WRITTEN STATEMENT OF

GRACE CHUNG BECKER
ACTING ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION
U.S. DEPARTMENT OF JUSTICE

FOR THE

NATIONAL COMMISSION ON FAIR HOUSING AND EQUAL OPPORTUNITY

CONCERNING

THE ENFORCEMENT PROGRAM OF THE HOUSING AND CIVIL ENFORCEMENT SECTION OF THE CIVIL RIGHTS DIVISION OF THE U.S. DEPARTMENT OF JUSTICE

DECEMBER 2008

Written Statement of

Grace Chung Becker
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

for the

National Commission on Fair Housing and Equal Opportunity

Concerning

The Enforcement Program of the Housing and Civil Enforcement Section of the Civil Rights Division of the U.S. Department of Justice

December 2008

It is an honor to provide this written testimony to the National Commission on Fair Housing and Equal Opportunity on the Civil Rights Division's fair housing and lending enforcement.

In my role as Acting Assistant Attorney General for the Civil Rights Division, I oversee the Housing and Civil Enforcement Section, which is charged with enforcing the Fair Housing Act, the Equal Credit Opportunity Act, Title II of the Civil Rights Act of 1964, the land use provisions of the Religious Land Use and Institutionalized Persons Act, and the Servicemembers Civil Relief Act. We understand the importance of ensuring non-discriminatory access to housing, credit, and public accommodations for all Americans, and we work hard to meet this weighty responsibility.

This April, we commemorated the fortieth anniversary of the Fair Housing Act ― landmark legislation that made it illegal to discriminate on the basis of race, color, national origin, or religion in the sale, rental, or financing of housing. On several occasions since the original Act was passed in 1968, Congress has reaffirmed and expanded this country's commitment to the principle of fair housing by extending the Act's protections to include sex, disability, and familial status and providing for much-needed enforcement tools.

The right protected by the Act ― to be free from discrimination in housing ― is at the heart of the American dream, and for forty years, the Department of Justice has worked to make that dream a reality. Since 2001, the Department has brought more than 275 Fair Housing Act cases based on discrimination because of race, color, national origin, sex, religion, disability, or familial status. We have required landlords, real estate companies, builders, architects and engineers, lenders, and local governments to implement non-discriminatory policies and procedures. We have obtained millions of

dollars of compensation for victims of discrimination. And, although criminal enforcement is not the focus of the Commission, I would be remiss if I did not note that we have convicted dozens of defendants who have threatened families by burning crosses and committing other acts of violence outside their homes.

Although we have made progress over the last forty years, there can be no question that housing discrimination exists today. Just a sample of recent cases confirms the work still to be done. In one case, a landlord refused to rent to an African-American mother and daughter because of what his other tenants would think. *United States v. Stuber* (C.D. Ill.). Another landlord raised a tenant's rent and refused to make repairs to her unit when her African-American boyfriend moved in with her. *United States v. Hillebold* (N.D. Ill.). In another case, a local government retaliated against an employee who promoted an affordable housing development that would be welcoming to African Americans. *United States v. Lake County* (N.D. Ind.). And in yet another case, a new landlord decided systematically to terminate the leases of long-time Hispanic tenants under the guise of making renovations. *United States v. Luke* (C.D. Cal.). Each of these cases was investigated and charged by the U.S. Department of Housing and Urban Development (HUD). The Housing and Civil Enforcement Section then litigated and successfully settled them.

In the past eight years, the Section has filed pattern or practice cases at the same rate as it did during the 1994-2000 period (the pre-1994 data are unreliable). During fiscal years 2001-2008, the Section filed an average of 21.5 pattern or practice cases per year. During fiscal years 1994-2000, the average annual number of pattern or practice cases filed was 21.4.

During the last two fiscal years (2007 and 2008), the Section obtained settlements and judgments in fair housing and fair lending cases requiring the payment of a total of up to $12 million in monetary damages to victims of discrimination and civil penalties to the government. These cases involve a wide range of vulnerable victims of discrimination.

