person who called her on the phone, and that was based on how much more he could get her to borrow than she was entitled to. If she was entitled to an eight percent loan, he sold her a 10 percent loan, and that's why he was paid $1,190.

I know I'm running out of time. Just one --

MR. TAYLOR: Not uncommon.

MR. SUGARMAN: One more quick thing. This is the second loan she took out to pay off the one we just discussed or is it vice versa? Yeah. 1997 was the one we just talked about. 1999, she comes back and takes out yet another loan. If you'll notice, she pays off that previous loan in the amount of a $121,000. That loan was for $119,000. She's paying it off roughly a year later, two years later, I'm sorry, in the amount of $129,000. That's -- what is that? Yeah. $2,000 more, $121,000.

What happened? Why is she paying off more than she borrowed, and she's always been making two years of payments? It's prepayment penalties, late fees, because she couldn't afford the previous loan, but they put her into a loan that was even more expensive. That gives you a picture of what I'm up against and what the city is up against, and it's not pretty, and it's not getting better. It's getting worse.

REV. ANTHONY: Well, thank you, sir. Now, we have a wonderful opportunity to have the committee members and we'll ask you questions that are burning. I'm going to hold some of mine to the end to allow them to go ahead of me.

But thank you for the quality of these presentations. Thank you for the work that you do. It's good to know that there's some people going after folks in the appropriate way, so that there can be this balance in the community.

So, let's hear questions from the members. Mr. Kim?

MR. KIM: Ms. Kaufman, perhaps you might lead off on this one. One of the things that the committee has spent a little time talking about were some of the marketing efforts that subprime lenders have been employing to reach communities, and I wonder if your group or others have also been putting in place counter-marketing efforts to try to -- I wonder if you might talk a little bit about some of that activity.

MS. KAUFMAN: Yeah. I mean, I think, of course, that's definitely important, although I just want to caution that that can't be the only solution, and we can't prevent bank robber issues by telling banks how to prevent them.

It just doesn't happen, but, I mean, I think, you know, for one, we definitely look at our loan counseling program and all the outreach we do for that as a way to get people and the local influence to be here, and that's definitely one.

I mean, of course, you know, we are always out in the community, door-to-door, every day, talking to people about this. We think that that -- I mean, it's a good thing. We're working on putting together some sort of more detailed counseling-type of financial literacy-type program that's beyond just if you want to buy a house now, if you want to refinance now, here's credit counseling or loan counseling, but to go a little beyond that on the budgeting and what happens if you need a home repair loan, and those kinds of things. We're dealing with credit cards and medical matters.

MR. TAYLOR: Can I add to that? NCRC has developed a financial literacy curriculum along the lines of what Valerie was talking about. Clearly getting folks to not call those telephone numbers that are nailed into -- on telephone poles, inside neighborhoods, or the phone numbers that appear on tv at 3:00 in the morning, getting people to understand what an FDIC-insured mainstream financial lending institution looks like versus a broker, a finance company, a title company or somebody else who's going to be more likely to be offering the kind of egregious terms and conditions that you heard from Jim Sugarman.

But it's part of the answer, as Valerie said, but very much, I think, a good part of the answer; to get people to become more financially literate, to know that they have a right to take these documents, not sign them and talk to somebody about them, that they have a few days, that there are protections out there to understand things like savings and credit and mortgages and ideally, hopefully, some day, even offer this kind of training in the schools so all people grow up with this knowledge because it's not rocket science, but on the other hand, if you don't know grow up in a home, and you don't hear these concepts and aren't exposed to these concepts, you are more susceptible to sort of these predatory tactics.

So, we're working with a lot of the black churches, local governments, community organizations, financial institutions to try to ratchet up the level of financial literacy training around the country, including in the city.

REV. ANTHONY: I have two questions, primarily directed to you, Mr. Taylor, but others may join in.

First off, I was curious to know what was the response from lenders that you got when you showed them those enormous disparities between their loans to persons of ebony hue and the competition?

I made a note to myself to ask you what was their response.

MR. TAYLOR: Well, you've got one of them sitting right next to you. But I'd have to say that would -- this is one of those times where they were noticeably quiet, and I think they understand that this is -- it's yet to become the serious problem for them that it's going to be.

You know, James has mentioned, you know, how many cases are coming into his office. We'd love to have all the cases you can't handle, by the way.

MR. SUGARMAN: Is that a promise?

MR. TAYLOR: That's a promise. We think that there's going to be major class action suits that are going to have to correct this problem, and that we're going to have to create remedial kinds of products for all the people who have been, you know, jeopardized by these problems.

It's in nobody's interests, and it's certainly not in the American public's interest, to have families disrupted, people going into bankruptcy. Stable communities require a portion of homeownership and stable households, and, so, it's -- who -- with people who are paying taxes and people who are playing by the rules being able to relate to the financial systems in a way that it doesn't work disproportionately against them, particularly lower-income people and people of color.

So, it's in all our interests, and I think what I increasingly hear from -- I mean, we just saw Senator Shumer attach an amendment to the bankruptcy bill that was supported by several Republicans who jumped ship from their party and voted for an amendment that now is going to make Wall Street securitizers of these loans, these predatory loans, liable, and we've got to get the House to agree with this and to make sure -- pardon me?

MS. HEUER: What do you mean by "securitizers"?

MR. TAYLOR: In other words, there's a pipeline for these loans. These brokers don't hold these things and securitize themselves. They have to sell them to somebody. They're either selling them to the big banks or they're selling them to Wall Street investment houses, who are making lots of money.

The thing about these, they're highly profitable loans, which is why this occurs, you know. So, there, you have the Morgan Stanleys and the J.P. Morgans and the Bear Stearns and whatever actively participating in this, you know, wealth-stripping process, without any ramifications whatsoever.

Well, Senator Shumer's amendment to the bankruptcy bill, which again passed with bipartisan support, would h ave liability extending to those firms.

So, it's an extremely encouraging event because if we can turn off the pipeline for this kind of thing, that these brokers have no place to take this and sell them, we'll work on the banks, because we have mechanisms and leverages to do things there, including the courts, but Wall Street is the end reservoir for these kinds of things, and they have no moral, no political or social commitment to this, and, so, that is beginning to change.

I can talk a lot about that, about the attempted meetings that Secretary Cuomo and Secretary

Sommers from the Treasury and others have tried to set up with the folks, and how they don't come to the meetings.

Reverend Jackson has been somewhat successful in getting those folks into the room, to have the dialogue, but almost nothing is happening, and, so, this was really good news.

REV. ANTHONY: Mr. Kurzman?

MR. KURZMAN: Some of you have made specific recommendations about things that I think our committee could recommend to the U.S. Civil Rights Commission, but I'd like to see if you could each sort of put them in order.

What would be the most important thing we could recommend to the Civil Rights Commission come out with, and what would be, say, two more? What would be the top three things you'd like to see the U.S. Civil Rights Commission do?

MR. SUGARMAN: Well, I think we just touched on it, frankly. The reason this is such a problem is that because there's so much money interested in these kind of loans. I mean, we can -- I can deal with the street-level hustler types who come to the door. I've been suing them forever, you know. The car dealer-types and the home improvement guys.

The problem is that it is so profitable, and every time I call up the larger company that gets the loan assigned to them, they're shocked. They're shocked that something like this happened, and then I call them up again in a few months, and they're shocked once again that something like had happened.

If we can find a way, and, you know, this is beyond my powers, to make those large investors understand what they're doing and to hold them accountable. I know one way to hold them accountable, which is just make it just like a car loan.

Anybody who buys a car loan is responsible for anything that happened when that deal was made. If you sell it to another bank, you're still going to be held responsible for what happened. A refinanced loan should be just like a car loan. We have that level of malfeasance going on, and there's no reason not to include liability because that's the way you clean up the industry.

When people who are buying these loans know that they're responsible for anything that happened when it was made, they're going to be a lot more careful, and they're going to make sure that the people who sell the loan are more careful.

MS. HEUER: I have to ask a question before we go on with the recommendations.

If Wall Street is buying these, Wall Street doesn't have any money itself, that means that they are packaged into investment products, and what you're telling me is that there's a great likelihood that people sitting around this table aren't owners of these loans, is that right?

MR. SUGARMAN: If you have insurance -- I mean, a retirement fund or a mutual fund or --

MS. GRAAE: Can you tell us anything about the mechanics and, you know, what we as investors can do?

MR. SUGARMAN: Well, there's always, you know, the shareholder activism that John might be able to tell you more about or Valerie, but, you know, --

MS. GRAAE: But how do we know?

MR. TAYLOR: Well, I mean, we can get you more specific information on who's packaging these kinds of loans.

I do want to point out, I mean, you know, obviously Fannie and Freddie are incredibly important allies in the ability to get decent affordable housing that isn't predatory, who are getting into the subprime and we're getting some forward commitments from them that they're not going to do certain things, like single premium credit life and, you know, balloon payments, and maybe Jim Carr will speak to some of that later.

But these are not limitations we're getting on Wall Street, and -- but even before they saw the opportunity to really get heavy into the predatory market, they were in the subprime market, and particularly they were also in the CRA market; that is, loans that banks classified as CRA. Why? Because Wall Street figured out that because people of color and low- and moderate-income people are less financially sophisticated, they do not refinance. They also know that when they do refinance, they don't refinance as much in their interests as their white counterparts.

So, here, Wall Street has figured out let's get these CRA loans because actually they're not going to refinance as often. They're going to be more profitable than the other mortgages we're grabbing from white folks, and, I mean, so, it's a very conscious thing.

I think one of the things, and we're beginning to speak to people who have in particular some decent-sized portfolios, to begin to write to the chairmen and the CEOs of these institutions and let them understand that they can't be like ostriches and put their head in the sands and say, hey, that's not our problem.

They are as bloody and have as much blood on their hands as the broker who goes to the house and lies to that little old lady that Jim Sugarman's been talking about. They are as filthy as those people, --

REV. ANTHONY: Well, in that regard, --

MR. TAYLOR: -- because they know exactly what they're doing when they see the figures and the numbers, and their knowledge of this is so far superior to any of ours, they know exactly what they're doing, and yet there's so little leverage against them.

REV. ANTHONY: One of the --

MR. TAYLOR: So, getting shareholders to write in, Mr. Chairman, is, I think, one effort, but clearly we're going to need some legislative response on the federal level.

REV. ANTHONY: One of the notes that I made to myself was two "C" words. One was "collusion", and the other one says "conspiracy". As relates to either of those, as applied to the District of Columbia, permit me a hypothetical.

Say I am watching real estate in the city, and I understand that things are changing, and this area's going to come back as it were, but I sense that there are persons who live there who are in -- you know, they're older people who've owned their homes for a thousand years or younger people who are oblivious to time, circumstance and order, and to make the long short of it, I then send one of these shady gradies to the door with a mind to tell you that your unit is going to get fixed if you do it this way because my broader plan is to acquire the property in that neighborhood, so I can give it to somebody who's in the embryonic group.

Is that a scenario that has currency?

MR. SUGARMAN: Catholic University and Shaw. That's where we see a lot of that.

MS. HEUER: What?

MR. SUGARMAN: The area around Catholic University and Shaw, we see that exact thing happening. That area is being targeted. If I had a little map, I could stick pins in where my clients are. Those are some -- up North Capitol, there's a lot of that going on.

REV. ANTHONY: So, the person, you know, because they're banks, sometimes the banks have subsidiaries, and they -- and I gather they're all in conversation with each other in some fashion or another.

MR. TAYLOR: I would think so. Again, your colleague to your right could probably address that.

REV. ANTHONY: And, so, if I have a plan, you know, I don't want to use the word "gentrification", but if I had a plan that in a given area, you know, we're going to make it by having certain crowd of folks in, and then local government even gives incentives for those types of things to happen, try and get the other crowd out, so you get new -- that -- you're saying through areas, you can document that that --

MR. SUGARMAN: Well, I'll tell you, there's one caution about this, though. I found there are people who do look for neighborhoods like that to obtain property by getting them in over their head financially or just taking title from them.

But more often, it's just that the people who are making the loan at the ground level have no incentive to make sure it's a performing loan and no disincentive to make sure that it's not one that's going to go bad.

So, they are just making as many loans as possible wherever they can, and because they will never see it again, it's gone out into the securitization --

MR. TAYLOR: Let me make it -- sorry. Go ahead.

MS. KAUFMAN: And they make them on the front end, you know, as we look at these, --

MS. HEUER: So, they're basically getting a commission for every loan that they --

MS. KAUFMAN: But also the high fees and the high interest rates on the front end insure that even if the foreclosure rates are high, they're making their money. So, you could have the scenario that was mentioned as well as the scenario that's happening in Baltimore.

We have an increased number of foreclosed homes, meaning investors come in, buy those homes below the $20,000 level, and then in turn sell them again to unsuspecting homeowners for $60,000 when they're not worth it.

MR. TAYLOR: And to put an addition to that, is actually the incentive is for you to do more predatory loans because if you find a person, go talk to them about refinancing their debt and taking equity out of their home, you're a broker. You can walk up to Chase, and you can say, I've got this home, dah-dah-dah. I want to sell you this loan, and Chase will look at it and go, oh, it has single premium credit life.

Now, to Chase Bank's credit, they will not accept loans that have single premium life. Citibank still does. We're working on them. We're working on them. Okay. But none of these banks should have this financing of single premium credit life all in the front end of the loan. It just -- you know, and many -- most of my colleagues would argue that it shouldn't be there period.

So, what does the broker do? Okay. Chase, let me go to Citibank. Well, Citibank will look at it and go, oh, we have a balloon payment here. To Citibank's credit, they don't accept balloon payments. Chase does, but Chase doesn't do single premium. So, they don't go to Chase, they don't go to Citigroup.

They go does the street to Bank of America. Yeah. We'll take it. And the guy -- and then with yield spread premiums; that is, the higher you get this person, this elderly woman, who thinks you're a nice guy, because you talk to nice to her, and they grew up in a time when people were honest, she believes this person, and he talks nice to her, and maybe he's a person of color, you know. In fact, a lot of the brokers are in the black community. They're people of color.

Well, this is a nice African American gentleman, and he's wearing a tie, and he's speaking nice to me. He wouldn't do anything to me. Well, he talks her into a 14 percent interest rate instead of a 10. He gets a bonus for that when he brings that to a broker.

That's the system that incentivizes and rewards unscrupulous brokers to prey upon the elderly and the uneducated.

MR. TOPPING: I have just a definitional question in terms of this. The distinction between a prime and a subprime lender on a loan, I would assume there are prime and not quite so prime prime-loans, and not everything is really going to be the same, even within that category, and when you did the study, what did you actually use as the cut point?

MR. TAYLOR: Well, the prime -- go ahead.

MS. KAUFMAN: We used manufacturing home markers. So, it's not -- which is not a perfect list in and of itself. There are a lot of lenders who aren't necessarily reporting their loans, especially some of the larger ones don't even -- aren't required to.

The small ones just get missed, as well as there's some lenders that engage in prime and subprime lending. So, for the most part, those are even counted as prime lenders for our purposes, because you can't differentiate between which loans are which, and that's one of the reasons that it would be nice, if we could actually tell which loans are at what level of prime or subprime, and what kind of credit quality was the borrower.

REV. ANTHONY: Mr. Kurzman?

MR. KURZMAN: I wanted to follow up on my earlier question here.

REV. ANTHONY: Yes.

MR. KURZMAN: What should we do?

MR. TAYLOR: Single premium credit life is clearly one of those things that, you know, it would be great to just have that removed, except in very extreme circumstances, and then it shouldn't be financed all up front but it should be a reasonable kind of financing mechanism that doesn't do injury, but it should be shown that it's a necessary thing for the borrower.

