

Supplemental Narrative in Support of Fair Housing Complaint

Pursuant to 42 U.S.C. §§ 3604 and 3605, The California Reinvestment Coalition (hereinafter “Complainant CRC”) and Fair Housing Advocates of Northern California – formerly Fair Housing of Marin (hereinafter “Complainant FHANC”) allege that CIT Group, by and through its CIT Bank, N.A. subsidiary, as successor to OneWest Bank, and its subsidiaries and affiliates (hereinafter and collectively, “Respondent”) discriminated on the basis of race, national origin and/or color in violation of the federal Fair Housing Act (42 U.S.C. §3604(a), §3604(b), §3604(c), §3604(d) and 3605(a)). Respondent has violated and continues to violate the Fair Housing Act (“FHA”) by locating and operating branches and services in a manner which did not and does not give equal access to all consumers and loan seekers based on race, national origin and/or color. Respondent further violated and continues to violate the FHA by failing to market and originate residential real estate products to Asian American, African-American and Latino borrowers and communities for multiple years. In addition, Respondent is maintaining and marketing (or failing to market) Real Estate Owned (“REO”) properties in a state of disrepair in predominantly African-American, Latino, and other non-White communities (hereinafter “communities of color”) while maintaining and marketing such properties in predominantly White communities in a materially better condition.

Through the acts and omissions described herein, and those to be discovered during the course of HUD’s investigation, Complainants allege that Respondent has a systemic and particularized practice of engaging in differential treatment in locating branches and services, failing to market and originate residential real estate products, and maintaining and/or marketing its REO properties on the basis of race, national origin and/or color. This practice has been ongoing and continues to persist through the present.

FACTUAL BACKGROUND

A. The Parties

Complainant California Reinvestment Coalition (CRC) is a statewide nonprofit coalition of 300 member organizations, incorporated under the laws of California, with its principal place of business in San Francisco. CRC organizational members include numerous fair housing organizations, housing and consumer credit counseling agencies, legal service and legal aid offices, Community Development Financial Institutions, community development corporations, small business technical assistance providers, and other organizations involved in addressing the housing, mortgage, small business and other credit needs of California’s residents and communities of color. Complainant CRC’s mission is to build an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner. Complainant CRC furthers its mission through regulatory and legislative advocacy, dialogue and negotiations with banks and other corporations, research, and outreach and education of and with its member organizations. Respondent’s discriminatory conduct has required Complainant CRC to frustrate its mission and to divert its resources.

Through its advocacy, trainings, technical assistance, research, media work, outreach and education of its members, Complainant CRC works to ensure that corporations are meeting the needs of, and responsible participants in the economies of, communities of color and low income communities. The unlawful conduct of Respondent has injured Complainant CRC by:

- 1) interfering with these efforts to promote responsible corporate behavior in the state;
- 2) frustrating Complainant CRC's mission and purposes of building an inclusive and fair economy that meets the needs of communities of color and low income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner; and
- 3) diverting Complainant CRC's resources away from advocating for better laws, regulations and corporate practices in furtherance of equal access to housing and other resources, and diverting Complainant CRC's resources away from advocating against other harmful practices, policies and actors that discriminate against people and neighborhoods of color in California. Respondent has injured Complainant CRC by requiring Complainant CRC to commit scarce resources, including substantial staff time and the expenditure of limited funds, to research and analyze Respondent's discriminatory practices, educate the public about such practices, and advocate for regulatory and other responses to halt and remedy the discriminatory conduct, amongst other activities.

Complainant Fair Housing Advocates of Northern California (FHANC) is a non-profit fair housing organization and member of both CRC and the National Fair Housing Alliance (NFHA), incorporated under the laws of the State of California and with its principal place of business in San Rafael, California. FHANC works to promote equal opportunity in the renting, purchasing, financing, and advertising of housing; educate people regarding federal and state fair housing laws; promote integrated communities and neighborhood diversity; and eliminate discriminatory housing practices. FHANC engages in a number of activities to further its mission of promoting equal housing opportunities, including but not limited to: fair housing and fair lending counseling, foreclosure prevention and pre-purchase counseling and education, educational programs in schools and the community regarding fair housing and diversity, fair housing training programs for housing providers, and advocacy for affordable housing. Respondent's discriminatory conduct has required FHANC to frustrate its mission and to divert its scarce resources.