Race and National Origin Discrimination

Race and national origin discrimination in housing clearly is an ongoing problem, and it is a priority for the Division. The Division continues to enjoy significant success in bringing and resolving pattern or practice race discrimination cases under the Fair Housing Act. In fiscal year 2008, 39% of our total cases and 45% of our pattern or practice cases alleged race discrimination. For example, on September 30, 2008, the court entered a consent decree in *United States v. Housing Authority of City of Winder* (N.D. Ga.). The complaint in that case alleged that the Winder Housing Authority (WHA), a public housing authority that oversees nine housing complexes in Barrow County, Georgia, violated the Fair Housing Act by maintaining racially segregated housing complexes. The consent decree provides for a settlement fund of $450,000 to compensate victims of the WHA's discriminatory conduct, and a civil penalty of

$40,000. The decree also requires the WHA to develop and implement nondiscriminatory practices and procedures, provide Fair Housing Act training for its employees, and submit to record-keeping and reporting requirements.

Here are just a few other examples of recent Civil Rights Division fair housing cases alleging race discrimination. In May 2008, the court in *United States v. Henry* (E.D. Va.), entered a consent order requiring the landlord of a subsidized housing complex to pay up to $361,000 to settle the Division's lawsuit alleging that the defendant imposed more restrictive rules and regulations on African-American tenants than on other tenants; verbally harassed African-American tenants with racial slurs and epithets; and evicted tenants by enforcing a limit of two children per family. In August 2007, the court in *United States v. General Properties Company, LLC* (E.D. Mich.), entered a consent order providing for $725,000 in monetary relief to resolve the Division's allegations that the owners and operators of an apartment complex in Livonia, Michigan, had discriminated against African-American prospective tenants. In March 2007, a federal court in Nevada entered a consent decree in *United States v. Bonanza Springs* (D. Nev.), a race, disability, and familial status discrimination case, providing for $450,000 in monetary relief. Also in March 2007, we obtained a judgment in *United States v. Matusoff Rental Company* (S.D. Ohio), that the defendant had engaged in a pattern or practice of discrimination on the basis of both race (against African Americans) and familial status. The *Matusoff* judgment requires the defendant to pay a total of $405,000 in compensatory damages and $130,000 in punitive damages to 26 individual victims of discrimination. This is the second-largest damage award the Department ever has obtained in a Fair Housing Act case.

In addition, the Division currently is litigating several other pattern or practice cases involving race and national origin discrimination, some of which are described below. Overall, from fiscal year 2001 through fiscal year 2007, 28% of all cases filed by the Section involved race discrimination claims, as did 23% of our pattern or practice cases. In fiscal year 2008, those percentages increased dramatically: 39% of all cases filed by the Section involved race discrimination claims, as did 45% of our pattern or practice cases. A recent study of cases by affiliates of the National Fair Housing Alliance reported that between 2000 and 2007, 28% of filed housing discrimination cases had race as the primary claim, as did 22% of the cases that remained open at the end of 2007.[1] In other words, the percentage of racial discrimination cases that the Division's Housing and Civil Enforcement Section has brought in the last several years is consistent with the percentage of such cases brought by private plaintiffs.

The Department also is concerned that over the years, discrimination, particularly race and national origin discrimination, has become more difficult to detect, as more and

[1] "$245,000,000 and Counting: A Summary of Housing Discrimination Lawsuits that Have Been Assisted by the Efforts of Private, Non-Profit Fair Housing Organizational Members of the National Fair Housing Alliance," June 7, 2008.

more housing providers have learned that even discriminatory statements are illegal. A rental agent who treats an African-American, Hispanic, or Asian-American prospective tenant cordially but falsely tells him or her that no apartment is available violates the Fair Housing Act. Unfortunately, the prospective tenant is not likely even to know that he or she has been the victim of discrimination, much less complain about it. For example, the U.S. Department of Housing and Urban Development's 2000 Housing Discrimination Study, which was conducted by the Urban Institute, compared the treatment of minority (African-American and Hispanic) and non-minority "testers" in a wide range of geographic areas and found substantial levels of differential treatment in both rental and sales situations.[2]

Operation Home Sweet Home

Two years ago, the Department of Justice launched Operation Home Sweet Home, an initiative specifically designed to combat these more hidden forms of discrimination. As part of the initiative, we added resources to our fair housing testing program and enhanced our targeting. By conducting multiple paired tests in the same location, we can find and collect evidence against the landlord who politely lies about the availability of an apartment because of a prospective tenant's race, national origin, sex, religion, disability, or familial status.

