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

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

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

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

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

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

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

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

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

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

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

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

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

18. As we explained in our comment letters on OCC's ANPR and NPRM,[1] the Final Rule threatens our ability to meet the credit and depositary needs of our communities. The Final Rule will deprioritize meaningful CRA activities in the distressed communities we serve and encourage larger, easier activities. This will further inhibit economic opportunity and the barriers to financial services throughout our communities.

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

20. Our communities, and HOPE's operations in them, will particularly be hurt by OCC's decision to allow banks not to designate assessment areas where they obtain less than five percent of their total deposits. Our communities have little money and will never amount to five percent of the deposits of any bank large enough to be regulated by OCC. For example, in the

[1] Hope Enterprise Corporation, Hope Credit Union, & Hope Policy Institute, Comment on Notice 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 Proposed Rulemaking (Nov. 19, 2018), https://beta.regulations.gov/comment/OCC-2018-0008-1308.

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

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

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

Dated: September 25, 2020

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

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 MARIE MORSE**

DECLARATION OF MARIE MORSE

I, Marie Morse, declare as follows:

1. The facts in this declaration are based on my personal knowledge.

2. I am the Executive Director of Lafayette Neighborhood Housing Services, Inc. d/b/a HomesteadCS. I have been in this position since 2007, and served in various positions at HomesteadCS for 22 years before that.

3. HomesteadCS is a non-profit housing counseling agency based in Lafayette, Indiana. Our mission is to provide education and resources to increase affordable, sustainable housing opportunities and financial stability in the communities we serve and to be a catalyst for the development and revitalization of our neighborhoods.

4. HomesteadCS is a member of National Community Reinvestment Coalition.

5. HomesteadCS works in ten counties in Indiana. The largest of our counties is Tippecanoe County, which has a population of under 200,000. Much of the area we serve consists of rural communities and unincorporated towns.

6. We offer education and consulting assistance to all homeowners and potential homeowners, with a focus on clients with low and moderate incomes. Our services include housing and financial education, foreclosure prevention counseling, and reverse mortgage

counseling. HomesteadCS is certified by the State of Indiana and the U.S. Department of Housing and Urban Development to provide these services. We have provided counseling to approximately 5,000 families and saved over $130 million dollars' worth of homes from foreclosure.

7. In addition to our education and counseling, we serve as a Community Development Financial Institution (CDFI) that provides families in our communities with access to affordable small dollar lending. We offer individual loans of up to $1000 at an 18% interest rate with an APR of 24%, helping families pay their bills, avoid predatory loans with rates up to 391% APR, and begin to rebuild their credit after the devastation wrought by the recent economic crises.

8. We have also developed multiple affordable housing units under the federal Section 42 tax credit program and/or the federal HOME program, the most recent being the conversion of a former high school into 74 units of housing for senior citizens with non-profit commercial space.

9. Our operations depend greatly on funding from banks regulated under the Community Reinvestment Act. The vast majority of that funding comes in the form of small grants or loans (in the range of $2,500 to $25,000) from banks that obtain CRA credit for partnering with us. Our development and lending programs also rely greatly on below market rate loans and grants from these same banks which again help them obtain CRA credits.

10. These CRA-qualifying investments are crucial to our operations. Without such support from CRA-regulated banks, we would not be able to offer our lending program, develop affordable housing units, or provide our education and counseling services. As an example, we recently began to offer rental assistance under the CARES Act in response to the COVID-19 pandemic and the accompanying economic crisis. By contract with the State, the Act reimburses us for up to $100,000 of rental assistance, but we must provide the funds for the assistance upfront and then wait for reimbursement. Without CRA-qualifying loans and grants from banks, we would not have been able to provide this rental assistance.

11. The deals we make with banks are small, but still require a substantial amount of time and resources on both our part and banks' part to arrange. For instance, we work with clients to obtain checking accounts through our Bank On program. We offer the education and our CRA partner banks offer the checking accounts. Our CRA banks have offered below-market lines of

credit to help us fund our small dollar lending program and worked with us to obtain under $50,000 from the Payroll Protection Program. Our affordable housing units, of which we are in the beginnings of a new senior housing project, require a multitude of funding levels and need below-market interest rates to keep our units affordable. These projects also need the expertise of our CRA lenders to help us through the process. This can take months of work for us and the lender to get to the point that they may only have less than half a million in a permanent loan to the project that took a year to develop.