Flipping, as Valerie has mentioned earlier, is just one of those things that, you know, is very easy to tell because you can look at the dates and get a pretty good indication, that sort of activity, and then high prepayment penalties and balloon payments.

If you hit those four things, I think you will create great damage to the brokers and those -- that segment of the subprime industry that is doing a lot of this predatory lending. I don't know if --

MS. KAUFMAN: Yeah, and I think I would just add to that, the yield spread premiums that we mentioned as well as the financing of --

MR. KURZMAN: Say that again. I missed it.

MS. KAUFMAN: The yield spread premium.

MR. KURZMAN: Yield spread. Oh, yeah.

MR. TAYLOR: Getting the bonus for talking the person into a higher rate when they're eligible for a lower rate.

MS. KAUFMAN: As well as the financing of high fees. So, if someone is being charged 10 percent of their loan, even if it's not credit insurance, adding those fees into the one loan is really illegal.

REV. ANTHONY: Much as I'd like to, it's my unhappy lot to be the traffic cop here, and the time for this portion of the session has expired. But we're so grateful for you coming, and I'm going to call you myself because I've got a question or two. So, perhaps some people in the religious community can be quite helpful to you in this regard.

What amazes me at your presentations is really that persons who sit in government, who have regulatory capacity, that is to say, in existing law or the capacity to create a law that will regulate can have access to this quality of information and are oblivious to the whole thing and hope that the whole thing will just work its way out, always to the detriment of the persons being injured.

So, it's good to know that we've got some persons of competence and conscience that are making sure that the voices are heard, and we're grateful for you coming today and spending the time.

(Applause)

MR. SUGARMAN: Thank you.

(Pause)

REV. ANTHONY: All right. We'll start the second panel, and I'm going to call upon Cynthia Graae to moderate this portion of the session.

I welcome you all to the committee today and thank you in advance for the gift of your time.

Panel II: Fair Lending Enforcement and Monitoring

MS. GRAAE: I'm still reeling from the last presentation.

MR. TOPPING: Aren't we all?

MS. GRAAE: I was going to start out by saying the first time I was going to use the word "difficult" about faith-based minorities and under-served groups because that was at the heart of it, but I wasn't prepared for everything that I was going to hear.

In this time, we're going to hear from regulatory folks that are in some position to either study this more or do something to help the situation. We're going to hear from Fannie Mae, from the Fannie Mae Foundation, about research on credit scoring in the subprime market, unfair lending practices, and then we're going to focus on federal and District of Columbia regulatory efforts to monitor these practices.

We're very fortunate to have panelists here from the Fannie Mae Foundation and whose goals are to revitalize neighborhoods and create affordable housing opportunities, the Office of the Comptroller of the Currency, which is the federal regulator of national guidance, and I believe including all banks in the District of Columbia, not all lenders but all banks, and the D.C. Office of Banking and Financial Institutions, whose function is to promote access to capital and spur economic development in the District and to regulate state-chartered banks, mortgage companies, money lenders and check cashers.

I'm going to introduce each of our panelists briefly. I wish I had time to give all your distinguished credentials, but I think that would use up all the time that we've got.

Our first speaker will be James Carr, who's a nationally-recognized expert and leader on housing policy. He's the Senior Vice President of Innovations, Research and Technology at the Fannie Mae Foundation.

He's responsible for the foundation's Office of Housing Research, its Housing, Finance and Neighborhood Strategies Consulting Unit, and for the development of technology tools to promote community investment.

Our next speaker then will be Timothy Roberts. He's been a fair lending specialist at the Office of the Comptroller of the Currency, which is part of the Department of the Treasury, since 1991.

Prior to his work at OCC, he was an equal opportunity specialist in HUD's Office of Fair Housing and Equal Opportunity.

Charles Lowery, Jr., is the Deputy General Counsel of the D.C. Office of Banking and Financial Institutions. He has a distinguished career in the D.C. Government, a Special Assistant for Economic Development, and before that, he was in federal non-profit legal services.

Erika Y. Wilson Young is a community reinvestment -- this is the title -- Community Reinvestment Act/Community-Based Lending Manager at the District of Columbia Office of Banking and Financial

Institutions, also known as OBFI. It's the banking regulatory body for the District of Columbia.

Mr. Carr?

REV. ANTHONY: If I may interrupt just briefly?

MS. GRAAE: Yes.

REV. ANTHONY: For the record, it should be duly noted that Member Eva Britt has joined us, and we're grateful for your presence here this morning. Thank you.

MR. SKINNER: Mr. Chairman, I think the name is Timothy Robertson, Office of the Comptroller of the Currency. I think he was identified as Timothy Roberts. So, that correction.

MS. GRAAE: I'm sorry.

MR. CARR: Thank you, Mr. Skinner.

Good morning, and thank you for the invitation on behalf of the Fannie Mae Foundation. We're very pleased to share our views and thoughts on these very critical issues concerning credit access and financial services for the residents of distressed communities, particularly low- and moderate-income minority households.

Over the past few couple of years, the issue of predatory lending has risen to be perhaps the most significant policy issue facing the entire housing finance industry. It's hard or would be hard to find one other issue that really ranks with it in terms of an imperative to address.

Nearly every federal regulatory agency has announced some policy to try and address this issue. Almost every lending association has talked about predatory lending and the need to eradicate it. Private financial firms have also joined the fray. There have been bills introduced into Congress. Some of those issues were discussed today.

Yet what is most interesting is that while there is extraordinary consensus, probably more consensus on any issue before, that something absolutely needs to take place and needs to take place immediately. There has been practically no real movement to do anything to eliminate predatory lending, and it's not like we just started talking about this issue a few months ago.

This issue has been high on the radar now for at least a couple of years. The reason for that, we believe, is multifaceted. First of all, as was discussed earlier this morning, there is no single definition of what actually constitutes predatory lending.

There are characteristics and attributes of what characterize certain predatory lending practices, but to actually explicitly say this is in fact predatory lending and meets the definition, it doesn't exist, and the reason for that, one of them, is that a number of the provisions that would be predatory in a predatory loan are not necessarily predatory in and of themselves.

So, that is to say, for example, prepayment penalties, which are used in a way in predatory loans to trap a borrower, are not necessarily predatory when used in prime market loans.

In addition, for example, the issue of high interest rates by itself is not predatory. High interest rates may be appropriate given a borrower's credit history, a legitimate appraisal of their credit history, which goes to another issue, which is the subprime market.

Determining what is a predatory loan from a legitimate subprime loan is all but impossible, except to the extent that certain provisions, like credit life insurance, balloon payments, non-amortizing loan provisions are included, but other than that, it's very hard to tell.

One of the interesting things that we have noticed is that generally, we talk about predatory lending as if it's right here and subprime lending as if it's right beside it, and between the two is this bright blue line, and the problem is that predatory lending exists on one extreme of the mortgage lending business. Legitimate subprime exists on the other extreme, and in the middle, there is this huge gray area, and if we act too quickly to jump into that huge gray area to get what's obviously predatory lending, we could shut down legitimate sources of credit.

What that leaves us with is a more complex issue, and the complex issue is that minority households, particularly lower-income minority households, many who are not in the predatory loan market, are nevertheless facing extraordinary wealth-stripping, and, so, the focus of the Fannie Mae Foundation goes beyond predatory lending, and it's also focused on the issue of excessive subprime lending.

In addition, when we look at the subprime market and ask the question, why does that market exist, we see something that's absolutely -- we have found to be fascinating, and that is, we see that excessive subprime lending and predatory lending tend to exist in communities that really experience a second-rate credit allocation system right across the board.

What we're seeing is a rapidly-evolving institutionalization of a two-tiered credit system in which minority households in particular pay more for practically every financial transaction, not just for mortgage credit.

This second-class credit system is the breeding ground for predatory and other lending, excessive lending, and eliminating it, in our view, is the most effective way to eliminate both excessive subprime lending and predatory lending itself.

This two-tiered system has its roots firmly in discrimination, but addressing it is more difficult than its predecessor red-lining. Today, rather than getting a blanket denial of credit, we get credit at a reasonable or risk-adjusted price.

If this concept of reasonable or risk-adjusted that has brought extraordinary complexity to the financial services market, and that also has allowed financial services to go up extremely high cost in low-income minority communities, while they continue to get more efficient and lower in non-minority communities.

In our view, the financial services system that serves distressed communities is the bigger, broader and more substantial issue rather than just focusing on one component of high-cost lending.

Currently, there are about 12 million households in the United States who have no relationship with a traditional bank or savings institution. These households are disproportionately poor and minority.

In 1999, the Harvard Business Review took a look at two communities to see the differences in how they were being served by mainstream financial services firms. The article compared two neighborhoods in Los Angeles, one in South Central, the other in Pacific Palisades.

South Central had one depository institution for every 36,000 people, compared to one for every 1,250 in Pacific Palisades. Now, while physical proximity is a major problem, as represented in this example, it is not the only one, and I'll talk about that in a few minutes.

When we look at distressed communities, what we see is an explosive growth in what we refer to as "fringe lending institutions". For example, over the last seven years, pay day lending has grown from 300 stores to more than 8,000 in 1999. Other research --

REV. ANTHONY: You're speaking of here in

Washington or --

MR. CARR: Nationally.

REV. ANTHONY: Nationally.

MR. CARR: From 300 to more than 8,000. Further, a report by Dove Consulting for --

MS. GRAAE: You're talking about outlets? I'm sorry.

MR. CARR: Outlets.

MS. GRAAE: Outlets.

MR. CARR: Stores, yes.

MS. GRAAE: You're talking about the cash -- there are only 8,000?

MR. CARR: Paid -- pay day lenders.

MS. GRAAE: Is there a distinction between a pay day lender and a --

MR. CARR: Check casher. Yes. The pay day lender gives short-term loans for a period of generally quoted rates for two weeks, but I'll explain that as I go through.

MR. SKINNER: Just one point. It might be better only because it would break the train of thought of the presenter, if we could hold the questions. I know we're anxious to get to that point, but we will have time.

MR. CARR: Okay. Thank you.

Further, an April report by Dove Consulting for the U.S. Department of Treasury revealed that there are about 11,000 check cashing outlets in the U.S. that cash more than a 180 million checks annually.

According to Norm Demorr, former Chairman of the National Credit Union Administration, there are between 12,000 and 14,000 pawn shops across the country, out-numbering both credit unions and banks.

There are also 10,000 retailers offering pay day loans. Further, there are 8,000 rent-to-own stores that serve roughly three million customers and grossed 4.7 billion in 1996, according to a survey by the FTC.

The fees charged by these institutions exceed excessive. Check cashing can range from as little as one and a half percent to more than 15 percent of the face value of the check. Pay day lenders often charge as much as 15 percent for two week pay day loans.

Money wiring, an important service in immigrant communities particularly, can cost from as little as seven percent to more than 15 percent of the wired amount, and title lenders charge as much as 25 percent per month for small consumer loans.

These fees are quoted normally on a bi-weekly or bi-monthly basis, which makes the true annual percentage rates very unclear. Our estimates show that interest rates at these different fringe lenders can range from as low as 300 percent as a typical fee to more than 1300 percent per year.

When you add all of these institutions together, our estimates show that there are roughly 280 million transactions each year going through fringe financial services firms that total more than a $168 billion of transactions and that generate fees of $5.5 billion.

I should state for the record that all of these estimates are woefully conservative. The reason is that many of these institutions are either poorly regulated or not regulated at all, and, so, what we've done is just used the fees that were reported.

In addition, some of these fees are from older documents because that was the most recent year for which they were available. So, some go back as far as 1996. These institutions have been growing exponentially. So, these are very conservative numbers.

Each of these institutions, through their behavior, creates wealth stripping in minority communities. In addition to these practices, each of these institutions or many of these institutions engage in other practices on top of the fees they charge that would rival any mortgage lending predatory lender.

For example, at a rent-to-own shop, it is routine that the products will cost anywhere from two to three times their price in terms of fees. One example that I'd like to share with you is for a $196 Magnavox tv from a rent-to-own shop had a 78-week payment program of $9.99 per week. The total cost was $779. That adjusted annual interest rate was 238 percent.

Looking at that same television at a nationally known, but I won't name it, electronics store, their interest rate was 22.8 percent posted publicly, nothing strange there, and the cost was $231. The difference in the finance charge between the rent-to-own and the national discount store, electronics discount store was $548.

What's important about this is that small amounts of money add up to large amounts of money, and, so, for example, if you look at the ability to save as little as $500 per year over, say, a period of 10 years at a very modest five percent interest rate, that totals more than $6,000, roughly $6,600.

If you were able to save $800 a year over a period of 10 years at five percent, that's about $10,600. That's enough for a modest priced home, the downpayment on a modest priced home.

The reason that the Fannie Mae Foundation is very much focused on this issue of market failure is that we believe that this is a critical issue that has not been addressed over the last 20 to 30 years. While so many dollars have been poured into community investment, the actual financial infrastructure of these communities has been all but totally ignored, and it is a lack of connection of these households to the private financial markets that build wealth for most American households.

The lack of a connection between these households and those wealth-building institutions is a major reason why our communities continue to look so distressed, despite such an extraordinary economic expansion and so many billions of dollars poured into those communities.

The issue, though, is more complex than that. In addition to fringe lending, excessive targeting of subprime loans to households who could reasonably qualify for prime market loans greatly encumbers those households with debt that inhibits their wealth-building capacity and prohibits their ability to send their children to school, pay for education, pay for needing medical care and other necessities.

While the rates charged by subprime lenders are not necessarily excessive, they nevertheless run from about 300 to 400 basis points more on average compared to a prime market loan.

The reason that subprime lenders charge more is twofold. One, the structure of the industry is such that it costs them more to fund loans. It's just a simple financing issue. The cost of funds for subprime lenders is more.

Secondly, subprime lenders charge more because of a presumed higher risk of the borrowers that they're serving. So, 300 to 400 basis points is not excessive, if you legitimately belong in that market.

There are two problems with subprime loans, however. Many of them greatly exceed 400 basis points. They may range to 500, 600, 800, and because they are by definition or characterized as risk-based, they are not necessarily predatory, but let's focus on the 300 or 400 typical basis point difference.

If you don't belong in that market, you are having an extraordinary amount of wealth stripped from you over the period of your lifetime. A good example of that is looking at an $85,000 mortgage, assuming a five percent downpayment, leaves you with a loan amount of just over $80,000 a year.

If you had an eight percent prime market, and you were charged just one percent more than you should have paid over the life of the loan, the 30-year life of the loan, you would pay more than $20,000 in additional loan payments.

If the difference in the loan interest rate was two percentage points, it would be more than $40,000. If it were three percentage points, which is the lower band of the typical subprime loan, it would be more than $63,000, and if it were the typical 400 basis points, which is pretty average, pretty normal for a subprime loan, you would pay more than $85,000 over the 30-year life of the loan.

Let's turn that around --

MS. GRAAE: I'm going to have to ask you to wrap up in about a minute.

MR. CARR: Sure.

MS. GRAAE: Is that all right.

MR. CARR: If you turn that around and look at the problem from the opposite end, suppose you had just the difference between one interest rate point, that would add up to $687 per year. If you had access to it to save it at a modest six percent interest rate over a 30-year period, it would grow to over $57,000.

In our view, the ability to get a prime

market loan, invest in your first home, build equity, build your financial assets, and have or experience wealth mobility is the difference between what happens to so many low-income households, low-wealth households who continue to enjoy the American dream of extraordinary wealth mobility in America and particularly minority households in distressed inner-city communities who seem to continue to fall further and further behind.

The reason this issue is critical now is because fringe lending institutions and subprime lending are both growing exponentially. So, for example, subprime loans, number of refi loans grew by a factor of almost 10 over the last five years, from just under -- from about 80,000 to just under 800,000. Both of these types of products are growing exponentially.