As part of this initiative, the Division also has substantially enhanced its outreach to fair housing and other community organizations. Each year, the Housing and Civil Enforcement Section systematically contacts more than 300 state and local fair housing groups to provide information on the Division's fair housing enforcement efforts and to solicit input on pressing fair housing concerns that may be addressed through the Division's enforcement program. Section management and staff also regularly speak at events around the country. In addition, during fiscal years 2006 through 2008, the fair housing testing program contracted with seventeen fair housing or civil rights organizations to provide testers for the program's operations throughout the nation.

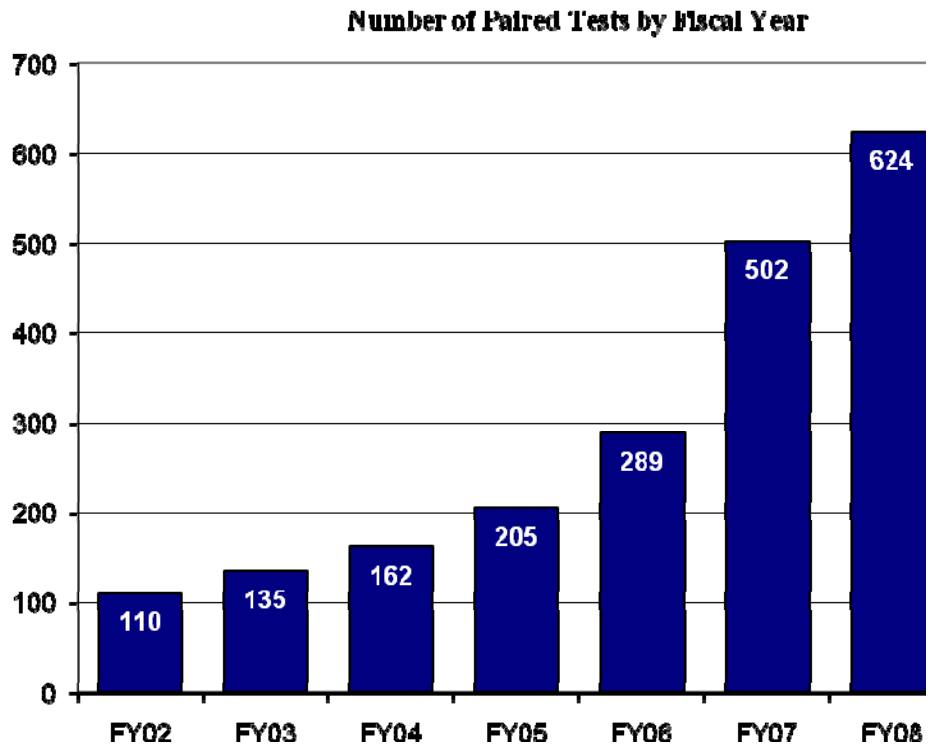
Operation Home Sweet Home is achieving significant results. In fiscal year 2008, we conducted more than 600 paired tests, exceeding by almost 25 percent the number of tests conducted in fiscal year 2007, which in turn significantly exceeded the next highest number of tests conducted in any previous year since the program's inception. The testing program also is producing new cases. For example, we are currently litigating two cases alleging pattern or practice discrimination against African Americans based on testing evidence, in Roseville, Michigan, *United States v. Regent Court Apartments* (E.D. Mich.), and South Florida, *United States v. C.F. Enterprises*, (S.D. Fla.). In addition,

---

[2] U.S. Department of Housing and Urban Development, Discrimination in Metropolitan Housing Markets, Phase I ix-xi, 2-19 (2002) (hereinafter "Urban Institute Study"). This study also concluded that the level of discrimination, while still significant, had declined significantly since 1989 for African American buyers and renters and for Hispanic buyers, but had remained essentially unchanged for Hispanic renters.

