

1 BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON HOUSING, CONSTRUCTION, AND
3 COMMUNITY DEVELOPMENT
4 AND
5 STANDING COMMITTEE ON INVESTIGATIONS AND
6 GOVERNMENT OPERATIONS
7 AND
8 NYS SENATE STANDING COMMITTEE ON CONSUMER PROTECTION
9 -----

10 JOINT VIRTUAL PUBLIC HEARING:

11 TO EXAMINE AND IDENTIFY WHETHER AND HOW POTENTIAL
12 HOMEBUYERS OF COLOR SUFFER ILLEGAL AND UNEQUAL
13 TREATMENT BY REAL ESTATE AGENTS ON LONG ISLAND
14 -----

15 Date: September 17, 2020
16 Time: 10:00 a.m.

17 PRESIDING:

18 Senator Brian Kavanaugh, Chair
19 NYS Senate Standing Committee on Housing,
20 Construction, and Community Development

21 Senator James Skoufis, Chair
22 NYS Senate Standing Committee on Investigations
23 and Government Operations

24 Senator Kevin Thomas, Chair
25 NYS Senate Standing Committee on Consumer Protection

SENATORS PRESENT:

Senator Thomas F. O'Mara, Ranking Member
NYS Senate Standing Committee on Investigations
and Government Operations

Senator Philip M. Boyle

Senator Leroy Comrie

Senator James Gaughran

Senator Robert Jackson

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SENATORS PRESENT (cont.)

Senator Todd Kaminsky

Senator Anna Kaplan

Senator Liz Krueger

Senator Monica Martinez

Senator Gustavo Rivera

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1 SENATOR SKOUFIS: Good morning, and welcome
2 to the New York State Senate's September 17, 2020,
3 public hearing that seeks to further examine housing
4 discrimination on Long Island, an effort prompted by
5 "Newsday's" 2019 exposé.

6 The Committee on Investigations and
7 Government Operations joins the Committee on
8 Housing, Construction, and Community Development,
9 chaired by Senator Brian Kavanaugh, as well as the
10 Committee on Consumer Protection, chaired by
11 Senator Kevin Thomas, as hosts for today's hearing.

12 Before I turn it over to my colleagues for
13 opening remarks, I'd like to first take a moment to
14 bring the public up to speed, as well as outline the
15 ground rules for today.

16 This is our second such hearing, the first of
17 which was held shortly after "Newsday's"
18 "Long Island Divided" investigative report was
19 published.

20 A desire for a second hearing was
21 necessitated by the fact that 67 of 68 realtors and
22 industry representatives, whose presence was
23 requested, refused to appear at our prior hearing,
24 depriving our committees of substantial testimony.

25 Subsequently, we in the state Senate issued

1 dozens of subpoenas to compel today's testimony.

2 While previous Senate majorities have
3 typically refused legislative subpoenas, our
4 committees, with the support of Majority Leader
5 Andrea Stewart-Cousins, felt the issue at hand was
6 and is of such fundamental importance that it
7 required witness appearance and accountability.

8 After chairman and ranking member opening
9 remarks, I'll introduce the first panel of witnesses
10 and administrator an oath.

11 Each witness will be afforded up to
12 five minutes for their statement.

13 During questions, chairs and rankers will be
14 provided five minutes, while members of the each
15 committee will be provided three minutes.

16 Chairs and rankers will be afforded a second
17 round of questions, if needed, though I respectfully
18 request that these opportunities be judicious.

19 I would like to remind all witnesses
20 participating today that they are subject to
21 Section 215.60 of the Criminal Procedure Law
22 entitled "Criminal Contempt of the Legislature."

23 Specifically, a person is guilty of criminal
24 contempt of the legislature when, having been fully
25 and duly subpoenaed to attend as a witness before

1 either house of the legislature, or before any
2 committee thereof, he or she (1) fails or refuses to
3 attend without lawful excuse, or (2) refuses to be
4 sworn, or (3) refuses to answer any material and
5 proper question, or (4) refuses, after reasonable
6 notice, to produce books, papers, or documents in
7 his or her possession or under his or her control
8 which constitute material and proper evidence.

9 Criminal contempt of the legislature is a
10 Class A misdemeanor, punishable by fines and jail
11 time.

12 To that end, there are a small handful of
13 subpoenaed individuals that, as of this morning,
14 have not committed to participation.

15 Any absences will be duly noted for the
16 record, and we will move to compel testimony, which
17 may include referring them to be held in criminal
18 contempt.

19 All participating witnesses are entitled to
20 request a sidebar with their attorneys if they are
21 remote from one another.

22 Upon doing so, the hearing, including the
23 clock, will be paused until the witness returns.

24 While discrimination is intolerable at any
25 moment or time, today's hearing occurs amidst a

1 backdrop of racial upheaval and reckoning in this
2 country.

3 It is incumbent upon all of us, more so than
4 ever, to get the full facts of what happened here on
5 Long Island, so that we may begin to address the
6 inequities and outright bias, whether explicit or
7 implicit, that exists within real estate.

8 I look forward to today's testimony.

9 And I'll now turn it over to
10 Senator Brian Kavanaugh for opening remarks.

11 SENATOR KAVANAGH: Thank you,
12 Senator Skoufis.

13 Thank you, Senator Thomas, also who is
14 co-chairing this hearing, and we'll hear from in a
15 moment.

16 And, you know, I'm really honored to be here
17 today with my two co-chairs and all of our
18 colleagues who are here, who I think Senator Skoufis
19 will introduce in a moment, as we begin to shed some
20 light on some very disturbing incidents uncovered by
21 the "Newsday" investigation last year, and consider
22 steps that we can take to prevent discrimination in
23 our state, going forward.

24 I also want to acknowledge the extraordinary
25 leadership of our majority leader,

1 Andrea Stewart-Cousins, on this issue, and so many
2 others, and the staff of all three committees, and
3 the offices of the chairs, including my own, for all
4 of their work in advance of this hearing.

5 We're not doing this work in a vacuum.

6 I think we should acknowledge that the
7 division of human rights has been working to
8 investigate and obtain some settlements on matters
9 related to today's hearing, as has the attorney
10 general. And the attorney general has also recently
11 funded some additional fair-housing testing in the
12 state, which was announced a couple of months ago.

13 I also want to acknowledge that
14 Commissioner RuthAnne Visnauskas at the state homes
15 and community renewal has been working on a survey
16 about, you know, various ways people can participate
17 in promoting, affirmatively, further and fair
18 housing around the state.

19 There's a deadline for commenting on that,
20 but it's tomorrow. So, you know, hopefully that
21 will bear some fruit as well.

22 I also just want to -- it should be
23 acknowledged, the extraordinary work of "Newsday" in
24 their investigative reporting, that -- during a
25 hearing last December, and continues to be the basis

1 for a lot of the questions we're going to be asking
2 today. It really is a remarkable piece of
3 journalism.

4 So today is about connecting the dots.

5 We have seen instances in -- again, in all of
6 that reporting, of behavior that seems quite
7 disturbing.

8 We've also in recent months had the
9 opportunity to see the disproportionate effect of a
10 global pandemic in our communities across the state,
11 how certain communities were hurt far worse than
12 others, and those communities tended to be
13 communities of color.

14 And, of course, we've also had a major new
15 awareness, and lots of protests, and lots of
16 soul-searching, about systemic racism in our
17 policing and in other areas of our society.

18 It is important to note that those things,
19 again, do not happen in a vacuum. That our country
20 suffered many years from overt discrimination in our
21 housing markets that has laid out the geography of
22 our cities and our state and, really, the entire
23 country, such that people are segregated.

24 And fair-housing laws are intended to be at
25 least one step toward addressing that, and ensuring

1 that, when someone is looking for a home, as people
2 were in this investigation, or when people were
3 looking for rental housing, that they are not
4 overtly discriminated against.

5 And, of course, there are additional steps we
6 can take to proactively further fair housing as
7 well, in addition to avoiding discrimination.

8 But, today, of course, is going to be mostly
9 about those discriminatory behaviors that we
10 appeared to witness on the video, and in the other
11 materials gathered by "Newsday".

12 We do have several pieces of legislation.

13 We are going to have two panels of experts on
14 fair housing testify today about what the
15 investigation uncovered, and also the various pieces
16 of legislation.

17 We do have -- and these were mentioned in the
18 hearing notice, but we have Senate Bill 6874,
19 sponsored by Senator Gaughran, which was passed and
20 signed into law already. And that'll bring new
21 sanctions against real-estate brokers and
22 salespeople who commit housing discrimination.

23 We've got Senate Bill 6713, sponsored by
24 Senator Hoylman, which notifies housing-assistance
25 recipients of their fair-housing rights.

1 We've got Senate Bill 7625, sponsored by
2 Senator Kaplan, who I think will be joining us
3 today, which creates a fair-housing testing program,
4 much like the one that "Newsday" used to uncover all
5 of this extraordinary material.

6 We've got Senate Bill 8096, which
7 I sponsored, which would establish an obligation
8 to affirmatively further fair housing on the part
9 of all kind of recipients of housing assistance in
10 our state, government entities, and others.

11 And we've got a bill by Senator Skoufis,
12 S7581, which would require additional training for
13 real-estate professionals and real-estate
14 salespeople.

15 And, finally, by my other co-chair,
16 Senator Thomas, S7632, which would increase the
17 penalties for fair-housing violations, aimed at
18 preventing such discrimination, and promoting fair
19 housing in the future.

20 So, again, I think we have an opportunity,
21 beginning with our last hearing, and continuing
22 today, to usher in a new era of accountability and
23 transparency in all participants in our housing
24 industry.

25 And, hopefully, this will serve as a

1 blueprint for others who are continuing to battle
2 the scourge of discrimination in our society.

3 I look forward to the opportunity today to
4 dig in deeper to the allegations of discrimination
5 "Newsday" uncovered, and to use what we learn today
6 to advance our fair-housing agenda.

7 Thank you very much.

8 SENATOR SKOUFIS: Thank you.

9 To my other co-chair, Senator Kevin Thomas.

10 SENATOR THOMAS: Thank you.

11 Good morning, everyone.

12 I am Senator Kevin Thomas, the chairman of
13 the Committee on Consumer Protection in the Senate.

14 Today we convene for the second time on this
15 very important issue after sending out subpoenas.

16 It is unfortunate that we were forced to even
17 use this tool to get these witnesses here, but
18 I thank those that are here, because we need to
19 gather the facts.

20 To those that have intentionally ignored our
21 subpoenas, this legislative body will prepare to
22 seek criminal contempt.

23 And to those who are listening, who have
24 ignored the subpoenas, do the right thing.

25 The issue here is housing discrimination on

1 Long Island.

2 "Newsday" did an incredible investigation on
3 how potential home buyers were treated differently
4 on the basis of their skin color.

5 As a homeowner myself, I looked for a place
6 that's safe, in a good community, where I can get to
7 work, and my kid has a good school, with room for my
8 family to grow.

9 And everyone should have the opportunity to
10 build wealth for their family by owning a home.

11 I live in Levittown now, but decades ago this
12 wouldn't have been possible.

13 The Fair Housing Act changed all of that, or
14 it seemed that way.

15 The "Newsday" investigation showed us that
16 discriminatory practices were still occurring.

17 They found the following during paired
18 testing:

19 In 40 percent of the tests, evidence
20 suggested that real-estate agents treated minority
21 testers differently than White testers.

22 Specifically, Black testers experienced
23 disparate treatment 49 percent of the time;

24 Hispanics, 39 percent of the time;

25 And, Asians, 19 percent of the time.

1 In 24 percent of the tests, real-estate
2 agents steered Whites and minorities into deferring
3 communities.

4 Real-estate agents used school districts
5 perceived quality when recommending places that home
6 buyers should consider or avoid.

7 In 80 percent of the tests, real-estate
8 agents denied equal services to minorities.

9 Though the agents did not flat-out refuse
10 service, they did impose conditions on minority
11 testers that seemed reasonable, like obtaining a
12 prequalification for a mortgage loan before giving
13 them any listings or showing them any homes;
14 however, these conditions were not imposed on the
15 paired White testers.

16 Enough is enough.

17 Today we will hear from these agents caught
18 on camera, and how their actions contributed to the
19 inequities built into our housing system for
20 generations.

21 It's about time someone actually does
22 something to fix it instead of making it worse.

23 So here we are, with my colleagues in the
24 Senate.

25 And I want to thank our leader,

1 Andrea Stewart-Cousins, for leading the way on this
2 matter, as well as my co-chairs.

3 And, we are doing this because our
4 constituents are tired of the lack of action, the
5 lack of accountability.

6 Today we change all that.

7 SENATOR SKOUFIS: Thank you.

8 I want to acknowledge we've been joined by
9 the ranking member of Investigations and Government
10 Operations, Senator Tom O'Mara.

11 Do you have any opening remarks?

12 (No response heard.)

13 SENATOR SKOUFIS: Okay, hearing none, I'll
14 now just acknowledge those senators who have joined
15 us, before we get to the first panel, and the order
16 is based on where you are in my Zoom boxes.

17 I'm just going to be reading across the
18 screen.

19 (Off-screen indiscernible voice.)

20 SENATOR SKOUFIS: Senator O'Mara, do you have
21 anything you'd like to say, opening remarks?

22 SENATOR O'MARA: No.

23 Thank you very much, I'm good.

24 Sorry. I was on mute.

25 SENATOR SKOUFIS: No worries.

1 Great to see you.

2 So also joining us are: Senator Boyle,
3 Senator Liz Krueger, Senator Jim Gaughran,
4 Senator Todd Kaminsky, Senator Anna Kaplan, and
5 Senator Monica Martinez.

6 With that, we'll introduce and call our first
7 panel, which is made up of folks from
8 Douglas Elliman.

9 We're joined by Ann Conroy, Lisa Casabona,
10 Francia Perez, Donna Rogers, and Judi Ross.

11 If you can all turn on your videos, please.

12 OFF-CAMERA TECHNICIAN: Lisa Casabona is
13 joining by phone.

14 Any senators wishing to direct questions
15 should name her so that we can be sure she is
16 unmuted.

17 SENATOR SKOUFIS: Okay. Very good.

18 And before we get started, if you can all
19 raise your right hand for me, please, and answer:
20 Do you solemnly swear that you will tell the truth
21 and nothing but the truth, so help you God?

22 ANN CONROY: I do.

23 FRANCIA PEREZ: I do.

24 DONNA ROGERS: I do.

25 JUDI ROSS: I do.

1 SENATOR SKOUFIS: Thank you.

2 Ann, are you going to share any remarks to
3 start?

4 ANN CONROY: Yes. I would like to read a
5 prepared statement.

6 SENATOR SKOUFIS: Okay.

7 Please keep it under five minutes, please.

8 ANN CONROY: Okay.

9 SENATOR SKOUFIS: Thank you.

10 ANN CONROY: As you know, my name is
11 Ann Conroy. I am the chief executive officer of the
12 Long Island division of Douglas Elliman.

13 I have worked in real estate on Long Island
14 for over 35 years, and was promoted to chief
15 executive officer of the Long Island division for
16 Douglas Elliman in January of 2020 after serving as
17 president of the region for over 10 years.

18 I appreciate the opportunity to speak on
19 Douglas Elliman's behalf at this hearing.

20 Douglas Elliman would like to thank the
21 New York State Senate for taking the time to address
22 the issue of fair housing and discrimination on
23 Long Island.

24 I'm appearing today with Jessica Rosenberg of
25 Kasowitz, Benson & Torres, LLP, who is outside

1 counsel for the company.

2 Douglas Elliman has a culture built on
3 inclusion and diversity, and has a zero-tolerance
4 policy towards unfair and illegal treatment of any
5 individual or any group.

6 The company strenuously opposes
7 discrimination in all forms, and provides extensive
8 training to its agents on proper conduct and
9 compliance with all fair-housing laws.

10 Specifically, Douglas Elliman strictly
11 requires that its agents comply with the federal
12 Fair Housing Act and applicable state, county, and
13 local laws.

14 Under the company's written policy,
15 Douglas Elliman and its agents are prohibited from
16 discriminating or assisting in discrimination based
17 on any protected class, including race and
18 ethnicity.

19 We have provided our policies to the New York
20 State Senate in connection with this hearing.

21 A policy which every agent receives and must
22 adhere to, is titled "Compliance with fair housing
23 and discrimination laws in New York State, and
24 related legislation regulations," states, that:

25 Douglas Elliman and its agents must comply

1 with all fair-housing laws."

2 Specifically, the policy states:

3 "DE and its agents are obliged to comply with
4 the federal Fair Housing Act, federal Americans with
5 Disabilities Act, New York State Human Rights Law,
6 applicable county and local laws, and related
7 legislation regulations."

8 These laws require both DE and its agents not
9 to discriminate, or assist in discrimination, as
10 against landlords and owners, as well as against
11 potential renters and owners, based on any protected
12 class.

13 The policy governs all aspects of operations,
14 and prohibits a range of activities, including but
15 not limited to, discriminatory or unlawful
16 advertisements, both orally and in writing, which
17 indicate a preference, or for or exclusion of
18 certain protected classes; refusing to sell or rent
19 housing based on protected classes; misrepresenting
20 the unavailability of housing; setting different
21 terms, privileges, and conditions for potential
22 renters or owners, based on protected classes.

23 Douglas Elliman policy further requires that
24 all agents on Long Island acting as a rental agent
25 must be certified under Douglas Elliman's rental

1 brokerage certification program, which mandates that
2 such agents complete a six-hour rental-law training
3 class, including education on fair housing, and pass
4 a written test of their knowledge of fair-housing
5 and rental law.

6 Douglas Elliman's policy also requires
7 all Douglas Elliman agents to attend an annual
8 three-hour compliance training session, during
9 which agents are trained on compliance with the
10 Fair Housing Act and its obligations and
11 requirements.

12 In light of the pandemic, this training is
13 now conducted each month via Zoom.

14 The monthly training is [indiscernible] by
15 Douglas Elliman's senior vice president of learning
16 and career development.

17 The training also discusses in detail the
18 regulations announced by Governor Cuomo in
19 December of 2019, which were approved by the
20 New York State Real-Estate Board, and which went
21 into effect in June 2020.

22 The training is comprehensive, with a focus
23 on how the agents must comply in all respects with
24 the new regulations and all fair-housing laws so as
25 to engage in proper professional conduct at all

1 times.

2 For example, the training teaches that a new
3 written Fair-Housing and Anti-Discrimination
4 Disclosure now must be provided upon first
5 substantive contact to a prospective purchaser,
6 tenant, seller, or landlord, and that the form must
7 be maintained by the real-estate broker for a period
8 of three years.

9 The training also teaches that a new
10 Fair-Housing and Anti-Discrimination Notice must be
11 displayed in the window of each office and branch
12 office operated by a real-estate broker, and be
13 prominently displayed on all websites operated by
14 all real-estate licensees, and at each open house.

15 With respect to the article that appeared in
16 "Newsday" on November 17, 2019, I can confirm we
17 have spoken to all the agents referenced in the
18 article who are currently affiliated with
19 Douglas Elliman.

20 And in the wake of the article, we have
21 reiterated to all agents affiliated with
22 Douglas Elliman the importance of fair-housing and
23 anti-discrimination protocols.

24 We appreciate and support the New York State
25 Senate's effort to address and eradicate illegal and

1 unequal treatment of homebuyers, and we're prepared
2 to work with the state Senate in its efforts to
3 ensure real-estate agents do not engage in any
4 unlawful discriminatory conduct.

5 SENATOR SKOUFIS: Thank you very much.

6 Are any of the other panelists going to make
7 remarks before questions, or, Ms. Conroy, were you
8 speaking for them as well?

9 ANN CONROY: I believe some of the other
10 agents have a prepared statement as well.

11 SENATOR SKOUFIS: Okay.

12 Do you want to just raise your hands if
13 you're one of those with a prepared statement?

14 Okay, okay.

15 So why don't we start, Donna, please.

16 Just unmute yourself as well.

17 DONNA ROGERS: I'm sorry.

18 Can you hear me now?

19 SENATOR SKOUFIS: Yep, yep. Thank you.

20 DONNA ROGERS: Okay.

21 Good morning. My name is Donna Rogers.

22 I appreciate the opportunity to speak to you
23 today, to help in your efforts in preventing and
24 halting discrimination of racial minorities on
25 Long Island.

1 I'm a real-estate agent affiliated with
2 Douglas Elliman, located at its Plainview office in
3 Long Island.

4 The reason I am here is that I was one of the
5 agents that "Newsday" accused of steering and
6 disparate treatment of racial minorities in
7 November of 2019, an article based on a paired test
8 that occurred months apart, in May and October of
9 2016.

10 Although I appreciate what "Newsday" was
11 trying to do, for exposing the continued
12 discrimination of racial minorities, I categorically
13 and unequivocally deny engaging in steering,
14 disparate treatment, or discrimination of the
15 minority tester.

16 I was extremely disappointed to see that my
17 test was featured in this article, and that
18 "Newsday" reached such an erroneous conclusion from
19 a single test administered months apart, especially
20 since "Newsday"'s article does not identify any
21 statement from me that mentions or even alludes to
22 the testers' races or ethnicities.

23 My actions had absolutely nothing to do with
24 race.

25 I was influenced by each tester's stated

1 preferences and abilities with respect to home
2 improvements, and the inventory in Plainview was
3 different at the time of each test.

4 "Newsday's" article also mentions that I made
5 different statements about school districts to each
6 tester.

7 This is because, in between respective tests,
8 I attended trainings during which I learned that
9 speaking about the quality of schools -- school
10 districts could be deemed as steering, and was
11 advised to refrain from speaking about the quality
12 of school districts.

13 It sickens me that my name was associated
14 with this article, and my actions were so grossly
15 misconstrued and misinterpreted.

16 I agree wholeheartedly and support your
17 efforts to combat racial discrimination, and I would
18 welcome and abide by any measures that you
19 implement.

20 Thank you.

21 SENATOR SKOUFIS: Thank you very much.

22 We'll next go to Francia Perez.

23 You just muted yourself.

24 There you go.

25 FRANCIA PEREZ: Good morning.

1 My name is Francia Perez, and I appreciate
2 the opportunity to speak to you today, to help
3 you -- to help your efforts in preventing and
4 halting discrimination of racial minorities in
5 Long Island.

6 The reason I am here, that I was one of the
7 agents that "Newsday" accused of steering and
8 disparate treatment of racial minorities in the
9 November 2019 article, based on paired tests that
10 occurred months after -- months apart, in May and
11 September of 2016.

12 At the time of the tests, I was affiliated
13 with RE/MAX Central Properties.

14 I left RE/MAX Central Properties to join
15 Douglas Elliman in 2017, and I work in the
16 Douglas Elliman Massapequa office in Long Island.

17 Although I applaud "Newsday" for exposing the
18 continued discrimination of racial minorities,
19 I categorically and uninvocally [ph.][sic] deny
20 engaging in steering, desperate treatment, or
21 discrimination of the minority tester.

22 I was extremely disappointed to see that my
23 test was featured in the article, and that "Newsday"
24 reached such an enormous conclusion from a single
25 test administered months apart, especially since

1 "Newsday"'s article does not identify any statement
2 from me that mentions or even alludes to the
3 testers' races or ethnicities.

4 My actions had absolutely nothing to do with
5 race.

6 I was informed by each tester, respective
7 statements to me, about his ability to obtain a
8 preapproval, which is not protected characteristics
9 under the fair-housing laws.

10 I absolutely did not discriminate against the
11 minority tester.

12 And it sickens me also, and my name was
13 associated with the article, and that my actions
14 were so grossly misconstrued and misinterpreted.

15 I agree wholeheartedly with, and support,
16 your efforts to combat racial discrimination, and
17 I would welcome and abide by measures that you might
18 implement.

19 Thank you.

20 SENATOR SKOUFIS: Thank you.

21 We'll now go to Judi Ross.

22 JUDI ROSS: Good morning.

23 SENATOR SKOUFIS: Good morning.

24 JUDI ROSS: My name is Judi Ross, and
25 I appreciate the opportunity as well to speak with

1 you today, and help your efforts in preventing and
2 halting discrimination of minority communities
3 and -- or, minorities in Long Island.

4 The reason I am here today is I am also one
5 of the agents that "Newsday" accused of steering and
6 disparate treatment of racial minorities in their
7 November 2019 article, based on a paired tests that
8 occurred in April of 2017.

9 At the time of those tests, I was affiliated
10 with Keller Williams Realty Elite.

11 I left Keller Williams Realty Elite to join
12 Douglas Elliman in January of 2018, and I presently
13 work Douglas Elliman's Massapequa Park location.

14 Although I too applaud "Newsday" for exposing
15 the continued discrimination of racial minorities,
16 I too categorically and unequivocally deny engaging
17 in steering, disparate treatment, or discrimination
18 of the minority tester.

19 I was extremely disappointed to see that my
20 test was featured in the article, and that "Newsday"
21 reached such an erroneous conclusion from a single
22 test, especially since its -- the article does not
23 identify any statement from me that mentions or even
24 alludes to the tester's race or ethnicities.

25 My action had absolutely nothing to do with

1 race.

2 I simply did my best to respond to the stated
3 preferences and requests of each tester, including
4 with respect to home renovations.

5 I regret making the statement quoted in
6 "Newsday"'s article about school districts to the
7 White tester, but I was only speaking about the
8 school district's ratings, and I never intended to
9 steer either tester away from or to any town or
10 school district based on its racial composition.

11 I absolutely did not discriminate against the
12 minority tester, and it sickens me that my name was
13 associated with this article, and that my actions
14 were so grossly misconstrued and misinterpreted.

15 And I do agree wholeheartedly with, and
16 I support, your efforts to combat racial
17 discrimination, and I would welcome and abide by any
18 measures that you implement.

19 Thank you.

20 SENATOR SKOUFIS: Thank you.

21 We do have one witness by phone, as was
22 mentioned before, Lisa Casabona.

23 I don't know, since, obviously, we can't see
24 if you raised your hand, do you have a prepared
25 statement?

1 If you can unmute yourself.

2 Okay. Hearing none, I guess we'll just jump
3 to the questions, then.

4 But first want to acknowledge, we've also
5 been joined by Senator Leroy Comrie.

6 So I'll kick it off, and if I may start with
7 Ms. Conroy:

8 I -- was there any internal investigation,
9 was there any disciplinary procedures, that followed
10 "Newsday's" exposé?

11 It sounded look a couple of the panelists
12 here were actually hired by you subsequent to the
13 "Newsday" exposé.

14 I guess the question is, you know, was there
15 really a look in the mirror following what was
16 revealed, and was there any accountability?

17 ANN CONROY: Well, obviously, it was very
18 disturbing because we take such a strong position
19 and we train endlessly.

20 Every month there's a training program.
21 Agents are required, once a year, obviously, to take
22 it.

23 We have an actual six-hour class, it's
24 two parts, that, after each part, after three hours,
25 they have to take a test.

1 So, obviously, it was very disturbing that
2 any one of our agents would be included in this, as
3 a -- as --

4 SENATOR SKOUFIS: Was anyone -- was anyone
5 fired?

6 ANN CONROY: Nobody was fired because we
7 looked into everything.

8 We spoke to the agents.

9 We spoke to -- we had our attorneys look into
10 it, to make sure -- because I'm a layman, I'm not an
11 attorney -- to make sure that there was no active
12 discrimination.

13 And we --

14 SENATOR SKOUFIS: So every -- every
15 accusation, or alleged instance, that was brought to
16 your attention by "Newsday" within your firm, you
17 believe was not credible?

18 ANN CONROY: Well, I -- we sat with every
19 agent, we reviewed everything with every agent,
20 including the videos.

21 And we felt that they did not discriminate.

22 Yes, that is true.

23 So I don't like to use "not credible."

24 Obviously, the testers obviously thought that
25 they were not being properly treated.

1 So, obviously, we wanted to make sure that,
2 when we spoke to the agents, that they understood
3 the law, and they did, and that they had no intent.

4 And so we were very comfortable, and we had
5 our attorneys look into it, because they come from a
6 different perspective, and we wanted to make sure
7 that the law is upheld.

8 We pride ourselves on diversity at
9 Douglas Elliman. I mean, that's actually something,
10 we embrace everybody.

11 And I think that any top leading real-estate
12 company has to embrace every community and every
13 person so that they can thrive in our society.

14 So it was very disturbing, but we did look
15 into it. And we were comfortable, after we looked
16 into it, and after we spoke to them individually,
17 that -- that they did not discriminate.

18 SENATOR SKOUFIS: Okay.

19 If I may turn to Ms. Ross, do you -- what is
20 your sense?

21 Do you feel that steering is commonplace in
22 the industry on Long Island?

23 If you can characterize it, how -- you know,
24 is it rare? Or, do you never see it amongst
25 colleagues?

1 I'm not talking about you.

2 I'm talking about generally.

3 JUDI ROSS: You know, I -- from anybody that
4 I associate with, any of the agents that I have a
5 connection to, I don't see it, but that doesn't mean
6 it's not out there. You know, I have -- I don't --
7 I have a limited group that I, you know, do speak
8 with regarding this. And I haven't had issues.

9 You know, I do hear, you know, from something
10 like this, that it is out there. But I myself have
11 not really come across it directly.

12 SENATOR SKOUFIS: I will say, I do
13 appreciate, I think you were the only one we heard
14 from on this panel that expressed some regret or
15 some remorse for some of the comments that you did
16 make to the White tester.

17 If I may, just to sort of probe the
18 situation -- your situation that "Newsday"
19 published, so, just as some background:

20 So it's the minority tester that approached
21 you. You wrote, basically, I'm not allowed to
22 say -- or, you said, I'm not allowed to say what's a
23 good district or what's not. You can look up the
24 district, the report card. I'll give you different
25 towns and, you know, you'll see numbers,

1 percentages, et cetera.

2 And to the White tester you basically said,
3 you know: You can get a school report card, you can
4 decide. You know, legally, I get in trouble if I --
5 and then you go into [indiscernible] a few districts
6 that I would not -- I won't look in those towns,
7 like for Baldwin, Amityville.

8 The -- your attorney following that, do you
9 recall what your attorney's sort of response to the
10 allegation was?

11 JUDI ROSS: Well, it was not racially
12 motivated at all.

13 And, also, I had been out in the field with
14 the White tester, and he -- it wasn't like he asked
15 me one time. He kept asking me about school
16 districts.

17 So, you know --

18 SENATOR SKOUFIS: Your attorney -- sorry.

19 I know my time is running out here.

20 Your attorney, yes, they didn't -- they
21 certainly didn't say it was racially motivated.

22 But your attorney, the rationalization was,
23 that the tester wanted to live within 45 minutes of
24 Manhattan, and that's the only reason why you didn't
25 show the White tester any houses -- or, you

1 mentioned, let's not look in Freeport, Baldwin,
2 Amityville.

3 But you did show them in other communities
4 further than 45 minutes out, in fact, further east
5 on Long Island.

6 So I just -- I guess my question is: Was
7 your attorney wrong?

8 Has your thoughts on this evolved?

9 What's -- what's the real story there?

10 And then I know my time's up, so I'll let you
11 answer, and I have to move on.

12 JUDI ROSS: No, it was putting all the
13 criteria together. It wasn't just the distance.

14 It was putting the criteria of what worked
15 for that buyer.

16 So that was one of the criteria.

17 But, basically, it was -- he kept asking me
18 about school-district quality, and that's just what
19 popped into my mind, you know.

20 SENATOR SKOUFIS: Okay.

21 I'll turn it over to Senator Kavanagh.

22 SENATOR KAVANAGH: Great.

23 Thank you, Senator Skoufis.

24 So, I mean, it's been noted that -- a couple
25 of the witnesses noted that their presence here is

1 based on, you know, particular incidents, you know,
2 one incident, a couple of incidents.

3 I would just note -- like to note that that's
4 sort of inherent in the way these things work.

5 And the reason we're here today is not
6 because of the three or four incidents that these
7 particular people were involved in, but because of
8 the accumulation of dozens of such incidents over
9 and over again.

10 And so, you know, the witnesses here have --
11 first of all, you have the misfortune, I guess, of
12 being the first panel, so, yours is the first
13 behavior we're going to look at today.

14 But we are going to try to view different --
15 you know, view various situations as they come up.

16 So I would like address some questions to
17 Ms. Perez.

18 During the investigation, you met with an
19 Asian-American tester, a Mr. Chao [ph.], and another
20 tester who was White, a Mr. Helling.

21 Both indicated they were looking for homes in
22 the \$500,000 price range, and presented similar
23 financial information.

24 I have a brief video clip of the -- of some
25 of that interaction.

1 FRANCIA PEREZ: Can you hear me?

2 SENATOR KAVANAGH: Yes, I can.

3 FRANCIA PEREZ: Okay.

4 The --

5 SENATOR KAVANAGH: If you would -- if you
6 would, Ms. Perez, we're going to show a video clip
7 now, I think, if that's --

8 Do we have the clip?

9 FRANCIA PEREZ: I don't have the video clip.

10 OFF-CAMERA TECHNICIAN: Yes, we do.

11 SENATOR KAVANAGH: No, I'm asking you
12 [indiscernible]. Forgive me.

13 But the Senate's -- I'm talking to the staff
14 who are our stream-live.

15 FRANCIA PEREZ: Oh, I'm sorry.

16 SENATOR KAVANAGH: Yeah, no -- no, we did not
17 expect you to be prepared to play the video for us.

18 (Video clip playing, and transcribed as
19 follows:)

20 AGENT FRANCIA PEREZ: When you get
21 preapproved, you get preapproved for an amount, and
22 taxes.

23 THE TESTER: Uh-huh, Uh-huh.

24 AGENT FRANCIA PEREZ: That's very important,
25 before we do anything, because if I'm just going to

1 take you out just to look, it's a waste of my time
2 and your time, because we're not knowing exactly
3 where you stand as a monthly payment.

4 THE TESTER: Uh-huh.

5 Okay. Well, I appreciate --

6 AGENT FRANCIA PEREZ: Oh, you know what?

7 I really -- I really do appreciate you coming
8 in, this was excellent. I can get an idea.

9 And I'm confident that you will get your
10 preapproval, and I will find you a home.

11 (End of video clip and corresponding
12 transcription.)

13 SENATOR KAVANAGH: Okay.

14 So -- so, Ms. Perez, is it normally your
15 practice to require preapproval before providing
16 listings and showing homes?

17 FRANCIA PEREZ: That's what usually is done.

18 I have a conversation with them, and that's
19 really what I ask, if you have a preapproval.

20 I ask everyone that.

21 SENATOR KAVANAGH: Okay. And in this case,
22 the Asian-American homebuyer did not have such a
23 preapproval, and nor the White homebuyer.

24 But you did go ahead and show homes to the
25 White homebuyer without preapproval.

1 You mentioned that it would be a waste of
2 time to show listings to the Asian tester without
3 preapproval.

4 What -- what -- what explains the difference
5 there?

6 FRANCIA PEREZ: Well, I had both of them meet
7 with a -- at the time, a lender. And I asked both
8 of them if they were, you know -- you know, wanting
9 to meet with a lender to see if they can get
10 preapproved if they didn't have one.

11 I did that for both of them, for the White
12 tester and the Asian tester.

13 The White tester was more specific, and he
14 did say he had a friend that is in Seattle in the
15 mortgage business, and he would be able to supply me
16 with a preapproval within a day or two.

