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Good afternoon Mr. Chairman and members of the Domestic Policy Subcommittee. My name is Hubert Van Tol, I am the Director for Economic Justice for Rural Opportunities Inc. of Rochester, New York and I do want to thank you for this opportunity. Our organization is a member of the National Community Reinvestment Coalition and we support the comments and written statement of Jim Carr on NCRC's behalf.

Today I want to speak, however, as a longtime grassroots CRA activist who has found and still finds the CRA law an enormously powerful tool for individuals and organizations that do grassroots community development work. Unfortunately I also find the power of the law being gradually eroded by changes in the lending industry and the unwillingness or inability of the regulators to adjust the CRA regulations to keep up with changes in the industry. In my limited time today I'd like to touch on just two issues, 1. the way that discrimination in lending has become more subtle and more damaging, and the failure of the regulators with their use of the fair lending exam to keep up with those changes and 2. the structural changes in the industry that have had the effect of diminishing the scope of CRA as larger and larger shares of bank lending are being done outside of the geography of a lender's assessment area.

I first became aware of the Community Reinvestment Act in 1985 while working for a local community development corporation in Memphis, Tennessee. At that time the discrimination in access to credit was raw and blatant; for instance we found lenders whose mortgage underwriting guidelines explicitly stated that they would not lend in "areas of incipient decline." Their guidelines specified minimum loan amounts that excluded most of the houses in the African American sections of Memphis. (Interestingly NCRC is finding some of this same kind of behavior popping up again among non-CRA covered entities.)

Back in 1985 and 1986 our organization attempted dialog with the lenders about these issues; when our requests for meetings were rebuffed we documented our concerns with the regulators. After we began raising these issues, the regulators regularly sought our organization out for comments when they were doing CRA exams, when all else failed to get a lenders

attention, in a couple of cases they actually denied a lender's application to open a new branch or to merge. This active engagement by the regulators on these issues radically changed the dynamic and brought lenders that had previously been resistant to change to the table to work out these issues and eliminate the practices that were designed to avoid lending in African American neighborhoods.

In the past decade, however the situation has shifted dramatically. Access to credit is usually not the issue any more, as almost anyone who can put steam on a mirror has been able to get credit. The problem has instead been discrimination in the quality of the loans provided. Only a few banks have strategically focused on getting branches into neighborhoods populated with people of color and figuring out how to market to a population that is by and large distrustful of them because of their history and practices. There has, however, been a boom in mortgage lending in those neighborhoods, usually not led by the banks, but rather by the non-bank lenders, fueled by the efforts of brokers, who are not covered by CRA and don't have regular fair lending examinations.

Once again, the discrimination for the most part doesn't involve access to credit, but rather the fact that minority neighborhoods are targeted for inferior loan products with high fees, high interest rates and unfavorable terms. They are targeted regardless of the credit scores of the individual borrowers within those neighborhoods. When a group of people are targeted for bad financial products it creates a cascading effect, a self-fulfilling prophecy if you will, as they are sold risky loan products, which over time put stress on their financial situation and have the practical effect of driving down individual credit scores and making them riskier borrowers.

The banks have facilitated this shift by doing a poor job of marketing, removing their branches from neighborhoods or maintaining poor quality branches. They provide the lines of credit used by the brokers and the mortgage lenders, some of them service many of these subprime loans, the investment divisions of these banks are often involved in securitizing the same subprime loans that the retail part of the bank proudly proclaims that it is not involved in. And yet when a bank's Fair Lending examination is done, there is no indication that this entire range of bank involvement in a subprime market targeted at minority borrowers is looked at, and in spite of the efforts of community activists, it is rare that a bank's service and investment test in the CRA exam itself looks at all of these issues in a comprehensive way.

The single most egregious area of discrimination in lending over the past decade has been in this targeting of inferior loan products to minority neighborhoods without much attention being paid to the individual borrower's credit histories. Most of these loans have been made by brokers and the current CRA and Fair Lending examination regime is allowing this to happen.

I mentioned earlier that in my work in Memphis in the late 1980s and 1990s, the regulators regularly checked in with us to ask for comments on individual banks. On the other hand in two and half years in my current position with Rural Opportunities, our organization has never been called on by a regulator's CRA examiner, other employees there can't remember the last time they were called on.

Since Rural Opportunities does work in seven states and Puerto Rico, and is one of the largest rural operators of first time home buyer programs in the country, since we do a significant amount of micro lending and small business lending

through our CDFI subsidiary, you would think the examiners would be interested in hearing our perspective about the availability of credit. But when you have leadership at the major regulators, which is recent year has been essentially indifferent to good consumer regulation, that attitude works its way through the bureaucracy, the examinations become pro forma, and the banks quickly lower their standards to the minimum required to receive passing grades. If there is a silver lining to the mortgage crisis, it does at least appear to be encouraging the regulators to take their consumer regulation responsibilities more seriously.

While I believe the regulatory leadership bears a great deal of the responsibility for the weakening of CRA examinations, I do also want to emphasize the need to update CRA to deal with structural changes. NCRC has provided a good overview in their written testimony; I'd like to focus just a little attention on the current problems with small business lending.

In the rural counties of upstate New York, approximately 75 percent of all small business loans as measured by the CRA data, are now made by credit card lenders, many of them are affiliates of major bank holding companies. Most of these lenders have no assessment areas in those rural counties and so the fact that they have created a structure to make credit card loans with poorer terms and higher rates available in some geographies, without making their whole line of small business loans available, is never addressed more than superficially in their CRA examination because this lending is occurring outside their CRA assessment areas.

The assessment area basis for CRA examinations is broken. Assessment areas are based on the geography of their deposit-taking branches and deposit-taking branches are becoming less and less relevant to where institutions are actually doing

business. One fact illustrates this neatly. The three biggest banks in this country, Bank of America, JP Morgan Chase and Citigroup, are roughly the same size in total assets. Yet Bank of America has more than five times as many branches as Citigroup does in the United States, and with those additional branches they have a much more extensive geography covered by assessment areas around the country.

They're domestic and international assets are skewed differently and so the five to one ratio isn't exact, but the essential fact is that because they have structured themselves differently and have different strategies for raising capital the geographical extent of their CRA requirements is quite different. In New York State all of Citigroup's assessment areas are now in the New York City area. They have none at all in upstate New York, but they have CitiFinancial offices selling a less favorable loan product all over rural New York. Their credit card arm is one of the largest small business lenders in many rural counties upstate counties according to the available CRA data, and yet they have no CRA obligation at all in those counties.

I encourage you to look carefully at the whole range of issues being raised today. It's time for significant reform of this vitally important law in order to update the tools we need to keep discrimination in lending in check and to make sure that all of communities, urban and rural, are fairly served by this country's lenders.