during fiscal year 2007, Operation Home Sweet Home resulted in the first pattern or practice discrimination case ever brought by the Civil Rights Division on behalf of Asian Americans based on evidence developed through our testing program. That case, *United States v. Pine Properties* (D. Mass.), was settled in January 2008, with the defendants agreeing to pay up to $158,000 in monetary relief. Operation Home Sweet Home also has produced pattern or practice discrimination cases on behalf of families with children and the Division's first testing cases on behalf of guide-dog users.

The following bar graph shows the number of tests conducted each fiscal year since 1998:



The Division's fair housing testing program began in 1991, and is conducted primarily through paired tests, in which two individuals ― one acting as the "control group" (e.g., white male) and the other as the "test group" (e.g., black male) ― pose as prospective renters or buyers of real estate for the purpose of determining whether a housing provider is complying with the fair housing laws. Since testing began under the program in 1992, the Department has filed 87 lawsuits alleging unlawful discrimination that were based at least in part on evidence generated by the testing program. Eight of those cases were filed since the February 2006 commencement of the Operation Home Sweet Home initiative. The cases that result from evidence developed by the testing program represent an important component of our Fair Housing Act enforcement work because they often concern discrimination that might have gone undetected by its

victims. Still, most of our Fair Housing Act cases are developed from other sources, including referrals from HUD, bank regulatory agencies, and private fair housing groups.

In analyzing testing data, it is important to keep in mind that each matched pair test assesses whether differences in treatment occurred, not whether unlawful discrimination occurred. See Urban Institute Study, supra at viii n.1. As the Urban Institute Study cited above notes, even with careful matching of testers and implementation of consistent testing protocols, observed differences in treatment may occur because of random differences in the circumstances of the test rather than because of race or ethnicity. See id. at xi, 5-1. In some cases, such as where an African American tester is told no apartments are available for the foreseeable future, and a white tester is shown three apartments the same morning that are available to rent immediately, an inference of discrimination may be apparent. Other tests, however, may show slight differences in treatment, and it may be more difficult to determine whether those differences are based on race and ethnicity or on other factors. Consequently, many observed differences in treatment will not be sufficient by themselves to support a federal pattern-or-practice lawsuit. For example, although the National Fair Housing Alliance (NFHA) reports conducting extensive real estate testing in twelve different cities since 2003 and finding evidence of racial steering in 87 percent of the tests where both testers were shown homes, NFHA has filed only eleven complaints with HUD based on such tests, two of which have resulted in HUD findings of discrimination. See National Fair Housing Alliance, 2008 Fair Housing Trends Report 29-30 (Apr. 8, 2008), available at www.nationalfairhousing.org.[3]

Indeed, even if an individual test does reveal what appears to be unlawful discrimination, that alone may not be sufficient to support a lawsuit by the Department. Absent a referral from HUD pursuant to 42 U.S.C. 3612(o), based upon a complaint and investigation, the Attorney General has jurisdiction to commence a lawsuit to enforce the Fair Housing Act in federal court only when there is reasonable cause to believe that there has been a "pattern or practice" of discrimination or a denial of rights to a group of persons that raises a matter of general public importance. See 42 U.S.C. 3614(a). The Supreme Court has held that to establish a "pattern or practice" of discrimination, "the government must show by a preponderance of the evidence that racial discrimination [is] the company's standard operating procedure — the regular rather than the unusual practice." *International B'hood of Teamsters v. United States*, 431 U.S. 324, 336 n.16 (1977). Proof of one instance of unlawful discriminatory conduct, standing alone, is often not sufficient to prevail in a pattern or practice case. *Id.* And in the context of fair housing testing, multiple tests may be necessary to show a pattern or practice or denial of rights to a group of persons. *See, e.g.*, *United States v. Balistrieri*, 981 F.2d 916, 930 (7th Cir. 1992), *cert. denied*, 510 U.S. 812 (1993); *United States v. Garden Homes Mgmt.*

---

[3] Both of these HUD charges have produced federal lawsuits filed by the Division. *United States v. S and S Group, Ltd.* (N.D. Ill.); *United States v. Coldwell Banker* (N.D. Ga.). In addition, NFHA has filed an additional federal lawsuit based on this testing. *NFHA v. Town and Country — Sterling Heights* (E.D. Mich.).