17 And he was more specific as to the area, and,
18 you know, just certain things that we do, you know,
19 when they come in.

20 And he was telling me, his wife, you know,
21 was moved to from -- they were moving from
22 Stony Brook to Bethpage.

23 Whereas, the Asian tester, I said the same
24 thing.

25 I actually -- and it's not in that video --

1 I did turn the computer to him, to show him, because
2 he wanted so many areas. And there were so many,
3 I couldn't e-mail him.

4 I turned the computer -- that's not on the
5 video -- to show him, because I had pulled them up,
6 and he said, no, he wanted all of them e-mailed.

7 And when I asked him for the preapproval,
8 which is not, you know, there, he said his wife was
9 taking care of that with a friend that was a
10 mortgage broker that was retired.

11 And, you know --

12 SENATOR KAVANAGH: So, again, just -- but
13 you -- at the end of the day, you did show the
14 White homebuyer, who did not have preapproval,
15 some -- you provided listings, you showed some
16 homes.

17 The Asian tester, you did not do so.

18 Eventually, if I understand correctly, he
19 e-mailed you that he had preapproval. And then,
20 even then, it took about five weeks before he got
21 any listings.

22 Just how should we interpret that difference?

23 FRANCIA PEREZ: I wouldn't -- I don't recall
24 that? And I would never, never, discriminate,
25 especially if they want to buy a home.

1 That's my job. I show homes to everybody.

2 I would never discriminate.

3 I mean, I -- I -- I even sat with both of
4 them. You know, I did my best.

5 I -- I -- I put up -- pulled up the -- every
6 town that the Asian guy wanted to see, because it
7 was a couple of them.

8 As a matter of fact, he had a lease. He said
9 to me, he had a year lease left, and that, you know,
10 he didn't know if he would get penalized.

11 But, you know, I still showed him. I didn't
12 not show him because he had a lease and he was
13 moving from the city.

14 I didn't even know if he worked.

15 I still was willing to show it on the
16 computer.

17 SENATOR KAVANAGH: But do you dispute the
18 "Newsday" investigation's conclusion, that there
19 was -- at least five weeks elapsed with the Asian
20 tester, and that you did not show him listings,
21 or -- you did not send him listings or show him any
22 homes until he provided you with preapproval?

23 FRANCIA PEREZ: No, I was willing to show it.
24 I was willing to show him.

25 SENATOR KAVANAGH: Okay, but you didn't show

1 him. Is that right?

2 FRANCIA PEREZ: Because he didn't -- he
3 didn't come back.

4 And I didn't show Mr. Owens either.

5 I had listings on the table, that he took
6 with him. And that's not in the video either.

7 SENATOR KAVANAGH: I think we're talking
8 about Mr. Helling in this case. Or at least,
9 [indiscernible] -- I guess there's -- there were --
10 there were pseudonyms as well.

11 Okay. I see that my time is up, so I'll
12 yield back to the chair.

13 Thank you.

14 SENATOR SKOUFIS: Thank you.

15 Senator Thomas.

16 SENATOR THOMAS: Thank you.

17 I'm going to start with Ms. Ann Conroy.

18 Ms. Conroy, what licenses do you work under?

19 ANN CONROY: I'm a broker for the Long Island
20 division of Douglas Elliman.

21 SENATOR THOMAS: And as someone who holds a
22 broker's license, what responsibilities do you have
23 to your sales agents?

24 ANN CONROY: Well, you know, I run the
25 operations as well as the sales portion.

1 I run everything for Long Island, for the
2 Long Island agents.

3 I have approximately 26 offices.

4 You know, we closed some during COVID, and
5 reopened some. So I think it's 26.

6 We have --

7 SENATOR THOMAS: And -- and -- and how many
8 sales agents work under your broker's license?

9 ANN CONROY: Well, it changes from day to
10 day, as you know.

11 But, currently, I believe around
12 1700 licensees.

13 So our --

14 [Simultaneous talking by both parties.]

15 SENATOR THOMAS: And do you have a --

16 ANN CONROY: -- huh?

17 SENATOR THOMAS: And do you have a
18 responsibility to supervise these agents?

19 ANN CONROY: Absolutely.

20 Supervision of agents is part of our
21 licensing requirement.

22 SENATOR THOMAS: And what have you --

23 ANN CONROY: But I also have --

24 SENATOR THOMAS: And what have you --

25 ANN CONROY: -- I also have 26 --

1 SENATOR THOMAS: And what have you done in,
2 let's say, the past week, to supervise a sales agent
3 under -- working under your license?

4 ANN CONROY: -- I have -- I have 5 senior
5 managers who report directly to me. And we have
6 26 managers who report directly to them --
7 approximately 26 managers.

8 We did have to scale back a little bit during
9 COVID.

10 And all our programs are done by Zoom
11 meetings. They could be done individually or as a
12 group.

13 I have town hall meetings.

14 I have one scheduled in October.

15 SENATOR THOMAS: And -- all right, let me --
16 let me -- let me ask you a little directly here.

17 The four sales agents that we have on today,
18 do they work under your license?

19 ANN CONROY: They work under my license, yes.

20 SENATOR THOMAS: And when is the last time
21 that they were supervised while they were at work?

22 ANN CONROY: Well, they're supervised every
23 day by the manager, who is a broker of the office.

24 SENATOR THOMAS: Okay?

25 ANN CONROY: Associate broker.

1 SENATOR THOMAS: All right, the associate
2 broker is also working under your license, I'm
3 assuming?

4 ANN CONROY: Everybody on Long Island who is
5 licensed is working under my broker's license, yes.

6 SENATOR THOMAS: Okay. When have you, like,
7 directly supervised any of them?

8 Like, have you called them into your office
9 to talk to them about what happened?

10 ANN CONROY: I spoke to Francia, I spoke to
11 Donna, I did not speak directly to Judi, and I spoke
12 to Lisa Casabona about what happened.

13 I had my managers and my senior managers
14 discuss this with them as well.

15 So this did not go unhandled.

16 I couldn't --

17 SENATOR THOMAS: I mean --

18 ANN CONROY: -- possibly speak with
19 1700 agents.

20 So that's why I have 26 managers, that's why
21 I have 5 senior managers, who --

22 SENATOR THOMAS: -- but -- but here's the
23 thing -- here's the thing -- right? -- I find that
24 there is a lack of supervision here, if four of
25 these agents are doing what they do, and not seeing

1 that there's something wrong here.

2 Like, for example, you have Sales Agent
3 Ms. Perez who needed, you know, a preapproval letter
4 from someone from the minority community, but not
5 from the other.

6 I mean, what exactly did your attorneys, who
7 cleared them of any violation, like, how did they
8 justify this sales agent not showing one home to
9 another?

10 You know, it's -- it's -- it baffles me that
11 there is lack of supervision here; that you guys are
12 not supervising these sales agents to the point
13 where they don't seem to know right from wrong.

14 And I find that --

15 ANN CONROY: Well, I --

16 [Simultaneous talking by both parties.]

17 SENATOR THOMAS: -- I find that, you having a
18 broker's license, and overseeing over 1,000 sales
19 agents, you're not doing the job that you're
20 supposed to be doing.

21 So I'm very -- I'm frustrated by that; I'm
22 frustrated that you don't have that kind of
23 connection to all of them.

24 ANN CONROY: Well, you know, when you have a
25 large multi-office company, you put policies in

1 place.

2 You mandate training --

3 SENATOR THOMAS: So here's -- here's the
4 thing -- right? -- they're working under your
5 license.

6 When they work under your license, you have a
7 responsibility to make sure that they do the right
8 thing.

9 And I don't see you doing that.

10 That's it.

11 JESSICA ROSENBERG, ESQ.: Respectfully,
12 Senator, I think you should let Ms. Conroy finish
13 her answer.

14 I think you just cut her off.

15 Can she finish what she is answering?

16 SENATOR THOMAS: I'm sorry. You're the
17 attorney. Right?

18 You should not be answering questions or
19 making any comments during a hearing.

20 JESSICA ROSENBERG, ESQ.: As her attorney,
21 I'm just respectfully asking that she's allowed to
22 answer the full question.

23 SENATOR THOMAS: Again, you're not allowed --

24 SENATOR SKOUFIS: She'll -- yeah, she should
25 answer the question.

1 We'll give her a few additional seconds.

2 But please be clear, Senator Thomas is
3 correct. You know, just at any hearing, the
4 attorneys are not the ones that are providing
5 testimony here.

6 So, please, you can communicate to your
7 client, but you are not a participant in this
8 hearing.

9 Please, Ms. Conroy.

10 ANN CONROY: So I was trying to say, that
11 this is a multi-office company with very strict
12 guidance, very strict written policies.

13 Every manager is -- meets with me once a
14 month.

15 COVID has stopped a lot of that from
16 happening during COVID; however, it's twice a month
17 via Zoom. And we go over the law, we go over sales;
18 we go over everything we need to go over.

19 We go over agents and productivity.

20 It's a sales organization.

21 It's a sales organization, and that's very,
22 very important.

23 The rental certification program that I put
24 in place, I put that in place, with tests.

25 We're probably the only company that has

1 agents go through a stringent course, that they have
2 to pass with a test, before they get certified.

3 And if they don't pass, then they can't do
4 rentals for us.

5 So we are very strict with guidance and with
6 responsibility.

7 My managers have to be brokers, as they're
8 associate brokers. They have to know the law.

9 My senior managers, associate brokers, they
10 have to know the law.

11 They're in the offices; we're in the offices.

12 But to expect, individually, for any one of
13 us to speak directly to the agents is, I think, you
14 know, unreasonable.

15 Now, the managers, every single day, "every
16 single day," speak to each and every one of their
17 agents who are licensed to the office, and that
18 occurs.

19 SENATOR THOMAS: Ms. Conroy, I get what
20 you're saying, it's a very big organization.

21 But they're working under your license.

22 That's the issue here.

23 And when someone works under your license,
24 for example, I'm an attorney. I've had, you know,
25 individuals work under my license, but I supervise

1 them. I make sure that they're doing the right
2 thing.

3 I don't think your managers, or these
4 meetings that you're having, actually did justice
5 here.

6 I mean, if they are coming here to the
7 hearing and still saying they did nothing wrong,
8 when we found things to be actually wrong here.

9 So that's all I have to say.

10 Thank you so much.

11 SENATOR SKOUFIS: Yeah, thank you.

12 I want to acknowledge, we've been joined by
13 Senator Jackson.

14 And next for questions is Senator Kaminsky.

15 SENATOR KAMINSKY: Hi. My -- thank you,
16 Chairman Skoufis.

17 My first question is for Ms. Conroy.

18 You know, I think you do make a statement, in
19 a way, to 1700 agents when they watch the videos and
20 nothing happens to any of the agents that work under
21 you.

22 So I want to just ask you some specific
23 questions, because I found these videos to be highly
24 troubling, I think most Long Islanders who viewed
25 them find them troubling, and yet I think

1 Douglas Elliman is really trying to do a good job of
2 saying: Hey, nothing happened here. If you really
3 look at each situation, there's no problem in any
4 individual one. So even though this paints a really
5 bad picture, you have it wrong.

6 And I think that's a mistake, and you guys
7 are taking the wrong tack.

8 But let me just ask you a specific question,
9 Ms. Conroy.

10 When Judi Ross says to someone, a minority
11 tester, "I wouldn't go near them," for a specific
12 school district, you're okay with that statement?

13 ANN CONROY: Can you -- "I wouldn't go near
14 them"?

15 SENATOR KAMINSKY: Yeah. She said, when
16 talking about certain school districts, she said to
17 a -- you know, she says to a White tester, about
18 three districts that are predominately minority
19 school districts, "I wouldn't go near them."

20 I wouldn't go near those districts. Like,
21 don't even think about living in those areas.

22 That's something you're comfortable with?

23 ANN CONROY: If that was put in the context
24 of race, it would be terrible.

25 But if it was put in context -- I don't know

1 the entire conversation; if somebody had an academic
2 need, or something like that, and she told people
3 that that school district wouldn't be beneficial to
4 that student.

5 You know, a lot of stuff is taken out of
6 context.

7 On face value, if you just said, "I wouldn't
8 go near them," that sounds terrible. I agree with
9 that.

10 But I don't know the whole conversation.

11 And --

12 SENATOR KAMINSKY: Did you not watch the
13 video?

14 ANN CONROY: I did watch the video.

15 SENATOR KAMINSKY: Okay, so in --

16 ANN CONROY: That had nothing to do with
17 race. She did not say that based on race.

18 SENATOR KAMINSKY: Well, it has everything to
19 do with race.

20 She said -- when the minority tester comes
21 in, she says, "I'm not allowed to tell you what's a
22 good school district or what's not."

23 When the White tester comes in, she goes,
24 "I wouldn't it even go near them."

25 Don't even think about these schools.

1 That didn't give you any pause?

2 ANN CONROY: I think it's taken out of
3 context, because there was a lot of conversation in
4 between that and leading up to that. And it's very,
5 very hard to take snippets of conversations.

6 When we spoke to her, we were confident that
7 it was not based on race.

8 If it were based on race, I would absolutely
9 agree that that would be not the way to handle the
10 customer or the client.

11 SENATOR KAMINSKY: And what would you need to
12 hear to have you convinced something is based on
13 race?

14 She would have to use the actual racial term
15 itself in the sentence?

16 ANN CONROY: Well, I don't know if they were
17 talking about standards.

18 You know, the first thing a consumer wants to
19 know about, when they look for a home, is school
20 district on Long Island.

21 This is, you know, basically, it's families
22 on Long Island.

23 That's the first thing.

24 And we have taught them more recently, in the
25 last year and a half, not to bring up school

1 districts, so -- because people misconstrue what
2 you're saying.

3 There are certain school districts --

4 SENATOR KAMINSKY: In the two videos of
5 Ms. Perez that we just saw, you didn't see an
6 attitude change in how she addressed one person
7 versus the other?

8 ANN CONROY: I did not see any discriminatory
9 intent on her part at all.

10 SENATOR KAVANAGH: Look, I think
11 Douglas Elliman -- in my last 10 seconds,
12 Senator Skoufis, I think Douglas Elliman has a real
13 chance to step up, acknowledge a problem, and fix
14 it; and, instead, you're making a lot of excuses.

15 And this is why we continue to have the
16 problems of discrimination.

17 ANN CONROY: It's not an excuse, Senator.

18 I -- we -- we have certainly changed our
19 training now, to make sure that agents do not
20 discuss school districts because we can see how it
21 can be misconstrued.

22 A minority buyer or seller can feel
23 discriminated against if schools are brought up, so
24 we stopped doing that.

25 But that is one of the things that is driven

1 by the consumer.

2 It is very important to a consumer,
3 regardless of their race, that their children go to
4 a good school, that they could get a great
5 education.

6 And that is not -- that is not different from
7 one parent to another, regardless of race or
8 ethnicity.

9 So --

10 SENATOR KAMINSKY: Thank you.

11 ANN CONROY: Since this program, since
12 "Newsday," I do have to say, we changed the training
13 to the agents, and told them do not bring up
14 schools. That the consumer has to do their research
15 on their own.

16 SENATOR SKOUFIS: Thank you, Ms. Conroy.

17 Thanks, Senator Kaminsky.

18 Next is Senator Gaughran.

19 SENATOR GAUGHRAN: Thank you, Mr. Chairman.

20 You know, I have a basic question I'd just
21 like to ask everybody, and, you know, whoever can
22 respond. I'm going to run out of time.

23 Okay. I've got to start my video.

24 I just have a basic question I'd like to ask
25 everybody, and to the extent, you can all answer it,

1 or anyone can.

2 You've all mentioned the word "steering," and
3 you have all said that you've not been involved in
4 steering.

5 So my question is: How do you define
6 "steering"?

7 I'm not asking for a legal, technical term,
8 unless you want to give it.

9 Like, what is your opinion of steering?

10 And what is your opinion of the type of
11 activities that would be considered illegal
12 steering?

13 Ms. Perez? Ms. Ross?

14 ANN CONROY: I can --

15 SENATOR GAUGHRAN: Ms. Conroy, how are you?

16 ANN CONROY: Hi. How are you?

17 "Steering" would be an agent making a
18 decision for a consumer, where they should live, and
19 showing them properties in that particular
20 neighborhood or community where they feel they
21 should live.

22 SENATOR GAUGHRAN: Okay.

23 Ms. Perez?

24 FRANCIA PEREZ: "Steering," I don't even --
25 I can't even explain, because I don't -- I don't do

1 it, I don't know about it.

2 I try to do my best with everyone.

3 SENATOR GAUGHRAN: Have you ever seen anyone
4 else do it?

5 FRANCIA PEREZ: Not with our -- you know, our
6 group.

7 We're trained very well, and we all help each
8 other.

9 When we have questions, when we, you know,
10 have a client that needs certain needs or help, we
11 just help each other.

12 We don't steer.

13 We try to make each other better, a better
14 agent.

15 SENATOR GAUGHRAN: Ms. Ross, how would you
16 define, your opinion, of steering?

17 JUDI ROSS: "Steering" would be directing a
18 buyer to go to certain areas or towns, or whatever,
19 or influencing them, according to what you feel is
20 right, and not what they would desire.

21 SENATOR GAUGHRAN: Okay.

22 Ms. Rogers?

23 DONNA ROGERS: Same thing.

24 I mean, I've never actually really
25 experienced anything like that.

1 But, yeah, "steering," in definition, would
2 be directing a buyer to a certain area.

3 SENATOR GAUGHRAN: Have you ever seen any
4 activity of others that would kind of look like that
5 in all your years doing this?

6 DONNA ROGERS: I personally have not, no.

7 SENATOR GAUGHRAN: And I think there's one
8 more witness.

9 I just have your first name on my screen.

10 Lisa?

11 SENATOR SKOUFIS: You're muted.

12 If you can unmute yourself, please.

13 Seems we're having trouble with her.

14 SENATOR GAUGHRAN: Okay.

15 SENATOR SKOUFIS: We couldn't get a response
16 from her about opening remarks either.

17 SENATOR GAUGHRAN: That's fine. All right.

18 Well, thank you very much, Chairman.

19 Thank you, ladies, for your answers.

20 SENATOR SKOUFIS: Thank you.

21 Next we'll go to Senator Anna Kaplan.

22 SENATOR KAPLAN: Thank you, Chairman Skoufis.

23 I want to start by thanking "Newsday" for
24 their extraordinary work in uncovering this
25 situation, and doing the important legwork to expose

1 these awful practices taking place in our community.

2 And I think it's going to take all of us
3 really working to make sure that these don't happen.

4 So my question is for Ms. Conroy.

5 Has your office been in compliance with the
6 new regulations that you talked about, that went
7 into effect June 20th, requiring notification of
8 fair-housing laws?

9 ANN CONROY: Yes, it is. It's in compliance.

10 SENATOR KAPLAN: Okay. And are you confident
11 if, in the last few weeks, we had sent secret
12 shoppers to your office, they would have found you
13 to be in compliance and all your members?

14 ANN CONROY: Yes, I am confident of that.

15 SENATOR KAPLAN: Okay.

16 Does your agency use terms like "neighborhood
17 specialist," "neighborhood experts," as a marketing
18 tool to prospective clients?

19 And if so, can you tell me how you decide
20 someone is a specialist in one particular area?

21 ANN CONROY: That is not a term that -- we --
22 it's not a Douglas Elliman term.

23 If an agent uses that in their marketing,
24 that's how they describe themselves, and it's
25 probably because they know the community, and have

1 been selling in the community for a long, long time,
2 and probably have had good results in terms of
3 listing and selling homes in that community.

4 SENATOR KAPLAN: Okay.

5 So do you at all look at any of these
6 marketings that your members do?

7 Are they checked --

8 ANN CONROY: We actually have a marketing
9 department that goes through everything.

10 Anytime an agent puts an ad in the paper, in
11 terms of a visual, and usually it's the local
12 papers, we don't really do classified ads anymore,
13 all those ads are screened first as to brand, as
14 well as to content.

15 And we work with all the local publications,
16 and we have a list things that are allowed to be
17 said and not allowed to be said.

18 And unless an agent goes to a publication
19 we're not aware of, then I would say that we have
20 those guidelines in place currently.

21 SENATOR KAPLAN: Thank you.

22 Is race ever a factor in deciding who's a
23 specialist in that area?

24 ANN CONROY: No.

25 SENATOR KAPLAN: Okay.

1 What do you think is the most effective way
2 to monitor compliance with fair-housing laws for
3 your industry?

4 ANN CONROY: Well, I think we're doing that.
5 I think that we have to insist that the
6 agents take their compliance classes.

7 The managers in the field with the agents
8 have to make sure that they conduct themselves in a
9 professional manner.

10 SENATOR KAPLAN: Okay.

11 You talked about strict guidelines that you
12 have developed.

13 Can you talk about a little bit of those
14 guidelines?

15 What has changed since 2020 -- June 20th,
16 how your guidelines have changed?

17 ANN CONROY: Oh, we change -- we have --
18 we've always had very strict guidelines in place and
19 training in place. That has been part of our DNA
20 for a long, long time.

21 But based on what we saw, and we changed
22 the -- for example, I had mentioned it. We --
23 agents used to talk about the standards of schools.

24 We tell not to talk about that anymore. Tell
25 the consumer that they really should go and look on

1 their own.

2 So we're careful about that.

3 But we really have had, and it's
4 [indiscernible].

5 And we even sent you our training, and we
6 sent you also our policies.

7 We have really been on top of this for a
8 very, very long time.

9 SENATOR KAPLAN: [Inaudible] --

10 ANN CONROY: And I think it's just constantly
11 training the agents, making sure that they
12 understand the law.

13 You know, the law sometimes isn't as you
14 intuitive to some people as it is to others. And
15 making sure that they understand the law.

16 We used to use [simultaneous talking] --

17 SENATOR SKOUFIS: Thank you, Ms. Conroy.

18 SENATOR KAPLAN: I understand that, but
19 I want to make sure we all also understand.

20 After this story broke out, you have not
21 fired anybody for any wrongdoing.

22 Every member today that spoke talked about
23 how disappoint -- that they welcomed the article,
24 but how disappointed they were in being targeted.

25 No one here talks about the testers.

1 These testers, this is what they felt. We
2 have all of them on tape.

3 And I think something from your office should
4 be done, by taking into effect and account of what
5 these testers have gone through.

6 With that, I'm going to say, thank you.

7 My time is up.

8 Thank you, Chairman Skoufis.

9 SENATOR SKOUFIS: Thank you, Senator Kaplan.

10 Before we get to Senator Krueger, I do want
11 to ask Lisa Casabona to please unmute yourself, just
12 so you can acknowledge that you are here and,
13 effectively, a participant.

14 We've asked now twice for you to unmute
15 yourself and we haven't heard anything from you.

16 So if you can please unmute yourself.

17 ANN CONROY: She's been texting us, and she's
18 having technical difficulties. She's been texting
19 Jessica.

20 So I don't know what her problems are.

21 JESSICA ROSENBERG, ESQ.: It looks like it's
22 muted on there (indicating).

23 Like, can they --

24 ANN CONROY: She has to unmute it.

25 SENATOR SKOUFIS: She would have to unmute

1 it.

2 If she's having technical difficulties, or in
3 any other way is not able to participate, we may
4 choose to follow up with her after this hearing.

5 ANN CONROY: I understand that.

6 SENATOR SKOUFIS: I did want to --

7 ANN CONROY: I understand that.

8 SENATOR SKOUFIS: -- thank you.

9 So without further ado, Senator Krueger.

10 SENATOR KRUGER: Thank you very much.

11 And I appreciate being here with all my
12 colleagues and with the witnesses.

13 And I will say I'm finding myself very
14 disturbed here, on behalf of Douglas Elliman.

15 And I guess I will direct it to Ms. Conroy
16 since she's the senior person here.

17 So we've read the "Newsday" articles.

18 We know you have.

19 We've heard the tapes.

20 We know you have.

21 All of your group today have testified they
22 believe they were misrepresented in the article, and
23 yet none of them can explain what they think their
24 definition of "directing" or "misdirecting" people
25 in housing is.

1 So, it doesn't seem that they even understand
2 what the issues are, even though they believe they
3 were misrepresented.

4 And now, months and months later, when
5 Douglas Elliman is saying that they have trained and
6 retrained, still none of them could define what
7 "steering" is.

8 They don't think they've seen it, they don't
9 think they've done it, but they don't know what it
10 is.

11 So please explain to me, on behalf of
12 Douglas Elliman, what it is you think you are
13 training people to do, to ensure that they do not
14 continue, whether they thought they were or not,
15 these very disturbing patterns of housing
16 discrimination in the work that they do.

17 ANN CONROY: I can only answer it as I have
18 answered it.

19 Our training is specific. It was written by
20 an attorney. It is intense. They have to pass
21 tests many times.

22 They very well know what "steering" is.

23 Maybe they don't know how to articulate it to
24 your satisfaction, but they know what "steering" is,
25 and they know that it is completely against all

1 fair-housing laws.

2 So I would put our training up.

3 I -- we sent you our training.

4 I think that you can see that it is very
5 comprehensive, and we have a zero-tolerance policy.

6 If we thought these agents were steering or
7 treating people differently, based on a whole
8 conversation, not looking at snippets of a video,
9 I have -- they would have been fired.

10 We don't tolerate it.

11 That is not who we are as a company, and we
12 don't tolerate it.

13 And so the "Newsday" article, as I said when
14 I started, was very, very disturbing to us because
15 of our stance against discrimination. And we are a
16 very diverse company.

17 So I don't know how we could enhance our
18 training any more than we've done; it's just that
19 comprehensive.

20 SENATOR KRUGER: So I just heard you say
21 that, and I believe that there was printed
22 materials. And I'm sure one of my colleagues have
23 it and the staff have it, and I will happily take a
24 look at it.

25 But I just heard your three representatives

1 say --

2 Even though they were in the articles, so, in
3 theory, they would have been participating in any of
4 the retraining you were doing.

5 -- they all said they don't even know what
6 "steering" is or what it looks like.

7 So I have to say --

8 ANN CONROY: I do not believe that's what
9 they said.

10 SENATOR KRUGER: -- you have to go back to
11 the drawing board for what the training ought to be.

12 ANN CONROY: I don't believe that's what they
13 said, Senator.

14 I think they said that they don't see in it
15 their community or with the associates in their
16 office or in the marketplace. And they don't do it.

17 So they all know what "steering" is.

18 I mean, that's the first thing anybody learns
19 in the first course you take to become an agent.

20 So -- but they don't see it happening, and
21 it's not visible to their eye in their community,
22 and they don't do it.

23 And I think that's what they said.

24 SENATOR KRUGER: Well, I think they went
25 farther than that in saying, they weren't even sure,

1 they wouldn't even know what it really looked like.

2 And that seems to me to be impossible.

3 My real point is, I believe, based on the
4 testimony I've heard so far, just from this first
5 panel, that people need to go back to the drawing
6 board and revisit exactly what the definitions are,
7 and how to make sure you are not crossing the line
8 in your daily job performance.

9 Because I suspect, very strongly, that if
10 there was a follow-up set of tests in Long Island
11 right now, we probably wouldn't see significant
12 different outcomes from when "Newsday" was doing
13 their initial evaluation.

14 And that is the fundamental issue that
15 I think concerns all of us in the state legislature.

16 Thank you, Mr. Chair.

17 SENATOR SKOUFIS: Thank you, Senator Krueger.

18 I'm going to come back for a quick set of
19 follow-ups.

20 Before I get to a clip that I want to share,
21 Ms. Conroy, we're going to hear from a number of
22 panels throughout this hearing: Keller Williams of
23 Greater Nassau, Charles Rutenberg Realty, RE/MAX,
24 Coldwell Banker.

25 We've received most, if not all, written

1 comments from them, and so I've had a chance to
2 review them.

3 And I think to a person, including yourself,
4 not a single agent has faced disciplinary actions,
5 by the looks of it, and by, you know, your testimony
6 the sound of it, and no one's been fired.

7 Given the breadth of the "Newsday" exposé,
8 would you agree that it would be remarkable, in the
9 worst possible use of the word, that not a single
10 agent faced disciplinary actions, potentially, from
11 what was revealed?

12 ANN CONROY: At Douglas Elliman, I'll only
13 talk to Douglas Elliman, and we really went through
14 these videos and conversations, we did not see any
15 violation of fair housing.

16 So what would we discipline them for?

17 I mean, there was no reason to discipline.

18 We did not -- and we had attorneys look at
19 it, for the very reason that, you know, we didn't
20 want to be emotionally involved.

21 We had outside counsel, not even our legal
22 counsel.

23 SENATOR SKOUFIS: Understood, yeah, and
24 you've said that before.

25 I hear you.

1 If we can go to the [simultaneous talking] --

2 ANN CONROY: We wanted to make sure that they
3 did not violate the laws.

4 SENATOR SKOUFIS: To that point --

5 ANN CONROY: And we were told --

6 SENATOR SKOUFIS: -- can we go to Judi Ross's
7 clip, please?

8 (Video clip playing, and transcribed as
9 follows:)

10 AGENT JUDI ROSS: There's a few districts
11 that I know I would, like, not -- like, I wouldn't
12 look in those towns.

13 THE TESTER: Oh, okay.

14 AGENT JUDI ROSS: You know, like, Freeport
15 and Baldwin, and Amityville, which is part of
16 Massapequa schools, but it's just certain parts of
17 Massapequa.

18 (End of video clip and corresponding
19 transcription.)

20 SENATOR SKOUFIS: Thank you.

21 So -- and the message that was provided to
22 the minority tester was very different, and, you
23 know, certainly, that's why Ms. Ross is here.

24 But my question is to Ms. Conroy.

25 You know, it's been stated by you and others

1 on this panel here, that because the testers' races
2 weren't explicitly invoked, that, somehow, that
3 itself means there was no steering taking place.

4 That is like being in a supermarket, and a
5 grocer comes over to a customer and says, Well,
6 I know you're looking at oranges and plums. You
7 know, oranges, they're -- they didn't -- you know,
8 they're not a good batch today. I wouldn't buy any
9 oranges, but I can't really tell you what you should
10 buy.

11 And, you know, they're not referring to
12 anything beyond sort of, you know, their feeling
13 about which way they should go. They're not
14 referring to the color of the orange or the color of
15 the plum. But it's very clear that they're steering
16 the person to a particular item.

17 And so are you -- after hearing that, do you
18 feel that, just because the agent did not explicitly
19 note, Hey, there are a lot of minorities in this
20 school district, is that what it would take for you
21 to believe that there was a violation, and that this
22 was steering?

23 ANN CONROY: No. That's why I said, we have
24 since trained the agents not to discuss anything
25 about school districts. That it can be

1 misconstrued.

2 You know, you do not know what's in
3 somebody's heart when they're speaking.

4 But, obviously, if that was shown to me, just
5 that clip, that would make me cringe, and that would
6 be a violation.

7 And I agree that that would be a violation.

8 So we have changed our training, and we are
9 making sure that they do not discuss the quality of
10 the schools at all.

11 SENATOR SKOUFIS: And so -- so what -- you
12 just noted, you know, looking at that clip, on its
13 face, that's a violation.

14 And so what -- what compelled you to not take
15 action?

16 What convinced you that it was not a
17 violation?

18 ANN CONROY: Because that was a clip, and we
19 discussed the whole picture.

20 And based on the conversations that we had
21 with the agents, we wanted to make sure that there
22 was no violation.

23 SENATOR SKOUFIS: So what specifically
24 persuaded you in this instance that it was not a
25 violation?

1 ANN CONROY: Well, because I -- you know, I
2 don't have all of the notes right now in front of me
3 about the whole conversation and how it was done.

4 But based on the whole experience with the
5 testers, it did not appear to us, or to me
6 personally, that there was a violation.

7 That clip alone would certainly make
8 anybody's hair go up on the back of their neck.
9 That was obviously a very foolish thing to say.

10 And we have since changed how we train our
11 agents to talk about the quality of the schools.

12 SENATOR SKOUFIS: Okay.

13 I'll wrap up my questions.

14 And I'll just share in my disappointment, and
15 I suspect I will be repeating this over the course
16 of this hearing, based on written testimony we've
17 already received, that it is astonishing to me that,
18 with everything that was revealed by "Newsday," and
19 we are talking an enormous volume of testing that
20 took place and agents that were on video, that it
21 seems, you know, whether it's your firm or these
22 others, that there was little to, in fact, probably
23 no, disciplinary action that was taken in light of
24 all this.

25 I know Senator Kavanagh had some follow-up.

1 SENATOR KAVANAGH: Great.

2 Thank you very much.

3 I would just note, Senator Skoufis, your
4 sound was breaking up a little bit toward the end
5 there. So, I mean, [indiscernible] further from the
6 mic.

7 Just a few follow-up questions.

8 First of all, Ms. Rogers, how long have you
9 been had a real-estate agent?

10 I think you're on mute.

11 DONNA ROGERS: Yep. Sorry about that.

12 SENATOR KAVANAGH: That's okay.

13 DONNA ROGERS: I have been an agent since
14 2012.

15 SENATOR KAVANAGH: Okay.

16 And you mentioned in your testimony that you
17 learned, between the two testers, that making
18 subjective comments about school districts is
19 considered steering.

20 Is that correct?

21 DONNA ROGERS: That is correct. [Inaudible.]

22 SENATOR KAVANAGH: So you just -- you did not
23 know that at the point that the first test -- that
24 you were meeting with the first tester?

25 DONNA ROGERS: I didn't realize it.

1 I didn't realized it.

2 When I was speaking to the first tester, it
3 was coming from personal experience.

4 I lived in the district and I raised my
5 daughter in the district. And I also went to the
6 district as well.

7 SENATOR KAVANAGH: I understand.

8 So knowing what you know now, would you say
9 that making comments about school districts to that
10 first tester constituted steering?

11 DONNA ROGERS: I have not since discussed it,
12 at all, with anybody.

13 SENATOR KAVANAGH: And, again, recognizing
14 that, you know, your test -- you -- you know, you
15 testified that you had no intent, no
16 [indiscernible] -- no ill-intent here at all --

17 DONNA ROGERS: Right.

18 SENATOR KAVANAGH: -- but would you -- based
19 on what your understanding now of what constitutes
20 steering, would you say that making those subjective
21 comments about that school district to the first --
22 to the first tester, before you got the subsequent
23 training, based on what you now -- know now, would
24 you say that -- would say that that constitutes
25 steering?

1 DONNA ROGERS: I wouldn't say that it
2 constitutes steering at all. I don't think what
3 I -- how I said it.

4 I was just -- how I was speaking, pretty much
5 from the heart, for the most part, and personal --
6 again, personal experience.

7 You know, but this is -- you know, in
8 between, this is what I was told. And I just avoid
9 the conversation now.

10 I just -- you know, that's why they put you
11 into training.

12 SENATOR KAVANAGH: But [indiscernible] -- and
13 part of our goal here is to understand the training,
14 and how it works and how it's perceived.

15 DONNA ROGERS: Right.

16 SENATOR KAVANAGH: So your -- your
17 understanding from the training is that, comments --
18 whether they're from the heart or from your personal
19 experience or from having gone to schools yourself,
20 that comments about school districts, that, you
21 know, "this is a school district to avoid,"
22 constitutes steering, potentially, away from that
23 district?

