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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

NATIONAL COMMUNITY REINVESTMENT  
COALITION; CALIFORNIA  
REINVESTMENT COALITION,

Plaintiffs,

vs.

BRIAN P. BROOKS, Acting Director, Office of  
the Comptroller of the Currency, in his official  
capacity; OFFICE OF THE COMPTROLLER  
OF THE CURRENCY

Defendants.

Case No. 20-cv-04186-KAW

**DECLARATION OF WILLIAM J.  
BYNUM**

**DECLARATION OF WILLIAM J. BYNUM**

I, William J. Bynum, declare as follows:

1. The facts in this declaration are based on my personal knowledge.
2. I am the Chief Executive Officer of Hope Enterprise Corporation and Hope Credit Union (“HOPE”).
3. HOPE is a certified Community Development Financial Institution and designated Minority Depository Institution by the National Credit Union Administration.
4. HOPE is a member of the National Community Reinvestment Coalition.
5. I established HOPE more than 25 years ago to provide financial services to people in economically distressed parts of the Deep South, starting first in Mississippi and then expanding to Alabama, Arkansas, Louisiana, and Tennessee. Our mission is to strengthen communities, build assets and improve lives in economically distressed areas of the Deep South by providing access to high quality financial products and related services. Through the provision of financial services, the aggregation of resources, and engagement in advocacy, HOPE mitigates the extent to which factors such as race, gender, birthplace and wealth limit one’s ability to prosper.
6. Our communities include many of the most impoverished regions in the United States. Nearly one-third of the United States’ persistent poverty counties, where the poverty rate

1 has eclipsed 20% for three decades in a row, are in the states we serve. Alabama, Louisiana, and  
2 Mississippi all rank in the bottom five states in terms of the proportion of unbanked and  
3 underbanked households and consumers without prime credit; indeed, Louisiana and Mississippi  
4 have the highest rates in the entire nation. These disadvantages are disproportionately felt by  
5 communities of color.

6 7. Since 1994, HOPE has generated over \$2.5 billion in financing that has benefitted  
7 more than 1.5 million people in some of the nation's most impoverished regions.

8 8. Our credit union operates in areas that often have no other access to financial  
9 services. One-third of our branches are located in counties that have been in deep poverty for more  
10 than three decades, and three branches are in small towns in the Mississippi Delta with no other  
11 depository institutions. Over 1/3 of our members were unbanked before they joined our credit  
12 union, and 69% of our members have household incomes below \$45,000. Four out of five  
13 branches are in counties where the majority of residents are Black, and 80% of our members are  
14 people of color.

15 9. HOPE provides a number of community development services. HOPE's  
16 community development activities provide financing to public entities or nonprofit organizations  
17 underserved areas such as rural communities, communities of color, and others experiencing  
18 persistently high-poverty so that they can acquire, build, or renovate essential facilities for their  
19 communities. We have supported 50 community developments with more than \$52 million in  
20 financing, including community health centers, clinics, rural hospitals, schools, and other critical  
21 community facilities.

22 10. We similarly finance private businesses that support economic development, job  
23 creation, and the expansion of essential community services in underserved communities. Our  
24 New Markets Tax Credit Program has invested or leveraged \$398 million in more than 100  
25 businesses, community facilities, and nonprofit organizations, many of which would have  
26 otherwise have not had access to this type of necessary financing. Of HOPE's 17 New Markets  
27 Tax Credit investments over the past 10 years, 15 (or 88%) have included equity investments by a  
28 bank regulated by the Office of the Comptroller of the Currency (OCC).

1           11.     Our HOPE Community Partnership program provides strategic community and  
2 economic development training and technical assistance for communities that lack community and  
3 economic development staff. This allows small, rural, and impoverished municipalities and  
4 community residents to identify and pursue economic development projects, attract private and  
5 public resources, expand economic opportunity, and build the financial capacity of the  
6 communities and their residents.

7           12.     We have also financed the development of 54 affordable housing developments  
8 offering 2,350 affordable rental units, with a particular expertise in providing financing for smaller  
9 Low Income Housing Tax Credit developments. Through our Affordable Housing Program, we  
10 have provided more than \$42 million in permanent financing and leveraged more than \$200  
11 million in investment.

12           13.     All of these operations and more depend critically on CRA-eligible investments  
13 from OCC-regulated banks.