Corp., 156 F. Supp. 2d 413, 422 (D.N.J. 2001). In fact, in one case, the court found that although the United States had shown that "disturbing" racial discrimination had occurred in two fair housing tests, it had not met its burden to show a pattern or practice of discrimination. *See United States v. Ernstoff*, op. at 22-23, Civil Action No. 97-3115 (JCL) (D.N.J. Dec. 30, 1999). The Division, of course, carefully considers the governing case law as well as all the facts in determining when a pattern-or-practice lawsuit is warranted.

During fiscal years 2006 to 2008, while Operation Home Sweet Home has been in place, the Department filed nine cases based on evidence generated at least in part by the Division's testing program, an average of three per year.[4] Three of those cases alleged discrimination against guide dog users and were the first such testing cases ever filed by the Division. Three involved alleged discrimination based on race or national origin. The remaining three alleged discrimination based on familial status.

In the last three full fiscal years of the Clinton Administration, 1998-2000, the Division filed twenty-five testing cases. Seventeen of those cases alleged the inaccessible construction of condominiums or apartments. Those cases are clearly important, and, as described below, in recent years the Section has developed numerous significant cases in this area through means other than testing and has achieved substantial litigation success in those cases. Excluding the accessibility cases from fiscal years 1998-2000, during those years the Section filed eight testing cases.[5] Seven of those cases involved discrimination based on race or race and familial status, and one involved only familial status discrimination. None alleged national origin discrimination. In fact, until January 2008, the Section had not filed a national origin case based on the testing program since 1993. In addition, in August 2006, the Department prevailed at trial and obtained an award of civil penalties in *United States v. Dawson Development* (N.D. Ala.), a race discrimination case and one of the few cases based on evidence generated by the Division's testing program that has gone all the way to trial.

The Division is confident that its current enforcement program, including its enhanced testing program and the publicity it generates, has led to greater Fair Housing Act compliance generally. We continue to improve our targeting with the use of information provided to us by fair housing organizations. We also are confident that the

---

[4] Those cases are *United States v. Douglass Mgmt.* (D.D.C.); *United States v. Fountainbleau* (E.D. Tenn.); *United States v. NPI* (E.D. Pa.); *United States v. Pine Properties* (D. Mass.); *United States v. Bolt* (S.D. Ga.); *United States v. Adams* (W. D. Ark.); *United States v. Regent Court* (E.D. Mich.); *United States v. C.F. Enterprises* (S.D. Fla..); and *United States v. Pecan Terrace* (W.D. La.).

[5] Those cases were *United States v. Lexington Village* (D.N.J.); *United States v. Hillcrest Village* (D.N.J.); *United States v. Vernon* (D.N.M.); *United States v. Nejam* (S.D. Miss.); *United States v. Garden Homes Mgmt.* (D.N.J.); *United States v. Sleepy Hollow Estates* (M.D.N.C.); *United States v. Knollwood* (E.D. Pa.); *and United States v. Wellston Corp.* (E.D. Wis.).

expanded use of contracts with fair housing groups to assist with fair housing testing has improved, and will continue to improve, the testing program's effectiveness.

Disability Discrimination

Of course, the Division's enforcement of the Fair Housing Act is not, and could not be, limited to race and national origin discrimination. Enforcement of the Act's protections against discrimination based on disability is a vital element of the President's New Freedom Initiative to provide and enhance community-based opportunities for individuals with disabilities. The Fair Housing Act requires that multi-family housing constructed for first occupancy after 1991 include certain provisions to make it accessible to and usable by persons with disabilities. Twice a year since 2005, we have held a Multi-Family Housing Access Forum, intended to assist developers, architects, and others understand the Act's accessibility requirements and to promote a dialogue between the developers of multi-family housing and persons with disabilities and their advocates. Our most recent Access Forum events were held in Seattle in May 2008 and in Houston in November 2008.