12. As we explained in our comment on the OCC's proposed rule,[1] a number of the changes that OCC has made threaten our ability to get the funding that we need to provide our services to the low- and moderate-income members of our community.

13. For example, OCC's new rule allows banks to obtain a CRA rating of "Outstanding" even if they fail to undertake any CRA activity in up to 20% of their assessment areas (or 50%, for banks with five or fewer assessment areas). The counties that we serve are small, largely rural areas that simply cannot compete with the kind of large deals that banks can find in nearby cities like Indianapolis, Fort Wayne, and Chicago. Banks can obtain more CRA credit for less effort in those areas. The fact that banks can now ignore our areas altogether without precluding themselves from obtaining an Outstanding rating puts us at a substantial risk of losing future funding opportunities, and forces us to find ways to compete with opportunities that communities like ours simply cannot offer.

14. Many other changes in the new rule pose a similar threat to our existence and the support that our communities need. The ability to obtain funding for large infrastructure projects that only partially serve low- and moderate-income communities will give banks the ability to satisfy their CRA obligations through massive infrastructure projects that currently can't compete for CRA-qualifying funding. The ability to get credit for financial education to upper-income individuals will allow banks to get CRA credit from serving their most lucrative customers, rather

[1] *See* Lafayette Neighborhood Housing Services, Inc. dba HomesteadCS, Comment on Notice of Proposed Rulemaking (Jan. 27, 2020), https://beta.regulations.gov/comment/OCC-2018-0008-1617.

than supporting our efforts to provide those services to low- and moderate-income individuals in whom banks would otherwise have little interest. And the ability to get CRA credit for financing affordable housing that is occupied by upper-income individuals will allow banks to focus on housing for university students who reside in the counties HomesteadCS serves, often seen as more reliable sources of income, rather than the low- and moderate-income families that need affordable housing the most.

15. All of these problems are compounded by the new evaluation measure that makes the total dollar amount of qualifying activities the most important factor in a bank's CRA evaluation. This single ratio–dominated approach will let banks rely primarily on big deals in larger cities for their CRA credits. Based on my experience working with banks and their CRA officers for the past 35 years, and the knowledge of the bankers on HomesteadCS's board, I know that the credit banks can obtain from our small-dollar deals will often appear not worth the time it takes to put them together, compared to these large opportunities.

16. The final rule made additional changes that make the situation even worse than it seemed when we submitted our comment on the proposed rule. For example, the final rule freed banks from the need to establish assessment areas in communities where they only have ATMs. One of the OCC-regulated banks in our area is only present through ATMs, while another has branches in some counties but only ATMs in Tippecanoe County. This change, which we never had the opportunity to comment on, will mean that these banks will largely be able to ignore our communities without consequence, even though they take deposits from our residents.

17. HomesteadCS is a small organization, with just four full-time staff. We simply do not have the resources to substantially expand the effort we put into obtaining investments without cutting deeply into our ability to provide services to member of our community. OCC's changes will force us to compete with large-dollar deals in bigger cities and take away banks' obligation to provide services in our communities to ensure their CRA rating. This will force us to spend more of our time seeking funding, which will directly take away from the time and resources we can devote to serving the members of our community. As the impact accumulates over the coming years, the sustainability of our programs, and possible even HomesteadCS as a whole, will be

increasingly threatened.

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

Dated: September 28, 2020

MARIE MORSE
Executive Director
HomesteadCS

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 JIM DICKERSON**

DECLARATION OF JIM DICKERSON

I, Jim Dickerson, declare as follows:

1. The facts in this declaration are based on my personal knowledge.

2. I am the Founder and Chief Executive officer of MANNA, a non-profit community development organization in Washington, D.C.

3. MANNA is a member of the National Community Reinvestment Coalition.

4. I founded MANNA in 1982 to renovate and sell homes to formerly homeless families graduating from transitional housing, as well to serve low- to moderate-income ("LMI") households searching for affordable homes. MANNA provides a wide variety of housing-related services in LMI communities and to LMI families, including developing and constructing properties for sale or rent as affordable housing, counseling buyers and residents to prepare them to become homeowners, and managing condominium associations.