In conclusion, what I would say is that the time to act has never been better, and in fact, I would say that this is a crisis because communities are increasingly finding themselves under extraordinary levels of debt.

The Federal Government has an important role to play in helping to bring mainstream financial services access to low- and moderate-income and minority households.

Each year, the Federal Government spends millions of dollars to -- for regulatory agencies to protect the financial interests of middle- and upper-income households, and those agencies include the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and other agencies, but to the extent that households are unbanked, they are not connected to mainstream financial institutions.

These agencies can do very little to protect the financial interests of those households who don't engage in those financial institutions. We need to think creatively about how to provide that federal financial regulatory infrastructure to those households who are not enjoying the benefits of mainstream financial services, make that connection and allow those households to enjoy wealth mobility as most Americans do.

Thank you.

MS. GRAAE: Thank you very much, Mr. Carr. I find it very impressive that the secondary mortgage market, like Fannie Mae, which purchases mortgages from banks and therefore allows banks to make more mortgages, has a foundation that engages in so much research. I found that very informative. Thank you.

MR. CARR: Thank you.

MS. GRAAE: Mr. Robertson?

MR. ROBERTSON: Mr. Chairman, Members of the Committee, Members of the Commission, thank you very much for inviting the OCC to participate in this dialogue.

First of all, I'd like to say I couldn't agree more with Jim, that we need to -- I think your problem here is bringing financial services, mainstream financial services, to neighborhoods that have been historically underserved.

My name's Tim Robertson. I'm a fair lending specialist, actually now the fair lending specialist for the Office of the Comptroller of the Currency. I've spent approximately 10 years in civil rights, focusing and specializing in fair lending, fair housing and particularly fair lending.

My job at the OCC is to research issues, such as fair lending issues, such as predatory lending, discrimination in underwriting, terms and conditions, etc., etc., to provide policy and guidance to our examiners and to our regulated lending institutions, and to actually participate in fair lending exams.

As Cynthia said in the introduction of the group, the OCC regulates all national banks throughout the country and their direct subsidiaries, and this becomes an important issue, the subsidiary issue will become an important issue as I go along here.

I have to say at the outset, I can only speak for the OCC. Some of the things I'll say will be pretty uniform, I think, amongst the regulators, DOT, the FDIC, and -- but I'm not speaking for them today.

Marc Pentino asked me to come and speak to -- speak about the OCC's views on subprime and predatory lending. I'll start off with subprime lending.

The OCC's position is that we do not believe that every subprime lender is a predatory lender. We believe that when appropriately priced and administered, subprime lending can benefit the markets, can benefit consumers, because -- and I say this because subprime lending does provide much-needed credit capital to folks who have perhaps credit blemishes or poorly-established credit.

It also allows lenders to price this risk accordingly, and part of the OCC's mission, a big part of our mission is to ensure the safety and soundness of our regulated institutions.

However, we do believe that poorly-managed subprime lending programs present a dramatically-increased potential for abusive lending practices, and that's going to be the meat of my discussion here.

So, I will go from that statement right into our views on predatory lending. As Jim stated, there is no definition for predatory lending, and this has been -- that was mentioned in the previous panel as well, and it irritates bureaucrats incredibly that we can't have the silver bullet, that we can't say predatory lending is this.

But we do not believe -- the OCC does not believe that this should prevent us or any other regulator from looking into this issue and attacking predatory and abusive lending practices.

I think that most would -- I've been to enough conferences and symposiums at this point, that I think we have a pretty good list that in and of itself defines what could constitute predatory lending.

As Jim said, it's usually not one thing, high-priced loans or single-payment credit life or something like that, but a list of those, a pattern or a trend, and this is where the OCC will be looking at these trends.

We're also looking at predatory lending not just from the civil rights or from the lending standpoint. We believe there are two components to it. Predatory lending has a consumer side that, if you can imagine, is -- can be separate from civil rights issues. It also has a safety and soundness component, as I mentioned previously.

We believe that it does, of course, obviously represent a fair lending or civil rights problem when abusive lending practices are targeted at protected classes, including minority groups, the elderly, and women.

Predatory lending has been linked to increased foreclosures in cities like Chicago and Philadelphia, and this has created a tremendous amount of blight in these cities, and this blight is hurting on the smallest level home values in those neighborhoods, but on an increased scale entire communities, and this whole problem, this whole blight is counter to the Federal Government's commitment to increase homeownership throughout America, especially to minority groups, such as Hispanics and African Americans.

Predatory lending in sum involves preying on the most vulnerable members of our society, and I say this with a little bit of trepidation. I keep hearing this term, the most vulnerable members of our society, and some folks have defined it as mainly minority groups and the elderly. Some have said it's folks who lack financial acumen.

Now, I will tell you I know about 10 people who have really good financial acumen, and they all work at the OCC. I worked as a lender prior to working at HUD, and I can't tell you, I made loans to farmers in Georgia, and I made loans to lawyers, and none of them had any financial acumen.

I would say that the most vulnerable groups of society are those who have not had access to traditional instruments of credit. Unfortunately, due to the historical nature of exclusion of predominantly minority areas, minorities, I think, represent a high percentage of this vulnerable area, but as the AARP would say, the elderly are quite frequently preyed upon by predatory lenders.

The OCC's response to this. We are taking steps to address this issue. We are taking steps to better inform our examiners of what they can do, what they should look at, to help combat this problem.

I will say that we believe that few institutions, few national banks, are -- the lenders that we regulate are engaging in subprime lending. However, going back to my initial statement about direct subsidiaries, there is an increased trend amongst national banks, and I can't -- I don't know how big this trend is, to acquire subprime lenders.

Now, some of these are being acquired, as I said, are being acquired by holding companies which are not regulated by the OCC. They are regulated by the Federal Reserve. But some of them are being acquired by national banks. If they are made direct subsidiaries of national banks, then they're regulated by the Office of the Comptroller of the Currency.

Although we realize that this problem may be relatively small amongst our regulated institutions, we are still extremely concerned, and we are -- feel that we are being proactive to combat abuses that may occur in predatory lending.

We are taking a four-pronged approach to this attack. One, the first prong involves our strongest assets, which is our safety and soundness arm. As I said before, the OCC's primary function is to ensure the safety and soundness of our national banks and their direct subsidiaries.

We believe that some of these problems, such as collateral lending, will appear in our safety and soundness exams. Collateral lending, real quickly, lending that's not based really on a borrower's ability to repay the loan, based on the collateral, based on the value of the house, based on the value of the car, and we believe this is unsafe and unsound because it does not conform with traditional tried and true underwriting practices.

The second prong of our attack on this issue will involve compliance and fair lending exams. Usually these exams don't occur concurrently with safety and soundness exams, and fair lending exams do not concur -- do not occur concurrently with compliance exams usually.

In this, I mean that from a compliance standpoint, non-fair lending standpoint, we will be looking at pattern and practice or systemic violations of the Homeownership Equity Protection Act, HOEPA, and the Truth-in-Lending Act, TILA, and any indication within those violations that they may be abusive, that they represent a pattern of abuse, and likewise if they represent a pattern of discrimination.

From a fair lending standpoint, of course, we will look at abuses that appear to be targeted towards protected classes, and this includes the protected classes that are covered under the Fair Housing Act and the Equal Credit Opportunity Act.

We are particularly interested in relations between national banks and their subprime direct subsidiaries. By this, I mean the relationship as to where is the bank putting its branches, and where are the subprime subsidiary branches?

I agree with Jim that there's not a lot of overlap, and this is a historical trend that I've been aware of for a number of years.

We will also -- we are also very much concerned about one-way referrals, and this was discussed previously. I won't go into any detail about it, but again a lender -- a national bank that will refer a subprime borrower or a less-than-A borrower, A credit borrower, to a subprime subsidiary, but has no mechanism for its subprime to refer an A credit person up to the national bank.

When we identify any information in consumer compliance or even safety and soundness and fair lending, we will take a deeper look at these institutions.

The third prong of our attack is the use of chartering and licensing authority to deny or condition national banks. By this, I mean, to be a national bank, you must submit an application to the Office of the Comptroller of the Currency.

If we believe that the proposed institution would engage in an activity that we consider abusive or highly questionable, we can deny their application, and

I have seen this happen.

We can also condition, which is to say, we believe these are areas that are problematic from a fair lending, from a compliance, from a safety and soundness viewpoint, and we would like you to address these issues and ensure that they are addressed on a daily basis, and I have also seen this occur.

The fourth prong of our attack is to enforce -- to increase our enforcement of unfair and deceptive practices covered by the Federal Trade Commission Act.

These are things that you're seeing in the paper, that lenders are just scamming folks, quite frankly. They don't come under any other category or they don't specifically fit under another category I've addressed, and we will step up our enforcement. Again, these could be identified in any aspect of our examinations.

MS. GRAAE: To keep us on schedule, I'm afraid I need to ask you to wrap up.

MR. ROBERTSON: Sure. The OCC has issued a number of guidance pieces, and I have a summary sheet that I'll pass around. These are advisory letters and bulletins that speak to the issues of pay day lending, title lending, abusive lending practices, which is the advisory letter that I authored, and in the advisory letter, it also speaks to the issue of financial literacy. We believe this is very important, and it's something our lenders have to engage in.

We also are supportive of the efforts by the Federal Reserve Board to increase the reporting requirements of the Act and increase the triggering mechanisms in HOEPA.

We believe that we already have the federal legislation to do our jobs, though perhaps some of it should be augmented, such as the HOEPA and HUMDA. We do believe that we should get -- all the regulators should step up their enforcement and their cooperation.

In conclusion, I'd like to thank you again for allowing us to participate. As we continue to be concerned about this problem, we continue to obtain information, and we request additional information about these issues, we want to know if our national banks or their direct subsidiaries are engaging in abusive behavior, and I look forward to taking all this good information back to the OCC and disseminating it amongst my colleagues.

Thank you.

MS. GRAAE: Thank you very much. I appreciate the thoughtfulness with which you put together your presentation. It was very interesting to hear about what the Comptroller is doing in this area.

You two will divide your time. Ms. Young and Mr. Lowery.

MR. LOWERY: How much time do we have?

MS. GRAAE: 15 minutes.

MS. YOUNG: Charles and I are here representing the Superintendent of Banking, Catherine Allen, and she sends her regrets. She was unable to attend but felt that her two managers that work very closely on the issues that you're discussing today would be able to provide good information to the Commission, and we appreciate you for the invitation.

First, let us start by acknowledging the committee chair and chairperson and the wonderful work that the U.S. Commission on Civil Rights does.

My focus as Community Reinvestment Act/ Community-Based Lending Manager, as Cynthia mentioned, is quite a title with quite a mandate. Before coming to the Office of Banking and Financial Institutions in October of 1999, I did quite a bit of work on social policy issues, Community Reinvestment Act being one of them, and the cornerstone of the work that was started at OBFI before I joined the staff was done a lot by Mr. Lowery and a lot by community activists.

So, I was very glad to see ACORN and NCRC represented here this morning and also wanted to let you know that the Office of Banking and Financial Institutions is a member of NCRC and gets a lot of their helpful information and tries to bring the national context of issues to the citizens of the District as we go about our work on a daily basis.

In looking at the Community Reinvestment Act specifically, there are three components that banks are rated on as relates to Community Reinvestment Act compliance, and those issues are lending, services and investments in low- and moderate-income areas.

Starting at OBFI in October 1999, one of the things that I learned as I went about interaction within the District Government and in the community is that there was a lot of education needed on what the Community Reinvestment Act is and what it is not.

Part of that, in looking at CRA and how CRA has helped revitalize hundreds of communities across the country, there's always a core component with city government, whether you are dealing with Mayor White in Cleveland, Ohio, former Mayor Rendell in Philadelphia, Mayor Archer in Detroit, or other more progressive mayors across the country, the success of the Community Reinvestment Act in revitalizing low- and moderate-income communities has been directly tied to the involvement and understanding of the city government to facilitate, access the capital, bringing more bank branches, and as Mr. Carr mentioned, the connection to the financial infrastructure.

We feel within government that is a very key function that we must play to ensure that all citizens have access to capital. Considering that Charles and I are splitting our time, I'm going to touch on a few brief points.

The Office of Banking and Financial Institutions has a financial literacy component. The manager of that division, E. Janice Leonard, goes about the District of Columbia doing workshops on savings with children. She has a club that she has coined "Junior Super Savers", where she works within the District of Columbia public schools to promote savings.

Credit home-buying and budgeting. Some very key issues that are all part and parcel of the issues that we're speaking about today. If the education piece is not in place, folks are more susceptible to the issues on the table.

One issue that we have sort of discussed this morning but have not addressed directly is consumer privacy. After the Financial Modernization Bill passed the House and the Senate, it passed only when the two Republican Senators, Gramm and Shelby, squared off and said we cannot have consumer privacy as a part of this bill, and it seems that consumer privacy is a linchpin of predatory lending.

It has a deep focus on how these programs are marketed. We heard Mr. Sugarman speak about folks being called on the telephone and being coerced into certain types of loans. All of this is a direct effect of consumer privacy and information being readily available to different folks, so the elderly and different groups may be preyed upon to get into these financial situations.

So, consumer privacy is something that I think the Commission should take a look at on a national level, and especially in the District, as it relates to our mortgage foreclosure issues.

The Office of -- the CRA Division of the Office of Banking has worked with the Mayor's Office to sort of align his strategic priority as it relates to economic development, and we act as a conduit between the government, the banks, the community development corporations that do development in the District, and different faith-based organizations that also have a stake in seeing that communities are made better.

A couple of the opportunities that OBFI markets to the banking community consist of a small business investment company which the superintendent is setting up through the Office of Banking.

A revenue bond program which is administered by the D.C. Housing and Finance Agency, which has received great support from local banks, and I want to thank the bankers in the room for their support of that revenue bond program which slows the rate of gentrification in the District by allowing folks with lower incomes to be able to purchase more of a home than they would normally be able to afford by receiving that bond assistance.

Key economic development target sites in the Williams Administration include east of the river. There has been a major interagency task force and roll-out of initiatives. Georgia Avenue, Columbia Heights, which encompasses part of the Shaw community, north of Massachusetts Avenue or NOMA, which is slowly becoming a technology corridor for the District, New York Avenue, which is in the process of getting a Metro site, Ivy City, Trinidad, which has experienced an influx of housing assistance from Chevy Chase Bank.

Chevy Chase Bank has made a $40 million CRA commitment to housing in the Ivy City, Trinidad, area.

How much of those funds have been tapped, we have yet to monitor, but the commitment has been made, and, furthermore, the far Southeast/Southwest area of the city.

I want to speak briefly about access and connections to financial -- the financial infrastructure. The program analysts in my division have done some work, and you may have received a chart, which speaks to the percentage of banks, ATMs and check cashers in each ward of the District.

The District has 23 banks that operate in the District representing 188 banks. There are 453 ATMs throughout the city, and 160 check cashers. When you compare those items side-by-side to one another, you see some clear issues.

There are far more check cashers than banks in Wards 4, 5, 6, 7 and 8, and far more banks than check cashers in Wards 2 and 3, going back to the same trend in Ward 1, with more check cashers.

If you look at Ward 2, which is our downtown area, banks and ATMs have a large representation, but there is also a number of check cashers in that area. I think there's further research and further study that needs to be done, and we plan to work with the Fannie Mae Foundation and tap into all of the resources and materials that they have to help us understand the trends of check cashers that are in the District, but I think something that clear from our limited research is that there are far too many check cashers and not enough connections to the financial infrastructure for a number of reasons.

With that, I will go to Mr. Lowery, who can speak to predatory lending and mortgage foreclosure in the District.

MR. LOWERY: Good morning. My name is Charles Lowery. I'm Deputy General Counsel for the District of Columbia Office of Banking and Financial Institutions.