Although education and outreach to the housing industry are important, we have not hesitated to bring lawsuits involving housing that is not designed and constructed in accordance with the Fair Housing Act and the Americans with Disabilities Act. In January 2008, the Division settled a case alleging systemic violations of the Fair Housing Act's multi-family housing accessibility requirements for $175,000 in monetary relief plus retrofitting of the inaccessible features. *United States v. Tanski* (N.D.N.Y.). During fiscal year 2007, we filed six accessibility cases, settled seven such suits, and obtained favorable summary judgment rulings in two accessibility cases. The Housing and Civil Enforcement Section also actively monitors compliance with the consent decrees in these cases, particularly the creation of more than 14,500 new accessible housing opportunities in twenty-six states resulting from settlements entered since October 2004.

One example of our work in this area is the case of *United States v. Edward Rose and Sons* (E.D. Mich.), in which we sued one of the fifty largest multifamily housing providers in the United States to challenge its practice of designing apartments in which the primary entrance was inaccessible and persons with disabilities were required to use a much longer route to a back patio door. We obtained a preliminary injunction halting further construction using this design ― the first such preliminary injunction that the Department (or, as far as we know, anyone else) has obtained concerning the construction of inaccessible housing. The Sixth Circuit affirmed the injunction and issued a decision upholding the Division's interpretation of the law. The United States eventually obtained a settlement that provided for the retrofitting of forty-nine apartment complexes in six states, a $110,000 civil penalty, and a damages fund for victims of the defendants'

discrimination. During calendar year 2007, we distributed $700,000 to victims in this case.[6]

Just in the last few months, the Division has filed amicus briefs in two cases setting forth our view on the proper application of a continuing violation theory in design and construction cases. On September 22, 2008, the court in *National Fair Housing Alliance, Inc. v. Spanos* (N.D. Cal.) issued an order consistent with the United States' argument as amicus that the en banc decision of the United States Court of Appeals for the Ninth Circuit in *Garcia v. Brockway*, 526 F.3d 456 (9th Cir. 2008), had not "done away with the continuing violations doctrine in all design and construction cases under the [Fair Housing] Act" and reaffirmed the application of *Havens v. Coleman Realty*, 455 U.S. 363 (1982), when a plaintiff alleges such a pattern or practice.

The Division also vigorously enforces the Fair Housing Act's requirement that local governments not discriminate against group homes for persons with disabilities. For example, in March 2008, the Division obtained favorable rulings on behalf of group homes for youth with disabilities in the District of Columbia and group homes for persons in recovery from alcohol or drug addiction in Boca Raton, Florida. In the spring of 2008, we filed a brief as amicus in a case involving a group home for persons in recovery in Connecticut. In addition, in the fall of 2007, working with private plaintiffs, we resolved contentious litigation over Sarasota County, Florida's treatment of group homes for persons in recovery or with mental illness. The settlement allows the group homes to continue to operate and requires the county to pay $760,000 in monetary relief ― our largest monetary settlement ever in a group home case.

Sexual Harassment in Housing

Another active area in our Fair Housing Act enforcement has been cases alleging systemic sexual harassment by landlords. During this Administration, the Civil Rights Division has filed almost three times as many housing-related systemic sexual harassment cases as in the prior Administration. Sexual harassment by a landlord is particularly disturbing because the perpetrator holds both the lease and a key to the apartment.

On September 18, 2008, the court approved a $1 million settlement against former Cincinnati landlord James G. Mitchell and his company, Land Baron Enterprises. *United States v. Mitchell* (S.D. Ohio). This is the largest monetary settlement the Department has ever obtained in a case alleging sexual harassment violations under the Fair Housing Act. The complaint alleged that the defendants subjected female tenants to unwelcome verbal sexual advances and unwanted sexual touching; entered the apartments of female tenants without permission or notice; granted and denied tangible housing benefits in exchange

[6] Also during calendar year 2007, we distributed more than $1 million to victims of discrimination in another case involving inaccessible housing. *United States v. Housing Authority of Baltimore City* (D. Md.).

for sexual favors; and took adverse action against female tenants when they refused or objected to his sexual advances. The case was referred to the Department by Housing Opportunities Made Equal (HOME), a Cincinnati-based non-profit fair housing advocacy group.