24 DONNA ROGERS: Well, if you're telling
25 somebody to avoid a school district, I mean,

1 depending on, what's your reasoning for it?

2 SENATOR KAVANAGH: Okay, so you think it's
3 the intent?

4 If you -- if you want to tell somebody to
5 avoid a school district because your personal
6 experience tells them that would be a bad school
7 district, your understanding, based on the
8 training -- the current training that Ms. Conroy has
9 mentioned, is that that's not -- that's not
10 problematic?

11 DONNA ROGERS: Can you repeat that?

12 I'm sorry. Repeat that again?

13 SENATOR KAVANAGH: If you -- your -- your --
14 your understanding, as of today, is that if you tell
15 a potential homebuyer that they should avoid a
16 school district, that's okay if it comes from your
17 personal experience of that school district, and
18 [simultaneous talking] --

19 DONNA ROGERS: I wouldn't --

20 SENATOR KAVANAGH: -- your subjective
21 [simultaneous talking] --

22 DONNA ROGERS: I wouldn't tell anybody to
23 avoid a school district.

24 SENATOR KAVANAGH: Okay, because that,
25 potentially, violates the fair-housing law?

1 DONNA ROGERS: Apparently so, yeah.

2 Yeah, I would never do it.

3 I would never do it.

4 SENATOR KAVANAGH: Okay. That's helpful.

5 Back to Ms. Conroy, briefly, you -- the
6 interactions, you mentioned, were viewed by your
7 attorneys. But they were also viewed by several of
8 the -- two of the foremost house -- experts on fair
9 housing in the state, and perhaps in the country.

10 And, you know, they came to the conclusion
11 that these were very problematic interactions.

12 One, a Mr. Robert Schwemm, said that: One of
13 them was strong evidence of steering, plus evidence
14 of difference in treatment. And that the agent's
15 remarks to the White tester about school districts,
16 where, quote, she won't look in those towns, like
17 Freeport and Baldwin and Amityville, was not made to
18 the Black tester.

19 There -- you know, again, a number of
20 comments, and you've read them.

21 Why is your conclusion that -- different from
22 what the experts in fair housing have concluded?

23 ANN CONROY: My conclusion is only different
24 because we sat and spoke to the agent about the
25 entire experience. That they -- we didn't just see

1 snippets.

2 As I said, if you just see a snippet of these
3 things, obviously, you can draw that conclusion.
4 There is no doubt about it.

5 When you sit with an agent and you talk to an
6 agent, and you're comfortable that they are not
7 discriminating against anybody, and that that was
8 not their intent, then, of course, you wouldn't have
9 disciplinary action against them.

10 But a lot of the-- a lot of -- was --
11 could -- was there [inaudible] taken out of context?

12 No doubt about it.

13 By the way, I believe that, Ms. Casabona,
14 I just saw her come on.

15 I'm sorry. Go ahead.

16 SENATOR KAVANAGH: Okay, so we'll -- we'll
17 try to -- we'll try to [indiscernible] back on that.

18 Just -- just to follow up once more, and you
19 mentioned this during your responses to
20 Senator Skoufis's questions, you've mentioned
21 "intent," you've mentioned "what's in the heart."

22 Is it possible, in your view, to violate the
23 fair-housing laws without intending to discriminate?

24 ANN CONROY: Yes, it is. Absolutely it is.

25 SENATOR KAVANAGH: So if the behavior, if,

1 for example, it were common in your firm, for Asian
2 homebuyers, to have a requirement that they get
3 preapproval before they see listings, but that
4 were not required of a White homebuyer,
5 Mr. Helming [sic], in this case, if that -- if that
6 were a pattern in your firm, you would view that as
7 a violation of the fair-housing laws?

8 ANN CONROY: Absolutely I would.

9 See, they have to be --

10 SENATOR KAVANAGH: Okay. And you would --
11 you --

12 ANN CONROY: -- agents have to be consistent.
13 So -- and every agent is different.

14 We kind of tell agents that, you know, as you
15 train upon the sales side -- let's forget about the
16 discriminations -- on the sales side, you know, you
17 don't want to waste the consumer's time, you don't
18 want to waste the seller's time, you don't want to
19 waste your own time, by showing homes to somebody
20 who can't afford to buy it.

21 So we kind of like that the agents ask for a
22 preapproval, or they sit down with a mortgage
23 person, to make sure that the people are
24 mortgageable.

25 When an agent does not do that consistently,

1 then they get themselves into trouble, so then they
2 shouldn't do it at all.

3 So I absolutely agree with you.

4 If you're going -- no matter who sits in
5 front of you, if you have -- if you want somebody to
6 make sure that they're mortgageable, that you're not
7 wasting your time, their time, or the homeowner's
8 time, showing their house to somebody who can't
9 afford to buy it, obviously, that's a better sales
10 practice. And it's also, to me, a practice of
11 ethics, you know.

12 But -- but the truth is, that is definitely
13 wrong, to allow a White person to see a house
14 without a preapproval, but not a minority person.

15 Obviously, that's blatant discrimination,
16 I agree with that.

17 SENATOR KAVANAGH: Okay. So to just -- I'm
18 going to, just in -- to respect the other senators,
19 and also the many witnesses we have coming, just --
20 I would just note that I have gotten the impression,
21 based on your comments today, and I think
22 Senator Skoufis is also alluding to this, a couple
23 of times you've said things that suggested that it
24 is, sort of, what is in the heart of the agent that
25 matters; it is whether they intend to engage in

1 discrimination.

2 I would just note that, you know, if we're
3 getting that impression from your official remarks
4 here, you know, agents in your firm might be
5 forgiven for getting that impression
6 [indiscernible].

7 ANN CONROY: Well, I want to clarify that,
8 please.

9 It was based on why there wasn't disciplinary
10 action.

11 Obviously, I don't feel that way.

12 But, why I wouldn't fire an agent?

13 When we sat down with them, we were
14 comfortable that they were not discriminating.

15 SENATOR KAVANAGH: Would you discipline --

16 ANN CONROY: So I absolutely agree that --

17 SENATOR KAVANAGH: Would you discipline
18 somebody for systematically violating the
19 fair-housing law even if they did not intend --

20 ANN CONROY: Absolutely.

21 SENATOR KAVANAGH: -- any animus toward
22 the -- toward any homebuyer?

23 ANN CONROY: Absolutely.

24 I mean, we've been actually -- you know, you
25 asked me how we've changed things.

1 Beside telling them -- telling the agents in
2 our training, not to talk about school districts, we
3 also insist that they are consistent. That,
4 whatever they do, whether it's somebody going to an
5 open house, or putting somebody in their car to show
6 homes, that it's consistent.

7 So we really made sure that they treat
8 everybody the same, by writing down what they do,
9 with the White person, with the minority.

10 It shouldn't matter what somebody is, but
11 they should be consistent in how they deal with the
12 public.

13 There's no doubt about it.

14 And so we did learn that as well.

15 SENATOR KAVANAGH: So if that's true, that
16 would be welcomed.

17 I would just note, as -- as -- as
18 Senator Kaminsky noted, it may be hard for that
19 message to get across when the stance is that,
20 overall, nothing -- you know, nothing truly
21 problematic happened here.

22 And so, again, I just -- I would urge you to
23 continue to, you know, think about that.

24 And it is -- you know, it is disturbing that
25 somebody, with, you know, sincere intentions, who's

1 been an agent for a long time, did not get the
2 message that you can't tell some people about school
3 districts, and not others, without getting yourself
4 in trouble.

5 So I'm going to leave it there.

6 But, again, thank you to all the witnesses
7 and to my colleagues for this panel.

8 SENATOR SKOUFIS: Thank you,
9 Senator Kavanagh.

10 Senator Kevin Thomas.

11 SENATOR THOMAS: Since we're on the topic of
12 school districts, I have a quick question for
13 Judi Ross.

14 In the tapes that we reviewed, you said
15 something along the lines of, the Baldwin School
16 District and the Massapequa School District.

17 What's wrong with them, by the way?

18 What's wrong with those school districts?

19 JUDI ROSS: Oh, no. I was just -- you know,
20 I was addressing the quality of the education.

21 I -- you know, "Newsday" is the one, they
22 actually have a school report card, which lists
23 number of graduates per year, and gives you all the
24 information.

25 So --

1 SENATOR THOMAS: I mean, is it a coincidence
2 that the only minority areas are the ones that you
3 told the White tester about, but not any other
4 school district?

5 JUDI ROSS: I just rattled off three, and
6 those were the three that I know. That -- the
7 school -- my daughter is a teacher. And I know when
8 she was looking for jobs, you know.

9 SENATOR THOMAS: Ms. Ann Conroy, did you find
10 anything wrong with that statement?

11 ANN CONROY: Which statement? The original,
12 or --

13 SENATOR THOMAS: What your agent just said
14 [simultaneous talking] --

15 ANN CONROY: No, I think that -- I was trying
16 to -- you know, when we talk about school districts,
17 it's come to light now since "Newsday," that it is
18 misconstrued as a racial comment.

19 But every -- every -- and I try to explain
20 it, and I don't think I communicated it well enough,
21 that the standards of schools, it's usually a
22 percentage of kids that go on to college, really
23 goes to the value of the education in the school.

24 And so those rankings are put out, you know,
25 all the time. And there's even something online,

1 where people can go and find out the percentage of
2 kids that go on to college.

3 SENATOR THOMAS: So, Ms. Conroy, do you
4 actually use those "Newsday" rankings to train your
5 agents?

6 ANN CONROY: Not anymore, not anymore.

7 We don't anymore.

8 But those are open to the public.

9 And as I said before, the consumer -- I don't
10 care if the consumer is White or a different ethnic
11 background or race. Every parent wants their kid to
12 go to the best schools and get the best education.

13 SENATOR THOMAS: Okay, so quick question,
14 quick question, because I know about the Baldwin
15 School District. Their graduation rate is
16 97 percent.

17 So what -- what's the problem there?

18 Are you -- like, I don't get it.

19 What's the problem?

20 ANN CONROY: No problem.

21 Why would there be a problem?

22 97 [simultaneous talking] --

23 SENATOR THOMAS: Because one of your
24 agents --

25 ANN CONROY: -- I think [simultaneous

1 talking] --

2 SENATOR THOMAS: -- was trying to steer a
3 potential White homebuyer from that area. That's
4 why.

5 ANN CONROY: I don't know why anybody would
6 do that; no, I don't.

7 I mean, it's really about the quality of the
8 schools.

9 But, we're just not talking about it anymore
10 because it can be misconstrued, as --

11 SENATOR THOMAS: She said "stay away."

12 ANN CONROY: -- I'm sorry?

13 SENATOR THOMAS: She said stay away from that
14 school district.

15 ANN CONROY: She said stay away from that
16 school district?

17 SENATOR THOMAS: Yeah.

18 ANN CONROY: I don't know -- I don't know
19 why. I don't know why she would say that.

20 SENATOR THOMAS: I mean, this is why
21 supervision [indiscernible].

22 ANN CONROY: I think it's percentage --
23 I think what parents ask -- I mean, if it's grammar
24 school, obviously, you're not going to care about
25 the percentage that go on to college.

1 The high schools, that's what they care
2 about, what percentage go on to college.

3 That's the main thing a consumer asks.

4 [Simultaneous talking by both parties.]

5 ANN CONROY: They just want to know that the
6 kids have a good education.

7 SENATOR THOMAS: More -- more direct
8 supervision than training is needed for your agents.

9 ANN CONROY: Absolutely. I agree with you.

10 SENATOR THOMAS: All right?

11 ANN CONROY: I agree with you, because it's
12 when, also, you know, sometimes you think you're
13 doing the right thing, but you're really not
14 communicating properly, as I did here today. Right?

15 So I want to make sure you communicate
16 [indiscernible] --

17 SENATOR THOMAS: [Indiscernible], like you
18 may have all the best intentions. But when there is
19 a real impact, where there's a real impact on the
20 community, that's when you have to take action.

21 You cannot just look at that as an isolated
22 incident.

23 As you can see, "Newsday" reports showed a
24 divided Long Island, divided communities, because we
25 keep thinking of this as something that is

1 unintentional.

2 It's not.

3 ANN CONROY: I agree with you.

4 I do agree with you.

5 SENATOR SKOUFIS: All right.

6 ANN CONROY: You know, Lisa Casabona is on.

7 Can -- can [indiscernible] --

8 SENATOR SKOUFIS: Yes, we did see that, and
9 we appreciate her demonstrating that she has been
10 able to participate, and she has been here during
11 the hearing.

12 I think that is it for questions.

13 I want to thank all of you for your
14 testimony.

15 You had the additional challenge of being the
16 first panel, but I do appreciate it, we value it.

17 And, you know, it will help us develop our
18 legislative path forward, you know, as we move from
19 today and the hearing.

20 So, thank you.

21 I will now pull up the second hearing -- or,
22 second panel, rather, for the hearing.

23 So on the second panel is:

24 Richard Amato, from Keller Williams of
25 Greater Nassau;

1 As well as, Kevin, I don't know if I'm
2 pronouncing this correctly, Geddie, who is formerly
3 of Douglas Elliman, and is currently at a reality
4 operation called Compass.

5 Are they both here?

6 OFF-CAMERA TECHNICIAN: [Indiscernible]
7 Geddie is here. I just want to make sure that he's
8 speaking -- he's unmuted.

9 There we go.

10 KEVIN GEDDIE: I'm here. Hello?

11 SENATOR SKOUFIS: Hello, welcome.

12 KEVIN GEDDIE: Thank you.

13 SENATOR SKOUFIS: And do we have Mr. Amato?

14 Yes.

15 RICHARD AMATO: Yes. Good morning.

16 SENATOR SKOUFIS: Very good.

17 Good morning.

18 If you can both please raise your right hand.

19 Do you solemnly swear that you'll tell the
20 truth, and nothing but the truth, so help you God?

21 KEVIN GEDDIE: I do.

22 RICHARD AMATO: I do.

23 SENATOR SKOUFIS: Thank you.

24 Do either of you or both of you have opening
25 remarks?

1 RICHARD AMATO: Yes.

2 SENATOR SKOUFIS: Okay. Mr. Amato, why don't
3 you take it away.

4 RICHARD AMATO: Thank you, and good morning,
5 Mr. Chairperson and the members of the committee.

6 Thank you for having me today.

7 My name is Richard Amato, and I am a broker
8 in charge of Keller Williams Greater Nassau.

9 Keller Williams Greater Nassau is an
10 independently owned and operated franchise of
11 Keller Williams Realty.

12 I have been the broker of charge of
13 Keller Williams Greater Nassau since 2014.

14 I have been a licensed real-estate
15 professional for nearly 20 years.

16 Prior to my career in real estate, I was born
17 and raised in Long Island City during the 1970s.

18 I grew up in the Ravenswood housing
19 projects in the '70s and the '80s, and my father
20 still resides there. I see him regularly.

21 Ravenswood was one of the most diverse
22 housing projects in the city.

23 From this upbringing I learned to respect and
24 appreciate the incredibly rich and diverse cultural
25 backgrounds of my friends and family.

1 I then proudly served the City of New York
2 and the residents of New York City as a
3 New York City police officer.

4 I carried out my duties as a New York City
5 police officer with great pride, and respect for
6 each and every resident of the city that I serve.

7 During my eight-year tenure as a
8 New York City police officer, I encountered and
9 served a diverse group of residents.

10 I often encountered many New York City
11 residents in tense and difficult situations from
12 these encounters.

13 I learned to treat all of those I came across
14 with great respect and compassion.

15 I quickly learned that prejudging in any
16 situation could result in prejudice and bias in its
17 highest form, and that false or improper assumptions
18 based on stereotypes or superficial characteristics
19 would only negatively impact my service to
20 New York City and its residents.

21 Both my work colleagues, and indeed my
22 family, are incredibly diverse.

23 As you can see, diversity and inclusions are
24 ideals that I live by on a daily basis.

25 Simply stated, the Senate should know that

1 I would never allow discrimination or prejudice to
2 be present in any organization that I lead or am
3 part of.

4 Moreover, I wanted to state on the record
5 that a native New Yorker, I would never allow
6 discrimination or racism of any kind in my
7 professional life either.

8 As it pertains to Keller Williams Greater
9 Nassau, the "Newsday" article, "Long Island
10 Divided," is just plain wrong.

11 The "Newsday" allegation, as they pertain to
12 Keller Williams Greater Nassau, are patently flawed
13 and misguided investigation which clearly skewed in
14 order to promote a better story for "Newsday".

15 A full and fair and non-bias investigation of
16 the facts regarding Keller Williams Greater Nassau
17 will illustrate that we promote an atmosphere of
18 non-discrimination and compliance with local, state,
19 and federal fair-housing and other real-estate laws,
20 and that our internal policies and procedures do not
21 tolerate discrimination of any kind.

22 Keller Williams has relationships with
23 418 real-estate sales agents, all of whom are
24 independent contractors.

25 Responsible for running their own business,

1 all the independent contractors are required to be
2 licensed by the State of New York, which requires
3 that they complete a 75-hour salesperson-qualifying
4 education course -- [coughing] -- excuse me -- and
5 pass a qualifying examination administered by the
6 department of state.

7 These agents must maintain their licenses,
8 and are required to successfully complete a
9 22 1/2-hour of approved continuing education every
10 two years, including at least three hours of
11 instruction pertaining to fair housing and/or
12 discrimination in sales or rental of real property
13 and interest in real property.

14 Although these brokers are not employees of
15 Keller Williams Greater Nassau, we carefully vet
16 each sales agent to ensure that all their
17 credentials are in compliance and with current
18 New York State law.

19 The Senate should know that my role as a
20 broker in charge of Keller Williams Nassau, all the
21 complaints [indiscernible] are taken very seriously,
22 and are addressed in a timely fashion to assure
23 proper compliance with all non-discrimination
24 policies, as well with local, state, and federal
25 law.

1 Keller Williams agents are required to take
2 the National Association of Realtors' Code of Ethics
3 training, developed in accordance with the
4 Fair Housing Act.

5 Since I became the broker in charge of
6 Keller Williams Greater Nassau, my office has not
7 been subject to any complaint regarding
8 discrimination, nor violations of the Fair Housing
9 Act.

10 Thank you for allowing me to make this
11 statement, and giving me the opportunity to speak
12 today.

13 Thank you.

14 SENATOR SKOUFIS: Thank you.

15 Mr. Geddie.

16 KEVIN GEDDIE: Yep.

17 Thank you for asking me to provide testimony
18 in this important investigation into fair housing
19 and anti-discrimination on Long Island.

20 Like all decent Americans, I detest
21 prejudicial treatment of people based on the color
22 of their skin, their ethnicity, or other irrelevant
23 characteristics.

24 I've always sought to do the right thing in
25 my chosen profession as a real-estate agent.

1 By way of background: I'm a native of
2 Sag Harbor. I've worked in real-estate sales on the
3 East End for more than five years, and I've helped a
4 diverse array of clients buy homes, and I expect to
5 continue to do so for many years to come.

6 As you are aware, I was the subject of a
7 fair-housing test in 2016, one in August by an
8 African-American tester and one in October by a
9 White tester, as part of a "Newsday" project that
10 was published a few years later in 2019.

11 That report suggests that I may have violated
12 fair-housing federal, or New York fair-housing laws.

13 Nothing could be further from the truth.

14 Indeed, I'm deeply troubled by that
15 suggestion, which is not consistent with my values
16 and the way I act in my professional and personal
17 lives.

18 But I am, more importantly, for the Senate's
19 purposes, it's also inconsistent with what we can
20 see and what we can hear on the videos and the
21 interactions themselves, and with the listings
22 I actually I provided.

23 In each of the tests I provided a similar
24 overview, a geography of The Hamptons, and my own
25 background growing up in the area.

1 I was equally attentive and friendly to
2 both of the testers. In fact, I engaged with more
3 follow-up with the African-American tester than
4 I did with the White tester, which "Newsday" report
5 neglects to mention.

6 The "Newsday" article suggests that I engaged
7 in steering, based on the distribution of listings
8 that I provided to the testers and a favorable
9 comment that I made about the Hispanic population in
10 Springs.

11 This suggestion is absolutely wrong.

12 In the first place, I was surprised to hear
13 that these two potential clients were part of the
14 same test, because they said very different things
15 to me about what they were looking for.

16 As one example, each tester anchored herself
17 to a particular area, at least as a starting point:
18 The African-American tester to the Springs in
19 East Hampton. The White tester to South Hampton.

20 In my listings reflected those preferences.

21 Drawing any conclusion from this combination
22 of clients who presented very different scenarios
23 would be fundamentally unfair.

24 But maybe more importantly, if this body
25 takes a closer look at the census tracts for the

1 listings I provided, you will see the minor
2 differences in demographic distributions of listings
3 I provided were not statistically significant, which
4 I understand is a factor under the federal housing
5 law -- sorry -- under the federal law for
6 discrimination.

7 "Newsday" suggested steering, because
8 I listed -- because the listings I provided to the
9 African-American tester were in census tracts that
10 are 75 percent White, and the listings I provided to
11 the White tester were in census tracts that are
12 83 percent White; 8 percent difference.

13 The "Newsday" article doesn't even try to
14 claim that there's minor difference is statistically
15 significant, and it is likely because the areas each
16 of the testers mentioned to me as our starting
17 points.

18 Finally, I want to address the statement in
19 the "Newsday" article about: The Hispanic community
20 had taken over the Northwest Woods.

21 Although I acknowledge some clumsiness in my
22 statement, it should be obvious, even to a casual
23 listener, that this reference, in context, does not
24 reflect discrimination. Far from it.

25 Specifically, I said, that, "The growth in

1 the Hispanic community is great because we have a
2 lot more kids now."

3 What I said about the African-American --
4 what I said to the African-American was similar,
5 about East Hampton: It's a bit overpopulated, but a
6 great education.

7 Each comment was intended to be positive.
8 I neither felt nor expressed anything derogatory.

9 It is a great honor and pleasure for me to
10 serve the community I grew up in, as a real-estate
11 agent.

12 As I have said, I appreciate the folks of
13 this hearing on fair-housing laws and
14 anti-discrimination principles, but, respectfully,
15 I submit that the "Newsday" article suggests that
16 I failed to comply with those laws or apply those
17 principles is utterly unfounded.

18 SENATOR SKOUFIS: Thank you for your
19 testimony.

20 I'd like to start with Mr. Amato.

21 And as a reminder, actually first to my
22 colleagues, if you do wish to ask questions, please
23 just hit the "Raise Hand" function within the Zoom.

24 Mr. Amato, both in your testimony that you
25 shared, as well as in your written statement that

1 you sent to us earlier, you're very critical of
2 "Newsday's" investigation.

3 I would suggest that, of all the brokers and
4 CEOs that we have written testimony from, you're
5 probably the most critical of "Newsday's" exposé.

6 May I first ask, just as sort of a baseline
7 here, Aminta Abarca, Le-Ann Vicquery,
8 Rosemary Marando, were they -- were they agents
9 within your firm at the time of "Newsday's" testing?

10 RICHARD AMATO: No, sir. Just Aminta
11 [simultaneous talking] --

12 SENATOR SKOUFIS: Just Aminta?

13 RICHARD AMATO: Yes, sir.

14 SENATOR SKOUFIS: Okay.

15 The others have no association --

16 RICHARD AMATO: I don't know them.

17 SENATOR SKOUFIS: -- with Keller Williams?

18 RICHARD AMATO: No, none of them.

19 SENATOR SKOUFIS: So -- so let's talk about
20 Aminta, then.

21 She -- you know, she seemed to, at least to a
22 layperson like myself, was, you know, messaging and
23 requiring sort of different prerequisites of the
24 minority tester versus the White tester that
25 "Newsday" sent to her, where the African-American

1 tester was required to sign an exclusive agreement
2 before being shown any homes, whereas the White
3 tester was not required to sign that same agreement
4 and was, you know, provided a tour, without
5 exclusivity.

6 What do you make of that?

7 Why is that not -- why is that not treating
8 one type of client differently than another that
9 looks differently?

10 RICHARD AMATO: Great question, and thank you
11 for asking that.

12 So the White tester came in November of
13 2016 -- okay? -- and went into the [indiscernible],
14 and entered in, and explained everything. And
15 Aminta worked with him for, I believe it was
16 45 minutes. And she did not ask for a signed
17 disclose -- brokerage -- a buyer brokerage.

18 Tester 2, at the next time, came in,
19 I believe it was two or three months later, and
20 asked.

21 Now, if you say to me, Mr. Amato, if
22 Tester 2 and test -- came in a week, or a couple
23 days, after the fact, yes, I would have had a
24 problem with that.

25 But since it was a three-month period -- or,

1 two- to three-month period in lag time, in that
2 time, several things happened.

3 Aminta went and took training on a buyer
4 brokerage.

5 Aminta also had a tough time with age -- with
6 buyers going out and buying properties.

7 And she felt that a lot of buyers, including
8 Tester 1, was wasting her time.

9 So she did feel desperate enough to sit there
10 and ask for a buyer brokerage so she wouldn't waste
11 her time.

12 She actually wanted to work with that buyer,
13 to give him the most attention and work with him.

14 So that's what that buyer brokerage is for.

15 SENATOR SKOUFIS: What is your firm's policy
16 on making this sort of a requirement?

17 RICHARD AMATO: We don't have a policy on
18 that.

19 The agents can work -- my company policy is,
20 is that the business is okay for Aminta, what she
21 chose to use.

22 She can use a buyer brokerage, and you can
23 choose not to. You can choose to work with the
24 seller.

25 SENATOR SKOUFIS: Do you agree you have to be

1 at least consistent? You can't --

2 RICHARD AMATO: I believe -- yes, I agree you
3 do; you should be consistent, sir. I do believe
4 that.

5 SENATOR SKOUFIS: Okay.

6 And what steps have you taken to make sure
7 that the rest of your agents are consistent in light
8 of what was revealed?

9 RICHARD AMATO: Another great question.

10 And what we have done since this, we have
11 implemented training.

12 I've always implemented training on this.
13 I've always worked with it.

14 My offices are very diverse, so I work with
15 all different people and organizations, and
16 everywhere we come from.

17 And what I choose to do is, on this specific
18 situation, we took that tape, and I went to several
19 agents in my office, and I went over it with them,
20 and I said, What would we do different here?

21 And I did it individually, I worked with them
22 individually, to see:

23 What would do you do differently?

24 What would do you do differently?

25 What would do you do differently?

1 SENATOR SKOUFIS: How many agents are under
2 your license?

3 RICHARD AMATO: 418 in Greater Nassau.

4 SENATOR SKOUFIS: "418," is that what you
5 said?

6 RICHARD AMATO: Yes, sir --

7 SENATOR SKOUFIS: Yep.

8 RICHARD AMATO: -- at the current time.

9 SENATOR SKOUFIS: And can you reasonably
10 assure us that, you know, this is not a matter of
11 practice with those 418 agents?

12 RICHARD AMATO: I'm sorry?

13 SENATOR SKOUFIS: Can you reasonably assure
14 us that this is not happening with other agents?

15 RICHARD AMATO: I believe it's not happening
16 with other agents, sir.

17 [Simultaneous talking by both parties.]

18 SENATOR SKOUFIS: Okay. And so short of
19 showing this clip to your other 418 agents, what
20 steps have you taken to actually try and examine
21 whether they have participated in this kind of
22 behavior?

23 Have you done anything that --

24 RICHARD AMATO: Have -- that they have?

25 We put in -- so we always require them, take

1 the training. We make sure we follow up on them, to
2 make sure that they go to the New York State
3 training and get that -- you know, their license.
4 In every two years, we make sure that 22 1/2 hours
5 is done.

6 SENATOR SKOUFIS: You feel your obligation is
7 just to ensure --

8 RICHARD AMATO: No, no, no.

9 SENATOR SKOUFIS: -- that they take the
10 training?

11 RICHARD AMATO: No, sir.

12 We bring in special speakers that work with
13 fair housing.

14 I have in my -- one of the New York City
15 offices, I bring in compliance officers to talk to
16 the agents on a daily basis.

17 We do daily Zoom calls on this.

18 And we've always done it. It's something
19 we've always done.

20 We're a company that believe it's
21 agent-centric. We help each other, and we go over
22 things together. We sit there and work with each
23 other, and we consistently talk about certain
24 situations [simultaneous talking] --

25 SENATOR SKOUFIS: Okay. My time is up.

1 Just a yes-or-no answer to this last
2 question:

3 Do I believe that any of your other
4 417 agents, in, you know, let's say, recent history
5 here, the past year or two years, has provided
6 inconsistent requirements, like the one we saw with
7 [inaudible].

8 RICHARD AMATO: I don't believe so, but I do
9 want to say that I will go back and check, to make
10 sure.

11 But as of now, I really do not believe so.

12 SENATOR SKOUFIS: How -- how -- how will you
13 go back -- what does that mean, "go back"
14 [simultaneous talking] --

15 RICHARD AMATO: I'll go back and talk to
16 every -- I go back -- I have a daily conversation
17 with all of my agents. I try to keep an open
18 dialogue with every single one of my agents. And
19 I talk to them.

20 I like to get involved with every single
21 agent that works for me.

22 SENATOR SKOUFIS: But I can't imagine anyone
23 is going to admit to you, yeah, I broke the
24 fair-housing laws.

25 I mean --

1 RICHARD AMATO: Well, we --

2 SENATOR SKOUFIS: -- so you're taking their
3 word on face value. That's your --

4 RICHARD AMATO: I believe I have to take
5 their word on face value, because I've never gotten
6 a complaint from it. So I would have to take it.

7 And, again, when we role play these on a
8 daily basis, we're consistently talking about it,
9 I would get that answer from them while they were
10 talking to me.

11 SENATOR SKOUFIS: My time is up, out of
12 respect for my colleagues.

13 And I'll just make the comment that, you
14 know, it's hard for someone to lodge a complaint,
15 because they would have no idea whether how they're
16 being treated is inconsistent.

17 They have no idea how the client that comes
18 in after them is being treated.

19 And so they have no idea to make a complaint,
20 hey, you did this for me, but you didn't do it for
21 the next guy.

22 They don't know anything about the next guy.

23 So I would encourage you, you know, to -- to,
24 perhaps, not just take their word on face value,
25 because, you know, people would not know to make

1 that sort of complaint.

2 RICHARD AMATO: I'll check into it.

3 SENATOR SKOUFIS: Senator -- I'll go to
4 Senator Thomas.

5 SENATOR THOMAS: Thank you, Senator Skoufis.

6 I have a quick question for Richard Amato.

7 As a broker who has been licensed for over
8 20 years, you were previously exempt from completing
9 CE requirements; is that correct?

10 RICHARD AMATO: No, sir.

11 No, sir, I wasn't. I just missed that
12 deadline.

13 SENATOR THOMAS: You just missed the
14 deadline?

15 RICHARD AMATO: Yes, sir.

16 SENATOR THOMAS: Do you think that the
17 grandfather clause contributed to poor supervision
18 by some longstanding licensees of their staff?

19 RICHARD AMATO: That is a very good question,
20 and I never thought of that. But, yeah, I could see
21 that being possible.

22 That's a very good question.

23 I could see that possibly being true.

24 SENATOR THOMAS: Okay.

25 Next couple of questions is for Mr. Geddie?

1 KEVIN GEDDIE: Yes.

2 SENATOR THOMAS: All right.

3 In the "Newsday" recording, you had said to
4 the White tester that Hispanics had taken over an
5 area.

6 Do you know that mentioning the demographic
7 makeup of a neighborhood is prohibited?

8 KEVIN GEDDIE: It was such a clumsy way of
9 approaching the situation. I did not know it at the
10 time. I was two years in the industry and still
11 learning to be the best agent I could be.

12 I -- looking back at everything, I would
13 definitely reword any way of that possible.

14 SENATOR THOMAS: Now, like, during your
15 training phase, how much supervision were you
16 getting?

17 KEVIN GEDDIE: I was formerly with
18 Douglas Elliman.

19 As the lady had mentioned before, there were
20 classes, there were group classes. They tried to
21 make you go as much as possible.

22 I tried go as much as possible.

23 SENATOR THOMAS: Uh-huh?

24 KEVIN GEDDIE: You can never be, you know,
25 overeducated. So I feel more is always better.

1 SENATOR THOMAS: But is there, like, someone
2 that would walk around with you during a potential
3 showing of a house, or anything like that?

4 KEVIN GEDDIE: No, sir.

5 What would happen was, they would put you in
6 a room with an attorney that they hired, that would
7 try to beat all the rules of federal fair housing
8 into your head.

9 And it was my job to learn it as muchly -- as
10 much and as quickly as possible.

11 I admit being new into the business, there's
12 no excuse. But, with time, I want to perfect it.

13 SENATOR THOMAS: All right, so the training
14 was inadequate, from what I'm hearing from you?

15 That you -- there was some attorney trying to
16 beat down all the rules and regulations into your
17 head; it just was not clicking.

18 And I see that as a pattern with a lot of
19 these agents. These classes are just not adequate.

20 Back to Mr. Amato, did you hear the answer
21 that Mr. Geddie just gave about the training
22 aspect?

23 RICHARD AMATO: You were coming in and out.

24 SENATOR THOMAS: Did you --

25 RICHARD AMATO: It's coming in and out, your

1 questions.

2 SENATOR THOMAS: Did you hear the answer
3 Mr. Geddie --

4 RICHARD AMATO: I didn't hear the full
5 answer, sir, no. I couldn't [simultaneous
6 talking] --

7 SENATOR THOMAS: All right.

8 So I had asked him about his training prior
9 to him showing houses.

10 And he basically said, he was in a room with
11 an attorney that was just beating rules and
12 regulations into his head.

13 And that's the kind of training that he
14 received.

15 And I'm assuming that's how several of your
16 agents are trained as well.

17 I believe, again, there is a pattern here,
18 where, you know, inadequate training is given. You
19 know, they perform the way they do, and then they
20 get caught.

21 Do you have any plans of changing the way you
22 guys train these agents?

23 Because they need more supervision.

24 RICHARD AMATO: I do agree with you.

25 I do believe that, and I want to be a part of

1 any solution that we -- that I could be, and to help
2 in change the policies and the procedures and the
3 training.

4 I do agree with you.

5 I'm not in every training class, so I can't
6 tell you how it was done.

7 If he -- if Kevin is stating that, then I'm
8 going to take his word on it, too, that he has taken
9 it, because that's what he just stated.

10 And, yes, I think that needs to be changed.

11 SENATOR THOMAS: And do you believe maybe
12 having someone walk with him, like, someone who's
13 licensed walk with him, while he shows a house, so
14 that they can critique how he talks to a potential
15 homebuyer, maybe that should be in the training?

16 RICHARD AMATO: So we do have that.

17 We have buddy programs, where senior agents
18 do go out with newer agents; yes, sir.

19 [Simultaneous talking] --

20 SENATOR THOMAS: Okay. Do you know how often
21 that's done, though?

22 RICHARD AMATO: It's done quite often.

23 It's done quite often. For newer agents that
24 join the company, we guide them to that.

25 We do.

1 It's not mandatory, you know, sir, but we do
2 encourage the fact that they should do that because
3 they want to learn.