Respondent has injured Complainant FHANC by requiring Complainant FHANC to commit scarce resources, including staff time, to conduct numerous investigations of the maintenance and marketing of Respondent's REO properties in Solano and Contra Costa Counties. As a result of this expenditure of time and resources, FHANC was forced to divert resources and time away from other intended projects and programs, and to delay, suspend, or even cancel such programming. In addition, FHANC engaged in significant community outreach and public efforts in order to address and attempt to counteract the effects of Defendants' conduct. FHANC has also expended its own funds to engage in community development, homeownership promotion, and neighborhood stabilization efforts. FHANC's financial investments have been

and are continuing to be undermined by the existence of Respondent's deteriorating and poorly maintained REO properties in those communities.

Respondent CIT Bank, N.A. is a national bank chartered and regulated by the Office of the Comptroller of the Currency, and headquartered in Pasadena, California. CIT Bank, N.A. operates approximately 71 retail branches throughout southern California, and engages in mortgage lending, small business lending and the provision of other bank products and services. CIT Bank, N.A. also controls Financial Freedom, an affiliate or subsidiary, which was in the business of originating, and continues to be in the business of servicing reverse mortgage loans, primarily those insured by HUD through the HECM program.

Respondent CIT Group, Inc. is a diversified financial services holding company which is regulated by the Federal Reserve Bank of New York and which is a necessary party to this complaint as it controls and owns CIT Bank, NA. CIT Group is a Systemically Important Financial Institution with over \$50 billion in assets.

B. Complainant's Investigation And Analysis Demonstrates Disparities Based Upon Race, National Origin and/or Color in Where Respondent Locates and Maintains Retail Branch Offices And Offers Financial Products in Communities of Color Compared to Predominantly White Communities

Complainant CRC alleges that Respondent is in the business of operating retail bank branch offices in California and is charged with meeting the credit needs of the communities in which these branch offices are located. Complainant CRC alleges that the Respondent discriminated on the basis of race, national origin and/or color in locating and maintaining bank branches in areas that serve majority-white communities, do not serve areas of high minority concentration, and provide unequal access to residential real estate loans to Asian Americans, African Americans, and Latinos, and unequal access to other bank products for people and neighborhoods of color where 50% or more of residents are people of color. Respondent's branch presence in majority minority communities is below that of its peers which resulted and results in making residential real estate, small business, and other loan products less available to persons based on race, national origin and/or color, and which results in making banking services less available to protected groups and neighborhoods. Additionally, of the 12 branches that have been "consolidated" by Respondent, 5 of the 12 (or 41.6% of the total consolidations) were in majority minority tracts. Respondent has sited branches in a way that avoids neighborhoods of color and minority census tracts, and the resulting pattern of branch locations and consolidations supports a claim of redlining.

Respondent has a strikingly low penetration of branches into neighborhoods that are predominantly Asian American, predominantly African American, and predominantly Latino, in absolute terms and compared to its peers. In Respondent's six county CRA assessment areas:

- In African American majority neighborhoods: 0 Respondent branches; .7% of industry branches

- In Asian American majority neighborhoods; 1.4% of Respondents branches; 6.6% industry branches
- In Latino majority neighborhoods: 14.9% Respondent's branches; 19.6% of industry branches¹

C. Complainant's Investigation and Analysis Demonstrates a Pattern of Disparities Based upon Race, National Origin and/or Color in How Respondent Markets, Offers, and Originates Mortgage Loans and Other Products in Communities of Color Compared to Predominantly White Communities and to Loan Applicants of Color Compared to White Loan Applicants.