14           14.     For example, regulations allow for low income-designated credit unions to  
15 maintain long-term debt known as secondary capital. Secondary capital provides our equity,  
16 secures our deposits, and allows us to grow and serve our community. Raising this capital is a  
17 major component of our ongoing strategy to fund lending to our members, with several staff  
18 members and members of our leadership team involved in prospecting, negotiating, packaging,  
19 and closing these deals. Our secondary capital includes several million dollars from OCC-  
20 regulated banks, without which Hope Credit Union would be unable to maintain its current level  
21 of lending.

22           15.     Similarly, one quarter of Hope Credit Union's retail branches were CRA-motivated  
23 donations from large regional banks. But for the CRA, the banks would have simply shuttered  
24 those branches. Instead, thanks to the incentives the CRA creates for banks to work with HOPE,  
25 quality financial services continue to operate in areas where the median poverty rate is 33%.

26           16.     Our various community development activities also rely on loan and investments  
27 from numerous banks, many of which are regulated by OCC. All of the programs identified above  
28 rely on support from banks that receive CRA credit for their participation.

1           17.     Banks generally view lending and investing in larger, more financially  
2 sophisticated areas as simpler and less risky than lending and investing in our distressed  
3 communities. Because there are fewer funding streams available in our communities, projects have  
4 a tighter margin for success. Deals with members of our community are more likely to involve  
5 nonprofit organizations or entrepreneurs with less experience, which may require more hands-on  
6 involvement than a deal with a large, well-known entity.

7           18.     As we explained in our comment letters on OCC’s ANPR and NPRM,<sup>1</sup> the Final  
8 Rule threatens our ability to meet the credit and depositary needs of our communities. The Final  
9 Rule will deprioritize meaningful CRA activities in the distressed communities we serve and  
10 encourage larger, easier activities. This will further inhibit economic opportunity and the barriers  
11 to financial services throughout our communities.

12           19.     The shift to a metric-based general performance standard motivates banks to meet  
13 their CRA obligations with a few large investments, rather than with small, relatively difficult  
14 transactions in distressed areas. This is compounded by the expansion of the type of activities that  
15 receive CRA credit, the ability to claim credit for years-old investments that remain on banks’  
16 balance sheets, and the allowance of failure in a significant proportion of banks’ assessment areas.  
17 All of these changes contribute to the same troubling result: the investments that are the lifeblood  
18 of the services provided by HOPE and other community development financial institutions will be  
19 disadvantaged in a competition against large projects in less distressed areas that are more  
20 lucrative for banks and easier to work in.

21           20.     Our communities, and HOPE’s operations in them, will particularly be hurt by  
22 OCC’s decision to allow banks not to designate assessment areas where they obtain less than five  
23 percent of their total deposits. Our communities have little money and will never amount to five  
24 percent of the deposits of any bank large enough to be regulated by OCC. For example, in the  
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26 <sup>1</sup> Hope Enterprise Corporation, Hope Credit Union, & Hope Policy Institute, Comment on Notice  
27 of Proposed Rulemaking (Apr. 10, 2020), <https://beta.regulations.gov/comment/OCC-2018-0008-2816>; Hope Enterprise Corporation / Hope Credit Union, Comment on Advance Notice of  
28 Proposed Rulemaking (Nov. 19, 2018), <https://beta.regulations.gov/comment/OCC-2018-0008-1308>.

1 small Delta town of Itta Bena, Mississippi, the total deposit potential is approximately \$1.1  
2 million. In areas like this, even small OCC-regulated banks could extract a huge proportion of the  
3 community’s deposits without clearing the threshold to designate a deposit-based assessment area,  
4 and thus would have no CRA obligations whatsoever to the community. This will materially harm  
5 our ability to obtain CRA-qualifying funding to provide investments and services in those  
6 communities.

7         21.         Similarly, the Final Rule decimates the retail services test, reducing it from 25% of  
8 CRA evaluations to about 1% for branches and nominal credit for community development  
9 services. This will all but destroy banks’ incentives to go through the complicated process of  
10 donating branches in LMI areas, and substantially reduce the provision of credit and deposit  
11 services in our communities. Hope Credit Union will likely be unable to maintain the same level  
12 of services, as the lack of investment and the additional effort we will need to deploy to obtain  
13 investment will drain the resources we use to offer our credit and deposit services.

14         22.         Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the  
15 laws of the United States that the foregoing declaration is true and correct to the best of my  
16 knowledge, information, and belief.

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18         Dated: September 25, 2020



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William J. Bynum  
Chief Executive Officer  
Hope Credit Union / Hope Enterprise Corporation