4 SENATOR THOMAS: Maybe we can make that
5 mandatory, going forward --

6 RICHARD AMATO: We can definitely look at
7 that.

8 SENATOR THOMAS: -- so that we --
9 All right.

10 Thank you so much.

11 RICHARD AMATO: Thank you, sir.

12 SENATOR SKOUFIS: Senator Kavanagh.

13 SENATOR KAVANAGH: Thank you,
14 Senator Skoufis.

15 So, Mr. Geddie, Senator Thomas covered this
16 a little bit, but just for the record, when you were
17 speaking with the White tester, you described the
18 ethnic makeup of Springs, as follows, you said:

19 "What you see a lot more in East Hampton is
20 the Hispanic community came in, and they really took
21 over Springs and Northwest Woods area, which is
22 great, because we have a lot more kids now. So
23 their high school is drastically bigger than
24 South Hampton."

25 Talking with the Black tester, Mr. Hackett,

1 about the same high school, you said, only, "East
2 Hampton is really, really -- I don't know how to
3 say -- it's overpopulated, I feel like."

4 Can you -- you said -- you mentioned already
5 that you felt that was a clumsy way of describing
6 the school district.

7 Can you -- can you explain what -- what it is
8 that you were trying to express, even if it was
9 clumsy?

10 KEVIN GEDDIE: Certainly.

11 And if I could just explain my full sentence,
12 which was, "It's a bit overcrowded, but still a
13 great education."

14 Both instances were only meant to be
15 positive. Nothing was meant to deter or steer
16 someone from going to either location.

17 I grew up in the area.

18 I was vomiting of the mouth, just trying to
19 talk, and, I admit, very clumsy.

20 SENATOR KAVANAGH: Okay. And, obviously, a
21 lot of the training, a lot of the goal of training,
22 is to make sure agents are careful in the way they
23 speak about these things.

24 But you subsequently didn't show the White
25 tester any homes in that area. Is that correct?

1 KEVIN GEDDIE: I would have loved to.

2 She anchored herself to South Hampton.

3 Her mother was in a rehabilitation center in
4 South Hampton.

5 She was commuting out from the city. There's
6 an hour-and-a-half difference, depending on traffic.

7 It made more sense for her to be closer to
8 South Hampton from what she and I understood.

9 I asked her to look at everything.

10 But when you send someone 10 to 15, 20,
11 listings, it can become blurry.

12 She admitted: Let's start with five houses.
13 We'll start there, we'll look elsewhere afterwards.

14 It's more of a check off the boxes as you go.

15 It wasn't meant to stop there.

16 SENATOR KAVANAGH: Okay.

17 And you left Douglas Elliman and began
18 working with Compass in 2000 -- January of 2018?

19 KEVIN GEDDIE: Yes, sir.

20 SENATOR KAVANAGH: Subsequent to these
21 incidents?

22 KEVIN GEDDIE: Oh, no, sir.

23 When -- I was already happily housed at
24 Compass when I found out that this had happened.

25 SENATOR KAVANAGH: Right, but the actual

1 events that took place were when were you at
2 Douglas Elliman?

3 KEVIN GEDDIE: Yes, sir.

4 SENATOR KAVANAGH: Right.

5 Douglas Elliman's representative, a lawyer,
6 Mr. Rosenberg, said that your remarks, I'm going
7 to quote here again, "are inconsistent with
8 Douglas Elliman policies and applicable law, and are
9 not tolerated. Had Douglas Elliman been informed of
10 such remarks at the time they were made,
11 Douglas Elliman would have taken immediate and
12 appropriate corrective disciplinary action."

13 I would just note that this is pretty
14 remarkable, given that Douglas Elliman just
15 testified that they have disciplined no one as a
16 result of this investigation.

17 Are you surprised that Douglas Elliman is
18 singling you out as a person who should have been
19 disciplined, as the only person who is not with
20 their firm, as they're making that decision?

21 KEVIN GEDDIE: If I could answer this
22 question to the best of my ability:

23 I admit that I was clumsy.

24 What Douglas Elliman would have done with me
25 would have been their own decision to make with me.

1 I can't speculate what they would have done
2 with me, but I do find it highly ironic what she
3 just said before.

4 SENATOR KAVANAGH: Okay.

5 And you -- you, presumably, have had a chance
6 to review the materials on other Douglas Elliman
7 agents since the investigation came out?

8 KEVIN GEDDIE: It was a very lengthy article,
9 as we all are aware.

10 And I did my best to dissect it as much as
11 possible and really learn more about it.

12 To be honest, my main focus was what
13 I partook in that whole entire investigation, and
14 not so much focused on other colleagues.

15 SENATOR KAVANAGH: Okay.

16 Do you -- so based on what you know now, you
17 know, the experts on fair housing reviewed this --
18 reviewed these interactions.

19 A Mr. -- you know -- oh, sorry.

20 Mr. -- Mr. Freiberg said that your comments
21 about span -- "Hispanics have been taken over the
22 area, and recommendations of houses only in that
23 area to Mr. Hackett."

24 And the fact that you provided listings only
25 to Olsen Kopp [ph.] in Sag Harbor, and said,

1 [indiscernible] after praising the schools, that
2 conduct indicates differential treatment.

3 Do you accept that conclusion at this point?

4 KEVIN GEDDIE: No, sir, I do not.

5 I detest completely, whereas both individuals
6 anchor themselves to two completely different areas.

7 And as a larger scale, if you look at
8 South Hampton to East Hampton, I almost consider it
9 as New York to, you know, Los Angeles. It's a wide
10 in-between, and I don't try to make someone go the
11 other way unless they tell me they want to be there.

12 Although, I did reiterate, please, let's look
13 at everything on the market to make sure you're
14 getting the best deal.

15 SENATOR KAVANAGH: Do you -- you concede at
16 this point that making comments about a certain
17 ethnic group taking over a neighborhood is
18 prohibited under fair-housing law?

19 KEVIN GEDDIE: It was such a clumsy way to
20 ever put it. It was never intended to ever deter or
21 talk badly about someone.

22 It was, in my opinion, something that was
23 great.

24 SENATOR KAVANAGH: Okay. So just -- just to
25 conclude, and we had this conversation

1 [indiscernible], you know, the fact of what you do
2 in the last panel as well, but, making that comment,
3 making comment about the ethnic composition, based
4 on your understanding now and the training you've
5 had since that time, which was a number of years
6 ago, you understand, making a comment about the
7 ethnic composition of a community changing, and a
8 particular ethnicity taking over a neighborhood, you
9 understand making that comment as a violation of the
10 fair-housing law at this point?

11 KEVIN GEDDIE: I was not [inaudible].

12 SENATOR KAVANAGH: Even if it was inadvertent
13 or unintentional?

14 KEVIN GEDDIE: I was not aware of that.

15 And, with intention or not intention, I was
16 not aware of that.

17 I continue to grow and learn as much as
18 possible, and thank you for bringing that up.

19 SENATOR KAVANAGH: But your understanding
20 today is that that's not a comment you should make?

21 KEVIN GEDDIE: It should definitely not be a
22 comment. There's nothing that should be worded that
23 way.

24 It was clumsy. I apologize.

25 SENATOR KAVANAGH: Okay. I appreciate that.

1 Thank you.

2 SENATOR SKOUFIS: Okay, thank you,
3 Senator Kavanagh.

4 Next up is Senator Kaminsky.

5 SENATOR KAMINSKY: Mr. Geddie, when you said
6 "Hispanics had taken over," what did you mean?

7 KEVIN GEDDIE: To be honest with you,
8 I didn't mean anything by it. I don't know what
9 I meant. It was diarrhea of the mouth.

10 I just was saying that, you know, it's a
11 great community. It used to be vacant there.
12 Whatever families move there, brought kids, and it's
13 a thriving community now.

14 SENATOR KAMINSKY: That's what you meant by
15 that comment, that you were giving positive
16 attributes to the community by saying Hispanics had
17 taken over?

18 KEVIN GEDDIE: Yes, sir. I truly believe it
19 was only the best intention.

20 It was worded poorly.

21 SENATOR KAMINSKY: Okay.

22 On behalf of people with brains everywhere,
23 I want to let you know how ridiculous that sounds.

24 When someone says, the Jews took over a
25 community, X took over a community, it's not meant

1 in a positive way.

2 You know that.

3 What they're trying to say is, there's an
4 ethnic group in this neighborhood. They're there.
5 You are not part of that ethnic group, so you better
6 be careful. Probably isn't a place you want to
7 live.

8 Do you deny that obvious common
9 centrality [ph.]?

10 KEVIN GEDDIE: I don't feel that way.

11 SENATOR KAMINSKY: Okay, well, I think the
12 comments that you said on tape when you didn't know
13 people were listening to your words are the best --
14 the best inkling we have, the best evidence we have,
15 of who you really are.

16 And when you said Hispanics had taken over an
17 area, it said everything we need to know about what
18 actually really takes place in the real-estate
19 world, what you do when you are out there operating
20 when you don't think people are listening.

21 And it's actions exactly like that that
22 have caused the current status of our divided
23 Long Island.

24 So I think you may have chosen the wrong
25 industry.

1 I think were you caught red-handed.

2 And I think there's nothing else to say,
3 other than, that the lack of people accepting
4 responsibility, or the industry doing anything about
5 it, during this hearing is astounding.

6 Any hope that we might have had that the
7 industry would decide that it's reached a critical
8 inflection point, and wants to better itself, has
9 just completely been eviscerated by this hearing.

10 Everyone is doing these (indicating), blaming
11 the other person.

12 Douglas Elliman is throwing you under the bus
13 when you left there, even though their people did
14 things just as bad that they won't acknowledge
15 because they're still under their license.

16 And you're out there saying Hispanics took
17 over a neighborhood, but you don't even know what
18 you were saying.

19 It was just diarrhea of the mouth. I don't
20 even know what I say half the time. I mean, you
21 know, words just come out of my brain. Who knows
22 who put them there.

23 Our society demands better. We deserve more
24 accountability.

25 And what we have heard today is just

1 astounding, and it means that we've got work to do;
2 that it's going to take real government oversight,
3 action, legislation, penalties, to change things
4 here.

5 And I'm sorry, Mr. Geddie, that you were the
6 one who got caught doing it, but caught is what you
7 were.

8 Thank you, Chairman Skoufis.

9 SENATOR SKOUFIS: Thank you,
10 Senator Kaminsky.

11 Next is Senator Kaplan.

12 SENATOR KAPLAN: Thank you, Chairman.

13 So this is a question for either one of you.

14 Many of the agencies' heads testifying here
15 today have said there was no discriminatory intent
16 on their conduct.

17 The sales agents, even after receiving
18 training, still testified that they don't believe
19 their conduct was discriminatory.

20 My question is:

21 Since the "Newsday" investigation clearly
22 shows we continue to have a problem, we need to do
23 better, does your new-and-improved training include
24 training on "implicit bias," which is identified as
25 attitudes or stereotypes that affect our

1 understanding, actions, and decisions in our
2 unconscious manner?

3 Some of the bias shown by your agents in the
4 video could potentially be described as having been
5 done in an unconscious manner.

6 Given the repeated denials of discriminatory
7 intent, I'd like to know, what measures have you
8 taken to counter this glaring problem?

9 RICHARD AMATO: I'd like to answer that.

10 I'm open to definitely looking into that, and
11 going further with it.

12 And what we have taken, what we have done is,
13 again, we have daily Zoom calls right now. And,
14 unfortunately, we can't have in-person, you know, to
15 a big crowd.

16 But we're having daily Zoom calls, to get to
17 know each other, to get to know and make sure that
18 everything is being done the right way, and getting
19 across.

20 SENATOR KAPLAN: Okay.

21 Do you talk about it; do you talk about
22 unconscious manner of bias?

23 RICHARD AMATO: Absolutely, at least I hope
24 I do.

25 And I -- you know, Senator, again, I've

1 always been like this; I've always tried to be fair
2 in life with everybody.

3 So I talk about it on a daily basis.

4 SENATOR KAPLAN: I appreciate that.

5 I feel -- I understand, and I listened to
6 your testimonies, and I see that you clearly don't
7 see how this being translated.

8 But I also understand, and see the testers
9 and what they have gone through.

10 So there has to be an effort here made to
11 make sure that we are not making unconscious
12 discriminatory decisions or comments, and that's
13 going to come from the top up, all the way to every
14 member that you represent.

15 RICHARD AMATO: I was just going to say that
16 I believe that New York State would need to require
17 something like that.

18 SENATOR KAPLAN: Thank you.

19 Thank you, Chairman.

20 SENATOR SKOUFIS: Thank you.

21 And unless my fellow chairs have additional
22 questions, I believe that is all we have.

23 Senator Kavanagh, do you have anything more?

24 SENATOR KAVANAGH: No, I'm good.

25 Thank you very much.

1 Just to, again, thank the witnesses for
2 appearing today.

3 KEVIN GEDDIE: Thank you.

4 SENATOR SKOUFIS: Very good.

5 Thanks to you both.

6 And we'll now move on to the third panel.

7 RICHARD AMATO: Thank you.

8 Have a blessed day.

9 SENATOR SKOUFIS: Next up, we have number of
10 individuals from Charles Rutenberg Reality; namely,
11 Joseph Moshe, Stephanie Giordano, Maurice Johnson,
12 and Edwin Torres.

13 If you can please turn on your video.

14 Okay. I think we're -- is Stephanie here?

15 I see her.

16 If you could please turn on your video.

17 Ms. Giordano, if you're there, if you could
18 please turn on your video.

19 Okay, well, we will proceed in the meantime
20 without her, for now.

21 The expectation is, that she ought to be able
22 to join us and participate here, and so we look
23 forward to that.

24 But in the meantime, if the rest of you could
25 please raise your right hands.

1 Do you solemnly swear that you'll tell the
2 truth, and nothing but the truth, so help you God?

3 JOSEPH MOSHE: Yes.

4 MAURICE JOHNSON: Yes.

5 EDWIN TORRES: Yes.

6 SENATOR SKOUFIS: Thank you.

7 Who has opening remarks?

8 JOSEPH MOSHE: (Raises hand.)

9 SENATOR SKOUFIS: Joseph, why don't you take
10 it away.

11 JOSEPH MOSHE: Sure.

12 First up, I want to thank you for conducting
13 this hearing.

14 Anything that we can do to eliminate
15 unconscious and conscious systemic racism in our
16 society is welcome.

17 I want to start by saying about our agency,
18 is Charles Rutenberg is probably the most diverse
19 agency on Long Island, with agents from all corners
20 of the earth -- okay? -- speaking approximately
21 50 languages.

22 I know that Charles Rutenberg stands for fair
23 housing and equal opportunity.

24 These are bedrocks on which we have built our
25 entire company.

1 We not only train our agents accordingly, but
2 we also work with an environment where uniqueness is
3 celebrated.

4 We practice what we preach by becoming the
5 most inclusive real-estate company amongst our
6 competition.

7 Most importantly, we provide incredible
8 opportunity to our agents to succeed professionally.

9 Our company model is quite different from
10 those of other large real-estate companies.

11 This provides an opportunity for every
12 individual who chooses to work in real estate,
13 thereby creating a company rich in diversity.

14 Charles Rutenberg Reality agents range
15 between 18 and 90 years old. They live in every
16 possible borough, town, village, county, and
17 ZIP Code in the New York metropolitan area.

18 They live in every -- they serve every
19 neighborhood because they live in every
20 neighborhood.

21 We do not invest in huge numbers of
22 brick-and-mortar buildings in house of our agents
23 because that is not the direction of real estate in
24 this decade.

25 The public does not knock on the real-estate

1 door to find housing. They search on the Internet.

2 When they do, they find a Charles Rutenberg
3 agent who knows and lives locally. They will find
4 an agent who can speak to them in a language they
5 understand.

6 On our website, you can choose different
7 languages to speak to different agents, if that's
8 what you so desire.

9 From the very moment that an agent becomes
10 the career in Charles Rutenberg, they're notified
11 that they are invested in delivering housing
12 opportunities to every individual who seeks our
13 assistance.

14 When they walk through the door, they see the
15 fair-housing declaration in our lobby, if they visit
16 our facility.

17 When they enter our conference room to be
18 interviewed, it is displayed again when they sign
19 our new-agent paperwork.

20 We include non-discrimination documents and
21 compliance documents that they must sign, which
22 outlines their obligations.

23 We, over and over, tell our agents, and
24 supervise them and educate them, about fair housing
25 and discrimination.

1 I can't -- I can't emphasize that enough,
2 that there is no room for discrimination in your
3 society.

4 While agents are required to take our
5 new-agent orientation within 60 days of joining,
6 I am there, instructing them. We discuss fair
7 housing, and present written educational materials,
8 to help them understand their obligations to the
9 public.

10 They are instructed to check our website for
11 additional resources that we have for them, to
12 better understand what they can and cannot do, say,
13 or print.

14 We outline our company best practices, which
15 include:

16 Making sure to treat each client and customer
17 identically.

18 To document, to the best of their ability,
19 and to read all company updates, regarding changes
20 in the law, which we continually provide.

21 We have a robust line presence for our
22 agents.

23 In addition to weekly at-a-minimum training,
24 I host an online chat for our agents, which is
25 available 24/7.

1 I also send a minimum of three e-mails a day
2 with revelent [sic] updates -- "relevant" -- of
3 industry standards and best practices. Fair housing
4 and the law, are common topics.

5 The rental market is an area where fair
6 housing is often a topic of discussion.

7 We run a class on a regular basis which
8 includes industry experts.

9 At that time, we convey the importance of
10 equal treatment under the law.

11 SENATOR SKOUFIS: If you can please wrap up,
12 your time is up.

13 JOSEPH MOSHE: I'm sorry.

14 Okay, I will.

15 We monitor every license renewal,
16 CE obligations, and we specifically mention
17 fair housing in many, many documents that we use.

18 We also recently have, and put it in place,
19 many different and new programs in place to increase
20 our training and education.

21 Thank you.

22 SENATOR SKOUFIS: Thank you very -- thank
23 you.

24 Anyone else have testimony or remarks --
25 opening remarks?

1 MAURICE JOHNSON: Yes, I do.

2 SENATOR SKOUFIS: Okay, yes, please. Go
3 ahead.

4 MAURICE JOHNSON: Hello. My name is
5 Maurice Johnson.

6 My initial statement was previously submitted
7 to Mr. Little, who I understand is the Senate's
8 counsel.

9 However, I would like to, you know, first
10 read the first few paragraphs of my statement that
11 was submitted.

12 Thank you for the opportunity to provide this
13 statement, which reiterates and/or supplements some
14 of my answers given on February 13, 2020.

15 I'm an African-American male who has been
16 subjected to direct and indirect discrimination
17 and/or racial prejudice, both in my personal and
18 professional life.

19 Consequently, because of my experiences and
20 background, I'm not only extremely sensitive to
21 treating everybody equally, but I try to be involved
22 wherever I can in organizations that promote
23 equality and opportunities for minorities.

24 In this regard, for example, I'm actively
25 involved with the Neighborhood Assistance

1 Corporation of America, often speaking about
2 housing --

3 JOSEPH MOSHE: (Speaking off-camera) Can you
4 come in? I messed something up.

5 MAURICE JOHNSON: -- often speaking about
6 housing-related issues, most of whom are minorities.

7 Moreover, while I have had -- while I have,
8 and have had, clients who are White, and,
9 substantially, a majority of my business comes from
10 Black and Latino individuals, therefore, to publicly
11 declare as "Newsday" did, through, supposedly,
12 objective expert opinions based on nothing more than
13 two, approximate, 45-minute conversations and
14 analysis of computer-generated [indiscernible]
15 separated by three weeks, that I engaged in racial
16 and/or ethnic discrimination with regard to how
17 I conduct myself in my chosen profession, was not
18 merely personally offensive, and likely
19 professionally damaging, but patently absurd.

20 Just, quickly, I have never [indiscernible]
21 engaged, and never will engage, in any type of
22 discrimination, racial or otherwise, whether in my
23 personal life or in my professional life.

24 Likewise, I have never steered any client to
25 a particular neighborhood, either because of the

1 neighborhood's racial or ethnic makeup or because of
2 the client's racial -- I'm sorry -- or because of a
3 client's racial or ethnic makeup.

4 Last, I have never treated one client
5 differently than another because of his or her race
6 or ethnicity.

7 While I have received significant training
8 from Charles Rutenberg Reality on fair-housing
9 issues, complying with my continuing-education
10 requirements, I am generally knowledgeable about
11 fair-housing issues.

12 I don't need to be trained to be given
13 continued -- I don't need to be trained or be given
14 continuing education or provided literature to
15 read -- I'm sorry -- requirements [indiscernible]
16 fair-housing issues, I don't need to be trained and
17 given continuing education or provided literature to
18 read to know that no person should be treated
19 differently because of race or ethnicity with regard
20 to housing, or anything else.

21 As I understand it, "Newsday" and its experts
22 have generally claimed that I treated the Hispanic
23 tester unequally, not as well, in comparison with
24 the White tester, and that I did so because of
25 discriminatory animus against the Hispanic tester

1 based on his and/or ethnicity.

2 I categorically deny both equivocally, and
3 I felt unequal treatment and discriminatory
4 motivation, and will address "Newsday's" completely
5 speculative conclusions in more detail below, the
6 following reasons I challenge the fairness of
7 "Newsday's" investigation, as well as its experts'
8 speculative conclusions as to both my actions and
9 motivations.

10 SENATOR SKOUFIS: Okay. Thank you very much.

11 I think I saw Ms. Giordano's hand's raised?

12 Yeah, if you can --

13 STEPHANIE GIORDANO: Thank you.

14 Can you hear me today?

15 SENATOR SKOUFIS: Yep.

16 STEPHANIE GIORDANO: First I want to thank
17 you all for being here with me. I appreciate the
18 opportunity to come.

19 And I understand, and have listened to, the
20 hearings prior to this, and my colleagues in the
21 field.

22 I would like to first, and foremost, read the
23 statement that you already have, but, please, in the
24 middle of my statement, I would like to just say a
25 word or two, just because I feel very strongly about

1 it. Okay?

2 You have my written statement, all of you.

3 I thank you for the opportunity to provide
4 this written statement, which reiterates the
5 supplement to the answer given on February 5th.

6 Before I continue, I want to make it clear to
7 everyone here, that this is my father, Albert Cruz.

8 I am Hispanic and Black.

9 These are my siblings, which are Hispanic and
10 Black.

11 I would like to also make note that I am a
12 lesbian woman in the community who has fought with
13 Governor Cuomo for equality in our community.

14 I want the governors and the Senate -- or,
15 the senators here today to hear me when I say,
16 I always walk, have always walked, with equality in
17 this -- in my life, and in my business.

18 And, Senator Thomas, I implore you to listen.

19 I would ask that you read my statement
20 through my attorney.

21 I will just briefly read what he has asked,
22 and then please ask me any questions.

23 According to the public declaration of
24 "Newsday," the supposed objectives, the expert
25 opinion, I engaged in racial or un -- or ethical

1 discrimination with regards to how I conduct my
2 business, it is not merely -- it is not merely
3 professionally damaging to me, but it is my personal
4 feelings about this that is damaging to me.

5 I have walked with equality.

6 I have been with -- I was, at the time that
7 I was tested, with Charles Rutenberg Reality.

8 And I would again like to reiterate that
9 Charles Rutenberg gave great training.

10 I spoke to Mr. Moche many times about
11 equality.

12 He afforded me an opportunity, as a lesbian
13 woman, to conduct business in Brentwood at my
14 address at 1600 Calebs Path.

15 He afforded me an opportunity to manage one
16 of his locations.

17 And I thank him for that opportunity.

18 The testers that came to me during this test
19 were, in my opinion, if you saw all the videos,
20 "Newsday" did not provide any of us, or all of us,
21 with all the evidence in this particular testing.

22 You saw two tests.

23 There were five tests that were conducted;
24 five tests, in which the Hispanic tester had asked
25 me to go to predominantly White area, which would

1 have been Ronkonkoma, and, in addition to that,
2 Holbrook.

3 I took the Hispanic tester to those areas.

4 When I asked Arthur -- he is the author of
5 this test -- when I asked Arthur to provide me with
6 those videos, he refused.

7 And, in addition, he stated that there was
8 nothing in the videos that would have shown
9 steering.

10 I invite the Senators today to bring my
11 videos up today and show me where I might have
12 steered someone along the way.

13 I additionally want to bring to the senators'
14 attention, that the testers were both provided a
15 link, which enabled them to change the criteria at
16 any time, any day, any hour, and, they were
17 instructed upon how to use it.

18 Okay?

19 Additionally, the White tester never asked
20 me, if you were testing me about inequality, you
21 would ask the White tester to say, Bring me to
22 Brentwood, and then I would have to say to steer.

23 But the White tester never requested.

24 The Hispanic tester requested showings in
25 predominantly White areas, and were given those

1 showings.

2 Okay?

3 I just want to say that the "Newsday"
4 experts, when I went in with "Newsday" to respond,
5 I had, and still emphatically deny, any source or
6 any type of steering.

7 I ask you, today, because I've come here, not
8 because you subpoenaed me, but because this is my
9 first opportunity to speak with you, to say, please,
10 show me if I -- if you have some proof of me
11 steering, which never would happen, that you bring
12 it to me today in this hearing.

13 I know my time is up.

14 Senators, I appreciate you, and I appreciate
15 you letting me speak.

16 I know that I have been a little bit more
17 animated because I believe in what I'm saying.

18 The test showed 10 percent difference in
19 properties that I showed, or -- or sent, not showed,
20 sent to.

21 I never sent a single property.

22 The algorithm of the computer sent the
23 properties.

24 I did not send a single property.

25 And when those testers asked to see any

1 community, I showed them.

2 SENATOR SKOUFIS: Thank you, Ms. Giordano.

3 Mr. Torres, do you have anything to say
4 before we get to questions?

5 EDWIN TORRES: Uh, yes.

6 I would like to thank everybody for being
7 here in the meeting.

8 I just wanted to -- I mean, I'm going to be
9 brief.

10 I've been with Charles Rutenberg since 2009.

11 They do a lot of training, like they
12 mentioned, virtually, you know, in person.

13 I, primarily, most of my sales have been to
14 minorities. 90 percent to 95 percent minorities.

15 So, for me to be considered discriminating
16 towards minorities, that would be completely against
17 what I do.

18 So, I mean, like I said, I'm going to be
19 brief.

20 That's all have I to say for now.

21 And I don't agree with "Newsday's" report.

22 SENATOR SKOUFIS: Okay.

23 Thank you.

24 I'd like to start with you, Mr. Torres.

25 The testing that -- or, the testers that were

1 engaged with you, and please correct me if I'm
2 mischaracterizing this, the White tester was not
3 required, you waived the requirement, for a
4 preapproval from their lender.

5 The African-American tester was required to
6 obtain a preapproval letter from you.

7 Is that accurate?

8 EDWIN TORRES: Let me explain.

9 The Black tester sat down with me just like
10 the White tester. I explained the same thing to
11 both.

12 The Black tester simply understood that he
13 needed to get a preapproval, but he still wanted to
14 see a home. I indicated that I would need a
15 preapproval.

16 The White tester must have stayed at least a
17 half hour in my office, without leaving, until
18 I told him, okay, I'll show you a house.

19 So he was very eager to see a house. Very
20 eager.

21 So I just -- I made a misjudgment, and
22 I said, okay, I'm going to show it to you, but,
23 I need you to get your preapproval.

24 After a week or so that he didn't get a
25 preapproval, I just simply stopped working with him.

1 The Black tester, in reality, never showed,
2 you know, that dedication to go get a preapproval,
3 so he never got shown a home.

4 SENATOR SKOUFIS: So what is -- if I may ask,
5 what is your criteria for requiring preapproval of a
6 client or not? Is it how pushy they are?

7 EDWIN TORRES: My criteria beforehand was,
8 it's all based on your interest.

9 We're here to provide a service. And the
10 more interested you are as an individual, that's --
11 that sometimes triggers your -- you know, you
12 bending the rules, if you want to call it that way,
13 to be able to show them a house.

14 But, now, after the training that I've gone
15 through, I'm not taking anyone out if you don't have
16 a preapproval; no ifs or buts about it.

17 Do I get push back from the public?

18 Yes, because they want to know, why do you
19 need a preapproval?

20 Well, there's two reasons why [simultaneous
21 talking] --

22 SENATOR SKOUFIS: Well, you don't -- and this
23 was discussed with the last panel, you don't need to
24 require a preapproval. You need to be consistent
25 with whether you require a preapproval or not.

1 And your characterization of "bending the
2 rules," for someone who finds out after the fact
3 that they were treated very differently, I suspect
4 that, you know, that African-American, that
5 minority, would not just mildly characterize it as
6 "bending the rules." They would find it offensive
7 and, quite frankly, it would be illegal.

8 So, you know, it seems to be a recurring
9 pattern with all these panels, that there is an
10 epiphany that happens after, you know, "Newsday"
11 publishes their video or their story, and, you know,
12 they go through this additional training, and, now,
13 you know, "I would never do that today."

14 You know, I suspect that we're not quite
15 getting the full story.

16 If I may move to Maurice/Mr. Johnson, you
17 had mentioned you have been subject to
18 discrimination personally as an African-American
19 man.

20 And I wonder, you know, the hearing we've
21 heard from the principals of these companies, the
22 written testimonies from folks who are going to be
23 with us later today, it seems as though, at least as
24 far as I could tell, that a single realtor, not a
25 single agent has been fired as a result of -- as --

1 as a result of what has come about from this
2 "Newsday" exposé, the enormous volume of testing,
3 the enormous volume of videos.

4 And, perhaps, even if you can argue, okay,
5 well this one was a gray area; this one, you know,
6 I don't believe "Newsday," to suggest that every
7 single one of these allegations is discredited is
8 unfathomable to me.

9 As an African-American man who just testified
10 that you have been discriminated against, how do you
11 feel about the fact that not a single real-estate
12 agent, as far as we can tell from the principals who
13 are testifying today, have held any of their agents
14 accountable?

15 MAURICE JOHNSON: Well, I don't -- I didn't
16 really look at too many of the other agents.

17 I only concerned myself with the accusations
18 that was brought against myself.

19 So I didn't really follow the stories of all
20 the other agents and what happened to them, and what
21 those agencies did or did not do, because I was
22 just, more or less, upset that "Newsday" tried to
23 steer.

24 And I'm definitely using that word for
25 "Newsday's" purposes.

1 SENATOR SKOUFIS: Yeah, I understand your
2 feelings about the allegations lodged against you.

3 But, you know, do you not have any sort of
4 fundamental, emotional reaction to the fact that
5 there doesn't seem to be any accountability on the
6 other side of this "Newsday" exposé?

7 MAURICE JOHNSON: Well, that's what I'm
8 saying.

9 I didn't -- if they did something wrong, and
10 it can be proven that they did something wrong, then
11 there should be discipline taken care of.

12 Whether it's discipline, whether it's
13 training, or a combination of the law, yes,
14 something should be done.

15 That's what I'm saying.

16 I concerned myself -- I concerned everything
17 that was going on with myself and what was being
18 displayed with me. I wasn't really concerned about
19 everybody else.

20 And like I said, I have been discriminated
21 against, and I've been discriminated against even
22 with "Newsday" itself, throughout my years of living
23 where I live.

24 So it's, like, it's, to me, before you say
25 anything, for "Newsday" to bring about an article

1 about discrimination, if you asked a lot of Black
2 people, especially the community where I live at,
3 they can tell you how often we have been
4 discriminated against by "Newsday," blatantly.

5 And no senators that I know of, nobody in the
6 local government, ever even addresses that.

7 SENATOR SKOUFIS: Okay. Thank you.

8 MAURICE JOHNSON: I'm a public person.

9 At what point do we address that?

10 And there's plenty of documentation.

11 But at what point do the senators say, well,
12 let's go up against "Newsday" for the blatant
13 discrimination on how they show Black people
14 committing crimes versus White people?

15 The narrative is always different. The way
16 they publicize it on their front page, we have
17 documentation for years.

18 But now I have to sit and listen to "Newsday"
19 completely pull out certain pieces of information to
20 try to paint this narrative, which they do very
21 well --

22 SENATOR SKOUFIS: Okay. Thank you.

23 So I'll just remind everyone --

24 MAURICE JOHNSON: -- to make it seem
25 [simultaneous talking] --

1 SENATOR SKOUFIS: -- just remind everyone
2 that this hearing is about the housing
3 discrimination that's been raised, not about other
4 issues that have been portrayed or not portrayed.

5 Just a yes-or-no question, because my time is
6 up: Mr. Moshe, have -- just to confirm, have any
7 of your agents, subsequent to this investigation,
8 faced discipline?

9 Just "yes" or "no," please.

10 MAURICE JOHNSON: No.

11 SENATOR SKOUFIS: Okay. Thank you.

12 Senator Kavanagh.

13 SENATOR KAVANAGH: Thank you,
14 Senator Skoufis.

15 So I'm just gonna -- a few questions for
16 Ms. Giordano.

17 Am I saying that right?

18 STEPHANIE GIORDANO: Yes.

19 SENATOR KAVANAGH: Okay, great.

20 So before we get to the evidence from the
21 investigation, I want to address something from your
22 statement, and I'm going to quote.

23 You said that you did not conduct yourself
24 with a racially discriminated -- discriminatory
25 animus."

1 Do you think we need to find discriminatory
2 animus in order to find violation of the
3 fair-housing laws?

4 STEPHANIE GIORDANO: I'm sorry, I'm sorry,
5 Senator. I didn't hear you fully.

6 SENATOR KAVANAGH: Does there need to be
7 "discriminatory animus," I think those were your
8 words from your statement, in order to find a
9 violation of the fair-housing laws?

10 STEPHANIE GIORDANO: Sir, I don't know how
11 you will navigate through fair housing.

12 I can only speak for myself, and the way
13 I respond to fair housing.

14 And I can tell you that I would invite you,
15 sir, to explain to me where I was discriminatory in
16 any way, fashion, or form in all five videos.

17 Do you have all five videos, sir?

18 SENATOR KAVANAGH: We -- we can -- we can
19 perhaps have that conversation some other time.

20 In fact [simultaneous talking] --

21 STEPHANIE GIORDANO: Because I wasn't
22 actually --

23 SENATOR KAVANAGH: -- just the way --

24 [Simultaneous talking by both parties.]

25 STEPHANIE GIORDANO: -- sir -- Senator --

1 SENATOR KAVANAGH: -- just the way

2 [simultaneous talking] --

3 STEPHANIE GIORDANO: -- Senator, I just want
4 to say one thing.

5 I was not provided with all five videos.

6 So you're asking me to respond to something
7 that I haven't even been completely --

8 SENATOR KAVANAGH: Ms. Giordano, just do --
9 with all -- with great respect, I'm just asking you
10 what you meant by a particular thing you said in
11 your written statement, and you repeated here
12 orally.

13 I'm trying to understand, before we get into
14 any of the particulars here --

15 STEPHANIE GIORDANO: Yes.

16 SENATOR KAVANAGH: -- if one -- if people of
17 one race or ethnicity are treated -- are routinely
18 treated differently than people of another race or
19 ethnicity, in your mind, can we call that
20 "discrimination," and does that violate the
21 fair-housing laws?

22 STEPHANIE GIORDANO: Well, sir, I can only
23 tell you my own experience. Okay?

24 As a lesbian Black Hispanic woman, I have
25 been discriminated against, many times, questions

1 asked about, one way or another.