Complainant CRC alleges that Respondent is in the business of marketing, originating, and arranging loans for borrowers to purchase, refinance, or maintain a dwelling secured by residential real estate. Complainant CRC alleges that the Respondent discriminated on the basis of race, national origin and/or color by failing to market its residential real estate loan products to Asian Americans, African Americans, Latinos and/or majority minority communities in the Los Angeles MSA and other Southern California counties in the Bank's CRA assessment area. Complainant CRC alleges that Respondent's lack of market penetration in Asian American, African-American, Latino, and majority minority communities in these markets made and makes residential real estate products less available to persons based on race, national origin, and/or color.

Market share and other analysis of Home Mortgage Disclosure Act (HMDA) data, and data provided to federal banking regulators by the Respondent itself, show that since at least 2011, Respondent made few loans to protected groups and communities in absolute terms, in relation to the demographics of the counties in Respondent's CRA assessment area, and in relation to the industry as a whole. Respondent's home lending shows a significant disparity when compared to other lenders. In addition, Respondent's small business lending activity is concentrated in white neighborhoods, at the expense of residents, small businesses, and neighborhoods of color.

In 2015, in the Los Angeles Combined Statistical Area (CSA),² African Americans comprised 6.2% of the population, Asian Americans comprised 12.1% of the population, Latinos comprised 43.3% of the population, and minority census tracts comprised 64.7% of all census tracts. Yet home lending by Respondent in 2015 in the Los Angeles CSA did not equitably make credit available and did not help meet community credit needs. Only 1.7% of Respondent's home loans were originated to African American borrowers (compared to 3.6% for the industry); only 8.4% of Respondent's home loans were originated to Asian American borrowers (compared to 11% for the industry); only 8.4% of Respondent's home loans were originated to Latino borrowers (compared to 20.5% for the industry); and only 29.4% of Respondent's home loans were originated in minority census tracts (compared to 49.4% for the industry). These lending figures are well below the representation of protected classes and protected neighborhoods according to CSA demographics.

¹Branch and census data used are current through June 2014.

² The CSA includes the counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura.

Los Angeles CSA	Percent of total population in Los Angeles CSA	Percent of OneWest mortgages originated to these borrowers in 2015	Industry average of mortgages originated to these borrowers in 2015
African American	6.2%	1.7%	3.6%
Asian Americans	12.1%	8.4%	11.4%
Latinos	43.3%	8.4%	22.4%
Whites	35.3%	82.4%	67.8%
50 to 100% Minority Census Tracts	64.7%	29.4%	52.9%

For many years, Respondent's lending to protected classes and in protected neighborhoods is strikingly low in absolute terms and in comparison to that of Respondent's peers. For example, for home loans originated in Respondent's 6 county CRA assessment area, Respondent had the following market shares in 2014:

- .03% of all loans originated
- .02% of all loans originated in majority minority census tracts
- .02% of all loans originated to Asian borrowers
- .01% of all loans originated to Latino borrowers
- 0% of all loans originated to African American borrowers (no loans originated)

Complainant CRC states that even according to data provided by Respondent, Respondent's lending to Asian American and African American borrowers, and to majority minority communities, is also below peer lending and the demographics of the communities where Respondent is engaged in business activity.

According to data submitted to bank regulators by Respondent,³ for lending in Los Angeles County:

- In 2012, out of 43 home purchase and home improvement loans, Respondent made 0 loans to African Americans.
- In 2013, out of 26 home purchase and home improvement loans, Respondent made 0 loans to African Americans.
- In 2012, Respondent had a 10.1% Asian American origination market share, while its peers were at 24.2%. In other words, Respondent's Asian American market share was less than half the industry average.
- In 2013, Respondent similarly had an 11% Asian American origination market share, while its peers were at 23%, with Respondent at less than half the industry average.

Again, these data points were provided by Respondent to the Federal Reserve Bank of New York as part of the CIT Group, Inc. and OneWest Bank merger process.

Respondent's systemic practice of failing to effectively market, offer and originate mortgage loans and other loan products in communities of color violates the Fair Housing Act, 42 U.S.C. §§ 3601, et seq. and HUD's implementing regulations.