5. Since 1982, MANNA has completed nearly 2,000 units of affordable housing and helped our buyers collectively accumulate over $200 million in home equity. We have developed and own/manage approximately 1,000 affordable rental homes. Our work has played a key role in preserving affordable housing throughout Washington, restoring and improving underserved communities, and assisting LMI families to stay in their homes, build equity for the first time, and

improve their financial situations. This includes the poorest neighborhoods in Washington, which have high percentages of African Americans and have historically been victimized by redlining and other forms of financial discrimination. Without strong CRA policies and commitment, we would not have been able to develop many of these affordable housing units for lower income residents and communities.

6. Our operations would be impossible without the Community Reinvestment Act and the incentives it creates for banks to work with us to support our communities. Most of our operations are funded through small grants and loans from banks in the range of $2,000 to $100,000. Despite our long history as one of the oldest housing counseling programs in the nation and our track record of paying back all our loans with interest, this funding takes a considerable amount of effort on our part and the banks' part to arrange.

7. As we explained in our comment on the OCC's proposed rule,[1] there is a substantial risk that the OCC's changes will reduce our funding and harm our operations, resulting in significantly fewer loans, investments, and services for LMI communities.

8. The changes in the OCC's Final Rule would possibly allow banks to receive CRA credit for large infrastructure projects such as the expected relocation of the stadium where Washington's for-profit professional football team plays or the impending rehabilitation of the American Legion Bridge, which connects affluent areas of Maryland and Virginia. These projects, which banks would likely be willing to finance whether or not they could obtain CRA credit, provide questionable benefit to LMI communities—particularly in comparison to the affordable housing that MANNA produces. But given their excessively expensive overall costs, if banks could get CRA credit for even a fraction of their investment in such projects, it would dwarf the CRA credit that they would get from our projects and significantly diminish CRA funds which are sorely needed for lower-income people and communities.

9. Similarly, the new definition of affordable housing, which allows banks to obtain credit for housing that is affordable even if it is occupied by upper-income individuals, will put

[1] MANNA, Comment on Notice of Proposed Rulemaking (Mar. 26, 2020), https://beta.regulations.gov/comment/OCC-2018-0008-2898.

MANNA's projects and clients in competition and at a disadvantage with housing for high-income college students, young professionals, and similar individuals. This will make it significantly harder to create homeownership/rental opportunities for LMI individuals and families and to combat the growing gap between rich and poor people and racial inequities in LMI communities.

10. If, as we expect, the Final Rule results in less funding as banks migrate to new opportunities to obtain CRA credit through investments that are more lucrative and provide a larger amount of CRA credit in one deal, our ability to offer our services will be severely impacted. Losing any of our funding streams would threaten the viability of our affordable rental and homeownership programs and may very well lead to cutbacks in a program that provides hundreds of LMI individuals and people of color with opportunities to buy homes for the first time. We are already struggling to help lower-income folks with housing and opportunities to better their lives without the challenges this change could create. CRA has made an incredible difference for good. We urge careful review of the negative impacts this new CRA ruling may have on disadvantaged people and communities.

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

Dated: September 28, 2020

Jim Dickerson
Chief Executive Officer
MANNA

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 TATE HILL

DECLARATION OF TATE HILL

I, Tate Hill, declare as follows:

1. The facts in this declaration are based on my personal knowledge.

2. I am the Executive Director of Fresno CDFI d/b/a Access Plus Capital, a non-profit community development financial institution ("CDFI") based in Fresno, California.

3. Access Plus Capital is a non-profit subsidiary of Fresno Economic Opportunities Commission ("Fresno EOC"), which began providing micro-loans to refugees in Fresno County in 1993. In 2008, Fresno EOC created Access Plus Capital (then just called Fresno CDFI) to provide lending services to low- and moderate-income communities in Central California.

4. Access Plus Capital and Fresno EOC are members of the California Reinvestment Coalition.

5. In the past 12 years, Access Plus Capital has provided more than $35 million in loans to businesses in the Central Valley, covering 14 counties that stretch from Kern and Inyo County to San Joaquin County. The areas we serve are largely rural and highly underserved, and have high proportions of people of color.