2 But, sir, I do not, at all, ever ask anybody
3 any of those type questions.

4 So do -- is there discriminates?

5 We saw the "Newsday" article.

6 Is there discrimination that has happened?

7 I would say that there is.

8 SENATOR KAVANAGH: Okay, and that
9 discrimination -- again, that -- because -- because
10 just -- just to be clear, like, the -- the way
11 brokers and people in the business understand the
12 laws is part of what we're talking about today,
13 because we're talking about training, we're talking
14 about, you know, how to alter behavior.

15 In your mind, someone is asking inappropriate
16 questions, or if someone is treating somebody
17 differently, based on their race or ethnicity, they
18 can be violating the fair-housing laws even if they
19 don't have what you call a "discriminatory animus."

20 Is that right?

21 STEPHANIE GIORDANO: Sir, again, when you're
22 saying a "discriminatory animus," let's define that
23 in your -- in -- with you.

24 SENATOR KAVANAGH: Well, those are your
25 words, so why don't you define [simultaneous

1 talking] --

2 STEPHANIE GIORDANO: And, sir, and just so
3 that we're all understanding -- okay? -- together,
4 I want it to be very clear for everybody here.

5 SENATOR KAVANAGH: Okay, so how would you
6 define that to make it clear for everybody?

7 STEPHANIE GIORDANO: In what way would you
8 like me to define it?

9 SENATOR KAVANAGH: They're your words. I'd
10 like you to tell us what you meant by them.

11 STEPHANIE GIORDANO: Sir, here's what I say,
12 here's what I have to say:

13 I never discriminate against anyone based on
14 any of the protected classes and/or the
15 non-protected classes, ever.

16 SENATOR KAVANAGH: If someone in your
17 business were to treat Hispanic homebuyers
18 differently from non-Hispanic homebuyers, and do
19 that routinely, in your mind, based on your training
20 and your experience in the industry, that would --
21 and you said you had a supervisory role as well,
22 that would constitute discrimination, even if they
23 did not --

24 STEPHANIE GIORDANO: [Indiscernible] -- I'm
25 sorry, sir.

1 SENATOR KAVANAGH: -- intend bad things to
2 happen to people?

3 STEPHANIE GIORDANO: Sir, any discrimination,
4 whether intended or non-attended -- or,
5 non-intentional, is discrimination.

6 And I think, as agents, we understand what
7 discrimination is.

8 I personally understand what discrimination
9 is.

10 I cannot speak for my colleagues. I can only
11 speak for myself.

12 And, please, don't ask me to make such a
13 broad statement for all of my colleagues.

14 For myself, I understand, completely,
15 unemphatically, what discrimination looks like.

16 And I will say to you that have I never
17 participated in it.

18 Additionally, I would ask you, today in this
19 hearing, to provide me proof of the discriminatory
20 action that you are implying that I am taking.

21 I invite you to ask for all five of my videos
22 to be displayed for all the senators to hear and see
23 it.

24 SENATOR KAVANAGH: Ms. Giordano, first,
25 we'll -- we'll perhaps have -- we'll have

1 additional -- perhaps have additional questions for
2 you, and maybe we'll get into some of those issues.

3 But, again, I'm not -- I haven't implied
4 anything about your conduct, other than asking you
5 what something [simultaneous talking] --

6 STEPHANIE GIORDANO: "Newsday" has implied
7 that I steered.

8 SENATOR KAVANAGH: -- okay.

9 That's fair enough.

10 [Simultaneous talking by both parties.]

11 STEPHANIE GIORDANO: Additionally, they
12 have --

13 SENATOR KAVANAGH: And that's certainly why
14 we're here today.

15 STEPHANIE GIORDANO: -- they have put my name
16 into a newspaper article on page 15.

17 I was not a part of the exposé, because there
18 was nothing clear -- there was no discrimination,
19 sir.

20 SENATOR KAVANAGH: Okay, again, we'll
21 probably get into that in a minute.

22 STEPHANIE GIORDANO: Yes, sir.

23 SENATOR KAVANAGH: But, my time is up, so
24 I'll yield it back.

25 STEPHANIE GIORDANO: Thank you.

1 SENATOR SKOUFIS: Thank you.

2 And if I may just remind all the witnesses,
3 it's a -- you know, we, after asking questions, are,
4 to the extent practicable with their time, allowing
5 for a response.

6 And, you know, please allow my colleagues and
7 I to, you know, get out our questions and our
8 comments without being interrupted.

9 Senator Thomas.

10 SENATOR THOMAS: Thank you.

11 I have a question for Mr. Moshe.

12 According to the documents that you had
13 submitted, you supervise about 896 agents. Is that
14 correct?

15 JOSEPH MOSHE: Yes.

16 SENATOR THOMAS: And the Plainview office
17 alone has about, what, 834 agents; correct?

18 JOSEPH MOSHE: Yes.

19 SENATOR THOMAS: The three agents "Newsday"
20 flagged for potential fair-housing violations are
21 all from the Plainview office; correct?

22 JOSEPH MOSHE: Well, not really, no.

23 At the time of the -- of the incident,
24 I believe Miss Giordano was in a branch office.

25 [Indiscernible] --

1 SENATOR THOMAS: And so -- okay.

2 Do you think that one licensed real-estate
3 broker can properly supervise 834 agents?

4 JOSEPH MOSHE: Absolutely.

5 SENATOR THOMAS: Okay, you need to explain
6 that.

7 JOSEPH MOSHE: Excuse me?

8 SENATOR THOMAS: You need to explain how one
9 licensed broker can supervise the actions of more
10 than 800 sales agents.

11 JOSEPH MOSHE: Okay.

12 SENATOR THOMAS: Explain that to me, because
13 it's -- it's -- it's mind-boggling --

14 JOSEPH MOSHE: Okay.

15 SENATOR THOMAS: -- to, basically, sit down
16 with every single one of these agents, and to help
17 them sell the American dream to individuals that are
18 out there.

19 JOSEPH MOSHE: Okay, let me describe to you.

20 First off --

21 SENATOR THOMAS: Okay.

22 JOSEPH MOSHE: First off, which is very
23 important in our company, we do not take on new
24 real-estate agents as a matter of policy.

25 Any agent who joins my company has to have

1 experience in the industry, which we know that,
2 during the course of their education, as being a
3 licensed real estate, they have to take education on
4 an ongoing basis.

5 We also look for many of them to have done
6 transactions.

7 We interview them before they come on board.

8 So we do a fair amount of work to ensure that
9 the agents who join our company will represent our
10 company professionally, and are educated enough to
11 perform the duties that we very intently provide,
12 and mandate.

13 SENATOR THOMAS: Here's the thing, here's the
14 thing: Everyone is human.

15 JOSEPH MOSHE: All right.

16 Thank you.

17 SENATOR THOMAS: Including these agents here
18 that are defending themselves from the actions that
19 "Newsday" recorded them doing.

20 I don't think they're bad human beings at
21 all, but, there needs to be proper supervision.

22 To say that, you, being the broker, hold --
23 like, super -- being able to supervise more than
24 800 of these agents, who are human beings, who go
25 out there and sell homes and show homes, is a very

1 surprising answer to me.

2 JOSEPH MOSHE: Okay, Mr. -- Mr. Thomas,
3 I've heard your statements before.

4 And I think what you're looking for,
5 honestly, is unrealistic, in the sense that you
6 cannot go out and be with an individual every time
7 they take out a buyer and every time they go and
8 show an open house.

9 That is physically impossible for even an
10 agency that has five agents.

11 It just doesn't work.

12 SENATOR THOMAS: [Indiscernible] what I'm
13 asking, Mr. Moshe.

14 What I'm saying is, during the training
15 process --

16 JOSEPH MOSHE: Yes.

17 SENATOR THOMAS: -- we have heard testimony
18 from others, where they are simply put in a room and
19 injected with legalese about the rules and
20 regulations that they just simply don't comprehend,
21 you know, what's happening out there when they show
22 homes.

23 Right?

24 Their -- your bottom line, as a company, is
25 to make profit. And hiring as many of these sales

1 agents, basically, helps you meet your goal.

2 JOSEPH MOSHE: That's not true.

3 SENATOR THOMAS: I just don't see how someone
4 can supervise -- someone can supervise 800 agents --

5 JOSEPH MOSHE: Let me define it.

6 SENATOR THOMAS: -- who are all human beings,
7 and you just don't have the capacity to do it.

8 JOSEPH MOSHE: Let me define it. Okay?

9 First off, when you talk about 800 agents,
10 you talk about, and I'm sure everyone here has heard
11 the "80/20 rule."

12 Is that -- I'm sure everybody knows that?

13 If not, I'll be happy to explain it.

14 20 percent of the agents do 80 percent of
15 your business, and 80 percent of your agents only do
16 20 percent of your business.

17 So to categorize that I have to supervise
18 800 agents that work along the lines of
19 Mr. Johnson, Mr. Torres, and Ms. Giordano is not
20 accurate.

21 These are active agents. These are good
22 agents. These are agents that have the ability to
23 perform their functions honestly, credibly, without
24 discrimination -- okay? -- that don't require
25 day-to-day supervision.

1 When they do, they will tell you that they
2 have access to me and my staff 24/7, for any reason,
3 any question that they can have --

4 SENATOR THOMAS: But Mr. Moshe --

5 JOSEPH MOSHE: -- to provide supervision to
6 them.

7 SENATOR THOMAS: But, Mr. Moshe --

8 JOSEPH MOSHE: Can I finish, please?

9 SENATOR THOMAS: One second.

10 [Simultaneous talking by multiple
11 parties.]

12 SENATOR THOMAS: Okay. Go ahead.

13 JOSEPH MOSHE: That they will -- they could
14 ask me any question about whether it's a question on
15 fair housing, discrimination, commission, not being
16 cooperated amongst the agency; anything that they
17 ask in the real-estate industry, they will get a
18 response immediately.

19 Not within 24 hours. They will get a
20 response immediately.

21 And that's how my office supervises.

22 We have an excellent staff that provides them
23 with education and support, and I use the word
24 "support" with emphasis.

25 Okay?

1 So, remember, we're not talking about
2 800 agents being supervised in the field on a daily
3 basis.

4 You're talking about a much, much lower
5 number, and many of those are very, very
6 professionally qualified.

7 SENATOR THOMAS: But, Mr. Moshe, the
8 investigations in the undercover video shows, you
9 know, something else.

10 JOSEPH MOSHE: I disagree with you.

11 SENATOR THOMAS: That's all I'm saying.

12 [Simultaneous talking by both parties.]

13 JOSEPH MOSHE: I disagree with you,
14 I disagree with you.

15 SENATOR THOMAS: Okay, you would, you would.

16 But, again --

17 JOSEPH MOSHE: I would?

18 SENATOR THOMAS: -- it goes to --

19 JOSEPH MOSHE: Because my agents --

20 SENATOR THOMAS: -- but --

21 JOSEPH MOSHE: -- my agents -- okay? -- and
22 I saw those videos, my agents were very
23 professional, extremely professional, in their
24 presentations.

25 There was no discrimination in any one of the

1 presentations.

2 The justification of what "Newsday" found,
3 I have to leave up to them; their individual
4 responses as to why, what came out, came out.

5 But I don't see, honestly.

6 I'm not speaking to the -- you've asked --

7 SENATOR SKOUFIS: We have one other senator
8 who needs to ask questions.

9 JOSEPH MOSHE: Okay.

10 SENATOR SKOUFIS: Senator Thomas, you can
11 come back for a second round.

12 SENATOR THOMAS: Sure.

13 SENATOR SKOUFIS: But, Senator Kaplan, if you
14 can proceed.

15 SENATOR KAPLAN: Hello.

16 I wanted, again, thank you for appearing here
17 today and giving us your testimony.

18 Mr. Moshe, I was so glad to hear that you are
19 committed to rooting out the unconscious bias and
20 racism.

21 So tell me about the implicit-bias training
22 program you and your agents are going through right
23 now.

24 AGENT JUDI ROSS: We have a staff that is
25 strictly dedicated toward training.

1 And, you know, I think recently, when this --
2 the whole arena of this country has been exposed to
3 discrimination -- okay? -- it has brought on a new
4 level of where discrimination comes from.

5 And a lot of times discrimination comes from
6 our upbringing; our parents, our grandparents. And
7 it is -- I'm going to say almost unconscious
8 behavior.

9 SENATOR KAPLAN: That's exactly what we said.
10 And I appreciate that.

11 JOSEPH MOSHE: And -- and we --

12 SENATOR KAPLAN: But the training --

13 JOSEPH MOSHE: -- we --

14 SENATOR KAPLAN: -- that you have --
15 hopefully, have come up with, have you come up with
16 any new training?

17 JOSEPH MOSHE: Yes. That is the training --
18 that is the training that we give.

19 We -- we -- we're not -- we just don't talk
20 about discrimination, but we talk about what may
21 come out of your mouth without really thinking about
22 it, and to think about it before time, because of
23 that subconscious behavior that has been, for
24 hundreds of years, ingrained in us.

25 And we're very, very stringent on that.

1 SENATOR KAPLAN: And this is new, or is this
2 something [simultaneous talking] --

3 JOSEPH MOSHE: The -- well, I --
4 relatively -- relatively new is the -- is the aspect
5 of -- of unconscious behavior, yes.

6 SENATOR KAPLAN: Okay.

7 Today I [simultaneous talking] --

8 JOSEPH MOSHE: In light -- in light of the
9 investigation, and in light of the "Newsday"
10 article, it has been enhanced.

11 And, truthfully, I think it -- not just in
12 the real-estate industry, but I think the behavior,
13 the unbiased behavior and the unconscious behavior,
14 should be spoken about more across the country.

15 SENATOR KAPLAN: Yes.

16 So today I plan on introducing legislation,
17 mandating implicit-bias training for all realtors,
18 both pre-licensed and in continuing education.

19 Can I count on your support of this
20 legislation in order to address the glaring problems
21 that have been revealed in this hearing today?

22 JOSEPH MOSHE: Absolutely.

23 SENATOR KAPLAN: And do we need to add hours
24 of training for this?

25 JOSEPH MOSHE: Well, I believe, yes.

1 Absolutely.

2 I think in any type of discrimination
3 training there should be that type of training as
4 well, for sure.

5 SENATOR KAPLAN: Thank you very much.

6 JOSEPH MOSHE: My pleasure.

7 SENATOR SKOUFIS: Thank you, Senator.

8 We will return to Senator Kavanagh.

9 Great. Thank you, Senator Skoufis.

10 So just to continue the conversation with
11 Ms. Giordano, you know, you had asked to us talk
12 about the particulars.

13 So I'm going to just do a little bit of that
14 here before I move to the next panel.

15 [Off-video voices.]

16 SENATOR SKOUFIS: Senator Kaplan, if you
17 could mute yourself. Thank you.

18 SENATOR KAVANAGH: Thank you,
19 Senator Skoufis.

20 So, Ms. Giordano, during the investigation,
21 you met with a White non-Hispanic tester and another
22 tester who's Hispanic.

23 And you gave the non -- the White
24 non-Hispanic tester 152 listings, and the Hispanic
25 tester only 74.

1 Do you know which of the incidents we're --
2 the pairs were referring to?

3 STEPHANIE GIORDANO: I didn't give any of the
4 testers any listings.

5 The algorithm was put into the computer, the
6 computer spits out the listings.

7 So I didn't send a single listing to either
8 of the testers.

9 I cannot represent the time, five years ago,
10 as to what or what was on the market at that time to
11 prompt the initial conversation.

12 But if you listen to the initial
13 conversation, you will hear the towns that they
14 spoke about, and those towns were sent over.

15 SENATOR KAVANAGH: Okay. And I assume you've
16 had opportunity to review the -- the -- at least the
17 material that was published --

18 STEPHANIE GIORDANO: No.

19 SENATOR KAVANAGH: -- by "Newsday"?

20 STEPHANIE GIORDANO: "Newsday" has never sent
21 me a single document with re -- with regards to any
22 of the properties I sent.

23 And additionally I will state, that they have
24 not sent me all of the recordings in order to answer
25 the questions that you're posing against me today.

1 I can't answer without all of the evidence,
2 and they have not provided me with all of it.

3 SENATOR KAVANAGH: Ms. Giordano, I understand
4 you feel that you're working [simultaneous
5 talking] --

6 STEPHANIE GIORDANO: Well, that's the truth,
7 sir. That's not a feeling. That's the truth.

8 SENATOR KAVANAGH: -- I understand that you
9 feel you're working with complete info -- incomplete
10 information.

11 STEPHANIE GIORDANO: That's correct.

12 SENATOR KAVANAGH: But, you know, you asked
13 to talk about a few of the incidents, so we're going
14 to talk them.

15 STEPHANIE GIORDANO: Absolutely.

16 SENATOR KAVANAGH: [Inaudible] --

17 STEPHANIE GIORDANO: We can't talk about them
18 in their entirety without all of the information.

19 You can understand that -- correct? -- sir?

20 SENATOR KAVANAGH: We always -- we always
21 work with the information that we have.

22 STEPHANIE GIORDANO: Right, but we weren't
23 given all the information.

24 SENATOR KAVANAGH: Right.

25 STEPHANIE GIORDANO: Okay.

1 SENATOR KAVANAGH: So after the Hispanic
2 tester explicitly stated that the distance from
3 New York City was not relevant to her, you said
4 that, quote, you wanted to bring her -- you did not
5 want to bring her any further out east; and,
6 instead, you wanted to keep her around Brentwood and
7 Bay Shore --

8 STEPHANIE GIORDANO: That's correct.

9 SENATOR KAVANAGH: -- which are predominantly
10 minority neighborhoods.

11 STEPHANIE GIORDANO: That's -- those are the
12 words used in the video, sir.

13 But the actual property addresses, as you can
14 clearly see, did not represent that.

15 SENATOR SKOUFIS: Ms. Giordano, you have to
16 let Senator Kavanaugh, please get through his
17 thought.

18 STEPHANIE GIORDANO: Oh, I'm sorry.
19 I thought he was done.

20 I'm sorry. I thought he was done.

21 SENATOR KAVANAGH: That's okay.

22 So you're saying that the addresses --
23 that -- so, again, the -- the assertion -- the
24 assertion that has been presented to us, that you
25 presented 27 listings to the Hispanic tester in

1 Brentwood and Bay Shore, and none to the
2 non-Hispanic homebuyer.

3 And, again, each of them asserted that the
4 distance, east or west, was not relevant to them.

5 Do you, having -- looking at what you -- you
6 know, recognizing this was a while back, can you
7 explain the difference?

8 STEPHANIE GIORDANO: How can I explain -- oh,
9 I'm sorry.

10 Are you finished, sir?

11 SENATOR KAVANAGH: Yeah, the different --
12 yeah, the --

13 STEPHANIE GIORDANO: How can I explain when
14 I have not been presented all of the information,
15 nor have you?

16 How can I explain something that you and
17 I don't have all the information for?

18 So I will say this to you, I cannot tell you.

19 Both of these testers, White and Hispanic,
20 were given an app to change the criteria, as you can
21 see in many of my -- in my written testimony, and in
22 the video testimony, and, additionally, in
23 "Newsday's" testimony, stated that I gave them an
24 app to change the criteria at any time during the
25 entire process.

1 Okay?

2 SENATOR KAVANAGH: And in your practice -- in
3 your practice, you don't put any of the inputs into
4 that app?

5 STEPHANIE GIORDANO: Absolutely put the
6 inputs into the app on the first meeting, and
7 explain that they can change it at any time.

8 Additionally, they can see all the
9 information that I see.

10 Additionally, they can see the school
11 reports.

12 Additionally, they can see everything that
13 they want to see.

14 They can change it at any time.

15 I ask you:

16 Where are the listing reports?

17 Who handled handling those listings; who
18 brought them in?

19 How do you know that it wasn't changed
20 through the app?

21 I give -- I gave both the testers, as you can
22 see in my video, the application to change the
23 search criteria at any moment.

24 I do not know if they changed the search
25 criteria.

1 I do not have evidence of the listings that
2 were provided.

3 I only have a map that generally states where
4 I sent criteria in two different market conditions,
5 one in the winter, one in the spring, when we all
6 know, as real-estate professionals, that there is a
7 flux of inventory between those times.

8 So, I say to you, sir, show me where
9 I steered this particular Hispanic buyer?

10 Show me the video of the house that I took
11 her to in Ronkonkoma.

12 Show me the video of the house that she went
13 to in Holbrook.

14 Show me where I steered these people.

15 SENATOR KAVANAGH: So we do have limited
16 time.

17 STEPHANIE GIORDANO: I know you have a
18 limited time, but you want to have a limited time
19 when I ask to explain.

20 I've only had two minutes to explain to the
21 Senate, which I'm privileged to be in front of. And
22 thank you [simultaneous talking] --

23 SENATOR KAVANAGH: Okay, I'm going to ask you
24 another question, and -- I'm going to ask you
25 another question, and, perhaps, with the indulgence

1 of the chairs, you'll another minute.

2 If -- if lots of paired testers go to lots
3 of --

4 STEPHANIE GIORDANO: I can't answer what
5 paired testers do, sir.

6 That's not a fair question [simultaneous
7 talking] --

8 SENATOR SKOUFIS: Ms. Giordano, you really
9 have to give the courtesy to my colleagues of
10 letting them finish their questions.

11 SENATOR KAVANAGH: Thank you.

12 If -- if a paired testing program, like what
13 "Newsday" did, or like what we're contemplating,
14 having government entities contract with nonprofits
15 to do, send lots of paired testers that are
16 similarly situated, that have similar economic
17 needs, and state their housing preferences
18 similarly, and non-Hispanic homebuyers are generally
19 directed to predominantly minority neighbors --

20 And, again, I recognize that you're asserting
21 that that's not something you were involved in, but
22 you are a professional in the industry.

23 -- if, in general, non-Hispanic White
24 homebuyers are directed to different neighborhoods,
25 whether it be by an app or -- with input from the

1 salespeople, or through directly -- you know,
2 [indiscernible] people, directly bringing them to
3 homes, if -- if the -- if people are treated
4 differently based on their race or ethnicity in the
5 outcomes, in the neighborhoods they're shown, in the
6 listings they're shown, is that -- is that a
7 problem?

8 Would you count that as discrimination?

9 And, in your understanding, would that be a
10 violation of the fair-housing laws?

11 STEPHANIE GIORDANO: Are you asking me to
12 speculate on all of my colleagues?

13 SENATOR KAVANAGH: No. I'm asking you your
14 understanding of whether homebuyers who are directed
15 to different neighborhoods --

16 STEPHANIE GIORDANO: I've never directed
17 anybody to a different neighborhood, sir.

18 SENATOR KAVANAGH: -- I'm asking you your
19 understanding of what the law requires.

20 Do you believe that if Hispanic homebuyers
21 are generally directed to predominantly minority
22 neighborhoods, and White non-Hispanic homebuyers are
23 generally directed to neighborhoods that are a
24 greater percentage White, that that would -- that
25 would -- without -- without us getting into why they

1 did that, would you -- would you agree that that
2 constitutes a violation of our fair-housing laws?

3 STEPHANIE GIORDANO: Generally speaking, in
4 your general overtones, I will generally see -- or,
5 generally state, that people should not be
6 discriminated based upon their race, their sex,
7 their sexual orientation, and on and on, with
8 regards to our fair-housing laws.

9 I am in agreement with you, sir.

10 If somebody should have been discriminated
11 against, there should be some -- I guess what you're
12 asking me, some sort of repercussion to that.

13 I am again emphatically stating that I have
14 never participated in any of this.

15 And you're asking me for a general statement,
16 which I'm not educated to give you, for everyone.

17 I'm just myself.

18 SENATOR KAVANAGH: Okay.

19 Again, I just I appreciate it, and I'll end
20 there.

21 And I just would note that the question of
22 what brokers are educated to understand, and what
23 their understanding of these laws --

24 STEPHANIE GIORDANO: I understand very
25 clearly, sir.

1 SENATOR KAVANAGH: -- is relevant to our
2 proceedings today.

3 STEPHANIE GIORDANO: Senator Kavanagh --

4 SENATOR KAVANAGH: But thank you for your
5 testimony.

6 STEPHANIE GIORDANO: Senator Kavanaugh,
7 I understand completely, that every agency should
8 take fair housing very seriously.

9 In addition to that, under my time with
10 Mr. Moshe, he took these things very seriously.

11 SENATOR SKOUFIS: Okay. Thank you.

12 Thank you very much.

13 Not seeing any other senators with questions,
14 I want to thank the panel for your participation and
15 your testimony.

16 And, we'll now move on.

17 Thank you very much.

18 JOSEPH MOSHE: Hold on one second.

19 STEPHANIE GIORDANO: Senators?

20 Senators?

21 I invite any of you to call me, directly.

22 Thank you.

23 SENATOR SKOUFIS: And thanks very much for
24 your participation.

25 Okay, we're going to move on, but, first, a

1 couple of notes here, since we will be moving a
2 little bit out of order.

3 The next panel on the witness list, the
4 fourth panel, will be joining us. But they're --
5 one of the witnesses is not quite available until a
6 little bit later this afternoon, and so we will
7 circle back to the fourth panel.

8 The fifth panel, you know, I had --
9 I referenced in my opening remarks that there were a
10 handful of witnesses who were ignoring, or defying,
11 our legislative subpoenas.

12 And that was in reference to this fifth panel
13 at the start of this morning. They had not
14 committed to participate.

15 That recalcitrance has continued to this very
16 moment.

17 Our legal counsel has attempted, and
18 re-attempted, to get them to come and participate
19 today, without success.

20 And so, at 1:30 today, our counsel is going
21 to be before a Supreme Court judge, looking to
22 enforce our subpoenas.

23 We will take additional steps after that if
24 necessary.

25 But in the meantime, the fifth panel

1 continues to be absent.

2 And so, given that, we'll actually now move
3 to the sixth panel, which is a number of folks from
4 Keller Williams and RE/MAX; primarily RE/MAX, one
5 individual from Keller Williams [sic].

6 And those four are: Alan Eldridge,
7 Joy Tuxson, Christopher Hubbard, and
8 Rosemarie Marando.

9 OFF-CAMERA TECHNICIAN: Senator, we're having
10 trouble reaching Rosemary [sic].Mirando.

11 We will keep attempting that, and keep you
12 updated.

13 SENATOR SKOUFIS: Okay. Very good.

14 In the meantime, I see Mr. Eldridge has
15 joined us.

16 And we're waiting on Ms. Tuxson and Mr. --

17 ALLAN R. ELDRIDGE: She's with me, she's next
18 to me.

19 SENATOR SKOUFIS: Oh, okay. Very good.

20 And I see Mr. Hubbard has joined us as well.

21 And so the three of you will get started with
22 you-all.

23 If you could please, first, raise your right
24 hand.

25 Do you solemnly swear that you will tell the

1 truth, and nothing but the truth, so you help you
2 God?

3 ALLAN R. ELDRIDGE: I do.

4 JOY TUXSON: I do.

5 CHRISTOPHER HUBBARD: I do.

6 SENATOR SKOUFIS: Very good. Thank you.

7 I -- we'll start with opening remarks.

8 Mr. Eldridge, do you have anything to begin?

9 ALLAN R. ELDRIDGE: I do.

10 SENATOR SKOUFIS: Okay.

11 ALLAN R. ELDRIDGE: I'm going to read them.

12 I am the founder of -- sorry -- I'm the
13 broker of RE/MAX Beyond. My office is in Melville.

14 My office has produced documents to the
15 committee in response to your subpoenas, and I'm
16 here today to answer your questions.

17 Under state law, real-estate agents are
18 required to undergo training to maintain their
19 license status.

20 Furthermore, agents must follow the
21 National Association of Realtors Code of Ethics, and
22 comply with local, state, and federal law.

23 RE/MAX Beyond holds monthly office meetings
24 where new topics are discussed, such as recent
25 changes in law.

1 Topics discussed are informative and assist
2 the agents in furthering their careers.

3 The topics include: Market conditions, new
4 technology, and new rules and regulations in the
5 real-estate industry.

6 Fair-housing issues will also be a topic for
7 discussion.

8 Handouts are prepared for any agent who
9 misses the meeting so they can stay informed and up
10 to date on new developments.

11 Since the "Newsday" article was published,
12 I have had discussions with staff to outline their
13 responsibilities.

14 Also, there's an opportunity for new agents
15 to gain experience by shadowing an agent in the
16 field.

17 With brand-new agents, I have spent a
18 considerable amount of time ensuring they are aware
19 of their responsibilities with regard to agency and
20 fair-housing law.

21 New agents must learn how to practice in the
22 field, and spending time with experienced agents
23 helps to further that goal.

24 RE/MAX also has policies in place to assist
25 agents with any questions they may have regarding

1 fair housing.

2 RE/MAX agents have also been encouraged to
3 call, text, or walk into my office with any
4 questions they may have.

5 I have an open-door policy for any questions
6 or concerns, and I will reach out -- sorry.

7 I have an open-door policy for any questions
8 or concerns. And if I don't know the answer, I will
9 reach out to the Long Island Board of Realtors for
10 clarification.

11 Joy Tuxson has been an agent associated with
12 RE/MAX Beyond since 2011.

13 I know Joy to be extremely diligent in
14 following the rules and conscientious in dealing
15 with clients.

16 As such, I have had no issues with Joy since
17 her time at RE/MAX Beyond, and know her to be a
18 valuable member of the office.

19 I have reviewed the tape associated with the
20 "Newsday" article, and, for the most part, believe
21 Joy acted with professionalism.

22 I understand how some of the statements could
23 have been taken differently than what was intended,
24 and as Joy could have chosen her words more
25 carefully.

1 However, I feel strongly that that was not
2 her intention or the outcome she desired.

3 I have had conversations with Joy about her
4 statements. I am confident that her intent was not
5 to discriminate or disparage any race, nor did she
6 intend to steer either of the testers.

7 In fact, the "Newsday" article clearly shows
8 a listing sent to both testers overlap in the same
9 neighborhood and in the same school district.

10 Indeed, since the "Newsday" article was
11 published, Joy -- excuse me -- has obsessively
12 followed the law, and even sought out more effective
13 training in order to make sure she's complying with
14 the law.

15 My office takes the allegations in the
16 "Newsday" article, and any allegations of
17 discrimination, very seriously.

18 And we will do everything within our power to
19 assure our clients, moving forward.

20 Thank you.

21 SENATOR SKOUFIS: Thank you very much.

22 Do you have anything to add?

23 I know you're together there.

24 Ms. Tuxson, do you have anything?

25 JOY TUXSON: Well, I have an opening

1 statement.

2 SENATOR SKOUFIS: Yes, that's what I mean.

3 Please, go ahead.

4 JOY TUXSON: I've been a real-estate agent in
5 New York starting 19 -- since 1972.

6 I briefly left the state in 1980. I went to
7 another state where I became a licensed agent, and
8 then a licensed broker.

9 I returned to New York State in 1985,
10 obtained my salesman's license, and then my broker's
11 license.

12 I've been at RE/MAX for a total of 25 years.

13 And since 2011, as Allan had stated, I've
14 been with RE/MAX Beyond.

15 In my over 40 years of experience as a
16 real-estate broker and agent, I have never once
17 received a complaint for discrimination or
18 violations of federal fair-housing law.

19 I practice with the utmost respect and
20 professionalism that the real-estate industry
21 deserves.

22 I follow the law extremely carefully, and
23 ensure that I am up to date on all regulations and
24 changes to the law.

25 I'm constantly seeking out new changes to the

1 law, to make sure that I am in compliance with all
2 recent fair-housing and non-discrimination laws.

3 I also make sure to fulfill the necessary
4 requirements for my license to remain active and in
5 good standing with the department of state and
6 division of licensing.

7 I am up to date on all training and
8 educational requirements, as required by -- to be an
9 associate real-estate broker in New York.

10 Furthermore, I believe my conduct and actions
11 support my position that I treat clients with the
12 respect and professionalism they deserve.

13 I have never used ethnic backgrounds or race
14 to steer any of my clients away from towns or areas.

15 I informed both of the testers to conduct
16 their own research online.

17 Furthermore, there is a direct quote in the
18 "Newsday" article which states I proved --
19 I provided comparable listings to both testers.

20 The experts cited in the "Newsday" article
21 agreed with this assertion.

22 I have learned a great deal from this
23 experience, and will take the lessons learned with
24 me as I continue in my profession as a licensed
25 real-estate associate broker.

1 As a result of this investigation, I sought
2 out a course, which -- from a new instructor hired
3 by my board, Sharon Mullen, who works for
4 Fair Housing on Long Island.

5 I took her course, and she was very clear,
6 presenting the course, going through how fair
7 housing arrived, year after year after year, which
8 I lived through personally. And she made it very
9 crystal-clear that we were only allowed to speak
10 about the house.

11 Very clear.

12 I now only discuss the property itself. And
13 if asked about any other extraneous factors,
14 I reply, "The fair-housing laws prohibit my
15 commenting on that topic."

16 I take my position as a real-estate agent for
17 over 40 years very seriously, and will continue to
18 serve my community with utmost respect and
19 professionalism it deserves.

20 SENATOR SKOUFIS: Thank you very much.

21 I know that we've been -- I think we've been
22 joined by Ms. Marando.

23 I see you there.

24 Thanks for getting onto this Zoom.

25 If I may, before we move on, we swore each of

1 the rest of the witnesses under oath.

2 If you can please raise your right hand for
3 me.

4 Do you solemnly swear that you will tell the
5 truth, and nothing but the truth, so help you God?

6 ROSEMARIE MARANDO: Yes.

7 SENATOR SKOUFIS: Thank you very much.

8 I will now move to Mr. Hubbard.

9 CHRISTOPHER HUBBARD: Yes.

10 SENATOR SKOUFIS: Do you have any opening
11 remarks?

12 CHRISTOPHER HUBBARD: I do.

13 I just want to thank everyone for being here
14 today, and for holding this hearing in order to
15 address what is a very serious topic.

16 I am here in my capacity as a broker, to do
17 my best answer your questions regarding the
18 "Newsday" article, and my profession more generally.

19 As it's already been a long day I think for,
20 you know, many of us, and there is a lot more to go,
21 so I do want to be brief.

22 I do want to take a moment to address the
23 allegations in the "Newsday" article.

24 First, I do note, and I want to note, that
25 I share my concerns raised by my colleagues

1 regarding the methodology "Newsday" used in
2 conducting its investigation.

3 For example, "Newsday" admits that, while it
4 obtained expert opinions, those experts' opinions
5 were based only on portions of broker interactions
6 with testers.

7 We do not know specifically which clips
8 "Newsday" shared with these experts.

9 Additionally, the investigation was
10 imprecise.

11 "Newsday" drew conclusions from only
12 two testers in interactions with me, the smallest
13 possible sample size.

14 Each tester provided a different background
15 that influenced the recommendations I provided.

16 Leaving aside the serious concerns I have
17 over "Newsday's" methodology, I do want to address
18 the allegations against me.

19 I categorically deny engaging in any evidence
20 of steering, and note that, in my 17-plus years of
21 work in this field, I have never treated clients
22 differently based on race, gender, ethnicity, sexual
23 orientation, or any other such characteristic.

24 First, you know, in my circumstances,
25 "Newsday" alleges I have inconsistent statements

1 regarding the quality of certain neighborhoods to
2 each tester.