D. Respondent's Role in Maintaining and Marketing REO Properties

A property becomes an REO property when a bank or lender has foreclosed upon or repossessed a home from a homeowner or borrower and the ownership of the property has reverted to the bank or lender. After a foreclosure occurs, the foreclosing entity that owns the REO property has the responsibility to maintain the property and engage in disposition strategies, including but not limited to sale to a potential owner-occupant or investor, donation to a non-profit or local government entity, conveyance, or bulk auction. In addition, the owner of a REO property may contract with another entity to service or maintain the REO property. Respondent is the owner of REO properties and is responsible for preserving, maintaining, marketing, and selling REO properties.

Respondent utilizes employees and agents to preserve, maintain, service, market, and sell REO properties throughout the United States. Respondent has a vast network of brokers/agents who list REO properties on behalf of Respondent and help to maintain and market those properties. Respondent also contracts with asset management companies that perform preservation and maintenance work on REO properties on its behalf. Respondent is responsible for the acts of its employees, agents, brokers, contractors and servicers.

³ RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED DECEMBER 10, 2014 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC, December 22, 2014, pp. 6, 7, available at: https://www.federalreserve.gov/bankinforeg/2014-12-22_Response_to_2014-12-10_AI_Request.pdf

E. Complainant's Investigation Demonstrates a Pattern of Disparities Based upon Race, National Origin and/or Color in How Respondent Maintains and Markets REO Properties in Communities of Color Compared to Predominantly White Communities

From April 2014 – May 2016, Complainant FHANC investigated sixteen of Respondent's REO properties in Solano and Contra Costa Counties, six in predominantly Latino communities, seven in predominantly non-White communities, and three in predominantly White communities. Complainant employed a methodology for investigating how REO properties are maintained and marketed, measuring whether there are differences between how REO properties are maintained and marketed in communities of color compared to REO properties in predominantly White communities. A predominantly non-White neighborhood is defined as one in which 50% or greater of the population is non-White.

Investigators visited and photographed the properties in question, noting the number and type of deficiencies present on the REO. Deficiencies denote problems with important maintenance issues addressing curb appeal, health and safety items, structural issues for marketing the REO, and maintaining property values in a way that one would expect of a good neighbor. Evaluation measures include curb appeal (trash, leaves, overgrown grass, overgrown shrubs, invasive plants, dead grass); structure (broken windows, broken doors, damaged fences, damaged roof, holes, wood rot); signage (trespassing/warning signs, "Bank owned," "auction," or "Foreclosure" signs, "For Sale" signs missing/discarded); paint/siding (graffiti, excessive peeling/chipped paint, damaged siding); gutters (missing, out of place, broken, hanging, obstructed); water damage (mold, algae, discoloration, excessive rust, erosion); utilities (tampered with or exposed). No homes that were occupied or undergoing construction were evaluated in this complaint.

Results of Complainant FHANC's REO investigations demonstrate a pattern of far fewer maintenance deficiencies or problems in predominantly White communities as opposed to communities of color in line with patterns that have been seen with Fannie Mae, Bank of America, US Bank, and other lending institutions. While Respondent's REO properties in White communities were generally well maintained and well marketed with manicured lawns, securely locked doors and windows, and attractive, professional, "for sale" signs posted out front, Respondent's REO properties in communities of color were more likely to have trash strewn about the premises, overgrown grass, shrubbery, and weeds, and boarded or broken doors and windows among many other curb appeal and structural issues. The only exception was an REO property in a White community that is 52-53% White and borders a community of color. Respondent's REOs in communities of color appear abandoned, blighted, and unappealing to potential homeowners, even though they are located in stable neighborhoods with surrounding homes that are well-maintained.

Overall, REO properties in White communities were far more likely to have a small number of maintenance deficiencies or problems than REO properties in communities of color, while REO properties in communities of color were far more likely to have large numbers of such deficiencies or problems than those in White communities. In addition, in these metropolitan areas, Complainants documented significant racial disparities in many of the objective factors

evaluated. Complainant FHANC's investigation of Respondent's REO properties highlights disparities in the maintenance and marketing of REO properties in communities of color vs. predominantly White communities.