6. In 2019, for example, we provided nearly $6.7 million in loans to 44 businesses,

from print shops and home design stores to janitorial companies and daycare centers. 67% of that funding went to entrepreneurs of color and 58% to women-owned businesses.

7. We offer loans that meet a wide variety of needs, from micro-loans as small as $5,000 to enterprise loans of up to $1,000,000. We are also one of the few CDFIs that provide loans to startups.

8. Many of our customers have previously tried and failed to get loans from traditional banks, or didn't have a banking relationship at all before working with us. Because of the high poverty and lack of economic opportunity in our region, many entrepreneurs don't have the credit profile that banks look for. As a result, many of our customers must turn to online lenders, who often have rates above 30% or other onerous features such as daily draws. Many of our customers come to us to refinance predatory products like that, or even investment notes from lenders that aren't registered financial institutions.

9. In contrast, all of our loans are provided at less than 10% interest, with an average rate of 8.5%. We work with our customers to identify products that fit their particular financial circumstances, such as federally supported guarantee, collateral support, or credit enhancement programs.

10. We also provide a substantial amount of technical and financial management assistance to our customers, such as strategic management and accounting training and post-loan assistance on financial issues. In many cases, we have been able to help companies improve their credit profile and economic track record to the point that traditional banks welcome them as customers.

11. We get a significantly higher number of loan applications than we can support with our current budget. In 2019, for example, we received about $45 million in combined loan applications, but could only fund about $6.7 million in loans. This year, the disparity will be even worse; due to the pandemic and the economic crisis, financial distress and, as a consequence, loan applications have skyrocketed in our communities.

12. While we get some federal funding from the US Treasury CDFI Fund and similar sources, it covers only a small fraction of the total amount we provide in lending each year.

Instead, the vast majority of our loans are funded by investments and loans from private sources—most commonly, banks subject to the Community Reinvestment Act.

13. Typically, banks give us an investment loan that we then use to lend to our clients. Banks are often explicit that their investments are tied to their CRA obligations. They will approach us with particular targets they want to hit in particular areas—for example, asking if we can support lending in a specific county where they need to improve their performance for CRA evaluations. Some banks also refer customers to us, when one of their clients who doesn't fit the bank's lending profile comes to them for a loan.

14. Access Plus Capital and Fresno EOC provide a number of other community services that similarly rely on CRA-eligible funding. For example, Access Plus Capital created financial literary programs that Fresno EOC provides to tens of thousands of people each year. These programs are funded in part by CRA-eligible grants from banks.

15. Fresno EOC also worked with Self Help Federal Credit Union to open a branch in Southeast Fresno, in an area where payday lenders are the main financial provider available. Self Help obtained secondary capital and seed deposits from Fresno EOC, Access Plus Capital, and banks to help the credit union get off the ground.

16. More generally, Access Plus Capital and Fresno EOC have played a significant role assisting our communities to advocate for and obtain financial services. Together with the California Reinvestment Coalition and National Community Reinvestment Coalition, we brought together four major banks to address access to services in our region. By presenting data about the needs of our communities, patterns of investment and disinvestment, and the banking services that were currently on offer, we were able to identify ways that banks could best use their CRA activities to support our underserved communities. As a result, in the past two years, the number of banks with community development and CRA representatives in the Central Valley has gone from one to five, including several OCC-regulated banks. Among other benefits, this allows us to leverage our relationships with the banks to connect members of community with potential lenders.

17. If banks could ignore our communities without harming their CRA scores, we

would be at a substantial risk of losing significant funding and needing to reduce the amount of services we provide. As explained above, the loans we receive from our banks to re-lend to small, underserved businesses are often explicitly motivated by the need to meet CRA obligations in our areas. If banks can satisfy their CRA obligations by funding more attractive projects in better-served areas, their incentive to attend to our communities' needs will diminish significantly and much of our funding will disappear.

18. Despite our efforts, our communities—many of them high-poverty, rural communities of color—are not attractive areas for banks to focus. Over the past 10 years, we've seen a steady decrease in the number of branches in our rural communities, even though a significant amount of cash moves in through those areas because of the presence of migrant farm labor. Where there are no bank branches, there are no bank employees engaging with those individuals and businesses or providing merchant services. This creates issues for businesses that need to obtain capital, and often forces them to turn to predatory lenders.