3 You know, I believe, based on my review of
4 the conversations with the testers, it shows that my
5 description of the neighborhoods were consistent to
6 both testers in those conversations in those
7 consultations.

8 Similarly, "Newsday" alleges that I provided
9 inconsistent properties to the testers.

10 But, again, within review of my case, that is
11 not true neither.

12 I am here to, you know, help in this serious
13 circumstance and review.

14 So whatever questions you have, I am here to,
15 you know, provide whatever information I can.

16 And I do just want to make a note that each
17 office -- each RE/MAX office is independently owned
18 and operated.

19 And, you know, I'm not aware of any other
20 agents -- RE/MAX agent or any agent's circumstances
21 or their specific circumstances with the "Newsday"
22 article.

23 SENATOR SKOUFIS: Thank you for those
24 remarks.

25 Ms. Marando, do you have any opening

1 statement?

2 ROSEMARIE MARANDO: Good day, Senators.

3 My name is Rosemarie Marando, and I am a
4 real-estate salesperson with Coldwell Banker Realty.

5 I'm here today because you have asked me to
6 testify in relation with the November 2019 "Newsday"
7 report.

8 Let me start by telling you a little bit
9 about myself.

10 I've been working as a real-estate
11 salesperson for over nine years.

12 I am a single mother, and my children have
13 all attended schools on Long Island.

14 I absolutely love my job, which has helped me
15 financially support my family.

16 I've been humbled and blessed to assist many
17 families make Long Island their home.

18 I am also a Christian woman, and I respect
19 all people. I believe that we are all created in
20 God's likeness and image, and we have all been
21 created for his purpose and plan.

22 These last few months have been for me the
23 most difficult of my life.

24 The "Newsday" report inaccurately and
25 unfairly accused me of providing unequal treatment

1 to undercover testers sent to me in 2016.

2 As a result of these allegations and
3 publication of my personal information, I've been
4 threatened, ostracized, and harassed.

5 My reputation in the community, and
6 professionally, has been destroyed.

7 In addition to the industry-wide damage
8 caused by the COVID pandemic, my health and my
9 career have been significantly damaged as a result
10 of my cooperation with multiple agencies.

11 To be clear, I have never had a single
12 complaint filed against me from any client, or
13 previous client, in my entire career.

14 I have been compliant with all
15 continuing-education requirements.

16 You have seen the content selected by
17 "Newsday" for publication, so I would like to take
18 an opportunity to provide additional information
19 that "Newsday" omitted or that you may not be aware
20 of.

21 For example, despite the "Newsday" report
22 making me the focus of an article titled "They Call
23 It Steering," "Newsday" dedicated a single sentence
24 to truth, which read, "She gave both testers
25 comparable listings in similar areas, showing no

1 evidence of steering."

2 The fact that I provided Mr. Tune [ph.]
3 information for a listing around the corner from my
4 home, and toward properties in my neighborhood, and
5 also the fact that I needed to stop all
6 communications with Mr. Samuels after he left me
7 aggressive messages.

8 I was first contacted by Mr. Samuels in
9 May of 2016.

10 Mr. Samuels told me that he would meet me at
11 my office, with his wife. But he showed up alone
12 for our appointment, as reflected in the report.

13 My meeting with Mr. Samuels lasted only
14 26 minutes, during which time he told me that he was
15 looking for a house for him, his wife, and their son
16 within 30 minutes of [indiscernible] Hospital where
17 his wife worked, with a budget of 500,000.

18 I provided information about the areas
19 requested by Mr. Samuel, who also expressed a
20 concern about living near college students,
21 especially considering the proximity to the local
22 university.

23 Because of his concern about the
24 neighborhood, I suggested that he visit areas at
25 different various times of the day, and that he

1 speak with residents and get a feel for the
2 community and the quality of the schools.

3 What "Newsday" does not reflect is that, when
4 Mr. Samuels arrived for his second visit, he did so
5 without his wife again.

6 I initially followed up with him, but stopped
7 corresponding with him when I began to feel very
8 uncomfortable.

9 Specifically, Mr. Samuels became aggressive,
10 leaving me aggressive messages, at which point
11 I stopped all communications with him.

12 In October of 2016, a total of 139 days after
13 the meeting with Mr. Samuels, I met the second
14 tester sent by "Newsday," Mr. Tune. And he told me
15 he was looking for a home within 30 minutes of a
16 rehabilitation center in Edgewater where his mother
17 was living.

18 As reflected in the video, Mr. Tune spent
19 an hour and thirteen minutes in my office.

20 Similar to my initial discussion with
21 Mr. Samuels, I provided extensive information about
22 the home-buying process, and provided a referral for
23 a mortgage broker.

24 SENATOR SKOUFIS: Ms. Marando, if you can
25 just wrap up in the next 20 seconds or so, your time

1 is up.

2 ROSEMARIE MARANDO: Okay.

3 I fully understand why the comments
4 [indiscernible] by "Newsday" report video clips may
5 be hurtful to some.

6 I understand that a home is the largest
7 purchase most people will ever make in their lives.

8 And my goal has always been to ensure every
9 client is ultimately happy with their purchase; that
10 I have been able to make a living in the industry.

11 And my prior clients have been very satisfied
12 with my level of service that I have provided, and,
13 therefore, have referred me to their family and
14 their friends.

15 Thank you for taking time to listen to a
16 snapshot of my story.

17 SENATOR SKOUFIS: Thank you very much for
18 your participation and your testimony.

19 I'll get started with questions, and I'll
20 begin with Mr. Eldridge, if I may.

21 I just want to confirm, based on your written
22 testimony, it appears that, in the aftermath of
23 "Newsday's" investigation, there has -- there has
24 been no disciplinary proceedings within your
25 brokerage. Is that correct?

1 ALLAN R. ELDRIDGE: That is correct.

2 SENATOR SKOUFIS: Okay.

3 Can you explain to me, how long have you been
4 a broker?

5 Why don't I start there, how many years?

6 ALLAN R. ELDRIDGE: Approximately 15 years.

7 SENATOR SKOUFIS: 15 years.

8 In your 15 years, have you had to -- or, have
9 you fired anybody, not related to sales and sales
10 numbers, but have you fired anybody for violations
11 of the law, or unscrupulous behavior?

12 ALLAN R. ELDRIDGE: Yes, I have.

13 SENATOR SKOUFIS: You have?

14 Okay.

15 So if I may ask our folks in the back end
16 here, if you can please play the clip associated
17 with Joy Tuxson. I would like to play that, and
18 then follow up with a question or two.

19 (Video clip playing, and transcribed as
20 follows:)

21 AGENT JOY TUXSON: Oh, do you really want
22 your future children going to Amityville School
23 District?

24 Again, I'm not allowed to steer you.

25 But you go on -- and I'm not going to send

1 you anything in Wyandanch, unless you don't want to
2 start your car to buy crack. Unless you just want
3 to walk up the street.

4 Wow.

5 (End of video clip and corresponding
6 transcription.)

7 SENATOR SKOUFIS: So, Mr. Eldridge, you
8 commented that you felt that Ms. Tuxson, I think
9 your words were, "mostly acted with
10 professionalism."

11 I think anyone who is objective and looking
12 at, or listening to, that clip, where Ms. Tuxson,
13 you know, is quoted as saying, you know, basically,
14 "stay away from Wyandanch, unless you want [sic] to
15 start your car to buy your crack."

16 What would she have had to have said in
17 addition to that for it to have crossed the line for
18 you?

19 Would she have had to explicitly say, well,
20 you're White. So unless you want [sic] to start
21 your car to buy your crack, you should stay away
22 from there?

23 What else would she have had to have said for
24 you to have taken disciplinary action?

25 ALLAN R. ELDRIDGE: Well, Senator, first, you

1 have taken a 30-second clip out of a 45-minute
2 discussion.

3 And if you were listening, or if you showed
4 the entire piece, you would have understood that
5 there was some background regarding the discussion
6 with the individual that Joy Tuxson was talking to,
7 and there was concerns about crime.

8 In fact, "Newsday" itself had had articles
9 appearing at that time all over the front page about
10 issues in Wyandanch.

11 So I think that was the crux of the comment.

12 SENATOR SKOUFIS: Uh-huh.

13 So -- so you don't have any issue with what
14 was -- what we just heard?

15 ALLAN R. ELDRIDGE: If you take it out of
16 context the way you said it, and that was the end of
17 it, yes, I would have.

18 But, again, I think when you take it into
19 the -- you know, the entire discussion that was had,
20 and I -- and, again, if you looked at the -- if you
21 listen to the additional 45-plus minutes of the
22 discussion, in general, I had -- I didn't have a
23 problem that rose to the level of where I would take
24 action in -- in -- in -- with Ms. Tuxson.

25 So that's why -- that was the reason for my

1 comments before.

2 SENATOR SKOUFIS: So crime came up in a
3 conversation, and then that comment was made.

4 Quite frankly, even with that context, that
5 sort of messaging is abhorrent, I think most people
6 would agree, and, no doubt, is steering that White
7 tester in a way, that the message was not relayed to
8 the minority tester.

9 Is that -- am I characterizing that unfairly
10 somehow?

11 ALLAN R. ELDRIDGE: No, again, I think if
12 you -- if you take -- if you take the, you know,
13 30 or 40 seconds that you played out of context, it
14 certainly appears that way.

15 SENATOR SKOUFIS: Do you believe that
16 comment, even with your context, is appropriate?

17 Or -- or -- I mean, that is an abhorrent
18 statement.

19 And, quite frankly, I think most people would
20 agree, a violation of fair-housing laws.

21 Do you disagree that that is a wildly
22 inappropriate comment?

23 ALLAN R. ELDRIDGE: Again, based upon the
24 30 or 40 seconds, I do.

25 SENATOR SKOUFIS: That is astonishing to me.

1 My time is up.

2 I'll move over to Senator Kavanaugh.

3 SENATOR KAVANAGH: Great. Thank you,
4 Senator Skoufis.

5 I'd like to note that we've been joined by
6 Senator Rivera.

7 And I don't know if we mentioned
8 Senator Comrie already, but he's also joined us.

9 So, Mr. Eldridge, you mentioned in your
10 opening remarks that it was important to you that
11 Ms. Tuxson did not intend to discriminate or steer.

12 Do you believe intent is required for conduct
13 to be discriminatory?

14 ALLAN R. ELDRIDGE: I'm sorry.

15 Senator, could you repeat the last part of
16 your question?

17 SENATOR KAVANAGH: Do you believe that it is
18 necess -- that intent is required for conduct to be
19 discriminatory?

20 ALLAN R. ELDRIDGE: Under the law, no.
21 Absolutely [simultaneous talking] --

22 SENATOR KAVANAGH: So your -- under your view
23 of -- your use of the word "discriminatory?"

24 ALLAN R. ELDRIDGE: No.

25 SENATOR KAVANAGH: Okay.

1 And, presumably, just to follow up, you also
2 believe that intent to discriminate is not required
3 to demonstrate a violation of the fair-housing laws?

4 ALLAN R. ELDRIDGE: That's correct.

5 SENATOR KAVANAGH: Okay.

6 I want to -- I want to ask Ms. Tuxson, what
7 is your understanding of what it means to, quote,
8 steer a potential homebuyer?

9 JOY TUXSON: I don't steer, so I -- to tell
10 them where they should live?

11 Would that be --

12 SENATOR KAVANAGH: Okay.

13 So -- so you think if you are telling
14 somebody where they should go, if you're encouraging
15 them to live in one neighborhood, if you're
16 discouraging them from living in a certain
17 neighborhood, is that what you consider "steering"?

18 JOY TUXSON: Yes.

19 SENATOR KAVANAGH: Okay.

20 And in your understanding, that's not legal?

21 JOY TUXSON: Yes.

22 SENATOR KAVANAGH: Okay.

23 So the comment that Mr. Skoufis -- that
24 Senator Skoufis showed you, what do you think the
25 effect is of telling somebody that, in a given

1 community, if you live there, you can buy crack
2 within walking distance?

3 JOY TUXSON: What do I think, what?

4 SENATOR KAVANAGH: What do you think the
5 effect is on that -- on that potential homebuyer's
6 interest in living in that community?

7 JOY TUXSON: You're talking about the comment
8 that I made to the White tester?

9 SENATOR KAVANAGH: Yes, saying that, "if you
10 live in that community, you won't need to start your
11 car to buy crack."

12 JOY TUXSON: The White tester told me that
13 her and her husband both lived in apartments in
14 Queens. They lived in an apartment in Queens. They
15 both grew up in apartments in this city.

16 They had no knowledge whatsoever of
17 Long Island. They didn't know any of the towns.
18 They had no relatives who lived on Long Island.
19 They had no friends who lived on Long Island.

20 The woman was very concerned, and nervous,
21 about that fact.

22 And, at the time, that particular year, and
23 in that time frame, "Newsday" had on the front page
24 about drug busts, about crack busts. There was a
25 lot of crime, a lot of drugs, and it was continually

1 in the news.

2 And I assumed that she was concerned with
3 that, and that was her distress.

4 SENATOR KAVANAGH: Okay.

5 And you think that's a sort of accurate
6 measured way of describing the situation, that you
7 can -- you know, one thing you can be sure of,
8 living there, is that you'll be able to buy crack
9 within walking distance?

10 JOY TUXSON: According to "Newsday," yes.

11 SENATOR KAVANAGH: Okay. And I assume
12 "Newsday" didn't quite characterize it that way.

13 Do you think that providing that information
14 to White homebuyers should be of concern if we're
15 concern -- to us if you're -- if we're concerned
16 about enforcing fair-housing laws?

17 JOY TUXSON: The words I used were
18 unfortunate. I shouldn't have said what I said.

19 I've since taken a course that -- the board
20 of realtors -- I belong to the Multiple Listing.

21 And their instructors had taught, previously,
22 that anything affected the price of a house, you
23 could -- you can talk about.

24 Since then, I took this course with
25 Sharon Mullen. She was very clear. She works with

1 Long Island Housing.

2 I know now I'm only allowed to speak about
3 the house.

4 SENATOR KAVANAGH: Okay.

5 And you -- but -- and you think -- so you
6 think the effect of this comments, and your intent,
7 was to discourage them from living in that area?

8 JOY TUXSON: No. Absolutely not.

9 SENATOR KAVANAGH: What was your intent if
10 not to discourage them from living in that area?

11 JOY TUXSON: I'm sorry, what was the
12 question?

13 SENATOR KAVANAGH: What was your intent of
14 saying -- of pointing out the availability of crack,
15 if it was not --

16 JOY TUXSON: [Simultaneous talking] --

17 SENATOR KAVANAGH: -- to discourage them from
18 living there?

19 JOY TUXSON: To calm her down.

20 And I wasn't -- I was going to find her a
21 home.

22 People hire me to sell their homes or to find
23 them a home, and that's what I do. And they have to
24 feel comfortable with me.

25 SENATOR KAVANAGH: Okay, and, again, your --

1 but your intent, when you said that "you can buy
2 crack within walking distance," you're telling us
3 today that that was not -- you didn't think that
4 would either encourage or discourage them from
5 living there?

6 That was just a -- you know, a fact, sort of
7 like, you know, it's a sunny day, or the houses are
8 blue?

9 JOY TUXSON: What I did was, the -- she --
10 she asked for houses in Bethpage -- within 30 miles
11 of Bethpage.

12 I sent her houses in Bethpage.

13 The two testers, the one White and the one
14 Asian, I sent one 6 houses, one 7 houses.

15 When we went into "Newsday" to first review
16 the tapes before the article was published,
17 Mr. Herbert turned the laptop around and he showed
18 us a map interlacing the homes that I sent.

19 They were all in Bethpage, which both
20 buyers had asked for.

21 One of the houses was the same house.

22 SENATOR KAVANAGH: Okay.

23 Just, my time is up.

24 I'm [indiscernible] -- I'll just say, like,
25 it seems perplexing to say that those words are

1 unfortunately chosen, but that, somehow their intent
2 was not to discourage the person to whom you were
3 saying them from -- from considering living in that
4 community.

5 But I'll yield my time.

6 SENATOR SKOUFIS: Okay.

7 Thank you, Senator Kavanaugh.

8 I know that -- oh, Senator Thomas, you are
9 back.

10 Do you have any questions?

11 SENATOR THOMAS: I just have a few for
12 Mr. Eldridge.

13 There seems to be a deep misunderstanding,
14 not only on the part of the agents, but among
15 brokers too, that fair-housing laws don't apply if
16 the agent did not intend to discriminate.

17 Where do you think this "intent" standard
18 originated?

19 ALLAN R. ELDRIDGE: Well, I think, first of
20 all, that the past training that we've had in this
21 area is -- is woefully inadequate.

22 I mean, we have to take three -- I think it's
23 three hours of fair housing every two years.

24 I've had agents, you know, 10 years, they
25 take the same course every 2 years. So, I mean,

1 they've had 15 hours of fair housing, but they've
2 heard the same over and over and over, and it goes
3 back to citing, you know, when the first law was
4 enacted back in 1867. And the next law was enacted
5 in 1879, and then 1912, rather than really getting
6 into the crux of the issues.

7 And I -- you know, after this came out,
8 I went back to the National Association of Realtors,
9 and looked in, and pulled out videos that you were
10 able to, you know, provide to brokers so that they
11 could -- and you had actors, you know, and these
12 actors would portray a scenario where discrimination
13 was occurring.

14 And the agents in my office, seeing this all
15 of a sudden -- and -- and -- and it's, you know, the
16 nuances of it, all of a sudden, they got a -- you
17 know, you get a new understanding.

18 And so, for me, that was very enlightening.

19 And I think that helps to overcome this
20 specific issue where, you know, as you said, you
21 know --

22 SENATOR THOMAS: So you're trying to correct
23 the problem, basically?

24 ALLAN R. ELDRIDGE: -- oh, absolutely.

25 SENATOR THOMAS: Okay.

1 Let me go to the next question, then.

2 Ms. Tuxson stated today that she obtained the
3 statistic on drug prevalence from "Newsday".

4 Mr. Hubbard got live -- liveability
5 statistics from areabuy.com.

6 Does RE/MAX, dot, encourage its agents to get
7 crime or school statistics from legitimate
8 government sources?

9 Why are agents using these unreliable or
10 potentially biased sources as a basis for their
11 information?

12 ALLAN R. ELDRIDGE: I can't -- I can't
13 comment on Mr. Hubbard because he's -- you know,
14 he's in a different office. So I'm not sure what he
15 was doing.

16 But I can tell you what we do is, we
17 encourage agents to tell their clients, their
18 customers/the consumer, to go out and do their own
19 research.

20 We really don't want them going to a specific
21 site.

22 "Newsday" used to provide sites.

23 I mean, there's so many different places you
24 can go to to find information.

25 And the problem you have is -- you know, is

1 if you point out one, and they're wrong, then you're
2 wrong.

3 So what we do is, we go out in those
4 instances and say, there's plenty of information on
5 the web. There's plenty of places you can go and
6 find information. Do your own research.

7 SENATOR THOMAS: But, again, what we saw on
8 video just recently showed that an agent was giving
9 information rather than telling a customer to do
10 their own research.

11 What do you have to say about that?

12 JOY TUXSON: I think that's wrong.

13 I think you should be encouraging agents to
14 tell their customers to go out and do their own
15 research.

16 SENATOR THOMAS: Okay.

17 All right. I don't have any more questions.

18 SENATOR SKOUFIS: Okay.

19 Thank you, Senator Thomas.

20 I'll -- I'll take a moment, if I may, to
21 follow up with Ms. Tuxson.

22 Have you ever made a comment like the one we
23 heard in that clip before, or is that the only time
24 you ever made a comment like that, that can very
25 easily, to 99 percent of people, be construed as,

1 you know, very negative and broad-brush towards an
2 entire community, derogatory towards an entire
3 community?

4 Is that -- have you ever made that kind of a
5 comment before?

6 JOY TUXSON: It was a very flippant comment
7 that I shouldn't have made. And, yes, I probably
8 have. And it was not directed at a community.

9 It clearly states in the article that
10 I informed both buyers that they should do their own
11 research.

12 I told them, I'm not allowed to steer, and
13 that they need to do their own research and tell me
14 what they want.

15 SENATOR SKOUFIS: Okay.

16 Thank you.

17 Now, you've talked about, and Mr. Eldridge
18 has talked about, additional training that you've
19 received since this all came to light.

20 Do you think, if you can sort of step outside
21 of your shoes for a moment, and look at what's going
22 on from the outside, do you think that you'd -- you
23 know, objectively speaking, that you would have
24 learned a lesson from this new training without this
25 "Newsday" exposé and this video have -- you know,

1 having come out?

2 Or, you know, is this a matter of, like, you
3 know, having -- I hate to phrase it this way --
4 having gotten caught, and now being very much aware
5 of it, and I, you know, can't be caught doing that
6 again?

7 Or do you think this training actually -- if
8 it's someone else, someone who wasn't caught by
9 "Newsday" in your brokerage, Mr. Eldridge, different
10 agent, who wasn't caught, but was doing -- you know,
11 making similar, quote/unquote, flippant remarks, do
12 you think this new training is actually getting them
13 to stop?

14 JOY TUXSON: I think as, Mr. Eldridge stated,
15 we were being taught by Multiple Listing.

16 After this -- I can't really answer that
17 question.

18 After this article came out, Multiple Listing
19 fired the instructors, they fired the two attorneys,
20 and they brought in this new woman and other people
21 who are teaching us differently.

22 So, I don't know.

23 SENATOR SKOUFIS: So I guess, Mr. Eldridge,
24 do you have a very high level of confidence that
25 this new training is going to ensure that this --

1 these types of comments are not made, moving
2 forward?

3 ALLAN R. ELDRIDGE: I can't -- I can't give
4 you a definitive answer.

5 I think it will definitely help.

6 I think changing the training, again, to --
7 to -- you know, to promote real situations, as
8 opposed to historical, what happened when, I think
9 will help significantly.

10 You know, when you -- when you look at
11 something, and you can -- as I said, if you're
12 looking at a video and you can see something
13 happening before your eyes, even though it may be,
14 you know, a performance, it still makes you,
15 I think, significantly more aware of what can
16 happen, or what has happened, as opposed to the way
17 our training had been prepared in the past.

18 So, yes, I do think it will help.

19 SENATOR SKOUFIS: Okay.

20 Do you think we need more testing in the
21 industry?

22 ALLAN R. ELDRIDGE: I think it's -- it's --
23 absolutely.

24 I mean, everyone, you know, if you didn't
25 have traffic lights, you didn't have people giving

1 tickets for traffic lights, we'd all be going
2 through traffic lights.

3 So I think there should be more testing.

4 SENATOR SKOUFIS: Is there anything that you
5 can do, do you think, as a broker?

6 Now, you know, it's been mentioned, not just
7 on this panel, but many of the previous panels
8 today, that, you know, people claiming, well, I've
9 never had a complaint lodged against me, so, you
10 know, this is an outrageous allegation.

11 I mentioned previously, you know, it's --
12 it's incredibly difficult, if not impossible, for
13 someone to know to lodge a complaint for being
14 treated inappropriately or inconsistently because
15 they don't know how other people were treated by
16 that agent.

17 You have to know that someone else was
18 treated better, or know that someone else was
19 treated consistently, to realize, oh, I was
20 mistreated, I was treated inconsistently.

21 And, of course, people have no idea how the
22 next guy was treated by the agent, so of course they
23 don't know to file a complaint.

24 What more can you do?

25 So testing, I think, is really crucial here.

1 But what more can you do as a broker to
2 ensure that -- you know, knowing that complaints
3 only materialize if you have some magic ball and
4 know how others are treated, what more can you do as
5 a broker to ensure that your agents are not behaving
6 like what we're talking about?

7 ALLAN R. ELDRIDGE: I think you have to
8 continuously bring it to their attention.

9 It's not something, you know, we -- we talk
10 about it once and then you forget about it.

11 You have to talk about it.

12 As I said, I hold monthly meetings.

13 So, you know, every time you have a meeting,
14 it should come up and there should be a discussion.

15 You know, if my agents aren't at a meeting,
16 when I send them information, I have them sign off
17 that they've read this and they understand it, and
18 they e-mail it back to me.

19 So I want to make certain that I cover
20 everyone in the office.

21 But I think you have to do it continuously,
22 that's all.

23 SENATOR SKOUFIS: Okay.

24 Just one last question, yes or no: Have you
25 ever fired someone over your 15 years as a broker

1 for violating fair-housing laws?

2 ALLAN R. ELDRIDGE: No.

3 SENATOR SKOUFIS: Okay.

4 Thank you.

5 Senator Kavanaugh?

6 SENATOR KAVANAGH: Am I up, Senator Skoufis?

7 SENATOR SKOUFIS: Yes, yes.

8 SENATOR KAVANAGH: Okay. Great.

9 Thank you very much.

10 So, Ms. Marando, I do have a couple of
11 questions for you.

12 You met, during the course of the
13 investigation, with a White homebuyer and a
14 Black homebuyer, both of whom were looking for a
15 house within 30 minutes of Port Jefferson, for up to
16 \$500,000.

17 We're going to show a clip.

18 Here is what you said to the White homebuyer.

19 Can we roll that clip?

20 (Video clip playing, and transcribed as
21 follows:)

22 AGENT ROSEMARIE MARANDO: [Indiscernible.]

23 It's okay. I just -- I -- you know, you
24 may -- you don't really know certain areas --

25 THE TESTER: Uh-huh.

1 AGENT ROSEMARIE MARANDO: -- what you're
2 going to get next to.

3 THE TESTER: Right.

4 AGENT ROSEMARIE MARANDO: That's the problem.

5 And there's pockets, Port Jeff, too, you
6 know, down by the train, like, in the area there.

7 What I say is, always to women, "Follow the
8 school bus."

9 You know, that's what I would say:

10 Follow the school bus. See the moms that are
11 hanging out on the corners.

12 Wherever you're going to buy diapers, you
13 know, during the day, go at 10:00 at night, and you
14 see if you like [indiscernible].

15 And, really, that's the way to really take a
16 look [indiscernible].

17 I tell women this all the time.

18 THE TESTER: Right, right.

19 AGENT ROSEMARIE MARANDO: There was one fella
20 who would -- like, insisted on this house. And the
21 wife was pregnant, had a little one.

22 I said to him: I can't say anything, but
23 I encourage you, I want you to go there at 10:00 at
24 night, with your wife, to buy diapers. Go to that
25 7/11.

1 They didn't buy there. You know?

2 THE TESTER: No, that's great.

3 AGENT JOY TUXSON: I have to say it without
4 saying it. You know, you have the knowledge of the
5 areas, you know.

6 THE TESTER: Yes.

7 AGENT ROSEMARIE MARANDO: And, look, I care
8 for families. I'm a family person.

9 THE TESTER: Right.

10 AGENT ROSEMARIE MARANDO: I care for my
11 children.

12 And, you know, when you're putting them in
13 other people's care, like, take first-time
14 homebuyers out all the time.

15 I don't want to use the word "steer," but
16 I try to [indiscernible] [simultaneous talking] --

17 THE TESTER: No, no, listen, absolutely.
18 That's --

19 AGENT ROSEMARIE MARANDO: -- in the areas.

20 SENATOR KAVANAGH: Thank you.

21 So, Ms. Marando, let me begin by asking you:
22 What did you specifically think that the White
23 homebuyer and his partner would observe about the
24 mothers who are waiting for the school bus, that
25 would be relevant to their choice of housing?

1 ROSEMARIE MARANDO: Well, they were
2 transitioning here to Long Island. And seeing moms
3 at the school bus are just a great resource of
4 information.

5 SENATOR KAVANAGH: Okay.

6 And you -- so you were -- but you said they
7 should follow the school bus and look at the moms.

8 You're suggesting that, the idea --

9 ROSEMARIE MARANDO: No, I didn't say "look at
10 the moms."

11 I said "see the moms."

12 SENATOR KAVANAGH: Right, [simultaneous
13 talking] --

14 ROSEMARIE MARANDO: And [simultaneous
15 talking] --

16 SENATOR KAVANAGH: -- you can see them as
17 they follow the school bus.

18 What was it that they were supposed to see?

19 ROSEMARIE MARANDO: Well, "following the
20 school bus" was just referencing that they would get
21 to know the route, and how long that the son would
22 be on the bus, because I believe he was coming out
23 with the son.

24 And if you're following the school bus, you
25 will get a better idea of how long the children will

1 be on the bus, how many stops to the bus -- to the
2 school.

3 SENATOR KAVANAGH: Why would you -- why would
4 you -- why would you look at the moms along the way?

5 ROSEMARIE MARANDO: I didn't say -- I said:
6 See the moms hanging out in the corners. You can
7 get out and talk to them, because they're a great
8 resource.

9 SENATOR KAVANAGH: I think you said you'd see
10 who is hanging out at 10:00.

11 I think you said that they should follow --
12 we can run it again if you want, but I think you
13 said, they should follow the school bus and look at
14 the moms along the route.

15 Again, it's hard to -- it's hard to hear that
16 any other way than, there may be some kinds of
17 people that you can observe that are the kind of
18 people you want to live with, and other kinds of
19 people that you can observe, by passing them by at
20 the school bus stop, that you don't want to live.

21 ROSEMARIE MARANDO: Absolutely not.

22 SENATOR KAVANAGH: Okay. Do you see
23 [simultaneous talking] --

24 ROSEMARIE MARANDO: That's not what
25 I [simultaneous talking] --

1 SENATOR KAVANAGH: You said you don't want to
2 use the word "steer."

3 Why didn't you want to use that word?

4 ROSEMARIE MARANDO: I shouldn't have used
5 that word.

6 I know that I don't steer my clients, ever.

7 And he -- we were talking in the context of,
8 he was speaking about the university, or not wanting
9 to live near the college kids.

10 So that's why I referenced, well, you know,
11 to go down to a local store at 10:30 at night, or
12 wherever you're going to go, and run an errand.

13 And when you're going at 10:30, 11:00 at
14 night and you're near an university, if it is a
15 college town, and he was specific that that's -- he
16 did not want a college town, well, then maybe that's
17 not where they wanted to live.

18 SENATOR KAVANAGH: Do you think saying -- do
19 you think saying the word "steer" or not saying the
20 word "steer" is relevant to whether you're violating
21 the law?

22 ROSEMARIE MARANDO: I should have not used
23 the word "steer."

24 SENATOR KAVANAGH: Okay, but do you think
25 that -- that's probably correct.

1 But do you think that -- that whether you use
2 the word or not use the word is relevant to the
3 question of whether you're violating the
4 fair-housing laws?

5 ROSEMARIE MARANDO: I know I shouldn't have
6 used the word. And I don't think I -- I didn't
7 violate any laws because I was being clear with both
8 my testers that I do not steer.

9 And I wanted them to understand that.

10 But if you do have some information, and
11 they're asking you a question about a community,
12 offering the information is not steering.

13 It's helping a buyer make an informed
14 decision.

15 SENATOR KAVANAGH: Why -- why did you say --
16 why did you say you need to "say it without saying
17 it"?

18 ROSEMARIE MARANDO: I'm sorry, say that
19 again?

20 SENATOR KAVANAGH: You said in the clip we
21 just watched, that you need to -- "I need to say it
22 without saying it," is what you said.

23 ROSEMARIE MARANDO: Right, because --

24 SENATOR KAVANAGH: What does that mean?

25 ROSEMARIE MARANDO: -- well, buying a house

1 is, you know, probably the biggest purchase that a
2 buyer is going to make. And I want them to make an
3 informed decision.

4 I cannot say it. I do not steer.

5 And perhaps they could use other resources to
6 help them make that decision.

7 SENATOR KAVANAGH: Isn't "saying it without
8 saying it" a viola -- isn't it a violation of the
9 law if you impart information --

10 ROSEMARIE MARANDO: I wasn't --

11 SENATOR KAVANAGH: -- implicitly, if you use
12 coded language, if you -- I mean, that -- "saying it
13 without saying" almost seems like a textbook
14 definition of what we sometimes call "coded
15 language" for certain realities in communities.

16 ROSEMARIE MARANDO: I did not use any coded
17 language to help make up any composition of any
18 neighborhood. I didn't.

19 SENATOR KAVANAGH: What did you mean by
20 "saying it without saying it"?

21 ROSEMARIE MARANDO: I believe I was speaking
22 with, I guess it was Mr. Samuels with that. And
23 I cannot steer, I will not steer.

24 And I let him know that, I guess, when we
25 were talking about the 7/11, or where he can go make

1 some errands, and just get a better idea for the
2 community.

3 SENATOR KAVANAGH: Turning to Mr. Eldridge,
4 as somebody with a leadership position in this firm,
5 do you believe that brokers, quote, saying it
6 without saying, is appropriate? is it legal?

7 ALLAN R. ELDRIDGE: I'm sorry, Senator?

8 SENATOR KAVANAGH: Do you believe, as
9 somebody with a leadership position in this
10 organization, that your brokers should be telling
11 potential homebuyers that they need to say it
12 without saying it?

13 ALLAN R. ELDRIDGE: Well, I'm not part of her
14 organization, Senator.

15 SENATOR KAVANAGH: Oh, sorry. Forgive me.

16 Oh, sorry. Our panels have been mostly --
17 let me ask -- ask you: As leadership -- as a
18 leader --

19 I forgot Ms. Marando was originally going to
20 be on a different panel.

21 -- as -- do you -- having just seen that
22 material today, and recognizing that you may not
23 have the full context, and maybe not had an
24 opportunity to speak with Ms. Marando about it
25 previously, but do you believe that a broker

1 mentioning that they shouldn't steer people, and
2 saying that out loud, that "I can't say 'steer,' and
3 I don't like to use that word," does that -- is that
4 a practice that you think is appropriate?

5 ALLAN R. ELDRIDGE: Senator, it's a hard
6 question for me to answer without having any
7 background.

8 I mean, I wouldn't say to someone, that
9 I can't say -- I can't talk to you about this
10 because it's steering, but I'm going to talk to you
11 anyway.

12 So I'm not certain her circumstances, so it's
13 a tough question to answer for me.

14 SENATOR KAVANAGH: Okay.

15 Again, I'm -- my time's up.

16 ALLAN R. ELDRIDGE: [Indiscernible] is,
17 I wouldn't steer anyone.

18 And if your talk -- if you're talking about
19 steering, you're doing steering, no, you shouldn't
20 be doing that.

21 SENATOR KAVANAGH: You shouldn't be
22 mentioning steering, and -- and mentioning that you
23 can't do it. That you don't like to call it that,
24 anything you're doing.

25 Is that a fair statement?

1 ALLAN R. ELDRIDGE: Again, Senator,
2 I wouldn't go beyond saying, we don't -- I wouldn't
3 talk about steering, and I wouldn't advise my agents
4 to tell people, you know, to talk about steering.

5 So I don't know her circumstances.

6 SENATOR KAVANAGH: Okay.

7 I -- let me just conclude there.

8 But, again, I think that, if I were in a
9 family, and I were told that one of the things that
10 people should do before they decide whether to move
11 to my community, is follow the school bus and look
12 at the mothers of our families, you know, it's
13 hard -- I think it would be hard to interpret that
14 as anything other than an insult to that community.

15 But I'll leave it there.

16 SENATOR SKOUFIS: Thank you,
17 Senator Kavanaugh.

18 I think that concludes our questions.

19 So I want to thank each of you on the panel
20 for coming and participating, and answering our
21 questions in a forthright manner.