I think and I'd like to know if you do have a copy of our Executive Summary of our Protections from Predatory Lending Bill. I think everyone should have that. If you could pull that out, I'd like to just sort of walk you through that real quickly in the time remaining, so we can to some other matters.

I noted, and I was here, I think I attended the unveiling of the draft report that the D.C. Office had done on Residential Mortgage Lending in D.C., and in that report, it mentioned that the Office of Banking had a low staff, five people, and little enforcement capability.

I think that in the years, the two and a half years since the report, things have changed dramatically for the Office of Banking and Financial Institutions. We now have upwards of, I think, 15 people on staff, and coming from a staff that was at one time one person, and that was the superintendent, and was slated for extinction by the D.C. Council, we've come a long way.

I think the office is now in a position to put in place the legal regulatory framework that can then move forward and can then move to enforcement and doing the things that need to be done here in the District to protect D.C. residents.

So, I'd just like to sort of walk you through our new law, which just passed the Council in December, on our Predatory Lending and Mortgage Foreclosure, and then also speak to you about some of the other things we're doing.

But as you notice on Page 1, the foreclosure laws in the District date back to 1901, and as you look at the whole D.C. Code, because we moved from a commissioner system to our own city government, and that government is still only about 25 years old, there are many laws on the books that have come relative to Congress and were never updated appropriately.

Many other states have legislative service branches that update laws on a regular basis. We don't have that. So, we're kind of left reacting to problems. There are only two sections in the D.C. Code that are related to mortgage foreclosure. Those had sort of -- because there wasn't enough meat there, the industry developed a pattern and practice, a practice of how to do foreclosures in the District.

Oftentimes that included only a couple of notices to residents. It included an advertising cost, which was very expensive when you think about posting an advertisement in the Washington Post. Borrowers would find themselves maybe one or two months behind in their mortgage, but when you add on attorneys fees and advertising costs, you end up -- they ended up weighted down with many additional costs which they couldn't then make up and ended up in foreclosure.

So, when the issue of Capitol City Mortgage, and you all probably remember that, came up, the D.C. Government, in connection with the Metropolitan Washington Planning and Housing Association, looked at -- there was a large hearing before Council Member Jarvis, and we developed the Mortgage Broker-Lender Act of 1996, to license and regulate mortgage lenders and brokers.

That was an attempt to handle the predatory lending practices that really Tom Nash started here in the District some time ago, and as a side note, the FTC has sued Tom Nash of Capitol City Mortgage, but it's still in litigation with him, and that brings to bear another issue, which is the ability of our federal regulators to do what needs to be done because there seems to be a struggle. He's putting up a very tough fight, I believe, with his case against FTC, and now the FTC has taken on the Associates, which is an even bigger organization. So, their capability of being successful in litigation is also a point that needs to be noted.

In any event, we drafted -- we passed the Mortgage Lender-Broker Act of 1996, and we were able to then begin to license and regulate mortgage lenders and brokers, but we found that that was not enough, and the anecdotal evidence that Jim Sugarman mentioned came to light about predatory lending in D.C.

So, we put together a task force of 50 people, that included consumer groups, industry groups, Fannie Mae as well as Freddie Mac, Riggs Bank, as well as many other industry types, foreclosure attorneys, the title attorneys from the trustee side. We were able to bring the auctioneers. We were able to bring everyone together to work on a predatory lending bill, and the result of that is listed in this Executive Summary.

I'd just like to point you to we struggled with the idea of predatory lending for two years, and it was interesting that at the very beginning, from the industry side, no one could define predatory lending or didn't know what it was or didn't believe that it occurred, but at the end of these two years, the District has been sort of on the cutting edge of coming up with the bill and definition vis a vis other cities and states.

The City of Dayton, Ohio, Philadelphia, Chicago, the states, in this year's legislative session, state legislative sessions, many other states, are beginning to put forth predatory lending bills.

Anyway, on Page 6, we do list our 15 criteria for what we think a predatory loan would include. What we tried to do is to layer over the existing practices, the custom and practice in the District.

We tried to codify the mortgage foreclosure practice, strengthen it and sort of use that as a foundation and then build upon that for predatory lending protections, which would allow a borrower at the point of foreclosure to sort of appeal their case to the court and say no, I think I've been a victim of a predatory loan. I think one of these aspects or more have happened to me and then to take their case to Superior Court where the judge or court would then be able to decide whether or not predatory lending has occurred.

I agree with our panelists, it's a difficult thing to determine, but you know it when you see it. It's different for different situations.

REV. ANTHONY: I don't mean to intrude, but just one quick question on this because it would help us. Is this a non-waivable right?

MR. LOWERY: Yeah. This is a non-waivable right for the borrower. We're trying to be -- allow the D.C. resident, the borrower, to go into court and to get his or her case reviewed. We found that that, working on the back end of the problem, was what we could do.

Now, on the front end, there's education and other things that need to be done, but I just wanted to say that you can take a look at that. That's our Executive Summary. The bill is still before Congress. All D.C. legislation goes before Capitol Hill for a 30-day review period. That 30-day review period should be up toward the end of March, I believe March 28th.

Pending any intervention by Congress, which is possible but we think unlikely, our bill will be effective, and upon the completion of regulations will go into effect.

So, I just want to say that our office has come a long way. In addition to doing mortgage foreclosure, we have a Check Cashers Act we passed. We have a Money Transmission that we passed regarding electronic transmission of money. Particularly as Mr. Carr mentioned, the citizens or immigrants, people who have moved to D.C. that are sending money home, need to be protected in that way.

We're looking at a trust company act which would really help sort of the high-end residents here in the metropolitan area for the financial weapons they have accumulated. So, we're also looking at a credit union act because Congress took away the District's power to have its own credit unions, chartered credit unions, back in the '60s. So, we're wanting to revisit that issue and create a credit union chartering statute for the District of Columbia.

I just want to finish up by saying I think that there's a lot of good news that has happened in the area of predatory lending in general and particularly for the District. The Federal Government is now looking at predatory lending, acknowledging that there is an issue.

The HUD-Treasury Task Force, if you don't have reports on that, you might want to get a report. That's on their web site. They did a series of site visits and commissioned studies of different localities and came up with the report.

The Federal Reserve and, I believe, the FDIC have also done some hearings, which would give you sort of a bigger framework on the predatory lending side, and then we can bring it down to D.C.

State government, as I mentioned, the state legislative areas are looking at -- the state legislators are looking at this area and passing laws. The industry has become involved and created best practices. The mortgage bankers, they have a great web site, if you go to that. They just created a predatory lending portion that tracks predatory lending bills.

The American Bankers Association has a web site as well, and they're also beginning to get involved in consumer education efforts.

I think that the bad news is there's still no place for people to go. As Jim mentioned, I've talked with the attorneys that work at some of the legal service clinics, and there's just not a lot of places that people can go to get help when they find themselves in this situation.

We've created a provision in our law that would allow a private attorney to collect attorneys fees for bringing this kind of lawsuit, which perhaps will engage private members of the Bar to take on these cases with some remuneration that they can then count on in terms of helping people out.

But I think that, as you mentioned, Mr. Kurzman?

MR. KURZMAN: Yes.

MR. LOWERY: You mentioned your issue of what you would recommend or what recommendations can be taken. I think I see from the regulatory standpoint here, the need for unified enforcement is a key in consumer education, but my problem with the unified enforcement is that in getting into the financial services area, the banking area, the Commodity Futures Trading Commission and the Securities and Exchange Commission can kind of clearly see where their oversight is in the securities area and the commodities area.

I think when you get into the banking area, there are so many regulators that have to work together. The OCC has the national banks. The Federal

Reserve also has oversight. The OTS, Mr. Skinner's bank is a part of the OTS system, which is the Office of Thrift Supervision. The FDIC and now the FTC.

You also have the state banking departments across the country. An example of the lack of coordination in this area is the Department of Treasury recently had a financial crimes office, Financial Crimes Enforcement Center, I believe. They have been looking at money transmittal legislation and developed legislation but without consulting the state regulators who were already doing that in that area. So, you ended up with a conflict between the state regulators and the federal regulators.

I think that what needs to happen is -- and the other area that is of concern to me is now the OCC is proposing, I believe, some regulations to exempt the bank operating subsidiaries from state law. Well, the state law is where the mortgage lenders and brokers are regulated. They're not regulated federally.

So, if OCC exempts the bank operating subs, that's fewer of those subsidiaries that we can then license and then monitor and know what's going on. The OTS currently does that.

So, whenever someone calls up, and they're doing business, and they say, well, we don't have to get a license from the District of Columbia, we're part of OTS, and we have looked at their policies. We understand their procedures, and it's true that that company would then be exempt from our ability to regulate.

So, from my standpoint, it's key -- a key aspect of any future work, to maybe tag on to what Mr. Carr has stated, is that there has to be a unified enforcement process, and maybe the Commission on Civil Rights can be the bearer of the information and be from outside because there's always a turf issue. There's always an interest that these regulators have because they cover a slice of this financial services area.

But someone from the outside could say that perhaps there needs to be another body that would force these regulators to get together, to merge their interests, and to really work in this financial services area and this predatory lending area.

The only reason that states have gotten and cities have gotten into predatory lending regulation and legislation would be if we look way back, there was a federal task force that was looking at the TILA laws, that was looking at HOEPA, that task force seemed to have bumped heads with each other and couldn't come to a conclusion, and without that sort of federal oversight or help, the states were left to see things on their own.

That's why North Carolina passed their own bill.

MS. GRAAE: We're going to --

MR. LOWERY: Okay. I'm sorry.

MS. GRAAE: I don't mean to cut you off.

MR. LOWERY: Yes.

REV. ANTHONY: The schedule calls for us to end this session at 11: --

MS. GRAAE: Five minutes ago, but we want to ask some questions.

REV. ANTHONY: So, what I'm going to do is act as the traffic cop. We're going to do by unanimous consent end this session at 20 minutes of.

MS. GRAAE: I didn't mean to cut you off.

MR. LOWERY: No. I'm sorry. Those are just my recommendations, and I tried to give you a sense of what's happening here in D.C., what's happening with the state regulators and that sort of connection with the federal regulators.

MR. SKINNER: Except, I think, Charles, that you sort of amplified on the unified enforcement, but you had indicated some financial literacy or I thought you were starting to go in that area, and you never did.

MR. LOWERY: Oh, as Erika mentioned, we are working with the Mortgage Bankers Association. They have a National Financial Literacy Campaign that they're going to do in several pilot cities. We're going to -- D.C. is to be one of those pilot --

MS. YOUNG: More or less, predatory lending education.

MR. LOWERY: I think that's an area, Mr. Skinner, that needs to be further developed in a uniform way as well because Mr. Taylor mentioned what NCRC was doing in terms of its curriculum, but that needs to be connected up with what the MBA is doing, and it needs to be connected up with what, you know, different other groups that are advocacy groups or Federal Government -- the FTC brochures and literature. Some way of getting this out and about in a better way.

MR. ROBERTSON: Mr. Skinner, could I make a comment on that? I recently attended a symposium, it was last week, time is flying, but -- and there was a gentleman from North Carolina who helped to draft the legislation, the new anti-predatory legislation.

He made a statement that there were a couple of criteria that, when the lenders sat down and the state regulators sat down to draft that law, one of the things was no more financial education program. No -- and I was shocked, and I originally thought, well, that's strange because that's what everyone talks about, and -- but it makes sense to me because no matter how many -- how many documents, no matter how many books, no matter how many tests you have a consumer take, when they get -- when they're heavily marketed to, and they're drilled by a loan officer -- I used to be one, I know how this goes, very quickly get the documents, get them signed, get out.

It doesn't matter. Their head's going to spin. Two years ago, my wife and I bought our first house, and I looked at thousands of loan applications in my career, and I just -- my head was spinning when we sat down to actually do the transaction.

So, the education kind of goes out the window, and, so, I agreed with Martin on that, that I think that really the issue here is in ensuring access to traditional -- and I hope the subprime lenders get upset with this, but ensuring access to traditional lenders and especially in historically underserved areas.

The trend on this is -- you know, the theory I've talked about a lot, it's not genius, I think anyone who works in civil rights understands that for many years, lenders, any lender or no lender, would make loans in certain areas of this country, many heavily minority-populated areas.

MS. GRAAE: We seem to be transitioning into the question and answer period.

MR. ROBERTSON: I'm sorry.

MS. GRAAE: I want to say thank you both very much. It was a very informative presentation that you made. It's enlightening to find out the depth to which and the breadth of the Office of Banking and Financial Institutions thinking and work in this area. It's quite a complex issue that you're tackling in many, many directions. Thank you very much.

We'll now open it up for the questions.

MR. SKINNER: If I might direct two questions, one to Mr. Robertson and the other to either Erika Wilson or Charles Lowery, either or both of them will be fine representatives, and Mr. Carr.

First, Mr. Robertson. It's interesting, given the presentations we heard earlier in which it would seem as though lower- and moderate-income minority communities have been stripped of mainstream financial institutions, and yet when one looks at the CRA grades that are given to these mainstream financial institutions, we're seeing that most of them are coming up with outstanding CRA ratings, which puts both the financial institutions in somewhat of a bind and the activist community in a bind that financial institutions say see, we're doing a great job. We have outstanding CRA ratings.

The activists say wait a minute, when we cut and dice the numbers, you're not serving low- and moderate-income minorities. How do you reconcile that?

Then the question to Jim and OBFI folks would be, given that what OBFI has said in the District of Columbia, they've done a study of a 180 banks, and they noticed that most of the banks are located in Ward 2, and yet in Ward 2, you have a high incidence of check cashers, I wonder why would it be in the very same communities where you have many mainstream financial institutions, we are finding this propensity to use check cashers. So, if you can answer that.

MR. ROBERTSON: Okay. First of all, you know, it's not even -- I think historically, it's not even an institute being stripped of -- minority communities being stripped of traditional financial institutions. There weren't any.

But in the past 10-15 years, lending institutions have come to realization there's a lot of money to be made in those communities, and I don't mean bad money, predatory money, but I mean there are a lot of good loans to be made there.

Unfortunately, the subprime lenders jumped in there before just about anyone else. So, you have a historical trend of the void being filled by subprime lenders.

The CRA issue, I'm not a CRA expert, and I don't pretend to be an expert on that, but I will tell you that I'm not sure how you reconcile that. It disturbs me because as its inception, CRA was meant to put really traditional lenders -- ensure that depository institutions stayed in historically under-served areas and the low-to-moderate-income areas and to ensure that they made loans in those areas.

So, I'm disturbed by the trend that I've seen where lenders are getting outstanding ratings because their subprime subsidiary or whatever is making a lot of loans, even though they're not. So, I'm not sure how we reconcile that. That's something we need to be better at as regulators.

REV. ANTHONY: Well, at the same time, they may have other appendages that are making these outrageous loans, and it somehow doesn't figure into the rating at all.

MR. ROBERTSON: Right. Because they're not depository institutions. We're looking at what the depository institution is doing.

MS. YOUNG: I think, to speak to the CRA issues, CRA exams definitely need to be made more meaningful in terms of actually looking at jurisdiction-by-jurisdiction what each financial institution is doing.

As Mr. Skinner mentioned, most banks have a satisfactory CRA rating, which is clearly acceptable, and a number of banks have gone beyond that and do have outstanding ratings.

Would I say that those same banks are doing outstanding in the District of Columbia? Most of them, I would not, and I think the focus of the weight of the exam, if you have three criteria, lending, services and investments, of the three, I would say investments are far more important to the vitality of a community.

Most of the banks in the District of Columbia do not make huge investments where you can get a below-market rate return. The citizens can see the patient capital in the community and allow these investments to flourish to actually live up to the letter of the law.