Complainant FHANC found the following patterns based upon its investigation of sixteen REO properties owned by Respondent in Solano and Contra Costa Counties:

- 66.7% of the REO properties in White communities had **fewer than 5 maintenance or marketing deficiencies**, while none of the REO properties in communities of color had fewer than 5 deficiencies.
- 100.0% of the REO properties in communities of color had **5 or more maintenance or marketing deficiencies**, while only 33.3% of the REO properties in predominantly White communities had 5 or more deficiencies.
- 53.8% of the REO properties in communities of color had **10 or more maintenance or marketing deficiencies**, while none of the REO properties in predominantly White communities had 10 or more deficiencies.
- 7.7% of the REO properties in communities of color had **15 or more maintenance or marketing deficiencies**, while none of the REO properties in predominantly White communities had 15 or more deficiencies.

REO properties in communities of color were far more likely to have certain types of deficiencies or problems than REO properties in predominantly White communities. Complainant FHANC found significant racial disparities in the majority of the objective factors it measured, including the following:

- 61.5% of the REO properties in communities of color had **substantial amounts of trash** on the premises, while none of the REO properties in predominantly White communities had the same problem.
- 30.8% of the REO properties in communities of color had **accumulated mail**, while none of the REO properties in predominantly White communities had the same problem.
- 61.5% of the REO properties in communities of color had **overgrown grass or dead leaves**, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of the REO properties in communities of color had at least **10% to 50% of the property covered in dead grass**, while none of the REO properties in predominately White communities had the same problem.

- 23.1% of the REO properties in communities of color had at least **10% to 50% of the property covered in invasive plants**, while none of the REO properties in predominately White communities had the same problem.
- 61.5% of the REO properties in communities of color had **unsecured or broken doors**, while none of the REO properties in predominantly White communities had the same problem.
- 53.8% of the REO properties in communities of color had **broken or boarded windows**, while only 33.3%* of the REO properties in predominantly White communities had the same problem. *The property in question is 52-53% White, bordering a community of color.
- 61.5% of the REO properties in communities of color had a **damaged fence**, while none of the REO properties in predominantly White communities had the same problem.
- 46.2% of the REO properties in communities of color had **holes** in the structure of the home, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of the REO properties in communities of color had **wood rot**, while none of the REO properties in predominantly White communities had the same problem.
- 61.5% of the REO properties in communities of color had **no professional “for sale” sign marketing the home**, while none of the REO properties in predominantly White communities had the same problem.
- 53.8% of the REO properties in communities of color had **damaged siding**, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of REO properties in communities of color had **missing or out of place gutters**, while none of the REO properties in predominantly White communities had the same problem.
- 30.8% of REO properties in communities of color had **broken or hanging gutters**, while none of the REO properties in predominantly White communities had the same problem.
- 23.1% of the REO properties in communities of color had **exposed or tampered-with utilities**, while none of the REO properties in predominantly White communities had the same problem.

Respondent's systemic practice of failing to maintain REO properties in communities of color on the same basis as they maintain properties in White communities violates the Fair Housing Act, 42 U.S.C. §§ 3601, et seq. and HUD's implementing regulations.

LEGAL CLAIMS

FIRST CAUSE OF ACTION: 42 U.S.C. § 3604(b)

Section 3604(b) states it is unlawful “[t]o discriminate against any person in the terms, conditions, or privileges of sale . . . of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color . . . or national origin [.]” 42 U.S.C. § 3604(b). HUD's implementing regulations state “[i]t shall be unlawful, because of race . . . , to impose different terms, conditions or privileges relating to the sale . . . of a dwelling or to deny or limit services or facilities in connection with the sale . . . of a dwelling.” 24 C.F.R. § 100.65(a), and in particular that “prohibited actions under this section include, but are not limited to: . . . Failing or delaying maintenance or repairs of sale or rental dwellings because of race[.]” Id. § 100.65(b)(2) (emphasis added). By consistently failing to undertake basic maintenance or repairs of REO properties in communities of color while consistently maintaining and/or repairing REO properties in predominantly White communities in a superior fashion, Respondent engages in the “prohibited action” of “failing or delaying maintenance or repairs of sale . . . dwellings because of race,” id. § 100.65(b)(2), and thereby discriminates “in the terms, conditions, or privileges of sale . . . dwelling, or in the provision of services or facilities in connection therewith, because of race, color . . . and national origin[.]” 42 U.S.C. § 3604(b). Additionally, Respondent's acts, policies, and practices, in its retail branch location and its home loan marketing and origination penetration, have provided and continue to provide different terms, conditions, and/or privileges of sale of housing, as well as different services and facilities in connection therewith, on the basis of race, national origin and/or color in violation of 42 U.S.C. §3604(b).