22 I appreciate it, and wish you all a good rest
23 of the day.

24 ALLAN R. ELDRIDGE: Thank you.

25 CHRISTOPHER HUBBARD: Thank you.

1 SENATOR SKOUFIS: Next up, so we will return
2 to Panel 4, which I'm told is now available.

3 So these are a couple of fair-housing experts
4 that we're looking to hear from, the first of which
5 is Dr. Jacob Farber [sic], and the second of which
6 is Dr. Max Besbris.

7 DR. MAX BESBRIS: So, Senator, I'm going to
8 be speaking on behalf of both myself and Dr. Faber.

9 SENATOR SKOUFIS: Okay. Is -- he is joining
10 us, though. I do see him.

11 Okay, very good.

12 If I may, just to be consistent, ask each of
13 you to please raise your right hand.

14 Do you solemnly swear that you will tell the
15 truth, and nothing but the truth, so help you God?

16 DR. MAX BESBRIS: Yes.

17 DR. JACOB FABER: (Nods head.)

18 SENATOR SKOUFIS: Thank you.

19 Please proceed.

20 DR. MAX BESBRIS: So I'd like to start by
21 thanking the Andra Stanley of Senator Kavanagh's
22 office, and thank the committee for hearing our
23 testimony, for and addressing such a pressing issue.

24 So my name Max Besbris. I'm an assistant
25 professor sociology at the University of Wisconsin,

1 Madison, where I'm affiliated with the Center for
2 Demography and Ecology, and the Center for Financial
3 Security.

4 For the past 10 years I have studied
5 real-estate agents in New York State.

6 And in a new book called "Upsold," which was
7 published by the University of Chicago Press, I show
8 that real-estate agents are key for understanding
9 various aspects of urban inequality.

10 With me today is Dr. Jacob Faber.

11 Dr. Faber is an associate professor of
12 sociology and public service at NYU, where he is
13 affiliated with the Furman Center for Real Estate
14 and Urban Policy. He is an expert in housing
15 markets and foreclosures, the history and
16 present-day consequences of residential racial
17 segregation, and mortgage redlining.

18 Together, he and I have conducted multiple
19 studies of discrimination in housing and other
20 consumer markets in New York and across the country.

21 The findings of "Newsday's" investigation
22 into racial steering by real-estate agents on
23 Long Island are, sadly, not surprising.

24 Discrimination in housing is a problem across
25 the United States.

1 Study after study has demonstrated that
2 non-White home-seekers, particularly Black and
3 Latino ones, are at a disadvantage relative to
4 Whites in terms of the quality and the housing made
5 available to them, and the resources of the
6 neighborhoods in which they are shown available
7 house units.

8 We want to stress that discrimination is not
9 only harmful to the individuals who are unable to
10 access housing as a result of that discrimination,
11 but that discrimination itself in the housing market
12 perpetuates racial inequality and segregation more
13 generally.

14 By directing home-seekers of color away from
15 White neighborhoods, racial steering helps maintain
16 segregation.

17 A wide body of research has established the
18 negative effects of segregation. These effects are
19 pernicious and widespread.

20 Residential segregation leads to adverse
21 health outcomes, lower levels of economic mobility,
22 poorer quality of schools, fewer community
23 institutions, uneven exposure to environmental
24 pollution, higher crime, and lower housing values.

25 All of these social ills fall

1 disproportionately on people and communities of
2 color.

3 We can clearly see the consequences of
4 persistent segregation and inequality in the
5 dramatic impact of the ongoing pandemic that has
6 affected communities of color in New York State and
7 nationwide.

8 In our own research, we have found that
9 real-estate agents in New York State are less likely
10 to work in Black and Latino neighborhoods.

11 Many neighborhoods with more real-estate
12 agents experience higher increases in home value
13 over time.

14 While we found that few real-estate agents
15 outwardly support residential racial segregation, we
16 also found that agents' sole concern about racial
17 steering was getting caught rather than the impacts
18 of their discriminatory behavior.

19 In other words, agents were worried about
20 enforcement of existing fair-housing laws, and often
21 sought to avoid explicit talk of race with their
22 clients.

23 However, as we've noticed, they often used
24 coded language about the racial composition of
25 different neighborhoods.

1 And in our work, as well as in the "Newsday"
2 investigation, reveals that agents continue to steer
3 home-seekers based on their race and ethnicity.

4 What this indicates, is that agents broadly
5 do not understand or appreciate the full scope of
6 what discrimination is or why it is harmful.

7 In some ways, this is not surprising.

8 The topic of fair housing constitutes less
9 than 5 percent of the curriculum of the
10 State-mandated course needed to become a licensed
11 real-estate salesperson.

12 Moreover, there's very little oversight in
13 how these courses are taught.

14 When I, for example, sat in on multiple
15 fair-housing courses, precious time was taken by
16 instructors making flippant jokes about
17 discrimination, debating with students about whether
18 or not different ethnic or religious groups
19 constituted racial categories, and what kinds of
20 individuals are more or less racist.

21 This leads us to suggest that stronger, more
22 robust educational requirements are desperately
23 needed. Not only should a larger portion of the
24 curriculum be dedicated to fair housing, but more
25 education, overall, should be required.

1 The 75 hours of required classroom time is
2 not onerous compared to other states.

3 Obtaining a real-estate salesperson license
4 in Texas, for example, requires 180 hours of
5 instruction.

6 So, the State could require more education on
7 fair housing without burdening those who want to
8 become a listed real-estate salesperson.

9 But additional education will only work if
10 the content of that education is better regulated.

11 The State must have higher standards for
12 licensing real-estate instructors, and should do
13 more to ensure that what they teach students is not
14 simply rote memorization.

15 Moreover, licensees must receive better
16 training about what to do when their clients ask
17 about the racial composition of neighborhoods or
18 express racist preferences.

19 Simply ignoring race in racism itself
20 perpetuates racially-unequal outcomes.

21 Because real-estate agents are still central
22 to how we find housing, it seems more than
23 reasonable to expect real-estate agents to know the
24 law, and know why it is harmful when they
25 discriminate.

1 We, therefore, propose that agents learn not
2 simply to ignore questions of race from clients,
3 but, instead, to confront racism, be transparent
4 with their clients about an agent's responsibilities
5 by abiding by fair-housing laws.

6 While we believe that efforts to better
7 educate real-estate professionals and the public are
8 essential, we also need additional tools to ensure
9 fair-housing access.

10 The "Newsday" article was an excellent
11 example of the importance of housing audits for
12 exposure to discrimination.

13 Dr. Faber and I have conducted similar
14 research, and have shown that this kinds of bias --
15 these kinds of biases are pervasive.

16 So, in closing, I'll say:

17 That the secretary of states' and attorney
18 generals' and governors' offices should conduct
19 regular audits of housing markets across the state
20 to identify and track bias against people of color,
21 as well as other people of protected classes.

22 Testing can be a valuable and relatively
23 inexpensive tool to identify where discrimination
24 is, more or less, prevalent.

25 Dr. Faber and I are more than willing to

1 assist in this effort.

2 I know my time is up, but the last thing that
3 I'll advocate for is more funding for housing
4 counselors.

5 Past research has shown that home-seekers who
6 use housing counselors during their search find
7 better-quality housing in less-segregated
8 neighborhoods, and tend to stay in their homes for
9 longer.

10 We want to thank the committee for the
11 invitation to testify, and for beginning to engage
12 in a very serious problem.

13 SENATOR SKOUFIS: Thank you, Dr. Besbris, and
14 thank you, Dr. Faber, for being here.

15 I'm going to turn it over to
16 Senator Kevin Thomas.

17 SENATOR THOMAS: Sorry. I pressed the wrong
18 button.

19 So got a quick question.

20 We heard from a number of licensed brokers
21 throughout this hearing today. And, they apparently
22 supervise thousands of sales agents -- right? --
23 that go around selling the homes and everything.

24 And they say that they can supervise these
25 individuals, even though they're in the thousands.

1 What do you have to say about that?

2 DR. MAX BESBRIS: I would say that I think
3 the oversight that they're referring to tends to be
4 quite lax, if available at all.

5 I think brokers have a large incentive to
6 have their agents make deals because that's what
7 makes them money.

8 And I think as long as they're bringing in
9 sales, in my experience and in my research, I don't
10 seem to see a ton of -- let's put it this way:
11 There's a lot of variation in what brokers think
12 oversight is, and how they relate to their
13 real-estate agents that they supervise.

14 SENATOR THOMAS: Do you believe that there
15 should be a limit on how many agents can work under
16 a specific license?

17 DR. MAX BESBRIS: It's something that
18 I haven't thought about in terms of policy, but it
19 does seem reasonable to expect that one particular
20 broker can't legitimately supervise more than a
21 certain number of agents, or give them the kinds of
22 advice when they're confronted with problems,
23 whether it's not just in fair housing, but in any
24 kind of aspect of doing the work.

25 And so, if we expect brokers to have regular

1 meetings with their agents -- right? -- for their
2 agents to have free lines with communication to
3 their brokers, then, yes, I would say it seems
4 extremely reasonable to put some cap on the
5 number -- right? -- that brokers are able to,
6 technically, supervise if we're seeing that that
7 supervision tends to be pretty weak.

8 SENATOR THOMAS: Thank you.

9 Senator Kavanaugh.

10 SENATOR KAVANAGH: Great.

11 Thank you very much for your testimony, and
12 for all of your work.

13 And, you know, as you mentioned, you've been
14 working with Andra Stanley in our office on these
15 issues.

16 And we appreciate all of your input.

17 So just to review -- you have very
18 thoughtfully laid out the issues here.

19 Just to [indiscernible] -- the -- the -- the
20 proposes -- the things that you're proposing that we
21 consider are, additional training, better training,
22 that focuses on the effects of discrimination, a --
23 making sure that those things are actually mandated
24 and not just sort of optional parts of training.

25 We had -- we had somebody testify before that

1 the people that were doing this training on
2 Long Island were fired, at least by one firm. They
3 were through some multiple listing service, and new
4 trainers have come in.

5 Is there an issue of the quality of -- of --
6 of trainers?

7 Are there states that are reviewing that
8 certifying trainers, that sort of thing?

9 DR. MAX BESBRIS: There's definitely an issue
10 with quality, in my investigation of housing, of
11 real-estate licensing classes. I think the quality
12 of that instruction, overall, tends to be pretty
13 poor.

14 From my understanding, the requirements to
15 become an instructor for licensing real-estate
16 classes is not particularly onerous.

17 You simply have to have worked in the
18 industry for a fair amount of time, and take a test
19 on your own.

20 So this is -- when we're advocating, I think,
21 for more education, this is obviously something that
22 needs to happen at multiple levels. Right? It
23 needs to happen, certainly, for people who are
24 seeking to become licensed real-estate salespeople.

25 But absolutely what we're advocating for is

1 more regulation of instruction -- right? -- and how
2 that actually occurs, which includes, I think,
3 probably more information, more education, and
4 stricter standards for people who are seeking to
5 become instructors in licensing real-estate schools.

6 DR. JACOB FABER: Let me add one quick
7 addition to that.

8 It was -- one of the things that was made
9 dramatically clear by the testimony from earlier,
10 real-estate agents, he just -- and Max mentioned
11 this in our opening statement, is just a complete
12 misunderstanding of what discrimination is, and how
13 it works.

14 You know, being a person of color or having
15 people of color, your friends, circle, or family, or
16 your office, doesn't preclude you from acting in
17 discriminatory ways, nor does what -- you know,
18 what's in your heart, which is something that
19 I heard come up over and over again in the -- in the
20 testimony.

21 But intent is irrelevant if the patterns of
22 behavior --

23 SENATOR KAVANAGH: And not to --

24 DR. JACOB FABER: -- are what [simultaneous
25 talking] --

1 SENATOR KAVANAGH: -- not to put too fine a
2 point on it, but we made that point a few times,
3 that the law certainly doesn't talk about what's in
4 your heart or intent.

5 But there -- there is research that
6 demonstrates that people can be engaging in
7 discriminatory behavior without a conscious animus
8 towards any of the people they're dealing with?

9 DR. JACOB FABER: Absolutely.

10 There's a very, very large literature on
11 what's generally called "implicit bias."

12 That, you know, there's a lot of cognitive
13 processing that all of us are doing all the time,
14 and much of it we're not aware of.

15 And so even people acting in the best intent
16 can still carry around these biases around race,
17 gender, and other protected classes.

18 And there's numerous studies connecting these
19 measurements of implicit bias with mistreatment of
20 people of color.

21 SENATOR KAVANAGH: You mentioned that -- and
22 I thought this was really important -- this notion
23 that brokers need to know from the training not
24 just, sort of, how to -- like, what the law says,
25 and how to avoid being found to have violated it,

1 but the effects of discriminatory behavior.

2 Can you talk a little bit more about -- you
3 know, for our -- for our purpose, and for everybody
4 who is watching, can you talk a little bit more
5 about why housing discrimination is so problematic?

6 DR. MAX BESBRIS: Jacob, do you want to go
7 ahead?

8 DR. JACOB FABER: Why don't you go.

9 DR. MAX BESBRIS: So to the first part of
10 your question, Senator, I think the issue about what
11 the content of the classes needs to entail and
12 include, is that, you know, these classes basically
13 say, this is what "discrimination" is: It's
14 treating people differently based on their race or
15 their gender, or whatever category.

16 Don't do it.

17 Right?

18 And you should remember, here's the date of
19 the passage of the Fair Housing Act.

20 Here's the list of categories that you can't
21 discriminate against.

22 That's obviously all information we want
23 real-estate agents, I think, to know on some level.

24 But without, I think, a firm understanding of
25 why discrimination is harmful to communities --

1 right? -- then there's not a lot of incentive,
2 really, for real-estate agents to think deeply about
3 what their actions do.

4 Right?

5 And so there's a lot of research showing
6 that, in communities across the United States,
7 real-estate agents are very quick to categorize
8 people based on their race and match them to
9 particular neighborhoods.

10 Right?

11 And like I said in my comments, the reason
12 that segregation -- that discrimination, inclusive
13 segregation, is so harmful is these myriad effects
14 that it has, not just on the people who get the, you
15 know, one housing -- one housing unit versus
16 another, but on the effects of the community.

17 And so I definitely believe that if
18 real-estate agents had more training about why
19 segregation is harmful -- what segregation is, why
20 it's harmful, I think, hopefully -- right? -- they
21 would at least be thinking a little more deeply
22 about what the consequences of their own actions
23 are, because I think, real-estate agents, they have
24 these incentives to close deals.

25 Right?

1 They're doing this because it's their
2 economic imperative, to some extent, and they're
3 doing it in quick ways -- right? -- and it's easy to
4 categorize people, it's easy to categorize
5 neighborhoods.

6 Right?

7 But trying to get at those implicit biases
8 that Dr. Faber was just talking about, we can do
9 that in classes.

10 Right?

11 We can provide them with very -- you know,
12 not a ton more information, just a little bit, and
13 it might allow them to reflect, somewhat --
14 right? -- on what their actions are and the
15 consequences of them.

16 SENATOR KAVANAGH: Okay. My time is up.

17 I may have a few more questions if there's
18 more -- but I want to turn it back over to the chair
19 first.

20 SENATOR SKOUFIS: Thank you.

21 I'll go to Senator Krueger.

22 You need to unmute yourself and turn on your
23 video, Senator.

24 SENATOR KRUGER: Am I here now?

25 SENATOR SKOUFIS: Your voice is here.

1 SENATOR KAVANAGH: We can hear you, but do
2 not see you.

3 SENATOR KAPLAN: Okay. I'm trying to get the
4 audio -- the video on also.

5 Here we go.

6 SENATOR SKOUFIS: There you go.

7 SENATOR KAPLAN: Thank you.

8 I want to thank the chairs of this committee
9 and the staff work that went into this hearing
10 today.

11 I have actually been listening all day.

12 And I pretty much heard every single
13 real-estate agent we had, and their bosses, tell us
14 that "Newsday" must have been completely wrong,
15 everything that "Newsday" wrote up was wrong,
16 they've now all been retrained, and yet they still
17 can't actually explain the definitions of what it
18 would be to be steering people or discriminating.

19 So I wanted to ask you two experts, did you
20 read the "Newsday" results?

21 Do you think it was all made up?

22 Or don't you think, as I do, that this is all
23 true?

24 Do either -- either of you read the
25 "Newsday" --

1 DR. MAX BESBRIS: Yes.

2 SENATOR KAPLAN: -- exposé?

3 DR. JACOB FABER: Yes.

4 And I was actually in communication with the
5 reporters who were doing it, because I was in the
6 middle of a similar study of discrimination in the
7 housing market myself.

8 And, you know, the findings that they came
9 to, as Dr. Besbris said earlier, are no surprise.

10 You know, virtually, every study of this type
11 shows discrimination against people of color in the
12 housing market.

13 And the evidence that they -- that they
14 provided, and that was shown in clips today during
15 this hearing, were incredibly damning, I think.

16 And I, with you, was kind of amazed and
17 appalled at the same time about the numerous efforts
18 to avoid naming or describing a certain behavior,
19 while also claiming that they don't participate in
20 it.

21 And how could you know whether or not you're
22 doing something you don't know how to define.

23 So, you know, the ability of each of these
24 agencies to police and educate themselves just is
25 wholly inadequate.

1 SENATOR KAPLAN: And that's exactly what
2 I also wanted to say.

3 I think the system we have clearly is fully
4 and completely inadequate, and that these agencies
5 should not be doing or developing their own training
6 materials and testing their own people, because
7 I just don't think they're prepared to even admit
8 there's an issue out there for them.

9 I'm also very curious whether you have
10 seen -- you're both professors from different parts
11 of the country, and who are, you know, really expert
12 in this.

13 What models have you seen that have been
14 effective in turning around the industry in any part
15 of this country?

16 Because I think, as the Senate Democrats, and
17 Republicans who might be joining us on this hearing,
18 we want to make sure we come up with a model that's
19 actually going to get at the problem and solve it,
20 rather than have another hearing in five years and
21 learn nothing has gotten better.

22 So, would you recommend a specific path for
23 us to get there, either through regulation, through
24 statute, or even through a specific curriculum that
25 might be required of real-estate agents and brokers

1 in our state?

2 DR. MAX BESBRIS: So I think one thing that
3 Dr. Faber and I are -- are -- certainly would
4 advocate for, like he mentioned, is more testing --
5 right? -- more testing across the state in
6 communities -- right? -- because you will see some
7 variation.

8 I think there are some places where
9 real-estate agents may be more or less prone to
10 discriminatory behavior.

11 And -- but only through testing would we be
12 able to identify which communities need more or less
13 interaction.

14 Right?

15 So testing is certainly one.

16 And then something I alluded to you at the
17 end of my prepared remarks was that, you're asking,
18 Senator, about interventions that seem to have
19 worked in other parts of the country.

20 And, unfortunately, there's not a lot of
21 great research about what's to be done, because
22 I think this problem goes beyond simply great
23 training for real-estate agents.

24 I think that can be better, that can
25 improve -- right? -- the issue. But this is

1 obviously something systemic -- right? -- about
2 biases in the housing market. Segregation is a
3 longstanding geographic issue, one that is not going
4 to be solved simply by changing real-estate agent
5 behavior.

6 But one thing that has shown to be somewhat
7 effective is the use of housing counselors and
8 taxpayer dollars for nonprofit groups that advertise
9 integrated, safe places to live that have remained
10 integrated for long periods of time.

11 So there's one particular community,
12 Oak Park, Illinois, which is a suburb of Chicago,
13 which Chicago is a very segregated place, a very
14 segregated city, a very segregated region.

15 But this one town has been able to be
16 relatively racially integrated for quite a long
17 period of time.

18 And there's some research indicating that
19 there's a housing council, nonprofit, that's been
20 set up there for at least the past 30 years.

21 And one thing that it does, is it advertises
22 Oak Park as a great place to live to home-seekers,
23 but it also provides housing counseling to people
24 moving from other places to Oak Park and within
25 Oak Park.

1 So providing more information for consumers
2 about where housing is available, this is one thing
3 that the State could do.

4 Right?

5 The State could actually mandate that
6 real-estate agents provide more information, whether
7 it's in an online clearinghouse or in other forms of
8 communication, about all available housing to
9 consumers.

10 Right?

11 So if the housing market is going to remain a
12 market, one thing that we absolutely want as
13 consumers is to have more access to information.

14 And, right now, real-estate agents have a
15 great deal of discretion about where they share
16 their information about available listings, with
17 whom they share it with.

18 One thing that municipalities and the State
19 certainly could do, is mandate that that information
20 gets aggregated to a higher level and is more
21 accessible to broader set of consumers.

22 SENATOR KAPLAN: That's a very interesting
23 idea.

24 I lived in Chicago. I remember Oak Park
25 being somewhat different than many of the other

1 parts of Chicago.

2 Thank you, both, for testifying today.

3 Thank you, Mr. Chairs.

4 SENATOR SKOUFIS: Thank you.

5 I'll grab the mic here for a question.

6 One of the many remarkable insights that
7 we've gleaned from today is the simple fact that it
8 seems like no one, no agents, after, I think it's
9 86 matching tests were conducted by "Newsday," and
10 all of these findings of discrimination, people on
11 videotape, no one was fired.

12 No one.

13 And even other, you know, disciplinary action
14 that, you know, maybe stopped short of firing.

15 No disciplinary action.

16 Can I get your reaction to that?

17 Look, you two are experts in this subject.

18 I am a mere layperson trying to help run a
19 hearing, and look at this issue as a legislator.

20 Do you think this is -- is this part of a
21 pattern that you've -- you know, in other regions
22 around the country you've looked at, where, these
23 agents, they just walk away from these studies and
24 from these tests without any repercussion?

25 Your general reaction.

1 DR. JACOB FABER: So, for me, it was kind of
2 both shocking and not for the reasons that -- many
3 of the reasons that we've talked about already, that
4 this kind of discrimination is pervasive in housing
5 markets across the country, and all kind of markets
6 as well.

7 But the -- it felt particularly brazen to
8 hear several people testify to committing acts that
9 are plainly illegal, like, talking about schools.

10 The one real-estate agent saying, I forget
11 the exact, it was something, like, Latinos are
12 taking over this neighborhood, or school district.

13 You know, plainly illegal activities with,
14 you know, very little remorse and no -- and no
15 discipline.

16 And this is -- you know, this is a pattern
17 that we see whenever industry is asked to police its
18 own behavior.

19 DR. MAX BESBRIS: I would add to that, that
20 I think the issue -- right? -- is not that these
21 individual agents haven't been fired.

22 I mean, the real-estate agent-brokerage
23 relationship is independent contracting. You know,
24 they could very easily, sort of, go to another
25 brokerage.

1 Right?

2 It really is incumbent upon the State to do a
3 better job of regulating licensure.

4 Right?

5 And so I believe it was Senator Thomas
6 -- right? -- who had the question about brokerage
7 oversight, which I think is certainly part of this.

8 Right?

9 And I think some of what you're getting at,
10 Senator, is that these brokers aren't paying any
11 attention, and so why would they care even if their
12 agent is sort of caught, you know, being -- uh --
13 uh -- steering, breaking the law?

14 But, ultimately, I think it's really going to
15 be an issue that is incumbent -- it's incumbent upon
16 the State, I think, to do the regulating, because,
17 as Dr. Faber alluded to, whenever you ask an
18 industry to police itself, it's, you know, plainly
19 obvious that they -- they don't -- they never --
20 they very rarely do a good job of it.

21 SENATOR SKOUFIS: Understood.

22 Senator Kavanaugh, do you have anything?

23 You had follow-ups, I think.

24 SENATOR KAVANAGH: Just one, and I alluded to
25 this earlier.

1 But, just for the record today, and for
2 anybody who's watching, and, I mean, this is I guess
3 maybe particularly for Dr. Faber, but, Dr. Besbris,
4 you could also jump in.

5 The effect of housing discrimination on
6 families who are excluded from particular, who are
7 steered to certain communities, both in the short
8 run and the long run in terms of their wealth
9 accumulation, in terms of their well-being, could
10 you talk a little more about that?

11 DR. JACOB FABER: Sure.

12 So, you know, one of the things that social
13 scientists have really provided mounting evidence
14 for, over the past decade or so, is that place
15 matters tremendously.

16 Where you grow up can have an enormous effect
17 on a whole host of life outcomes: educational
18 opportunity, environmental quality, access to
19 employment, et cetera.

20 And because where you live matters in all of
21 these arenas, you know, how the housing-search
22 process sorts different people into different types
23 of neighborhoods in a racialized manner carries
24 forward this inequality.

25 You mentioned the wealth gap, which is

1 something that is larger today than it was
2 three decades ago, and a great deal of that has to
3 do with the way that residential segregation has not
4 just segregated individuals, but it's segregated the
5 opportunity for wealth accumulation.

6 And then that wealth accumulation, of course,
7 you know, translates into better schools,
8 intergenerational transfers of status through
9 investments in entrepreneurship and education.

10 So there's really -- this is a really
11 enormous problem that is, you know, reciprocal in
12 the way that it recreates inequality over time.

13 And we know, of course, that racial
14 discrimination, which "Newsday" has shown, which
15 Dr. Besbris and I have shown, plays an important
16 role in sorting individuals across neighborhoods.

17 SENATOR KAVANAGH: We've been talking a lot
18 about overt discrimination here today, because, of
19 course, that was the subject of the investigation.

20 But, you know, there's been this thing --
21 ongoing thing in the last couple of years, where the
22 Obama administration had recommitted itself to
23 Affirmatively Furthering Fair Housing.

24 The Trump Administration has abrogated its
25 commit -- the federal government's commitment to

1 that.

2 Is that something that we should be doing?

3 Obviously, should we be doing it at the
4 national level? should we be doing it at the state
5 level? should we be incorporating obligations for
6 state and local government and other participants in
7 housing markets, to Affirmatively Further Fair
8 Housing?

9 DR. JACOB FABER: Absolutely.

10 And I think that, you know, New York State
11 can implement, you know, its own version of AFFH.

12 And, you know, hopefully, conditional on a
13 successful election this coming November, we can get
14 the Obama rule back in place.

15 I would say another place -- policy lever
16 here is, is -- you know, and this is not just me the
17 researcher talking here, but, the data collection.

18 So, you know, the Home Mortgage Disclosure
19 Act requires that every mortgage lender provide data
20 to the federal government on every single
21 application that the lender receives, and basic
22 demographic information about the applicant, and
23 then what happens to the application, whether or not
24 it gets approved, and the price of that loan.

25 And something like that for the real-estate

1 industry could also shed tremendous light on
2 discriminatory patterns that, to your point and your
3 question earlier about implicit bias, often happens
4 without intent.

5 SENATOR KAVANAGH: So you would -- you would
6 require brokers to gather data on the ethnic
7 composition of their clientele on some of the
8 outcomes of -- of their contacts with those folks,
9 and then, on an aggregate level, we could see how
10 different parties are -- are -- are performing?

11 Is that --

12 DR. JACOB FABER: Yeah, absolutely.

13 I mean, we could see that on the aggregate
14 level. You could even see it on the firm level.

15 You know, one way of addressing this problem
16 is to not, you know, wait for investigative
17 journalism's bombshells, but -- of showing
18 discrimination, because we know every single study
19 that has explored racial discrimination has shown
20 it.

21 So a way of addressing this proactively could
22 take the form of reversing the roles of providing
23 evidence in the situation.

24 So assuming, or requiring, real-estate
25 agencies to prove that they don't discriminate,

1 rather than policing or search -- seeking out and
2 then punishing discrimination.

3 SENATOR KAVANAGH: Okay. Thank you.

4 My time is up.

5 SENATOR SKOUFIS: Thank you very much.

6 I'm not seeing any other questions.

7 I think you're free to go.

8 Thank you very much for coming by, and your
9 testimony.

10 DR. MAX BESBRIS: Thank you.

11 DR. JACOB FABER: Thank you.

12 SENATOR KAVANAGH: Thank you both for all of
13 your work, and for joining us today:

14 SENATOR SKOUFIS: We are going to now take a
15 15-minute break.

16 We are probably a little past lunchtime.

17 But, for those of us who have been here since
18 the start, we're probably hungry.

19 I know I am.

20 So we'll be back at 2:45, to continue.

21 SENATOR KAVANAGH: Thank you,
22 Senator Skoufis.

23 (A recess was taken.)

24 (The hearing resumed.)

25 SENATOR SKOUFIS: Okay, welcome back.

1 We are nearing the home stretch here.

2 We are going to call Panel 7, which is
3 comprised of Akhtar Somekh and Rosalind Resnick from
4 Coldwell Banker.

5 Okay, we have both of you.

6 Very good.

7 I -- who -- I -- I suspect you both have some
8 opening remarks?

9 Who would like to start?

10 ROSALIND RESNICK: I'm okay to start.

11 SENATOR SKOUFIS: Okay.

12 ROSALIND RESNICK: Good afternoon, Senators.

13 SENATOR SKOUFIS: Welcome.

14 ROSALIND RESNICK: My name is
15 Rosalind Resnick. I'm a real-estate salesperson in
16 Great Neck, New York.

17 I was asked to testify before the committee
18 today in connection with a November 19 "Newsday"
19 report.

20 My attorney, John Mancebo of Tressler, LLP,
21 is present with me today.

22 I'd like to start off -- (audio
23 interference).

24 I would like to start off by telling each of
25 you a little bit about myself.

1 I was raised on Long Island. I became a
2 real-estate agent in 2015. I've lived in Great Neck
3 for 19 years. I'm able to use my knowledge of the
4 area, as well as Nassau County, Suffolk County, and
5 Queens, sir, to help clients search for their dream
6 home.

7 I love my job.

8 SENATOR SKOUFIS: I apologize. My mistake.

9 I forgot to swear you both in before
10 proceeding.

11 So if you could both please raise your right
12 hands, and then we can get to your remarks.

13 Do you solemnly swear that you'll tell the
14 truth, and nothing but the truth, so help you God?

15 ROSALIND RESNICK: I do.

16 AKHTAR SOMEKH: I do.

17 SENATOR SKOUFIS: Thank you.

18 Again, I apologize.

19 Go ahead.

20 ROSALIND RESNICK: Can I continue?

21 SENATOR SKOUFIS: Yes, yes.

22 ROSALIND RESNICK: I love my job. I'm
23 passionate about serving people.

24 And I do understand the gravity of the
25 decision of -- to purchase a home, and consider it

1 to be a great honor to be given the opportunity to
2 assist a client in this special process.

3 10 months since the publication of the
4 "Newsday" reporter has had a significant impact on
5 my life.

6 The allegations stem from tests conducted by
7 their investigators approximately three years before
8 the publication of the report.

9 At the time of the tests, I had only been in
10 the industry a little over a year, having switched
11 careers to work in real-estate.

12 I truly believe my lack of experience at the
13 time the tests were conducted contributed to the
14 issues we are discussing today.

15 Since the issues raised in the "Newsday"
16 report were brought to my attention, I worked to
17 continuously improve myself professionally and
18 personally.

19 I have not been the subject of any complaint
20 for any reason, not in the short time before the
21 testing or in the years that followed.

22 My ability to earn a living and my reputation
23 is at stake.

24 I'm here in the spirit of cooperation, and
25 because I understand how important these issues are.

1 In regards to the tests at issue, I was
2 contacted by the first tester on June 3, 2016.

3 I did not meet the second tester until more
4 than nine months later, March 6, 2017.

5 Although the testers provided similar
6 information, they added significantly details during
7 their conversations with me that impacted the
8 listings generated for each.

9 This was further impacted by the
10 difference in available listings in the span
11 of over nine months.

12 Prior to each meeting, I researched potential
13 home listings in hopes of being as prepared as
14 possible for these potential clients.

15 It was very early in my real-estate career
16 and I was very eager.

17 Because each of the testers seemed unfamiliar
18 with Long Island, I provided each with an overview
19 of the North Shore area.

20 I also physically showed property listings to
21 both of the testers, a fact which is missing from
22 the "Newsday" report.

23 My hope is that my testimony today provides a
24 fuller picture of my interactions with the testers.

25 I believe I did provide equal service to both

1 testers.

2 However, I would like to apologize to anyone
3 who was offended by some of my comments.

4 I take great pride in my profession, and I've
5 worked very hard to build a reputation in the
6 real-estate community that people can trust.

7 Thank you for providing me with this
8 opportunity to speak before you today.

9 SENATOR SKOUFIS: Thank you very much.

10 We'll now hear from Ms. Somekh.

11 And I apologize if I'm mispronouncing your
12 name.

13 AKHTAR SOMEKH: Good afternoon.

14 My name is Akhtar Somekh, and I'm a
15 real-estate broker in Coldwell Banker in Great Neck,
16 New York.

17 I was asked to provide [indiscernible]
18 testimony today about "Newsday" report on housing
19 discrimination on Long Island.

20 I would first like to provide some background
21 about myself.

22 As you can tell, probably, English is not my
23 native language. I was born and raised in Iran.

24 In 1986 I move to United States with my
25 family. I had to leave Iran with my family because

1 of discrimination and persecution we faced for our
2 religion beliefs.

3 When we arrived to the United States, my
4 husband, our children, and myself settled in
5 Great Neck, New York.

6 Sadly, my husband passed away in 1994.

7 This required me to not only raise my four
8 children by establishing a career as a real-estate
9 salesperson.

10 All of my children attended in Great Neck
11 public schools.

12 And from almost 30 years I have had a
13 wonderful career of helping people finding place to
14 call home.

15 I never received any complaint from any of my
16 clients or prospective clients of any type of
17 discriminations, or any other reason.

18 And I always completed continued education in
19 real estate.

20 In November 2019, "Newsday" published their
21 report.

22 I understand in -- that 2016 "Newsday" sent
23 two undercover testers. I also understand that
24 "Newsday" accused me of treating these two people
25 differently.

1 This allegation from "Newsday" was very
2 hurtful because I have personally experienced the
3 horrible damage that discrimination can cause, and
4 I would never do that to any another human being.

5 The "Newsday" report made an unfair
6 interpretation of what happened during my
7 interaction with these testers.

8 I would like to take this opportunity to tell
9 you about the two undercover testers that "Newsday"
10 sent.

11 On August 16, 2016, I met with
12 Kelly Marchena [ph.].

13 She told me she was looking to purchase a
14 home for her, her husband, and her son in
15 North Shore, an area around Great Neck.

16 She said that she was looking for a place
17 close to water, and her budget was \$2 million.

18 During the meeting with Ms. Marchena, I told
19 her about different villages of Great Neck.

20 Ms. Marchena was able to view properties that day,
21 and I drove Ms. Marchena in my car to see houses.

22 While in the car, Ms. Marchena asked if all
23 of Great Neck was one school system or different
24 villages.

25 As I mentioned, I am very familiar with this

1 school because my four children went to the local
2 schools.

3 In 2016, when meeting took place, there were
4 changes being made by school to address class size
5 that were confusing, even for residents living in
6 Great Neck.

7 What was shown in "Newsday" video was my
8 attempt to answer Ms. Marchena question about the
9 complicated optional zones created in that time.

10 What the short "Newsday" clip does not show,
11 that I was -- that I go on saying that the school in
12 Great Neck, there's no difference between south or
13 north schools, and all the same -- they are the
14 same.