We don't see that, and in the economy, I think, over the past 10 years, where returns have been so high on investments, if a community group or a faith-based organization had a deal that they could market to a financial institution and say you could get CRA credit for this deal, if the numbers didn't add up from a purely profit motive, the deals were not made.

So, I think we have to revisit what the intent, as Mr. Robertson said, what the actual intent of the law is, and how those three criteria are weighted. I don't think that if an institution does a series of services and a series of loans and very few investments, that they should receive the same rating as an institution that does far more investments and services because you're not going to get a loan unless you're creditworthy anyway.

So, when I look at the lending portion of CRA, it's kind of like okay, you're doing them in low- and moderate-income communities, but no one is saying that low- and moderate- -- folks that live in those communities are not creditworthy.

So, you have a number of issues that come into play when it comes to CRA exams.

REV. ANTHONY: I want to give Mr. Carr a chance to respond.

MR. CARR: I was actually going to try and respond very briefly to Ernest's question. From the way I come to this table is that I perceive U.S.

Commission on Civil Rights to be the appropriate body for this discussion because this is not just a financial regulatory conversation.

This is, in my view, and I say my view as opposed to the foundation's view, about civil rights. Let me just quickly respond to Ernest's issue, and that is, first of all, when you're looking at wards, you have to remember that wards have neighborhoods. So, you need to disaggregate that data further to find out black versus non-Hispanic whites.

Because we did a similar analysis in Washington, D.C., where we looked by income, by a whole number of factors, and then when we went to race, the story of the check cashers and pay day lending institutions were very clear. They were heavily dominated in black neighborhoods, but not necessarily poor black neighborhoods but also moderate black neighborhoods as well, and they're throughout the District.

The second thing, it's important to recognize that in many cases, households tend to go to check cashers, pawn shops and other institutions even where there is a viable alternative, mainstream financial institution, and they do so for a variety of reasons.

One is because the products and services offered by the fringe lenders actually are more custom designed for their needs. So, in fact, a check casher these days doesn't just cash checks, they may do money orders for you, wire -- money wiring. They may also help pay utility bills right there on the spot for you or with you by selling stamps and packaging that for you.

They may even offer you a cell phone contract, and, so, that's a bundling of services that's unique for low-wealth/low-income households that is equivalent to a bundling of services that would be investment products for a middle-income or upper-income households.

So, they're doing really unique marketing of specific services that banks and other major financial institutions are not currently doing, but in some cases, the products and services are exactly the same, and the households choose not to go there because of a fear of those institutions. They have a natural distrust for them, and surveys by a number of institutions have shown this.

They have a lack of knowledge about what's offered at those financial institutions. So, they don't even know, for example, that they may be eligible for check cashing services or, finally, they may not even understand the value of connecting with those institutions.

The reason I say this is a civil rights issue is that it didn't just happen that way. The reason it's like that is because for years, decades, it was legal to discriminate against those households. So, the issue that we're recognizing on the financial education credit literacy side of the issue is another way of saying legacy of discrimination, and the issue, the reason I raised it like that, is that we often talk about, well, the borrowers are choosing, they're selecting, they're making, you know, their own decisions, and they need to be educated as if the problem is on their side.

Well, yes, they do need to be educated, but the issue is legacy of discrimination, where for years it was legal and enforced and permitted by the Federal Government to happen, and in some cases, there were federal guidelines that actually made them happen, and the mortgage market is a clear example.

FHA, Home Loan Mortgage Corporation, all of these federal institutions established after the Great Depression to really get Americans back into home-ownership had underwriting criteria that were very explicitly preferential to non-Hispanic white communities, which caused segregation. They were intended to create segregated communities.

So, the legacy are the segregated communities with second-class access to financial services that we have today. So, it's very much a civil rights issue, but make no mistake about it. Yes, it's part on the borrower's side, but it didn't just get that way. We helped to create it, and, so, the onus is on the federal institutions to help to get rid of it.

MS. GRAAE. I understand the Comptroller of the Currency had a study that began in 1997 on the unbanked. I don't know if it touches on some of these issues, but I wonder if it's possible to get a copy of it.

MR. ROBERTSON: It's probably on our web site. I don't have a copy of that with me.

MS. GRAAE: It's not on your web site.

MR. ROBERTSON: It's not? Let me get you a copy of that.

MR. CARR: Can I make another point, too, very quickly? Because there are a couple of things mentioned. I should point out -- commercial time -- that the Fannie Mae Foundation also has a National Credit Literacy Program that has been in place several years, and we have increased that recently last year with a specific focus on predatory lending, and we will soon be announcing a partnership for a multi-city series of forums with the American Banking Association.

I would like to point out one other issue, though, on these laws that attempt to get at predatory lending because I think it's important to streamline laws just as was discussed by the representatives from the District of Columbia's Financial Oversight Board, that streamlining these laws and making it more clear what practices constitute predatory lending is essential.

But in our view, it's not the whole story. The real story is the broader financial markets, and let me explain why. If an individual has to go to court in order to get relief from predatory lenders, first they have to be injured. Second of all, they have to have the time. Third, they have to have the money.

Lawsuits are time-consuming and cost-prohibitive. Even if you say okay, you can get some kind of fee out of the court case, you still have to go to court, and you still have to talk to someone for going through all these issues, and in many cases, what will happen is individuals will just simply lose their homes and the ball will keep going.

But even more powerful, even if every suit was successful, the problem is then what lenders can do is just stop using that one provision that's getting them into trouble, and, so, instead of saying -- of using credit life insurance, they just simply increase the interest rate from a 12 percent to a 14 percent. That's not predatory or is it? How about a 15 percent? How about a closing fee of 10 percent on top of a processing fee of 10 percent? That's 20 percent on top of an interest rate of 15 percent, and then a prepayment penalty for the first three years that doesn't benefit the borrower.

How do we know it doesn't benefit the borrower? They could argue that the interest rate should have been 16 percent, but it's 15 because it's got a prepaid payment penalty.

So, my point is that if you only focus narrowly on the predatory lending, you will miss the bigger picture of dysfunctional financial markets that serve these communities, and the way to address is it holistically, and I have a lot of recommendations, but I don't want to consume all of the time of the committee.

But I just want to keep that issue on the table, that even if we were wildly successful at eliminating what anyone would call, even with the most liberal definition of predatory lending, these neighborhoods are still being wealth stripped to a point where those households, if it doesn't change, will be relegated to permanent financial marginalization, and it will not change.

REV. ANTHONY: We would hope that you would submit your other recommendations to us.

MS. GRAAE: I was going to say that. We'd be grateful.

MR. CARR: I'd be pleased to.

REV. ANTHONY: We are very much taken by your comments because we've been here, African Americans at least, for about 380+ years. For 259 of those years, we were slaves, excluded from the system, and when you do all the math from 1865 until the present, you're really only talking about 47 years of active life where you have arguable freedom.

The assumptions therefore are made for persons that have had long-term associations with these situations, which is not conscionable. So, it's a useful observation, indeed.

MR. CARR: Thank you.

MR. KURZMAN: Go ahead.

MS. BRITT: I just had an observation. When you were talking, I was wondering why can't predatory lending and the form of lending that you were talking about, why can't it be attacked at the same time? Because predatory lending seems to have arisen from a belief -- you know, it's like someone sitting in a room and deciding, well, you know, the banks aren't going to lend these groups the money, then there's still a way for us to make some money off of them, and, so, everybody -- it's about, you know, duping the people without the means, and, so, why can't both be attacked at the same time?

I think that taking some of these companies to court, I think it would help.

MR. CARR: I agree. But I think they can be attacked at the same time. I think one of the things we need, for example, one of my recommendations is better data, better information.

Data collection is always controversial because as any financial institution will tell you, it's very expensive, and they are absolutely right. The question is are the data elements significant enough to move markets, in which case it makes it worthwhile to the country and the economy to do it.

A good example is the HUMDA data. In 19 -- late 1980s, when there was discussion about adding race/ethnicity variables to the HUMDA data, there were a lot of folks arguing that that would do nothing to help improve lending to minority households because anyone who qualified for a loan was getting a loan, and that the data could only tell you who was being rejected but not why, and without being able to know why, it was useless data.

Well, surprise. The public was the one that responded, that made the HUMDA data viable, because once we saw that rejection rates to black households compared to white households were sometimes three, four, up to seven times as great, even adjusting for income, the public required that something happen.

The regulatory agencies were able to focus much more like a laser on specific institutions and their behavior, and within just three years, lending to African American households or black households, I should say more accurately, rose to 55 percent in one year, rose 55 percent in one year, and extended through the mid-1990s at those very high annual rates of growth.

Now, affordable lending is viewed not as a niche market but as a major market segment for major financial institutions. One of the things we have going right now is we don't know the loan terms, like the interest rates, across subprime loans.

If we were able to immediately look and see black consumers, Hispanic consumers, Asian consumers, white consumers, and those extraordinary disparities immediately in interest rates, my guess is that it would have the same impact immediately as having race/ethnicity data.

There are lots of other systemic issues that I think can help shed light on this issue and really bring it to the fore, and I in fact will be finishing a paper -- it's actually completed, and I'll share it with you, that lists a whole series of recommendations, including on building viable financial markets and specifically the role for the Federal Government.

MS. GRAAE: We have time for one more question. I'm sorry?

MS. YOUNG: James, I had a quick question on his last statement. I know there was a comment period from the Federal Reserve to add the percentage rates to the HUMDA reporting.

Is there any understanding right now of where that stands?

MR. ROBERTSON: The comment period just -- I think it just ended, yes. So, I don't think we have any idea as to where that is at this point.

MR. KURZMAN: On our first panel, someone suggested that there was almost a magic bullet, that the fringe lenders couldn't operate unless they could lay off their loans. They have to lay them off to somebody.

But the liability for all the defects in that loan do not pass on to the buyer, and if that were mandated, presumably by federal law or by state law if the Feds don't act, that would right away shut down a great many of these fringe lenders, which would then open up the opportunity, which hopefully all the pressure on the prime lenders to come back into this market or to come into it for the first time.

What do you all think about that?

MR. ROBERTSON: Liability is kind of a difficult issue, but you can -- depending on the level of involvement of the investor, they could be assessed liability under the Civil Rights Act.

For instance, if they are part of a decision-making process or part of the terms and conditions aspect, if they had a hand in it -- we hear a lot of times that lenders have no relationship with the broker, and then you find out that in fact, they're working hand-in-glove.

Well, this can work from the investment

standpoint, too. If they are setting up criteria, if they have identified trends and choose to ignore them, they can be held liable under --

MR. KURZMAN: But the secondary market folks don't have any relationship to the original transaction.

MR. ROBERTSON: Right. I know Freddie is saying that they're just not going to buy -- I think they're going to not buy HOEPA loans in the future and other types of loans that could be deemed as abusive.

MR. CARR: That could be useful on the predatory lending side, but it won't do anything for fringe lenders, and fringe lenders are not predatory lenders. They would be check cashers, pawn shops, rent-to-own, because their practices are not deemed to be illegal, and, so, one -- the first issue is why are there no effective usury laws in the United States to protect non-competitive markets?

It's an interesting thing. You really don't need usury laws in competitive markets, which is one of the reasons why they are so weakly enforced, if enforced at all, because nowadays, if you are a financial institution, if you offer, you know, a fee of one percent for some type of financial transaction, you know you can always look across the street at another financial institution, and they're charging eight -- you know, they're charging maybe an eighth of a point less or an eighth of a point more.

So, the markets are competitive. So, that's the usury sort of control, and it stays out of government imposing itself in ways that actually could be very unproductive for the economy in the event that there are legitimate interest rate swings in the economy.

But in distressed markets, there is nothing to help moderate those interest rates. So, interestingly enough, 15 percent per two week period is not illegal. So, the first step is to have set up as a minimum guidelines that suggest what an annualized percentage rate can be on a two week loan, the extent to which those things are rolled over, but right now, there's not much in my view, nothing that I've heard discussions on dealing with, first of all, trying to understand the extent to which those practices ought to be more aggressively regulated, because you'd have to start there before you actually talk about making them illegal, and in some cases, just like the subprime market for some households, a very small group of households, they still ultimately may end up being, you know, the lender of choice, the pawn shop, because you take some product in return for money because you just have no credit rating, and you never will.

So, you don't want to necessarily put them out of business, but what you want to do is bring the same efficiency so that they are just a small component of the market as they are in other markets, for those households who really legitimately cannot access mainstream credit and even secondary lines of credit, but when you start getting to a 15 percent per two weeks, that's not secondary. That's onerous and should be considered usurious.

REV. ANTHONY: We surely thank you for your comments.

MR. LOWERY: Just two more comments?

REV. ANTHONY: Sure. Okay. We're really pressed for time.

MR. LOWERY: I just wanted to say our D.C. law does speak to the note owner. So, the owner of the note in cases of predatory lending in D.C. So, we tried to deal with the securitization issue by holding the note owner responsible. So, it won't be -- whomever that person is, they're ultimately liable on loans.

MR. KURZMAN: So, we have a test on whether there's a magic bullet.

MS. GRAAE: Thank you all very much for coming.

(Applause)

REV. ANTHONY: We will now take a five-minute recess.

(Whereupon, a recess was taken.)

REV. ANTHONY: All right. It's now my privilege to call upon my friend of many years, my colleague, Steve Kurzman, who will lead the third presentation for us.

Panel III: Financial Programs Assisting Minority Borrowers

MR. KURZMAN: Thank you very much, Mr. Chairman.

I'm going to -- our time has gotten telescoped here since we were supposed to break at 1, and I know you're all counting on it as is our committee.

I'm going to dispense with introductions, and I'm sorry to do that. I'm just going to identify each of you by your organization, and forgive me for that.

Timothy Elliott, Vice President of AllFirst Bank, is here representing the Metro Washington Bankers Group. Telaekah Brooks is the Director of the Georgia Avenue Business Resource Center. Malcolm Barnes, Malcolm L. Barnes is the Executive Director of Howard University Small Business Development Center Network, and Yulanda Queen is -- I'm sorry -- Juan Albert is the next on my list, is President of the Greater Washington Ibero American Chamber of Commerce, and Yulanda Queen is representing the H Street Community Development Corporation.

We appreciate all of you being here and appreciate particularly your sitting, as I think all of you have, through the other two panels. So, you know what we've heard, and, so, we're very eager to hear what you all have to say. If you will proceed in the order in which I introduced you, that would be, I think, the most helpful for us, and then we'll leave the questions for the end.

We're allocating to each of you how long, Mr. Chairman?

REV. ANTHONY: It's supposed to be 15 minutes.

MR. KURZMAN: Well, we have five, 15 minutes goes beyond 1:00 without any questions.

REV. ANTHONY: We'll make it 10.

MR. KURZMAN: All right. 10 minutes.

MR. SKINNER: Just to add, Yulanda Queen not only represents the H Street CDC but as a member of the

Coalition of Not-For-Profit Housing and Economic Development.

MR. KURZMAN: Oh, excellent.

MR. SKINNER: So, she's in a dual capacity.

MR. KURZMAN: Excellent. Thank you very much, Mr. Skinner.

MR. ELLIOTT: Well, we appreciate being invited here. We welcome the opportunity. I think you'll find that I'll be more of a positive -- take a more positive approach, and I want to really outline what the bankers are doing in the District as well as the surrounding area.

First of all, the Metro Washington Bankers, our founding father, I think, was Ernest Skinner, a number of years ago, but it's really composed of 14 banks where 11 of those 14 banks do have branches and do operate in the District.

We meet on a monthly basis. We're made up and composed of community development officers and CRA, which is Community Reinvestment Act, officers. We oversee in each of our individual institutions the lending, investment and service to the communities where we have branches located.