19. If banks can ignore their assessment areas in our counties, or remove their branches but continue extracting deposits without incurring CRA obligations, the challenges we face will grow and our ability to meet our communities' needs will suffer.

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

Dated: September 28, 2020

<u>/s/ Tate Hill</u>
TATE HILL
EXECUTIVE DIRECTOR
ACCESS PLUS CAPITAL

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 NIKKI BEASLEY**

DECLARATION OF NIKKI BEASLEY

I, Nikki Beasley, declare as follows:

1. The facts in this declaration are based on my personal knowledge.

2. I am the executive director of Richmond Neighborhood Housing Services, Inc. ("RNHS").

3. RNHS is a member of the California Reinvestment Coalition and the National Community Reinvestment Coalition.

4. RNHS was founded in 1981 by low-income Richmond residents to help address housing needs in the Richmond community and reverse the adverse effects of redlining and disinvestment. Richmond NHS works to strengthen low- and moderate-income ("LMI") families and neighborhoods through the development, management, and financing of housing projects.

5. Since 1981, we have served the needs of over 11,000 families across the East Bay, largely located in Richmond and Oakland. Our communities continue to be affected by historic redlining and disinvestment, which continues to affect our majority-minority communities through wealth-stripping and limited access to capital and equity.

6. We carry out the mission of RNHS through several activities.

7. First, we develop, acquire, and manage properties to create affordable housing for

LMI families, both for rent and purchase. We currently manage more than 35 single-family homes and multi-family units in the city of Richmond and Oakland we are in the process of developing an eight-unit single-family homeownership project in West Oakland, an historic area known for redlining and wealth stripping.

8. Second, we are a HUD-approved counseling agency. In this capacity, we assist first-time homebuyers with obtaining financing and navigating the purchasing process; educate renters to support their understanding and mastering of financial skills such as managing credit; offer free mortgage delinquency counseling and default resolution services for homeowners facing financial trouble and at risk of foreclosure.

9. Third, we work with community members to advocate for their interests on issues related to housing, financial stability, and the transformation of blighted areas.

10. Our work depends heavily on CRA-eligible funding from banks. Our property developments, education programs, and down-payment assistance all depend on bank grants and contributions.

11. Our programs are particularly vulnerable to disinvestment if changes to the CRA expand the range of ways that banks can obtain CRA credit.

12. For example, the housing we construct and rehabilitate are relatively small, single-family developments. Several factors make such projects less attractive to banks, and thus make the CRA particularly important. First, while such housing can be just as important to a neighborhood as hundred-unit developments that take years to build, they are often not eligible for the same Low-Income Housing Tax Credits or New Market Tax Credits as those larger projects. We thus cannot use the promise of such tax credits as an incentive for banks to support our developments. Second, many of the developers with whom we partner are Black. Due to the historic disinvestment and financial barriers for Black developers, they often have fewer years of experience and smaller capital reserves than other developers. Third, the return to banks for investing in our properties is typically smaller than it is for larger projects or projects in more economically advantaged areas.

13. Similarly, most of our educational programs produce no revenue, as we do not

charge fees for our services. Our ability to offer them would be devastated if incentives for banks to contribute to them were diminished.

14. Based on my experience as a retired banker and from working with banks at RNHS, I know that the need for CRA credit is critical to banks' willingness to fund these activities. Banks have continued to demonstrate their challenges in addressing the needs of community even with CRA regulation; with the CRA being compromised, any willingness or effort will be diminished.

15. Our programs thus depend heavily on the incentives that the CRA places on banks. If the CRA were substantially weakened to allow banks to get just as much (or more) credit through more lucrative activities that serve communities that have not experienced the same history of discrimination and disinvestment, it would be difficult if not impossible for Richmond NHS to provide our services to the East Bay community, and far harder for members of the East Bay to access credit, financing, and pathways to financial stability and success.

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

Dated: September 28, 2020

<u>/s/ Nikki A. Beasley</u>
NIKKI BEASLEY
EXECUTIVE DIRECTOR
RICHMOND NEIGHBORHOOD
HOUSING SERVICES, INC.