Although most sexual harassment cases brought by the Housing and Civil Enforcement Section involve claims against landlords under the Fair Housing Act, in October 2007, the Division resolved its first-ever case alleging systemic sexual harassment in lending in violation of both the Fair Housing Act and the Equal Credit Opportunity Act. In *United States v. First National Bank of Pontotoc, Mississippi* (N.D. Miss.), we alleged that a former vice president of the bank used his position to sexually harass female borrowers and applicants for credit, including home mortgage loans, and that the bank was liable for those actions. The consent decree requires the defendants to pay $250,000 to fifteen identified victims, up to $50,000 to any additional victims, and $50,000 to the United States as a civil penalty. The settlement also requires the bank to make changes to its policies and practices to prevent and detect any future harassment.

Lending Discrimination

The *First National Bank of Pontotoc* case is just one of the Division's lawsuits that protect the rights of Americans to purchase houses as well as to rent them. Our fair lending enforcement efforts are a key component of our fight against housing discrimination. While a lender legitimately may consider a range of factors in deciding whether to provide a loan to an applicant, race or national origin has no place in this determination. "Redlining" is the term used to describe a lender's refusal to provide lending services in certain areas based on the racial makeup of the area's residents. The Division is working hard to eliminate this form of discrimination, which places a barrier between Americans and the American dream of homeownership.

On September 29, 2008, the Division filed a complaint and proposed consent decree in *United States v. First Lowndes Bank* (M.D. Ala.).[7] The complaint alleges that the bank discriminated against African-American borrowers by charging them higher interest rates on manufactured housing loans than similarly-situated white borrowers, in violation of the Fair Housing Act and the Equal Credit Opportunity Act. This case resulted from a referral by the Federal Deposit Insurance Corporation. The consent order requires the Bank to pay up to $185,000 to compensate borrowers who were charged higher rates and enjoins it from discriminating on the basis of race in its home mortgage lending. In addition, the Bank will implement new procedures to prevent discrimination in setting interest rates, and will provide enhanced equal credit opportunity training to its officers and employees who set rates for housing loans.

[7] This was the Division's first case alleging pricing discrimination based in part on the new pricing data that is available under the Home Mortgage Disclosure Act. Another lawsuit with this type of pricing claim is currently in pre-suit negotiations.

The Civil Rights Division's jurisdiction in the lending area is to enforce the fair lending provisions of the Fair Housing Act and the Equal Credit Opportunity Act. Under these laws, we maintain a vigorous enforcement program that addresses discrimination in consumer and small business lending as well as mortgage lending. In the auto lending area, the Division has filed cases involving both pricing discrimination and discriminatory loan denials (also known as underwriting discrimination). Most recently, on September 30, 2008, the court entered a consent decree in *United States v. Nationwide Nevada, LLC* (D. Nev.), in which we alleged that the defendants engaged in a pattern or practice of discrimination by refusing to finance car loans for consumers living on Indian reservations, in violation of the Equal Credit Opportunity Act. Under the decree, the company will pay $170,000 to compensate loan applicants who were denied loans due to their residence on an Indian reservation. The company also will implement a non-discrimination policy providing that consideration of residency on an Indian reservation is not a valid basis for declining to purchase automobile sales finance contracts.