We do things. We have invited guests from the -- not only the non-profit sector but also the government entities in the city. We discuss regulatory issues, fair lending, predatory lending, and we also discuss to a great extent what's going on in the communities, how can we improve the wealth of the community, how can we improve financial literacy, a lot of things that you have heard this morning.

I handed out a list of things that we have done over the years. Just a couple of comments before I get into some of those. I think what has been said here from the first group, from John Taylor about financial literacy, and you've heard that more and more, and I can tell you that not only are the bankers locally committed to that but on a national level, the Fannie Mae Foundation, we mentioned the ABA. They're in the process of coming up with a film that's going to be distributed on a national basis to address this issue of predatory lending, flipping, etc.

I come down here from Baltimore. I don't have a Baltimore accent, I don't believe, being from the Midwest originally, but we have a serious problem up there, and this is the last time I'll refer to Baltimore, but the flipping situation, and there's been a very aggressive attorney working with a task force made up of city officials and non-profits, and there's been -- some of these individuals have been prosecuted already, and they're going to serve time, and I think from the regulatory standpoint, I think there has to be some teeth, and this seems to be working, but there are big problems in Baltimore, as there are in Philadelphia, on this whole issue. The bankers that we represent, the banks that we represent have no problem with that approach.

The Metro Bankers as a group, I said, you know, previously work jointly together on some issues, and also the CRA officers also, you know, through their banks are doing individual initiatives to help improve the neighborhoods in D.C.

Some of the things that we have done, let me just give you a couple products. Over the years, there's been target marketing going on with residential homeownership home purchase loans, where there have been rate enhancements in some cases, maybe a half percent off the market rate. There have been other enhancements, such as ratios, income ratios and debt ratios, have been eased. There have been lower down-payment loans, no private mortgage insurance. So, there have been special products addressed in targeted areas throughout Washington, D.C.

Another product, and I think Erika Young touched on investments, low-income housing tax credits.

Low-income housing tax credits is where the financial institution or a corporation can actually put equity into multifamily housing for low- and moderate-income or the elderly, and three projects that really come to mind in the District that I'm aware of is Edgewood Terrace, Ashley House, which is up on New York and Capitol, and also Aspen Court. It's a form of investment that, without that equity going into this, the housing would not be done.

Just another sidebar as far as addressing the minority community, two and a half to three years ago, City First Bank of D.C. was established, and some of the banks, our member banks, invested in stock to help raise the $9 million for that bank, which is designated as a community development bank, to get off the ground.

On top of that, some of the institutions provided three-year CDs at below market to help them build up their cash base. A couple of us also sold them loans so that again they could get some income in immediately, and that has worked out very, very well. So, it's just an example of the other local banks helping a minority bank get off the ground.

Just some other things that come to light as far as Small Business Administration loans, SBA loans. Many of our institutions deal with the SBA out of

Washington, and beyond that, some of the banks have gone to second look.

In other words, a loan may come in from a small business or for that matter a residential homebuyer wanting to purchase a home. Let's say it doesn't meet the initial criteria. It goes to a second loan committee. In other words, we're trying to work in some cases out of the box. We're not just trying to go credit scores right down the line. When it doesn't meet the initial criteria, institutions are trying to accommodate and make the loan.

Some other things that have -- I just want to comment on is that we are partnering with the city, we are partnering with non-profit organizations in the city. For example, you have H Street and Marshall Heights, three substantial non-profits who make micro loans to small businesses in their neighborhoods, in their respective neighborhoods.

Some of our banks are providing lines of credit for them to do that, and along with those loans, they're getting training from the non-profit and hopefully maybe after two years, once they grow and have a better understanding of how to run a business, then that can be turned over and referred to a bank to provide greater loans, because many loans go up to

$25,000.

Other banks, what they've done, it used to be that banks would not make loans, you know, under a $100,000. Well, our bank for one has a special program with a short form application, and it's not as rigorous underwriting. Well, where we're going after that market, to make loans to small businesses who only need a $100,000 or less.

This is some of the examples of products that the banks are entering into, again to try to work out of the -- your standard with blinders on-type of bank underwriting that we've seen over the years.

Other things are happening. Working with the Chamber of Commerces, trying to reach minority neighborhoods. An example of that would be the Georgia Avenue Resource Center. Contributions. The Community Development Support Collaborative was established roughly seven or eight years ago, and this was a financial institution, along with the foundations, local foundations, put together a consortium where, on a bid basis, the CDC would make application, and we're in the third phase of this, and these eight to nine CDCs in D.C. have been receiving a $100,000 a year over a three-year period. Each phase has been three years.

What this does is help them to build

capacity, to bring in computers, to receive technical training, and, so, we're partnering with these CDCs to reach out into the community, to provide the services, to provide loans in these neighborhoods.

Erika Wilson commented on the educational program that they are introducing.

MR. KURZMAN: Excuse me, Mr. Elliott. We're going to have to --

MR. ELLIOTT: Okay. My message in summary. In summary, my message is the banks are in partnership with the CDCs, the government, the CHCD, the Economic Development, to bring resources to the table, and that's my message here today.

MR. KURZMAN: Thank you. Ms. Brooks, please.

MS. BROOKS: Hi. As with Ms. Queen, I'm also representing another organization, the D.C. Chamber of Commerce in this instance.

The Georgia Avenue Business Resource Center is an initiative of the Chamber, who then partnered [illegible]ederal Reserve Bank, Mayor Anthony Williams, he [illegible]iggs Bank, City First Bank, others, and [illegible]ersities in the District of Columbia.

[illegible] primary focus of that was addressing the [illegible] access to capital for minority businesses [illegible]ly small businesses located out of the downtown core.

So, over a process of three years, they developed a center concept. We opened it last August. In the six months, six or seven months that we've been open, we've seen 200 businesses. Of those 200 business owners, 78 percent of them identified financing and access to capital as a need or a desire.

So, initially, we thought, all right, maybe part of the problem is that they are looking out of the downtown core. They have limited branches, as the previous panel discussed. There are not a lot of bank branches in areas. I'm on Upper Georgia Avenue, which is Ward 4.

So, we thought let's bring the banking officials to them, and we did that. We brought loan officials from Riggs Bank and City First Bank and other institutions, and there was an overwhelming response from the business owners to meet with them and develop relationships.

What we found through that process is that a couple of things were outstanding. One of them is that the same questions kept coming up over and over again. What is the bank loan process? How does it work? What is a line of credit? Who are venture capitalists? What is -- they didn't know the answers to these questions, and through that, we developed a series of seminars that, you know, focused on specific things, like how to finance your business, what is venture capital, what is this.

All this to say that technical assistance and guidance is very much needed in these communities. Small business owners often don't know, you know, there's the operator and the accountant and the bookkeeper and the marketer and everything, and often when they come to me or my staff, the problem that they have is putting together their application package.

They get a package from a bank, and they say okay, this is great. They don't know what the cash flow analysis is or what the personal income statements are or how they can use a second mortgage maybe on their home to help finance their business. They're unaware of those things.

So, often they turn in incomplete applications, which are later, of course, denied, and, so, in their mind, that just feeds into this whole denial of access to capital. Well, I can't get it because they say I don't have what I need, and it's because I'm a minority or it's because I'm a small business. Race does play a factor, but so does education.

A lot of the small business owners just don't have that foundation of knowledge about financial programs and financial systems and bank programs. A lot of them have that historic distrust of bank officials or banking institutions. They're unwilling to go into a bank or they feel that they're in an adversarial process when they do so.

So, a lot of the training that we have done at the center has gone from merely getting them familiar with the banking officials and getting them into the institutions, has gone maybe a step below that into what do you need to fill out a loan application? What are these components? What do they mean? Let's help you put them together in order to move to that step.

So, my whole summary in that is that this base is not needed. It's almost remedial because we're comparing it to the community as a whole, and you say, well, people are familiar with banks. Well, in many instances, especially the longer-term small business owners that I work with, they've been in business 20-30 years. They initially started their business with personal funds, you know, from themselves, from their family members, etc. They are very proud to say that they have never had to use a bank, and because of that, many of them have no established communication or accounts with a banking institution, and they've never had to get a loan. That's great, but do you have checking accounts? Surely you have to.

A lot of them do go to the secondary institutions and pay their bills with money orders. If you can imagine a business that's been established for 30 years paying their bills with money orders or going to these check cashing establishments where they can pay their electric bill and phone bill on the spot, and we say, well, that's unheard of, but it's not. A lot of it is education and debunking this mystery of the bank loan process and what banks do and who they are and disconnecting this adversarial notion that they have of the system and how it works, and introducing them to the statement that they need to have done.

Many of them don't have accountants, and when I ask to see their financial information, that may be the first time anyone has asked, and what I find are handwritten receipts and things written on napkins and random pieces of paper. They don't have a computerized system. There's a lack of access to computer technology.

So, there isn't that in-business technical assistance which is one of the components of my center, is to provide in-business technical assistance as well as assistance at the center.

So, we're trying to address that need, but once we got in there, like I said, over the past six months, we realized that it's a much bigger problem than people perhaps purvey. It is a very serious issue with even long-term businesses think they're denied access to capital systematically. Maybe it was 20-30 years ago deliberately because of the racial question.

Now, it's just a perpetuation of these norms of the lack of trust and indoctrination into the system. So, they are unaware and uneducated of the bank loan processes and need outreach on what the different systems are.

So, I would urge that the U.S. Commission on Civil Rights to really look at education as a tool to help minority businesses and minority homeowners access capital.

MR. KURZMAN: Thank you.

MS. BROOKS: Thank you.

MR. KURZMAN: Mr. Barnes?

MR. BARNES: Good afternoon. I'd like to thank Mr. Skinner for recommending me for this panel today. He's on our advisory board at the Howard Small Business Development Center.

I'd like to address the two major issues that I was asked to try to identify, with barriers to financial access and barriers to educational access, and our market, our major clients, 75 percent plus, are early-stage or start-up firms, people in the first two years of operation, and in my opinion, the primary barrier that these type of businesses, these early-stage businesses run into is credit scoring, flat out.

It's become the standard in the financial industry, and it provides our entrepreneurial clients, who 75 percent -- and we do assessments of every client that we interview and counsel, and it's a self-assessment. We ask them how would you rate your credit? 75 percent rate their credit as less than excellent, and those of you who've applied for a mortgage know that there's an active subprime market, so-called B, C, D credit market for people with second mortgages and for housing, who doesn't exist for the small business community. So, we find that that's our biggest barrier.

The second major barrier is regular and natural -- bank regional and national consolidation. When I got into this business of counseling small businesses 20 years ago at the local level in Montgomery and Prince George's County, there was a larger number of banks, particularly community banks, and now, I'm finding for even so-called low-doc loans, low-docs are typically an SBA term for a low-documentation loan of less than a $100,000, local lenders, the people that we develop a relationship with, and I won't mention any names, don't have the lending authority to make a decision on a $100,000 loan. They get shipped out to Richmond. They get shipped out to Charlotte. They get shipped out to Sacramento, and, so, the character aspect, of knowing the character of the borrower and knowing the character of the neighborhood that these borrowers are coming from -- we were just talking about the dynamics of the U Street market.

10 years ago, U Street was known as a red-light district. Now, it's a booming area with $400,000 condominiums. These neighborhoods are rapidly gentrifying. Somebody in Richmond doesn't know that, what's going on in Washington, doesn't know that the Anacostia area is planned for a new waterfront that will transform it into a magnet for new development and new residential activity.

So, that's become a major barrier, and the third major barrier is the lack of a subprime market for our commercial borrowers. You know, what happens?

They come in. We try to get them into the banks. A representative from the Bankers Group, Metro Bankers Group, indicated the second look process for SBA guarantees.

We're finding that SBA's attitude is that if the bank reviews it and feels that they can do it with the guarantee, we'll accept it, and what we find is that we're constantly negotiating with our commercial borrowers from the banks to even consider, which leads me into the barriers for education access.

We're finding that SBA has taken some excellent steps. They have initiated several years ago a quality lenders circle, which brings together the bankers and people from intermediary community, people that are sitting in front of you from the micro-lenders, some of the SPECs, and they get to know each other. They get to know the kinds of issues. They meet on a quarterly basis to make sure that these new -- and the other problem that regional and national consolidation in the financial institutions is causing is heavy turnover.

Some of my best contacts that used to be at Nations Bank, you know, are gone now because, you know, now they're the Bank of America, and they had to make a decision on keeping some local people.

So, the largest major financial institution in this market got rid of some of the most experienced commercial lenders just because of consolidation. So, we're finding our relationships are important, and that the staffs, typically the younger staffs, of the commercial banks need to be educated on the lending process just like the SBEC and micro-lending staffs do and working in partnerships.

So, we've tried to set up, and SBA has initiated, quarterly internal joint training between SBA, our subcenters, and this year, we're hoping to begin to invite some of our partners from the regional -- I mean, the neighborhood business resource centers into that process, because we need to get more of the deals into the micro-lenders in the neighborhoods as well.

One of our other goals is to go into certification and training. We need to -- there's a major need from the borrower's perspective for three areas, financial, functional and computer literacy. We're finding that in this community, one of the problems that people run into when they say you need a business plan, is that we have a lot of functionally-literate -- there's a functional literacy problem in the community.

We tracked the number of foreign-born entrepreneurs who come to our centers because Howard University has the highest percentage of foreign-born students of any university in the United States, over 20 percent. We're finding that people from West Africa, West Indies, we work very closely with the Latino community.

Functional literacy, if English is your second language, it can be a major barrier to meeting the information requirements that some banks are asking, which can be onerous. So, we recommend that there be a streamlining process in the application area for commercial loans, and we found that to the banks' credit they're moving into so-called "express" lending applications that are designed for lines of credit for early-stage companies, typically $15 to $25,000, but again the major knock-out, major response that I get, once I submit these one-page applications via fax, credit scores, they got too many judgments. They got -- you know, so credit scores are again the major knock-out factor which forces these entrepreneurial early-stage companies back into the predatory lenders.

They put the house on the line. They juggle credit cards. They do second mortgages on their homes, and then they end up with the former group discussion's problem. So, paying onerous interest rates. Those are the two major areas that we're concerned about.

We're placing the most emphasis on professional development and certification of our counselors and trainers and doing more with our training programs. We're now utilizing a program that's popular in the Western United States called "Next Level". It has four different components, one for youth entrepreneurs, one for micro-lending entrepreneurs, one for start-ups, and one for existing businesses.

So, we've stratified it into four market segments, and we're working in partnership. In fact, Marshall Heights and I are working on a partnership to identify youth entrepreneurs east of the river. So, we're funding more collaborations with the Community Development Corporations, who are mainly doing most of the micro-lending and training from the youth on up is really the key to doing more loans in the commercial area.

Thank you.

REV. ANTHONY: Thank you, Mr. Barnes. Mr. Albert?

MR. ALBERT: Thank you. Good afternoon. I'm President of the Greater Washington Ibero American

Chamber, which is the Hispanic Chamber that covers Greater Washington, D.C., area.

Those who might have picked up the Washington Post several days ago looked at the largest minority group in this country is now Hispanic, with 35 million. That number jumped up on us since we though that number would come about 2005-2006. So, those are significant numbers.

But even more significant than that is the numbers that we here in Washington, D.C. 20 years ago, the percentage of Hispanics in Greater Washington was probably 30 percent, when you included D.C. Virginia, Maryland. Today, 20 years later, that number has dropped down to 12 percent.

A number of Hispanics actually that began migrating to the Washington, D.C., area, Adams Morgan, the Mount Pleasant area, other wards, as well as Ward 4, and other wards as well, has increased but slightly. You're talking about 10 years ago, the number of Hispanics might have been 2,000, today 38,000.