SECOND CAUSE OF ACTION: 42 U.S.C. § 3604(c)

Section 3604(c) broadly prohibits discrimination in the advertising of dwellings for sale or rent. See 42 U.S.C. § 3604(c). HUD's regulations state it is unlawful to “make, print, or publish” a discriminatory notice, statement or advertisement about a dwelling for sale, including through signs, banners, posters or any other documents. 24 C.F.R. § 100.75(a)-(b). In particular, “[d]iscriminatory notices, statements and advertisements include, but are not limited to” “[s]electing media or locations for advertising the sale . . . of dwellings which deny particular segments of the housing market information about housing opportunities because of race,” id. § 100.75(c)(3), and “[r]efusing to publish advertising for the sale . . . of dwellings or requiring different charges or terms for such advertising because of race, color . . . or national origin[.]” Id. § 100.75(c)(4). Respondent's practice of failing to advertise its REO properties with a “for sale” sign in communities of color at substantially the same rate as in predominantly White communities and its related practice of posting signs in communities of color that convey a message that homes are dangerous, undesirable, or distressed violates § 3604(c) and 24 C.F.R. § 100.75(c) and (d) by selecting advertising locations that deny communities of color vital information about opportunities to purchase REO properties, and by refusing to publish

advertising or using different terms to advertise REO properties in communities of color, because of race, color and/or national origin.

THIRD CAUSE OF ACTION: 42 U.S.C. § 3604(d)

Section 3604(d) makes it unlawful “to represent to any person because of race . . . that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.” 42 U.S.C. § 3604(d). HUD’s implementing regulations state that “[i]t shall be unlawful, because of race . . . to provide inaccurate . . . information about the availability of dwellings for sale or rental,” including by “[l]imiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race,” or by “[p]roviding . . . inaccurate information regarding the availability of a dwelling for sale . . . to any person . . . because of race, color . . . or national origin[.]” 24 C.F.R. § 100.80(a), (b)(4)-(5). Through a combination of sub-standard maintenance, failing to market homes as “for sale,” and the affirmative marketing of these homes as dangerous, undesirable, or distressed, Respondent violates § 3604(d) by conveying an inaccurate message to existing homeowners and prospective purchasers in communities of color that its REO properties in communities of color are “not available for inspection, [or] sale, . . . when such dwelling[s] [are] in fact so available,” because of the race, color or national origin of the homeowners or purchasers in these communities of color. 42 U.S.C. § 3604(d). In addition, the same practices drastically limit information or provide inaccurate information about the availability of REO properties because of race in violation of 24 C.F.R. § 100.80(b)(4), and (5).

FOURTH CAUSE OF ACTION: 42 U.S.C. § 3604(a)