During this Administration, we have filed four major redlining cases in the Chicago, Detroit, and Gary, Indiana areas. The consent orders in those cases require the defendant banks to invest (through making prime loans and otherwise) more than $20 million in those cities and their environs. We believe that these cases are critical in the fight against predatory lending, because when banks and prime lenders do not offer lending services in majority-minority areas, the field is wide open for unscrupulous lenders. Thus, we are continuing to focus on this work. The Section currently is investigating allegations of redlining, as well as allegations of discriminatory, predatory lending practices, by several lenders. In addition, many other components of the Department of Justice, and other federal and state agencies, are engaged in the fight against predatory lending. To give just a few examples, many United States Attorney's Offices and state attorneys general are investigating criminal mortgage fraud. The Office of the United States Trustee is investigating mortgage fraud in bankruptcy proceedings. In addition, the Federal Trade Commission, Department of Housing and Urban Development and the federal bank regulatory agencies all investigate civil aspects of mortgage fraud; these agencies also enforce other lending laws over which the Department has no jurisdiction.[8] The Division is actively working with our law enforcement partners to address the current crisis.

Other Statutes Enforced by the Housing and Civil Enforcement Section

The Housing and Civil Enforcement Section also enforces the anti-discrimination requirements of Title II of the Civil Rights Act of 1964. In March 2008, we resolved a Title II lawsuit against the owner and operator of Kokoamos Island Bar and Grill, a Virginia Beach club and restaurant. *United States v. Davis* (E.D. Va.). We alleged that Kokoamos discriminated against African-American patrons in a place of public accommodation by implementing a discriminatory dress code targeting African

[8] These laws include the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA) and Home Ownership Equity Protection Act (HOEPA).

Americans and by applying the dress code in a discriminatory manner. Our consent decree requires Kokoamos to implement changes to its policies and practices in order to prevent such discrimination. We also continue to monitor compliance with our 2004 consent decree in *United States v. Cracker Barrel Old Country Stores* (N.D. Ga.), which resolved our lawsuit alleging a pattern or practice of discrimination against African-American customers and prospective customers in the restaurant's seating and service practices.

In addition, the Division continues its vigorous enforcement of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The land-use provisions of RLUIPA bar zoning practices that discriminate against or impose undue burdens on houses of worship and religious schools. Since 2001, the Division has reviewed 172 RLUIPA matters and has opened forty full investigations. Eighteen of these full investigations have been resolved favorably prior to the filing of a lawsuit. The Division also has filed six RLUIPA lawsuits, three of which have been resolved by consent decree, and three of which are pending.

On September 29, 2008, the Division filed a complaint in *United States v. Metropolitan Government of Nashville* (M.D. Tenn.), alleging that the defendant discriminated against a drug rehabilitation program with a religious mission on the basis of disability and imposed a substantial burden on religious exercise, without sufficient justification, in violation of the Fair Housing Act and RLUIPA.

In February 2008, the Division reached a consent decree in a suit against the City of Waukegan, Illinois, which requires that the city amend its zoning code to treat religious assemblies and non-religious assemblies equally as required by RLUIPA. The Division also helped obtain a favorable summary judgment ruling in October 2007 after filing an amicus brief in a case in which the Township of Wayne, New Jersey, had taken various actions to block the building of a mosque. The three RLUIPA cases currently pending are *United States v. Metropolitan Government of Nashville*, discussed above; *United States v. Village of Airmont* (S.D.N.Y.), which is a case involving alleged discrimination by the Village of Airmont, New York against Hasidic Jews seeking to build a boarding school; and *United States v. Village of Suffern* (S.D.N.Y.), which is a case challenging the Village of Suffern, New York's denial of a permit to an Orthodox Jewish group to operate a "Shabbos House" near a hospital where Sabbath-observant Jews may stay while visiting patients on the Sabbath.

The Division also continues to build a Servicemembers Civil Relief Act (SCRA) enforcement program. Since receiving SCRA enforcement authority in 2006, we have opened several investigations under the SCRA and have resolved the first such investigation with a favorable outcome. In addition, we have engaged in a sustained outreach effort, including visiting military bases throughout the country to inform JAG attorneys that we are actively investigating SCRA matters and stand ready to help them enforce the SCRA. We have not yet filed any cases under the SCRA.

Conclusion

In sum, the Division has contributed a great deal to the fight against housing and lending discrimination in this nation. Yet there remains much work to be done, and we will continue to dedicate our energy and resources to exposing and eliminating discriminatory housing and lending practices.