When you compare that to Virginia, you compare it to Maryland, you're looking at 270,000 Hispanics now in the state of Virginia, and 220,000 in the state of Maryland. You've seen over a hundred percent growth in the last 12 years.

Why? The question was raised by two folks. I think the problems that we've seen in the community is cost of housing, high -- relatively high. The -- I think the typical migration patterns that Latinos have been doing have been conducted in the last 20 years, and that's going to the suburbs, looking for more opportunities, looking for more jobs, and Virginia and Maryland have been there for that.

Crime in the past has been a problem that people have indicated as well. So, we see that growth. I think that's a factor that needs to be considered in why Hispanics, while increasing nationally, are not rising in D.C. in the numbers that are indicated in other areas.

The problems that Telaekah mentioned as far as her constituency is very similar to ours, but add one very important one, it's called language. The Hispanics in the Greater Washington Metropolitan Area are first generation, first generation mostly, have been here the last 15 years. They're immigrants from El Salvador, who basically came here from an influx of a civil war, and there's a large influx of Bolivians and Peruvians who came here in the '90s.

So, you're dealing with a market that's completely new, who's unaware of the system or who is not integrated in the entire system. So, you're talking about -- for us, the issue is not are they applying -- the issue is not that they're being denied loans, the issue is they're not even applying for loans. They're not aware of the system.

REV. ANTHONY: If I could interrupt a moment, Member Heuer has to leave to go to a previous appointment. We thank you for your sharing today.

Pardon the interruption.

MR. ALBERT: Okay. That's okay. I would mention that the issue is really not the applying for loans because they're not aware of the process, but language being a primary barrier to them.

Let me also add some other barriers to it. The lack of knowledge, as I mentioned, of the loan process, lack of capital or form of collateral. I mentioned the language barrier. Lack of credit, poor credit, residency. Most are non -- many, I should say, are non-permanent residents. The trust factor. Many have no bank account. Nationally, only 45 percent of Hispanics have a checking account as opposed to 85 percent of the general population.

In this area, I don't have the figures, but I'm going to assume there's probably -- it's probably much less than 45 percent. Another problem is the income and job instability that many face in the rising -- I think lastly, the one I want to include is prejudice and discrimination, but I think that I want to put that figure as low compared to the other barriers that affect them.

What have we been doing at the Chamber? The Chamber has been around for 25 years. It's really been only the last three or four years that we, I think, began to look at the outreach that we need to do, the partnering that we need to do.

Most of the efforts has been with the non-traditional business institutions. We've formed an alliance, I think a good alliance, with Malcolm's group, Howard University SBDC, but we're working closely with them, mostly on a referral basis. We don't ourselves provide one-on-one, but we refer to Howard University.

We also work with the Latino Economic Development Corporation in Adam Morgan. However, that's primarily targeted to the areas of Adams Morgan and Mount Pleasant. We do work also with the ECDC, primarily on the Virginia side, rather than the Washington, D.C., side.

As far as the banks, we've had some participation with the banks. We'd like more. I think going to the -- we do have, I didn't mention, a large sector of our population that do not have the knowledge or the capability of the loan process, but we also have a sector that do, and that's something that we would definitely welcome.

That's all I have to say. Thank you for inviting me.

REV. ANTHONY: Thank you, Mr. Albert. Ms. Queen?

MS. QUEEN: Thank you, all. I'd like to just talk a little bit about what this whole process means and maybe do a summary on what the panel has said.

Having sat on both sides of the plane, a former banker and now into alternative types of lending, I see that there are some things that we may have known through what we did with the H Street Community Development Corporation that others may find beneficial.

First of all, H Street CDC is an economic development developer. We do building. We build houses, and we build commercial entities. However, we also recognize, my director, Bill Bellow, who's noted for economic development throughout the country, and in fact won the James Johnson Fellowship Award this year, one of six in the country, from Fannie Mae, has what's called an "income generator model".

That means that we build a commercial/private project, and from the proceeds of that project, we're then able to do things like build housing or to do other services, such as the programs that I run, micro-lending and other lending programs. They're very extensive programs.

Alternative lenders. You've heard some of the barriers. The barriers that I've noted over the years are very much the same in the alternative lending community as they are in the banking community. We cannot overcome credit issues. If someone has not paid taxes, if someone has declared bankruptcy, if someone is consistently behind in bills, I can't overcome that any more than the bank can overcome that because the character of that borrower is where it is.

That borrower is going to have to re-educate him or herself and take it upon him or herself to straighten these things out before they'll be considered. I will consider, reconsider them once I see that they have satisfied some issues.

So, it's very important then when you're talking about the character that you understand that the major declines for loans, both from a banking side and on the alternative lending side, come from issues that stem from credit.

When it comes to the issues that we look at in the way of education, education is key. We have a full service training center in my office. We have 11 network computers. We offer all types of educational seminars, from those that go from predatory lending that apply to both the resident as well as the small business owner to those that talk about Community Reinvestment Act seminars, where the banks have participated. We bring the information to the communities.

We also do things like training and marketing and in advertising. We see new businesses, start-ups. We see existing businesses. There are existing businesses that may have more problems than new businesses because old habits are old habits, and if you always put everything in a shoebox, and you've done that for years, you're still going to put things in a shoebox, no matter what.

So, it is very important that we think about what is realistic in this life, and how we think about improving and making a difference to what has been existing.

We have noted that through a national level working with the SBA, yes, micro-lending is extremely important. I sit on the National Panel as one of the 12 advisors nationally. We have about a 140 SBA micro-lenders nationally.

What we have been able to do is increase our lending limits from $25,000 to $35,000 now for the SBA Program, particularly for cities like this one, where working capital needs are much more than you would have in Boise, Idaho. So, you have to really think about what works where.

We are also able to participate in deals now, so that if there's a deal that goes up to a $105,000, we can put in our share of about $35,000. For some people, this works. For some individuals, it's not going to work because some people can't afford to have two notes that are due at the same time.

So, where am I going from there? We have spent a lot of time analyzing what there needs to be in total economic development, and that's what it's going to take in the corridors, and most of us are talking about in this city.

We're quite frankly not talking about Ward 3. We're not talking about most of Ward 2. We are talking about the Wards 4, 5, 6, 7 and 8. These are the wards that were devastated by riots, still have shells of buildings, need economic recovery, where we're seeing residents that are subject to gentrification, for all of the economic development that's coming on through the city.

While there are sweeteners or what we would call "concessionary" financing that's offered in Ward 3 and in downtown, if you were MCI, you could come in, and you can do what you want to do. The gates are open. But being Ma and Pa Jones that wants to open up a Blockbuster's chain or a new restaurant and see what concessions are made for you. There are none.

So, how do we find some concessions? We believe that you once again have to talk about alternatives to the traditional lending. Today, for instance, I have a restaurant, someone who wants to bring a restaurant to an H Street corridor, and I have shopped this deal to four banks. There's not a credit issue there. There's not an issue of them having something to put into the pot.

Know what the issue is? The issue is very simply, it's is the H Street corridor ready for a coffee shop? No one recognizes that on the H Street corridor, the average income on the south side is in excess of $75,000 per household, and on the north side, it's in excess of $34,000 per household.

The gentrification has come to the entire south side, and that the north side, as soon as the new subway is completed, will once again be totally gentrified, that when you ride down H Street and any part of Northeast in the morning, you need to keep your eyes open as you come in from Prince George's County because you will see that there are young Caucasians waiting for the buses, walking to the subway, and this is not only on H Street but look at Pennsylvania Avenue, look at Rhode Island Avenue, look at Georgia Avenue, look at where you're going, and look at what's happening to the city.

We have to find ways in which to keep our city mixed. We need to find mechanisms that will help bring everything together. We also have a community development financial institution. I'm not sure how many of you are familiar with what that is. It's an offering by -- that was put out by the U.S. Treasury.

My organization, one of our arms, the H Street Finance Corporation, applied for it. We wanted to do an equity program, and the first time that we applied, the only time we applied, we were very fortunate to come through with a designation.

We are in the process now of raising funds for that because the next time we go back to Treasury, all the funds that we've raised, we can get a match from Treasury that then will come to the community, and it will come to the communities, the devastated communities, throughout the District of Columbia.

There are basically three or four products that we'd like to offer. Our micro-loan product, in which we have $2.5 million, we've put out 1.7 million in over a 140 deals throughout the area. We've lost about seven percent. Nationally, the loss is in excess of 15 percent.

We do believe that that's a good product. However, we know that there is more money that is needed. $35,000 does not go long. A shell on the H Street corridor sells for $200,000, anywhere between 140 and 200. On U Street, It goes even more. On Georgia Avenue, it's a little less, but think about what that means.

If you decide that you would like to go into business today, and I would recommend that you try and own your building, ownership of property breeds wealth. So, you would then try to purchase the building, then you have to look at the renovations. You have to renovate all the core factors. You have to put on a new roof. You've got to talk about heating and air conditioning systems, plumbing, minimally. Then that's not to talk about the walls and everything else, pointing of bricks, those kind of issues.

Easily you could talk about purchasing a shell at a $150,000 and putting $200,000 in it. You're just getting into business. How can you possibly afford to do all of this at the same time? You're looking at debt of $350,000, and you're just going into business. So, you don't even have an income coming in yet.

However, if there were products that were created that did have some type of patience in the way of equity, then that would make a difference. So, we're asking -- Number 1, I would ask that you think about how you can support organizations like mine that are trying to find ways to make alternative lending avenues available to small businesses.

Why is that important? The jobs that will be in this century, the ones that my teenage daughter will take on, will be probably about 35 percent of them running from home and home-based. We will not see more IBMs. We will see more home-based businesses that are selling their products to the IBMs of the world.

We will also see goods and services that are handled on corridors or commercial strips where people can walk to. We know that -- I don't know about you, but I live in the city, and when I drive my car, it takes me what would be on Sunday, it takes me 11 minutes to get from home to here, to my office on H Street, and I live in Ward 7. It takes me a good 30-35 minutes to come through the traffic just to get there.

So, subway transportation, bus transportation and walking is going to be important. That means that all of you, all of us, who have income levels that we like to say that help us to live, and everybody wants to live a good life, let's be real, we want to be able to go to a restaurant. We want to take our clothes to a good cleaners. We want to go to a grocery store. We want our children to be able to go to good schools. The whole neighborhood, rounding out this entire picture, is what's going to be important.

Someone has to own the businesses, someone has to buy the houses, and someone has to build the commercial entities as well as the homes and to renovate them. So, in all of these things, everything that we talk about when we talk about how we get equality, the equality is economic equality more so in this city today, in my opinion, than it is necessarily a color equality or a language barrier equality, because dollars speak no matter what.

So, if you are of any other nationality, if you are any other color than normal, if you have dollars, you can live, you can live where you want to live, you can buy what you want to buy.

However, if you don't have the economic ability to move forward, and there are no alternatives created for you outside the traditional system, it's very, very difficult.

I should end there, but I also want to address just a little bit about foreign-speaking persons who are looking for -- looking to come into lending -- the lending field and borrow dollars.

We have recognized and the SBA has also recognized that language is a barrier. However, it's even more of a barrier for many persons because they come from countries where there are no income tax systems, where the sign of wealth is with what you own, and they have paid cash for these items.

If they do borrow, these borrowings are done in their own communities, and they are done behind closed doors. So, it's not a national known thing. So, our first impediment when it comes to trying to lend to some of the -- to people who come in with language barriers is that, Number 1, they are accustomed to a different system. They don't have what we're looking for in the way of taxes or financial statements that would be there, and then we have the language issues that come as you're trying to help the deal work.

I've been looking for someone who speaks Korean for two years to work at what would be a very lucrative job, and we have yet to find this person, and we have advertised in all the Korean papers. So, it's very interesting that no one wants to take it on.

I have -- we have translated our material into Spanish, and we do a lot of work in sending out things into the Hispanic community. In my loan portfolio, I can say this, I have managed to make loans to one Hispanic and one Korean.

So, I would like to do more, and I thank you all for listening.

MR. KURZMAN: Well, thank you very much, Ms. Queen. Thank you to all of you for being so disciplined and eloquent in what you said and the assistance that you're all trying and your organizations are trying to bring to bear on what are clearly serious problems here.

I'd like to start off with a question, the same one we've been asking all the other panelists. We're an advisory committee to the U.S. Civil Rights Commission. If you had your druthers about what the U.S. Civil Rights Commission would say and do about this problem, what would be your top priority?

Do you want to start off in the order in which you spoke, please?

MR. ELLIOTT: Well, again I don't know where you draw the line between subprime and predatory, and that's a debate that's going to go on and on. As a bank, we're not in the subprime market with any of our products.

I've got to come back to this education and financial literacy and enforcement of the existing laws because a lot of this, not necessarily in the predatory but in the flipping that I referred to, there's actual fraud involved, forging of documents, etc., and I think the enforcement side, and I will say this, at the OCC, the Fed, the OTC, when they come in and do a fair lending examination, they're very thorough.

They are checking for rate differential between minorities and non-minorities. They are checking the percentage of loans to minorities, if there's any different underwriting standards that you're using for minorities compared to non-minorities.

So, there is regulation out there, but where you draw the line, I think the worst thing we can do is to prevent the legitimate subprime lenders from doing their job because that is a niche, and it is a very important niche that needs to be continued.

The predatory lenders, I have no use for personally, and the bank doesn't.

MR. KURZMAN: That's interesting. Everybody says that it's hard to define. We all seem to know it when we see it.

REV. ANTHONY: Like trying to define pornography, can't tell you what it is but I know it when I see it.

MR. KURZMAN: Ms. Brooks, what would be your highest priority?

MS. BROOKS: Well, I will jump on the educational bandwagon and say that even when you're dealing with elderly communities or different minority groups, there's a language barrier, whatnot. I believe that the grassroots education is going to be very important, and I know a number of different agencies do, you know, like the OTC does, large-scale education.

But we're dealing with a city that has communities, and every city has communities and neighborhoods. Neighborhoods already have a distrust of people in their neighborhoods, let's face it, have a distrust of the Federal Government. So, for example, a seminar I wanted to do on taxes because we do have a number of business owners who have not filed taxes.

So, I said who's the expert on taxes? The IRS. If the IRS is coming, no one's going to come. Okay. No one's going to attend because they're going to automatically think, wow, if I come in there and ask a question, they're going to turn around and come after me and audit me, and I don't want anything to do with it.

But there has to be another way to provide the education to the business owners and property owners and people who want to become either of those on what is in place, what the system is. A lot of this will help with maybe some of the predatory lending practices, people getting things in the mail offering credit cards, you know, consolidate your debt, and, you know, you sign the check and there you go. You've signed yourself into a loan against your home or something like that.

All of that can be reached with education. You let them know what is standard, what is not standard, what is fair in subprime lending, what is a predatory lending practice, what are the different practices of banks, and how they work, and at the grassroots level, I think you can address a lot of these concerns and make them available in different languages and different communities.

REV. ANTHONY: On that point, I made a note of it. I'm just wondering aloud why don't we require this in public schools? I mean, we say you can't graduate unless you studied history, why can't we say you can't graduate until you show us -- in other words, you get the plain impression -- and while we appreciate that there's a problem, we also appreciate that there are benefits to ignorance, and the better the ignorant, the better the benefit as relates to those who are in the money.

I can see requiring this as a matter of course for graduation from public schools. We complain that people don't know how to manage money, the banking system. One way to fix it is to say you can't graduate until you do.

MR. SKINNER: Just for the Commission's information, interestingly, the D.C. Office of Banking and Financial Institutions, who were here earlier, they are embarking on an experiment to do financial literacy in schools, in which they have prepared some of the financial institutions of which the Metro Washington Bankers Group are part to go in and adopt neighborhood schools, and, you know, ignorance, we had presumed that it should be a slam-dunk because just as you're finding out here, there's a need.