Section 3604(a) states that it is unlawful to “refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color . . . or national origin[.]” 42 U.S.C. § 3604(a). Respondent’s differential treatment in maintenance and marketing of REO properties violates § 3604(a), as it “refuse[s] . . . to negotiate” or “us[es] different . . . sale . . . standards or procedures . . . or other requirements . . . because of race.” 24 C.F.R. § 100.60(b)(2), (4). Furthermore, these practices “restrict . . . the choices of a person by word or conduct in connection with seeking, negotiating for, buying . . . a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns,” by conveying a message to prospective purchasers that REO properties in communities of color are not available or desirable. 24 C.F.R. § 100.70(a). Specifically, these practices “exaggerat[e] [the] drawbacks” of REO properties, “fail to inform” purchasers of “desirable features of a dwelling or of a community, neighborhood, or development,” and “discourag[e]” persons “from inspecting [or] purchasing” REO properties “because of the race . . . of persons in a community, neighborhood, or development.” 24 C.F.R. § 100.70(c)(1)-(2). Finally, in the most severe instances of poor maintenance, Respondent’s practices can cause REO properties in communities of color to fall into such disrepair that they cannot be restored and must be demolished, making them completely “unavailable” to purchasers. See 24 C.F.R. § 100.70(b). Additionally, Respondent’s acts, policies, and practices, in its retail branch location and its loan marketing and origination penetration, have made and continue to make housing unavailable on the basis of race, color or national origin, in violation of 42 U.S.C. § 3604(a).

FIFTH CAUSE OF ACTION: 42 U.S.C. § 3605

Section 3605 states that “It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following: (1) The making or purchasing of loans or providing other financial assistance-- (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or (B) secured by residential real estate. Here, Respondent’s acts, policies and practices in its retail branch location and its loan marketing and origination penetration have provided and continue to provide different terms, conditions and/or privileges on the basis of race and/or color in connection with the making of residential real estate related transactions, in violation of 42 U.S.C. §3605. Respondent avoided the credit needs of majority minority neighborhoods and residents, thereby engaging in acts or practices directed at prospective applicants that discouraged people in minority neighborhoods from applying for credit.

As a result of such discriminatory conduct, individuals, homeowners, small businesses, local jurisdictions, and local institutions in the communities served by Complainant CRC and its member organizations and Complainant FHANC, have been subjected to: 1) decreased opportunities to access home purchase, home and refinance, and other loan products; 2) decreased access to banking services available at retail banking offices and branches; and 3) decreased opportunities for orderly maintenance and transfer of properties and ensuing increased risk of destabilized and blighted communities.

Concurrently with, and in part resulting from, Respondent’s disinvestment, foreclosures and faulty REO property maintenance practices in neighborhoods of color, the Los Angeles MSA, Los Angeles CSA, Respondent’s CRA assessment area, Solano and Contra Costa County communities, and communities throughout the state have been negatively impacted. Communities have witnessed the large scale purchase by investors of distressed REO properties and distressed loans, the dramatic increase in the cost of homeownership and rental housing, and the gentrification of communities of color and displacement of large numbers of protected classes of people. These dynamics have been exacerbated by Respondent’s failure to make home mortgage and other loan products, housing, branch access, adequate REO property maintenance and marketing, and related services and products available to Asian American, African American, Latino, and other of color residents and communities.

Complainants believe this discriminatory conduct is ongoing and will not abate without intervention. Further, complainants assert that these allegations demonstrate a pattern and practice of discriminatory conduct by Respondent. Additional context, including widespread foreclosures⁴ in neighborhoods of color by Respondent⁵ paints an even clearer picture of an

⁴ Complainant CRC’s analysis of HUD’s response to CRC’s Freedom of Information Act (FOIA) request found that Respondent’s subsidiaries and affiliates were responsible for at least 38% of all foreclosures on seniors, non-

institution that serves white communities with branches and loans, and interacts with neighborhoods of color and vulnerable communities through foreclosures.

In response, Complainants have expended considerable resources to bring Respondent's discriminatory practices to light, and in so doing, have put Respondent on notice as to its discriminatory practices, conduct and impact, on California residents and communities in violation of the Fair Housing Act, 42 U.S.C. section 3604 and 3605.

borrower spouses and their family members as part of the FHA Home Equity Conversion Mortgage (HECM) program from April 2009. Additional CRC analysis finds that of all of Respondent's foreclosures in California on reverse mortgage borrowers, non-borrower spouses and their family members, 47% were in neighborhoods where most of the residents were people of color.

⁵ Complainant CRC's analysis of Respondent's 36,382 foreclosures in California from April 2009 to April 2015 found that 68% of such foreclosures were in majority minority zip codes, and that 35% of Respondent's California foreclosures were in zip codes where 75% of the residents were people of color.