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 GLORIA BRUCE

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I, Gloria Bruce, declare as follows:

1. The facts in this declaration are based on my personal knowledge.

2. I am the Executive Director of the East Bay Housing Organizations ("EBHO").

3. EBHO is a non-profit membership organization that brings together participants in the financing, development, construction, regulation, preservation, and use of affordable housing. Our membership comprises approximately 150 organizations that build affordable housing, homeless services organizations, faith communities, and similar entities, along with hundreds of individual members throughout the Alameda and Contra Costa communities.

4. EBHO is a member of the California Reinvestment Coalition.

5. EBHO's mission is to ensure that everybody in our communities is able to afford a safe and healthy home. We work to create and preserve affordable housing opportunities for low-income communities in the East Bay.

6. To accomplish our mission, we work with our members to identify and pursue affordable housing opportunities. This involves educating and advocating for the disparate members throughout our community, and connecting them with sources of financing and similar needs.

7. About twenty of our members are affordable housing developers or providers, all of whom are nonprofit organizations that provide below-market-rate housing, primarily to people at or below 80% of the area median income.

8. Because of the nature of their projects, our developer member cannot rely solely on typical investors, and instead need to assemble funding from several different sources of funding and financing. Banks subject to the Community Reinvestment Act are a crucial source of this funding.

9. As much as half of the funding for an affordable housing development may come from the sale of Low-Income Housing Tax Credits ("LIHTC") to banks. Our developer members also rely on construction loans and other forms of CRA-eligible financing from banks.

10. The market for LIHTCs heavily affects the amount of funding that developers can obtain. When banks are less interested in purchasing LIHTCs, the value of tax credits falls and developers have to raise even more from other sources of funds (often public sources), resulting in projects becoming significantly delayed or not going forward at all. For example, the 2017 tax cuts reduced the incentive for banks to purchase LIHTCs, which had a measurable negative impact on our developer members, forcing the delay of numerous projects and the redeployment of emergency funds.

11. The changes that OCC has made to the CRA threaten a calamitous reduction in this financing, which would be devastating to our communities. By expanding the range of CRA-eligible activities, reducing the link between such activities and LMI communities, and creating an overly simplistic formula in which large activities in more advantaged communities can provide as much credit as numerous smaller investments in LMI communities combined, the changes allow and incentivize banks to reduce participation in complex affordable housing deals. This effect will be particularly severe in locations with high land and construction costs, like California.

12. In addition to our developer members, we have many individual members who live in affordable housing and seek to ensure that it remains available and safe. Without CRA-financed affordable housing, many of our members might be on the streets or have to leave their friends and family.

13. The rehabilitation and improvement of affordable housing is often eligible for CRA credit. Many of our members live in old buildings that need, or will soon need, to be rehabilitated. For those members, the decreased incentive for banks to provide funding for affordable housing, and the increased competition that any CRA-eligible project will face, could prolong the time they are living in substandard conditions and reduce their opportunities to move to other affordable housing if necessary.

14. OCC's changes would also increase gentrification and associated harms to the cohesion and well-being of LMI communities. The Final Rule allows banks to receive credit for subsidizing housing as long as LMI individuals *could* afford it, even if the actual tenants are upper income. It also allows banks to receive credit for financing development in Opportunity Zones—such as stadiums and upper-income housing—that exacerbate displacement pressures and decrease, rather than increase, the financial viability of LMI residents and businesses.

15. In addition to the harm to our members, the Final Rule threatens to harm EBHO directly. As much as 10% of our budget comes from grants from banks that receive CRA credit. We use this funding to educate members of our communities on affordable housing, demystifying the policies and processes surrounding the development of affordable housing and helping individuals in affordable housing become advocates for their communities' needs. We also connect individuals in our community with members who can help them identify places to live, sources of rent assistance, and similar services. If banks turn to the opportunities that OCC has made available for CRA credit instead of funding our operations, we may be hard-pressed to provide such services at the same level.

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

Dated: September 28, 2020

Gloria Bruce

GLORIA BRUCE
EXECUTIVE DIRECTOR
EAST BAY HOUSING ORGANIZATIONS