Well, they found out that they could not get it passed the curriculum specialists, that it had to be blessed, that then they had to go to the Careers Workforce, and something that we had hoped to be able to do in short, a real quick time frame in which the banks, quite frankly, though people don't like to believe it, have been stopped dead in their tracks at this point in time.

We seem to be getting a little movement, and in a few weeks, we might be able to do one or two of the modules, and they have somehow decided, I guess, that they're blessed, but it just shows you that even when the financial institutions try to be proactive, it's not easy.

MR. KURZMAN: Shall we go through each one and then come back?

MR. BARNES: I'd like to echo the compliance recommendation of Metro Bankers, and, secondly, I'd like to see something comparable to hone the data captured for commercial lending activities as well, because I think that you'll find that the same kind of barriers that we discussed universally exist for -- and there's a subtle racial and class element to the knock-out factors that I've been seeing because Washington is a majority minority community, particularly with the growth of the Latino community, that I think that that needs to be examined because, you know, the bankers say that we're in the prime lending business, you know.

They've been talking about prime rates, and for our best customers. Well, you know, 95 percent of our customers are subprime candidates, and there's a thing called the "new markets initiative" that was passed last year by the Clinton Administration which gives banks all of the leverage that they need to literally create another underwriting criteria flexibility to do those second looks.

Most banks are not proactive to take advantage of it. So, even though there's federal legislation on the books, and it's clearly funded and supported by SBA and all their educational outreach programs, banks are still taking the traditional approach that we're prime lenders, and that's -- all businesses are in tough markets.

So, I -- you know, compliance has to be the key. They have to be incentivized, not punitively, but maybe that's where the education aspect of it comes in, the kind of programs that Ernest is talking about, with bankers groups and SBA.

MR. KURZMAN: That's a very interesting suggestion. Mr. Albert?

MR. ALBERT: Yeah. Which was mentioned. In our community, you're talking about high maintenance, just labor-intensive hand-holding, and I can't even tell you how much labor-intensive it is. More time than most people are even able to give. You literally have someone in the office 12 hours and still get to Page 2.

So, I mean, it's very labor-intensive. So, what's the answer? I'd like to see maybe more community -- more marketing programs by the banks and the traditional sectors with community-based organizations, whether it be in the form of seminars, but not in the form of you put on a seminar, and we hope to be there, but put some money into it for promotion, for marketing, take the time, you know, to go out to do it.

In our community, it's a lot of one-on-one. I'm talking about going from door to door, getting people to attend. You know that. It's constant, constant, and it's -- you know, it's not the typical, where you put up an ad, put up a flyer, we'll see you, we'll see 30 people. It's not going to happen.

So, I mean, I would like to see more of that simply because the numbers, and the numbers are going to continue to be there, and we need to be ready for those numbers.

From our end, the Latino end, the Hispanic end, in our own community, we need to be much more active, much more proactive, with the English language. We need to be more proactive in understanding the legal procedures, legislation, and so forth.

So, that's from our angle. In our own community, we need to be more proactive with our own community, which sometimes I feel that, you know, we need to wake up as well from that end, but it's got to come together from both sides.

MR. KURZMAN: Thank you. Ms. Queen?

MS. QUEEN: I'm torn between two. My real thought, though, is that education combined with the access to alternative capital will bring an economic turnaround all the way around, and an idea that you made was to implement -- Reverend Anthony, through your youth groups at church, if you will -- with my church, if you'll start the educational process about economics through there, and there are all types of faith-based organizations, that is one of the best things that you will find.

When you introduce a young person, we -- I don't know about you, but I grew up where there was banking in the schools, and we had our little passbook, and we went, and we made our little deposits every week, you brought your nickel or dime or whatever, and you made your deposit. That's how you learned about savings and interest and things of that nature, and later, you went on to checkbooks.

Those things in every women's seminar, in every convention that is held within your church organizations, you should try to introduce the financial world and ask someone from some representative. They will do it for no charge. They will gladly come out and work with you to put together -- to do a panel or a one-on-one introduction.

MR. KURZMAN: John, you had a question?

MR. TOPPING: I had a question and a comment. First, I want to thank all of the members of the panel. This was remarkably educational, for your presentations and also for the two preceding panels. I think it's been a very informative session. Marc is going to do the job of wrapping this together in a way, but I hope we might even be able to get it out on the web site in some manner in the future.

But I really essentially personally have two feelings, based on the recommendations you and some of the predecessors have had. We're dealing with a need for education, both to get people into the prime or at least the better of the subprime markets or, in some cases, the small businesses into the market at all.

That's necessary, and it involves the financial institutions really working in partnership there, and I think you've given us some remarkable constructive recommendations.

But I think when we start dealing with the predatory lending problem, I pick up a lot of the comments that Mr. Robertson, I think, and some of the others made, that it's sort of a whole different situation, and I could even go to my own, you know, circumstances, and I supposedly should be a sophisticated kind of, you know, law degree and all that, record, but, you know, just in going and negotiating, for example, a car deal, and having negotiated a good price in the last 15 or 20 minutes, perhaps suddenly the -- you know, there's an add-on for certain kinds of service contracts, etc.

Probably a lot of us have been through something of that sort, and I can -- and occasionally in other lending situations, you know, tag-on fees that are probably three times the actual market rate, if you were to go out, insurance and so forth, and when you start thinking of the 65-year old person, perhaps with a high school degree or not that, dealing in this situation where you've got a very charming person coming in, you've got telemarketing or, you know, beforehand that opens the door, that, you know, there's a real problem.

It may be that, you know, the only way, you know, you deal with that is through prescribing certain kinds of practices, recognizing, of course, that things can shift around and so forth, and I hope that, you know, this, you know, legislation that may soon take effect in D.C., you know, will help to address that problem.

It strikes me that's a whole different thing because, you know, the theory is you're dealing with informed consumers and so forth, but I think as we well know, there's an awful lot that's sort of in there in the fine print, and there are very, very few people in that kind of a personal transaction who really at all are going to have that much of an understanding of it.

So, I mean, I haven't had a chance to really get too much into what's been presented in the session. I hope that's going to help address that other problem, and part of the other is that you all will sort of succeed in opening up the vistas to people, so that to the extent that they may be able to get into the more attractive, you know, financing, you know, realm, that

that's also there.

But, I mean, I think it's really, really very much, you know, two different attacks that have to go on there. I don't know. Does this seem to make any sense or --

MS. BROOKS: I think that's true. I think that at the baseline, getting people into the market and getting them into the prime lending and the knowledge of the prime lending is an educational issue.

I think also, though, that education -- once they understand that system, getting them to understand subprime and predatory subprime lending will be much easier. Right now, they don't understand prime lending.

So, getting them to understand subprime and then predatory lending is just way beyond what you're going to get. So, I think that the education is the base for both of those, but, yes, they are two very different issues, but that a lot of -- there's going to be a lot of crossover there.

Once you get them to even approach the concepts of financing and what different financing opportunities are and what different terms mean and how to do it, then I think you can get into the enforcement because then they'll understand it.

Right now, you have, you know, random credit companies calling people and sending things in the mail and preying on older populations and populations speaking English as a second language and minorities, and because they don't understand the baseline of what's going on, they think, oh, this seems like a great deal. Hey, I can consolidate all my loans. This is wonderful. This is exactly what I need. You can put these on there, and they buy into it without even realizing that it's predatory.

REV. ANTHONY: Mr. Albert, I'm just curious. Has it been your experience, and these are my characterizations, that many in your community suffer a double rip-off because of the language barrier?

In other words, what is generally predatory and onerous for some, somehow becomes more predatory and more onerous because of language problems?

MR. ALBERT: I guess so. I never looked at it as a double rip-off. But, you know, I tell people, you know, the Chinese or Mandarins, what would it feel like if you landed in Peking, and you had to go find a house, you have -- you're starting a business, you had to go to the passport office, you don't speak the language, well, how would you feel?

I mean, that's -- and that's what a lot of the immigrants -- that's what you face, and this area is interesting. I -- before this, I was with the National Chamber, and I had an opportunity to really observe Hispanic areas throughout the area, and this is a young group. You're talking about a big problem which is language.

I mean, there's absolutely -- for many, I've never been in an area where I hear such -- I've met so many Hispanics who speak no English at all, no English at all, and that is a barrier. So, what was the word you said? Double rip-off?

REV. ANTHONY: Double rip-off, yes.

MR. ALBERT: I guess it could be a double rip-off.

REV. ANTHONY: In other words, I know that you don't speak the language, and, so, what's onerous for somebody who does speak the language is going to be doubly onerous for you.

MR. ALBERT: But the issue faced, though, is mostly the fact that -- it goes back to the question of education. We're not even applying for loans because we don't understand the process. We're not even getting to the table yet. So, you know, it's hard to be ripped off and not even go to the table yet. So, they haven't gotten ripped off yet.

MR. BARNES: There's a flip side to that story, though. In the District of Columbia, 65 percent of the commercial retail outlets are owned and operated by Korean Americans, and Ms. Queen indicated that -- how difficult it is to attract a Korean staff member for a loan officer.

Mr. Yim of the Korean American Grocers Association sits on my advisory board, and he echoed the same complaint, that most of his members who have viable businesses don't go to traditional markets because they have an informal venture capital pool in their community that they utilize first. They extend each other lines of credit. They are wholesalers supplying retailers. They have this form of "kiya", where they pool capital and lend to each other at literally zero rates.

So, why go to a bank? I mean, Mr. Yim says what's your rate, and I tell him, well, most banks, their prime is, you know, seven and a half, but you'll probably get money for, you know, 10 percent, and he frowns and says, forget that, you know. I'd rather borrow from my cousin at nothing or five percent than go to the commercial.

So, you know, some immigrant communities have actually adapted and rather than predatory, they've actually gotten more favorable rates from informal sources of equity capital and venture capital within their own communities. I've seen that in West African communities, and I've seen it in the Korean American communities and others.

So, there's the flip side to that as well that has positive aspects.

REV. ANTHONY: And yet, in the face of African Americans that probably generate in excess of $500 billion a year, --

MR. BARNES: We're the type of consumers, but we're the worst savers on the face of the earth. So, if we could just -- Asian Americans are famous for the amount of percentage of income that they save. If we could save half of that, we'd be, you know, -- we could have all the CBFIs and alternative lending organizations and church-based and lending organizations.

I was telling somebody about the -- 100 years ago, when the Mutual Aid Societies, you know, were in place after the Civil War, where there were no financial -- there was no -- zero financial access for the black community, churches, informal organizations. We've lost that ability to finance and utilize our own wealth to gain property, to marry ourselves, to buy houses.

MR. SKINNER: If I may ask a question of Malcolm. In your presentation, you raised the specter of establishing a subprime market for commercial. You said that that was what was needed. Yet having heard Jim Carr's full presentation, most people did not get the opportunity, and it's really a loss to everybody here, but you were able to get all of Jim's presentation.

Jim makes a high parallel between the presence of subprime lenders and predatory lenders, that when you can do almost an overlay when it comes to the way these fringe institutions serve or go into a service to low, moderate and minority communities, yet you operate in mainly minority community corridors, dealing mainly with minority entrepreneurs, and yet you are thinking that establishing a subprime market for commercial loans might be an answer.

Don't you have any reservations about that?

MR. BARNES: It exists. CBFI, in effect, is a subprime lender. A community development corporation with a micro-lending program in effect is a subprime lender. They get their money from the Small Business Administration.

My experience is that the borrower's less concerned about the annual percentage rate as they are to access the capital. Access to capital is everything for a small business owner. They can't finance those contracts if they can't get the capital to build and grow their business. The costs of that capital is immaterial.

So, it really -- and again, I struggle, because I've yet to hear an adequate definition of predatory lenders. What does that actually constitute on an objective level in terms of the practices of the APR, of the financing fees?

But right now, the banks, I'd love to see them participate in these so-called "new markets". In effect, that's a subprime lending program.

MS. QUEEN: Subprime does not mean that it's going to be an interest rate that's going to be unbearable. I lend money out cheaper than any bank in the city. I lend money at five percent, and I lend money at eight percent.

So, -- and that's been over a number of years. When you go below prime, then you're giving a bigger break to your clients, but I think, also, what we have to recognize is, I think the word -- a better word is actually alternative lenders.

Alternative lenders are like the banking institutions, just as we are. We pay our license fees annually, so that we can be lenders. There are some subprime lenders to me are much more underground. I don't know about you, but I still hear about people talking about how they can get some money off the street. They can go to the street and get money. That means they're going to pay 25 percent -- 25 cents out of every dollars is what it's costing -- is what street dollars are costing at this point, if not 30 cents.

This has been around for, you know, as long as I've ever known, and it depends upon who has the dollars to ply. So, there -- while new markets are there, and new markets are going to be a very interesting thing to watch, I think the one that's offered by the Treasury Department is going to be much more significant than the new markets venture that's offered by the SBA.

There will be an RFA coming out from Treasury, probably in April, that will have some significant dollars. If we can get some for the District of Columbia. The one from the SBA is on board, and it will be out soon as an RFA, but applicants to obtain -- for applicants, such as CDCs or some of the for-profit entities, do get pools of dollars that they can then put into the community.

They are also very expensive because every time institutes like mine go to one of the offerings, there's a requirement to set up loan loss reserves, to set up matching dollars, and, quite frankly, everyone that works with me likes to have a paycheck.

REV. ANTHONY: We're now five minutes past our adjourning time. Does Member Britt have a question?

MS. BRITT: I wanted to make a comment, first of all. I have a question for you. But I was engaged in a conversation a few days ago, and I was told actually that the largest minority in the United States was actually people with disabilities, and that the Washington Post was actually not correct, and we cut across all racial groups, ethnicity and age, gender.

But I wanted to ask you how available are micro-loans or others for people with disabilities who want to purchase buildings or vacancies?

MS. QUEEN: A micro-loan is available to anyone who can pass the test and able to repay. Okay. We do not discriminate upon what color, age, disability or anything that you have. Believe me. Every lender -- I think it's very important to say this. Whether it's a bank lender, whether it's an alternative lender, lenders want to make loans. That's the only way that they're going to stay in business.

If you can't make a loan, you will not be in business, and if you are a lender, whether you're a commercial lender for a bank, whether you work for some place like Household Finance, whether you work for micro-lending, whether you work underground, you must make loans in order to stay employed.

MR. BARNES: And the Small Business Administration signed and has emphasized assistance to disabled American veterans. They signed a memorandum of understanding with the Veterans' Administration at SBA last year, and they're actively pursuing avenues to assist particularly disabled American vets.

REV. ANTHONY: I surely want to thank you all for coming, and as we conclude, we want to thank again Ernest Skinner and his subcommittee for amassing these useful presentations, and we go with our friend, Mark Pentino, to make sure we can help him in all the duties.

C.J. Walker some years back made the observation that the only thing America really seems to understand is money, that what African Americans needed was probably a few more millionaires. Somehow this process might help, to get a few more millionaires, not just of our ethnicity but of all ethnicities.

America's understanding is only helped by a coin, and
we hope they will rise to other dignities as well.

Thank you so much for your coming. Thank you
for the substance of your presentations.

(Applause)

(Whereupon, at 1:07 p.m., the meeting was
adjourned.)

REPORTER'S CERTIFICATE

This is to certify that the attached proceedings before: CIVIL RIGHTS COMMISSION

In the Matter of:

EQUAL ACCESS TO FINANCIAL OPPORTUNITIES FORUM

were held as herein appears and that this is the original transcript thereof for the file of the Department, Commission, Administrative Law Judge or the Agency.

EXECUTIVE COURT REPORTERS, INC.
1320 Fenwick Lane, Suite 702
Silver Spring, MD 20910
(301) 565-0064

Official Reporter

Dated: MARCH 15, 2001