15 About three months later, Ms. Ponceleon [ph.]
16 contacted me. She told me she wanted to meet about
17 buying a house in North Shore area.

18 On November 14, 2016, I met with
19 Ms. Ponceleon.

20 She also she is looking to buy a house close
21 to water, and her budget was \$2 million.

22 I told to Ms. Ponceleon about nine different
23 villages in Great Neck, and searched for listing to
24 show to Ms. Ponceleon that day. But she was not
25 available to do so during that meeting.

1 Ms. Ponceleon never asked me any questions
2 about school.

3 It is important that you know that the
4 "Newsday" [indiscernible] report mentioned that
5 there -- we had another scheduled meeting with
6 Ms. Ponceleon a few days later, and I drove her to
7 view some houses.

8 According to -- [indiscernible] second
9 meeting with Ponceleon was also not published by
10 "Newsday".

11 I understand why some people may be upset
12 with the way that I tried to describe the confusion
13 changes being made to the school that time.

14 I hope that additional information provided
15 today can help to better explain what happened that
16 day.

17 I know in my heart that I am not a person
18 "Newsday" had tried to portray me.

19 I would never treat anybody like I was
20 treated when I was forced to leave my country
21 because of my religion.

22 Since the "Newsday" report was published,
23 I worked on my better understanding of English
24 language, the way that I can express myself.

25 And I'm truly sorry if I ever offended

1 anybody.

2 Thank you for listening.

3 SENATOR SKOUFIS: Thank you for your
4 testimony.

5 I'll now turn it over to Ms. Resnick.

6 ROSALIND RESNICK: Well, I'm muted.

7 Yes, sir.

8 I already had my --

9 SENATOR SKOUFIS: Oh, sorry. You already
10 gave your opening statement.

11 I apologize.

12 SENATOR KAVANAGH: It's been a long day.

13 SENATOR SKOUFIS: That's what happens when
14 you go on a break, because we're getting back into
15 it here.

16 I'm going to turn it over to, actually,
17 Senator Kevin Thomas for some questions.

18 SENATOR THOMAS: Thank you, Senator Skoufis.

19 Yeah, it is a very long day.

20 I just want to first say, thank you to both
21 Ms. Resnick and Ms. Somekh, because you're the only
22 two that apologized for the actions that "Newsday"
23 reported on.

24 Out of so many agents, so many panels, today,
25 you two are the only ones that said, hey, I have

1 tried to improve myself, and I also want to
2 apologize for what was found.

3 So I want to thank both of you for that.

4 Listen, we all make mistakes.

5 That's why we are here, to figure out how to
6 better all of this.

7 Can either one of you tell me what new
8 trainings you received, and the new, you know,
9 supervision that you've both received after all this
10 came out?

11 ROSALIND RESNICK: Well, can I start?

12 SENATOR THOMAS: Yeah.

13 ROSALIND RESNICK: I took a couple of more
14 fair-housing classes to get a better handle.

15 There is room, I think, for improvement in
16 the training, because maybe we don't really
17 understand the things -- the effects of something
18 that might be said.

19 I think that needs to be taken into account.

20 AKHTAR SOMEKH: And, also, [inaudible] office
21 always we are in training. Most every week we have
22 meetings, and at the meetings, always, we have
23 subject to talk about.

24 And also, for classes, I did extra that,
25 always, I'm updated.

1 And in month of July, the -- the month --
2 two months ago, we did another three hours of
3 fair-housing classes.

4 SENATOR THOMAS: And have either one of you
5 receive -- are either one of you receiving, like,
6 one-on-one supervision from brokers or from, you
7 know, associate brokers, about how to go forward
8 with selling homes from now on?

9 AKHTAR SOMEKH: Always -- our manager always
10 is very involved. And we have, always, they're
11 available for us to have a one-by-one, face-to-face
12 meetings, and discussing any issues that we have.

13 And, definitely, I have 30 years' experience
14 in real-estate. And we never can say that we are
15 done and we know it all. We always learn new
16 things.

17 SENATOR THOMAS: Okay.

18 How about Ms. Resnick?

19 I think she just --

20 ROSALIND RESNICK: Yes, I'm here.

21 I just -- I need to mention, I think that --
22 I am now with Douglas Elliman.

23 SENATOR THOMAS: Okay.

24 ROSALIND RESNICK: And -- but in both places,
25 an emphasis I feel has been placed on awareness of

1 the situations and the problems.

2 SENATOR THOMAS: All right.

3 Thank you.

4 SENATOR SKOUFIS: Thank you, Senator Thomas.

5 Senator Kavanagh, do you have questions?

6 SENATOR KAVANAGH: I do. Thank you.

7 So you both have testified that you have
8 become more aware, and you've done additional
9 training.

10 Do you think that that -- from your
11 experience, is that something that is going on
12 throughout the industry in the various firms that
13 you're familiar with, additional training, and --

14 ROSALIND RESNICK: I can only speak for the
15 two agencies, and, yes, there's a lot of training.

16 SENATOR KAVANAGH: Okay.

17 And -- and -- and, Ms. Resnick, you mentioned
18 that -- I think, that it has been helpful to you,
19 but perhaps not adequately indicating the effects of
20 some of these things?

21 ROSALIND RESNICK: Well, I think I was
22 referring to the previous trainings over the years,
23 that it was very cut and dried, and I don't think we
24 went deep enough into the effects of not following
25 the guideline.

1 SENATOR KAVANAGH: I just want to -- I want
2 to get on the record, and you both have been very
3 forthcoming here, and I appreciate that.

4 I just -- because, you know, we've had
5 different witnesses about different issues today,
6 and I don't think we discussed religion much.

7 So I just want to -- I -- just for the record
8 here:

9 Ms. Resnick, you had met with a White
10 homebuyer and a Black prospective homebuyer --

11 ROSALIND RESNICK: Yes.

12 SENATOR KAVANAGH: -- and they were similarly
13 situated financially.

14 And one of the ways you treated them
15 differently, is you discussed the religious makeup
16 of Great Neck with the White homebuyer, but not the
17 Black homebuyer.

18 And, again, you've said that -- you've
19 expressed, you know, reservations now about the way
20 you handled that.

21 What was your understanding then about
22 discussing the religious makeup of a community, and
23 what is your understanding now?

24 ROSALIND RESNICK: I'm not sure I didn't
25 discuss it with both people.

1 I have never seen the entire three hours, or
2 what -- how many hours it is.

3 I'm pretty consistent in what I try to tell
4 people.

5 There was no hidden meaning behind it, if
6 I did not mention it earlier to the first tester,
7 I mean.

8 SENATOR KAVANAGH: Okay.

9 [Off-camera voices.]

10 Even though you don't have access to the
11 entire video, I think "Newsday" asserts that you did
12 not speak about that with the Black homebuyer.

13 ROSALIND RESNICK: They also didn't -- okay.
14 I'm sorry.

15 SENATOR KAVANAGH: No, no -- I'm just -- I'm
16 just saying for the record.

17 I'm not saying the fact that they -- you're
18 making an assertion, they're making an assertion.

19 I'm just noting that for the record.

20 I'm not saying --

21 ROSALIND RESNICK: I understand.

22 SENATOR KAVANAGH: -- you're wrong,
23 necessarily.

24 [Indiscernible] the -- based on your
25 understanding now, is it acceptable to talk about

1 the racial or religious makeup of an area,
2 unsolicited, with the homebuyer?

3 ROSALIND RESNICK: Absolutely not.

4 And it's very hard, because people do ask.
5 And now I tell them I can't answer.

6 SENATOR KAVANAGH: Okay. So
7 [indiscernible] -- is that an important thing in --
8 to be included in the training, how -- we had some
9 experts testify to this earlier.

10 But from our perspective, is it important
11 that brokers be trained in how to answer questions
12 like that, if somebody says, you know, What's the
13 race of this community? what -- you know, asks
14 specific questions about their religion?

15 ROSALIND RESNICK: Yes, we need to be trained
16 better.

17 SENATOR KAVANAGH: Okay. [Indiscernible] to
18 actually -- to specifically to answer those
19 questions, not just to, you know, try to avoid
20 bringing up topics you're not supposed to bring up?

21 ROSALIND RESNICK: Correct.

22 SENATOR KAVANAGH: Okay.

23 But your understanding now is that, even if
24 you did it in an even-handed way, if you discussed
25 with two homebuyers, even if -- even if you say the

1 same words to both of them, if you're saying,
2 I would like to note that Great Neck is a community
3 with -- I'm trying to find the exact words here --
4 but, you know, it's a community with a lot of, you
5 know, Orthodox Jewish people in it, that that's not
6 behavior that is acceptable under the current law
7 [simultaneous talking] --

8 ROSALIND RESNICK: I understand.

9 SENATOR KAVANAGH: -- even-handed way.

10 Okay.

11 I think I will end there, other than to thank
12 you both for participating today, and for your
13 testimony.

14 SENATOR SKOUFIS: Very good.

15 Thank you, Senator Kavanagh.

16 I'll jump in and ask each of you, if I may:

17 Putting your situations aside vis-a-vis the
18 "Newsday" investigation, talk to me about what your
19 general sense, on Long Island, in the industry, how
20 often does steering happen?

21 Do you think, you know, by looking at your
22 colleagues, by just, you know, sort of seeing and
23 hearing, you know, what's going on around you, is it
24 commonplace, would you say? Do you think it's very
25 rare?

1 What do you think about, again, putting your
2 situations aside, when you read the "Newsday"
3 exposé, what was your take-away for everyone else
4 that was looked at?

5 I would love to -- to get your insight on --
6 on those questions and feelings.

7 ROSALIND RESNICK: I don't think I can
8 comment on all of Long Island.

9 I feel that, as in any profession, there must
10 be people doing the right things, and some people
11 maybe not doing the right thing.

12 SENATOR SKOUFIS: Okay.

13 AKHTAR SOMEKH: For me, that we are
14 individual working. And, usually, when we work with
15 people, it's us -- between us and our customers.

16 So I don't know about other people behavior,
17 but, in general, I can tell, I was surprised with
18 "Newsday" report because our office, always, we
19 discuss these details.

20 And we always be -- we've been trained to
21 treat people equally, with respect.

22 SENATOR SKOUFIS: Okay.

23 Do you -- now that you've been involved with
24 "Newsday's" efforts, I'm curious what your thoughts
25 are about testing, and whether you think that it is

1 valuable. Whether you think there should be more of
2 it.

3 If you can speak to what your thoughts are
4 about -- about that.

5 AKHTAR SOMEKH: My opinion is that education
6 is the key.

7 As we get more education and information, we
8 train better, it helps.

9 SENATOR SKOUFIS: So how do you suggest,
10 though -- so I understand -- training is, I agree, a
11 very important element of all this.

12 But once the agent leaves the training, what
13 tools do you suggest be employed to make sure that
14 agents aren't violating the law, aren't disregarding
15 what they just learned in the training?

16 How do you -- if it's not more testing, how
17 do suggest that we ensure that discrimination isn't
18 happening?

19 AKHTAR SOMEKH: I can just talk about myself.

20 I just try to be more understanding of
21 feeling of the people and respecting people, in any
22 cases.

23 SENATOR SKOUFIS: Okay.

24 Thank you.

25 Rosalind, do you have anything?

1 ROSALIND RESNICK: Testing serves a purpose
2 in many areas, not just this, but I think it has to
3 be done in a much more measured way.

4 SENATOR SKOUFIS: If I can ask, what you mean
5 by that?

6 ROSALIND RESNICK: Well, I believe the rules
7 for testing are that, they should be on the same
8 day, or within a couple of days.

9 My case was nine months apart.

10 SENATOR SKOUFIS: Okay.

11 That's your primary concern with testing?

12 ROSALIND RESNICK: No, I'm not a testing
13 expert. I'm sorry.

14 SENATOR SKOUFIS: Okay.

15 Yeah, I -- I -- neither am I, for the record.

16 I was just curious what you had thought in
17 light of everything that's transpired since last
18 year.

19 I think I am okay with questions.

20 Do -- I don't see any other hands among
21 colleagues.

22 I'll just throw it back out and ask if
23 Senator Kavanaugh or Thomas has any follow-up?

24 You're good?

25 SENATOR KAVANAGH: No. I think I'm good

1 again.

2 Thank you again, both of you, for testifying
3 today.

4 SENATOR SKOUFIS: Very good.

5 And thank you for being here.

6 AKHTAR SOMEKH: Thank you very much.

7 SENATOR KAVANAGH: Take care.

8 SENATOR SKOUFIS: We will now move on to
9 Panel Number 8.

10 This is our second group of fair-housing
11 professionals/experts, and we're going to hear from:

12 Elaine Gross, who is at Erase Racism;

13 And, Fred Freiberg, Fair Housing Justice.

14 And I believe both of you were at our first
15 hearing, if I'm not mistaken, late last year, so,
16 welcome back.

17 Who would like to begin?

18 Ms. Gross?

19 ELAINE GROSS: Sure.

20 SENATOR SKOUFIS: Okay.

21 ELAINE GROSS: Can you hear me?

22 SENATOR SKOUFIS: Yep.

23 ELAINE GROSS: Okay.

24 So, committee chairs and members of the
25 committees, I am Elaine Gross, and I'm the

1 president/CEO of Erase Racism, the regional civil
2 rights organization based here on Long Island.

3 And we've talked about Levittown today.

4 Long Island is renowned as the model of
5 structural racism.

6 And the problem that we are examining today,
7 structural racism as it relates to housing, is,
8 therefore, not new to us, but it is a problem that
9 deserves our relentless commitment to eradication.

10 So one of the things you asked me to talk
11 about was COVID-19 pandemic.

12 And it has highlighted the enormous racial
13 disparities evident in who is most impacted by it,
14 with African Americans and Latinx people
15 disproportionately affected.

16 And I would like to point out, just as an
17 example, on Long Island, the age-adjusted death rate
18 per 100,000 people currently stands at 60.9 for
19 White people and 181.2 for Black people.

20 So that means, for every White person who
21 dies COVID-19 -- dies of COVID-19 on Long Island,
22 three Black people die.

23 So I will note that there is an overlap
24 between the COVID-19 hotspots in the majority and
25 minority neighborhoods, and the same neighborhoods,

1 for example, Huntington, Hempsted, Brentwood, that
2 "Newsday" found the realty agent steered Black
3 people towards and White people away from.

4 The other thing that you asked was, to speak
5 on the tragic killings of African-Americans.

6 And the only thing that I would say, is that
7 both the killing of George Floyd in Minneapolis and
8 Breonna Taylor in Louisville have generated this
9 nationwide discussion about inhumane actions of
10 police officers.

11 I do mention in a June 4th commentary
12 published in "The Hill," was titled "Underlying
13 Americans Unrest is Structural Racism," there is a
14 long history of government-sponsored structural
15 racism. And that is, in the case of the police, and
16 also in housing.

17 I also want to just point out that people
18 remember that the national association of
19 real-estate boards were the original creators of the
20 racial covenants.

21 And I want to also point out that the Trump
22 administration has undermined fair housing by
23 eliminating AFFH.

24 So we've talked today, there are some pieces
25 of legislation that are addressing some of the

1 current problems.

2 And I note that the Senate bill, 6874A, that
3 passed, that's Senator Gaughran's bill, really
4 leaves no excuse for the department of state now to
5 discipline the realty agents.

6 And we applaud that bill.

7 There are several bills that have not been
8 passed yet.

9 And taken together, all of the bills
10 represent strong progress in the right direction.

11 We would note that, for Senate Bill 6713,
12 Senator Hoylman introduced that. And we were --
13 were the original organizers of the statewide
14 coalition pushing for source of income as a
15 protected class.

16 So we're very, very happy to see this bill
17 will provide the appropriate notification so that
18 people know that they have this protection.

19 I think it's a game-changer.

20 For Senate Bill 7625, Senator Kaplan
21 introduced that, and it talks about the fair-housing
22 testing being done by the attorney general.

23 And as has been stated frequently, the people
24 who are discriminated against will most likely not
25 know that they are the victims.

1 And we want the power of the attorney
2 general's office behind fair-housing enforcement.

3 So this is a great thing.

4 And I'm glad that it will be a public report
5 that they provide, and that the legislature is
6 asking for this.

7 For Senate Bill 8096, Senator Kavanagh's
8 bill, that is certainly critical.

9 I mention that, on the federal level,
10 Affirmatively Furthering Fair Housing has been
11 eliminated.

12 And we in New York State should be proud that
13 the State is taking broad steps to further fair
14 housing.

15 And the Senate bill, 7581, Senator Skoufis's
16 bill, it is mandating that the required instructions
17 for realty agents include a focus on systemic
18 racism.

19 And, of course, Erase Racism has been doing
20 that kind of training since our inception in 2001.

21 It is critical, and I -- I suggest that you
22 call on us if we can be some of assistance in -- of
23 some assistance in that regard.

24 For Senate Bill 7632, introduced by
25 Senator Thomas, we need to have increased penalties,

1 which is what this bill is doing. That will help us
2 with the enforcement.

3 SENATOR SKOUFIS: Ms. Gross, if I could just
4 ask you to wrap up in maybe 15 or 20 seconds.

5 ELAINE GROSS: Sure.

6 SENATOR SKOUFIS: Thank you.

7 ELAINE GROSS: So my final comment, and it's
8 not the focus of this hearing, but I just want to
9 have it on the record:

10 The primary culprit of perpetuating housing
11 discrimination in New York State is New York State's
12 adoption of the Home Rule Law.

13 Long Island has 2 county [sic] and 13 towns,
14 97 incorporated villages, creating municipal
15 fragmentation that divides rather than unites.

16 And there is a recent paper that I wrote,
17 which you can see on my website for the NYU Furman
18 Center, "Housing Discrimination and Local Control."

19 So that's the next thing for you guys to
20 think about.

21 So thank you again for the opportunity to
22 testify today, and I welcome your intervention on
23 these issues.

24 Thank you.

25 SENATOR SKOUFIS: Thank you very much.

1 I'll turn it over to Mr. Freiberg.

2 FRED FREIBERG: Thank you very much.

3 Good afternoon, Senators.

4 Thank you very much for inviting me to
5 provide additional testimony at the second joint
6 hearing of Senate committees today.

7 I know you've had a very long day, and
8 I intend to make my remarks very brief.

9 As you know, my name is Fred Freiberg. I'm
10 the founder and executive director of the
11 Fair Housing Justice Center, a regional civil
12 rights organization based in New York City.

13 First, I was asked to comment on some
14 proposed legislation that is pending before the
15 state legislature, and whether this legislation will
16 help to address the problem of systemic
17 discrimination and residential segregation.

18 And I provided written comments to the
19 committees, and I put in those comments my specific
20 suggestions.

21 Generally, I think they all are worthy of
22 support, and I've made a few suggestions on a couple
23 of the bills that I think will make them stronger
24 and even better pieces of legislation.

25 So, I won't go over it in my oral testimony.

1 I'll just leave it with you in terms of my written
2 testimony. But I do think they're worthy of
3 support.

4 I was also invited to offer comments on the
5 implications of the current COVID-19 pandemic, and
6 the numerous protests against racial injustice that
7 we've witnessed across the country in recent months.

8 As New Yorkers faced increased -- increased
9 housing instability due to the COVID-19 pandemic,
10 and at a time when our nation is engaged in a
11 conversation about the issue of racial justice and
12 equity, it is really the right time to enact some
13 legislation that can help reduce illegal housing
14 discrimination and residential racial segregation.

15 I think the legislative package that I just
16 mentioned is worthy of broad support, but it's
17 clearly not all that needs to be done from a policy
18 perspective.

19 I mentioned some of the other issues in my
20 December testimony.

21 And Elaine Gross has also referenced some
22 additional issues that I think are worthy of
23 consideration as well.

24 Finally, I was asked to respond to the
25 testimony provided earlier by real-estate

1 professionals who were subpoenaed to testify at
2 today's hearing.

3 As I explained to the Senate staff, I stand
4 by my comments on the "Newsday" investigation, and
5 that is still the case.

6 Obviously, I was not able to go back and
7 check the facts in each of the tests to compare it
8 against what each agent said today.

9 I will say, briefly, that I found the
10 responses from the brokers of the firms rather
11 uninspired when you asked the question about, what
12 else could they do, to make sure that agents are
13 complying with fair-housing laws?

14 I would have expected a few more creative
15 responses to that question than what you actually
16 received.

17 But since there are multiple government
18 investigations underway right now, in examining the
19 conduct of these real-estate agents and brokers, my
20 preference is not to provide further comments, as
21 I assume the factual evidence will guide these
22 investigations, and not my opinion.

23 So I am going to refrain from talking more
24 about that.

25 I didn't hear anything today that would

1 substantially change my opinion about the tests that
2 "Newsday" conducted. I will say that much.

3 I do want to reiterate, what "Newsday"
4 exposed is not peculiar to Long Island, or to the
5 real-estate sales market, for that matter.

6 Systemic racism infects segments of the
7 housing market and is still much too pervasive.

8 A few months ago, following the murder of
9 George Floyd, Kareem Abdul-Jabbar wrote an op-ed in
10 "The LA Times" and included the following quote that
11 I would like to end with as a parting thought for
12 all of us to ponder because it applies to housing as
13 well.

14 He said, quote:

15 "Racism in America is like dust in the air.

16 "It seems invisible, even if you're choking
17 on it, until you let the sun in. Then you see it's
18 everywhere.

19 "As long as we keep shining that light, we
20 have a chance of cleaning it wherever it lands, but
21 we have to stay vigilant because it's always still
22 in the air."

23 Previously, I thanked "Newsday" for shining a
24 bright light on the issue of housing discrimination,
25 but I also want to extend my appreciation to your

1 Senate committees for keeping the light on, and for
2 formulating legislative and policy responses to
3 address this problem.

4 Again, I'm here today, I'm happy to answer
5 questions from committee members, and I again
6 appreciate the opportunity to speak with you.

7 SENATOR SKOUFIS: Thank you, both, both for
8 your testimony and your work on this issue.

9 I'll start.

10 And, you know, one of the recurring themes
11 that we've heard from all of the brokers and agents
12 are cries of fake news, basically -- right? -- where
13 "Newsday's" investigation was flawed, was unfair,
14 was, you know, incomplete, like, whatever adjective
15 you want to throw in there, I think we heard them
16 all today, and they all fall under this sort of --
17 this category that has existed four years now of
18 "fake news."

19 Your reaction to that?

20 You both, no doubt, have taken a very close
21 and hard look at the -- what "Newsday" produced.

22 Can you speak to, in your professional
23 opinions, the voracity of the "Newsday"
24 investigation?

25 ELAINE GROSS: Well, I -- I would sort of

1 echo Fred, in that, what I said in the fall, I --
2 I felt that the "Newsday" investigation was
3 absolutely stellar. And they took great pains to be
4 conservative in terms of trying to be sure they had
5 the same statements being made, that the -- that
6 the -- that the two testers were asking for the same
7 thing, et cetera, et cetera.

8 So I don't find it credible at all, the
9 comments that suggest that "Newsday" is the problem,
10 and -- and that the realtors are all innocent.

11 SENATOR SKOUFIS: Do you -- and,
12 specifically, something that we heard frequently
13 was, well, that clip, that video clip, those
14 comments, were taken out of context.

15 Do you think that there is anything to that
16 response that we heard frequently from agents and
17 brokers?

18 FRED FREIBERG: My recollection -- my
19 recollection is, that the -- when "Newsday" broke
20 the story back in November of 2019, they posted all
21 of the videos on which they relied for their story,
22 in their entirety.

23 And I didn't listen to all of them, I will
24 tell you that, honestly, because it's a lot of hours
25 of recorded testing. But it was posted for all to

1 see.

2 I thought their transparency was remarkable,
3 in that they weren't hiding anything.

4 A lot of times, in testing cases, I will tell
5 you, defendants initially argue, well, it's what
6 you're not showing us, or what you're not telling
7 us, or what you can't hear on a particular
8 recording, that they allege vindicates them in a
9 situation.

10 But "Newsday" was much more transparent here.

11 And I think one of the reasons the study --
12 the investigation didn't receive a lot of criticism
13 from the real-estate industry was the fact that they
14 were pretty forthcoming about what they found, and
15 laid it on the table for everybody to see.

16 ELAINE GROSS: And I would add that the
17 statements speak for themselves.

18 I mean, and -- and -- you know, all of you,
19 all the Senators, really pointed that out as well.

20 So I don't understand that comment about,
21 it's something that wasn't said.

22 SENATOR SKOUFIS: And -- and to -- to that
23 end, and to the end of, you know, what we're all
24 talking about here, are you -- are you as stunned as
25 I am, that it seems, as far as we can tell from the

1 brokers and CEOs and the written testimony, that it
2 appears not a single real-estate agent faced
3 disciplinary action at the end of all this?

4 Your reaction to that.

5 ELAINE GROSS: Well, I don't know that
6 I can't say that I was stunned.

7 I had hoped, I really had hoped, that there
8 would have been action, because it was so clear, as
9 Fred said, they were -- "Newsday" was so
10 transparent, there's no way you -- and even, you
11 know, sometimes you said a comment, you said, Is
12 there any way that comment would not be considered
13 discriminatory?

14 And so I -- that there has been no action
15 is -- is appalling.

16 And I hope that the State will not appall us,
17 and what I mean is, I hope that there will be action
18 on the part of the New York State Division of
19 Licensing Services, the Division of Human Rights.

20 You know, that will stun me if there's no
21 action by the -- by the enforcement agencies, if you
22 will.

23 SENATOR SKOUFIS: Do you have anything to
24 add, Fred?

25 FRED FREIBERG: The only thing I would add

1 is, I think the -- the lack of action by the
2 companies is not terribly surprising, only because
3 many of them, as you saw, were lawyered up for even
4 this hearing.

5 They're facing investigations right now by
6 various government agencies. So they're taking the
7 position, I will say, at least somewhat
8 understandably, that there's an explanation for what
9 they did, and so forth, because if the companies
10 actually discipline them, then it would become
11 obvious to the government agencies investigating
12 them that they did something wrong.

13 I think it's going to be obvious anyway, or
14 should be obvious, to some of the investigations
15 that are ongoing, that there were some acts here
16 that were inappropriate under fair-housing laws.

17 But I don't -- I'm not surprised by it.

18 It is stunning, though, I agree with you.

19 SENATOR SKOUFIS: Thank you, both.

20 Senator Kavanaugh, do you have anything?

21 SENATOR KAVANAGH: Uh, yes, I do. Thank you.

22 Fred, your -- I -- first of all, thank you
23 both for testifying once again. It's very helpful
24 to us.

25 You're actually the only two witnesses that

1 we've had back twice now.

2 So we appreciate your time and your
3 commitment to this, and your expertise.

4 Fred, you -- your organization works -- you
5 work, if I'm not mistaken, in New York City, and
6 Dutchess and Nassau and Orange and Putnam and
7 Rockland and Suffolk and Westchester. Is that
8 right?

9 FRED FREIBERG: That's pretty good.

10 Yes.

11 SENATOR KAVANAGH: Okay, I try.

12 You -- they're helpfully alphabetized.

13 So the -- so I just want to get a sense,
14 like, obviously, we focused on Long Island because
15 of these dramatic -- very dramatic findings and
16 very -- very specific findings.

17 Do you believe that the phenomena that we're
18 seeing on Long Island, through this investigation,
19 are widespread in other parts of the state,
20 including other places where you're working?

21 FRED FREIBERG: I do.

22 And I think it's not only widespread in --
23 throughout the state, but I think, you could go to
24 any number of metropolitan areas in the nation and
25 produce similar results. Some might be slightly

1 worse, some might be slightly better, but you're
2 going to see this.

3 I mean, it's a -- it's a culture within the
4 real-estate industry that has not changed.

5 And I might add, because I know a lot of your
6 questions today -- or, questions of the senators,
7 had to do with training, and how do you make the
8 changes, and the fact you got these rather
9 uninspired responses from some of the brokers, there
10 are some real-estate people out there in the country
11 who are really thinking deeply about the issue of
12 race, and how it impacts their work and the
13 industry, and they're trying to make changes in
14 their own communities.

15 And we're actually working with the
16 National Association of Realtors to produce a video.
17 We're interviewing those individuals, to show that
18 they actually live their fair-housing values, and so
19 forth, in the work that they do.

20 I think we have to get more of those voices
21 out front, where people are talking about, yes, you
22 know, you can be asked about race, or this, and this
23 is how you should handle it.

24 But maybe it's more than that.

25 Having people be accountable in the office

1 for what they're doing, or not doing, in their
2 real-estate practices, and holding them responsible
3 for their actions.

4 And I do think that that was noticeably
5 absent today. And I think it's where the direction
6 the industry has to go.

7 And I think there's some movement in that
8 direction, but I think we still have a long way to
9 go.

10 SENATOR KAVANAGH: Do you think the "Newsday"
11 investigation and its -- their reporting, it seems,
12 if nothing else, certainly these firms are looking
13 at their practices. They're, as you noted, getting
14 lawyers in many cases. We had testimony that
15 they -- you know, they fired the previous testers --
16 the trainers. They have new trainers now.

17 Whether that's -- putting aside the question
18 of whether that is sufficient on Long Island, do you
19 think that other actors in the industry are -- in
20 New York State, say, are -- are responding to this,
21 or are changing practices, at this point?

22 FRED FREIBERG: Well, I know we've trained
23 the trainers for the New York State Association of
24 Realtors. And we've got inquiries from other
25 boards.

1 And I think there is interest in providing
2 more quality training and instruction on fair
3 housing, perhaps some on implicit bias, and some on
4 the history.

5 You know, a lot of people discussed,
6 including your other experts, the need to talk about
7 the effects of this discrimination, and how it
8 actually harms people and communities.

9 And I think that's a very essential element
10 of this training that needs to happen.

11 I'm not as much sold, I will tell you, quite
12 frankly, on the notion that all -- much of the
13 discrimination that "Newsday" exposed is based on
14 implicit bias.

15 I think it's convenient to suggest that.

16 I actually see a lot more intentional bias in
17 some of the comments and statements that were made.

18 But I'm not saying implicit bias doesn't
19 exist, or that it shouldn't be addressed in
20 training. I'm merely saying, I think that the
21 real-estate industry plays that card a little too
22 often as a way to suggest, somehow, that they're
23 going to minimize the -- the prevalence of
24 intentional racism in their rank and file.

25 And I thing that's a mistake.

1 SENATOR KAVANAGH: I agree that we certainly
2 had some behavior that seemed quite overt, that we
3 tried to highlight today, that did not seem implicit
4 or -- or it certainly wasn't well-coded if it was
5 intended to be coded.

6 Elaine, can I ask you, just to follow up a
7 little bit on something you said before?

8 You talked about the positive effect of the
9 legislation that we're considering today, and, you
10 know, our committees are considering.

11 You talked about the positive effect that
12 would have, but you also mentioned that you think,
13 sort of, the next frontier on this is the question
14 of local control of home rule.

15 And -- can you talk a little bit more about
16 the relationship between decisions that localities
17 make and -- and racial segregation?

18 ELAINE GROSS: Sure.

19 So on Long Island, where we also have a
20 multitude of localities, what happens is, very --
21 there's very little development that can happen as
22 of right when you're talking about multi-family
23 housing.

24 And that's -- that's a big way to keep out
25 affordable housing, because the most affordable

1 housing is going to be multi-family; it's going to
2 be less expensive, it's going to be apartments.

3 And -- and we have seen at hearings, where
4 the residents make very clear, they're screaming and
5 name-calling, and all kinds of things going on, that
6 they don't want any of "those people," or things of
7 that nature, coming into the community.

8 And the electeds, you know, I would say that
9 there's a -- there's some spine missing, or, they
10 are of the same mind of the residents.

11 And so what happens is, the developers are
12 not able to make progress because the zoning is for
13 single-family, and it's also for large lots.

14 And so you -- you don't have -- you -- it's
15 hard to just get the multi-family, and then it's
16 really hard to get enough density so that you can
17 get enough affordability.

18 So given that structural racism is so
19 endemic, which means that people have been living in
20 the soup of structural racism since its inception,
21 and since Long Island's inception, with Levittown,
22 et cetera, and those notions, those ideas, are not
23 disappearing.

24 And we saw it in the hearing today.

25 I would say, I would agree with Fred, that

1 the reason why people do what they do is because
2 they have those prejudices, and they haven't been
3 checked.

4 There's been -- there really hasn't been the
5 kind of enforcement that would say to them, you
6 can't -- I know that's the way you feel, but you
7 can't get away with that.

8 And they do get away with it, they have been
9 getting away with it, so that's why it is so
10 rampant.

11 The most generous thing I can say about the
12 people in charge of the real-estate agencies, is
13 they need to be in a different profession.

14 I mean, they don't know -- if they don't know
15 what "housing discrimination" is, which is clearly
16 kind of what they were dancing around, I didn't
17 know, and, then I had to have more training, or
18 whatever, these are supposed to be the experts in
19 real estate.

20 And they showed, flatly, that the best you
21 could say, is that they don't know their job.

22 And this is a part of their job. This is not
23 some kind of add-on.

24 It's integral to them being able to do their
25 job in the way they should.

1 And then the worst thing you could say, you
2 know, is a lot of other things, about how they are
3 lying.

4 SENATOR KAVANAGH: Thank you.

5 Yeah, and thank you for -- you know, for your
6 review, your comments earlier, on the legislation
7 we're proposing today, but also thinking longer term
8 and bigger picture about what we can do.

9 We did -- we did, the Housing Committee,
10 along with Velmanette Montgomery, our great Senate
11 colleague who is sadly departing from the Senate in
12 the next few months, we did do a joint roundtable on
13 Long Island last year about the difficulty of
14 producing affordable housing.

15 I think some of my colleagues from
16 Long Island were there as well.

17 And, you know, especially the difficulty of
18 producing multi-family housing.

19 I will say, also, that this is a topic where
20 we have heard directly from some of the builders on
21 Long Island, that they would like to produce that
22 kind of housing, which, as you note, might be more
23 accessible to people, and they meet great obstacles.

24 So -- and I think that's a conversation to be
25 continued.

1 You mentioned your report on the
2 Furman Center site.

3 I think the Furman Center also has been doing
4 some work on this.

5 And I do think this is a topic that we will
6 be talking about more as we go into the next
7 session.

8 But, again, thank you, both, for your -- all
9 of your work, for your -- for your leadership in --
10 in this world that we're in, and for your expertise
11 today, and always.

12 Thank you.

13 ELAINE GROSS: You're welcome.

14 FRED FREIBERG: Thank you.

15 SENATOR SKOUFIS: Before I turn it over to
16 Senator Krueger, who I know has some questions, I do
17 just want to acknowledge something that you said,
18 Fred, and it was a good point, and that is, that
19 there does seem to be other stakeholders here,
20 industry stakeholders, that are taking this more
21 seriously than some of what we've heard today at the
22 hearing, including the New York State Association of
23 Realtors, who have indicated they would welcome more
24 testing, who, as you pointed out, are taking their
25 trainings more seriously, who have been engaged, and

1 even supportive, in many of the pieces of the
2 legislation that we are proposing.

3 And so, for anyone who is watching, I think
4 that is an important point to reinforce, and that
5 is, that there are some industry stakeholders who
6 have been very engaged on this issue, and taking it
7 a lot more seriously than what we've heard.

8 SENATOR KAVANAGH: I think it's worth
9 noting --

10 [Simultaneous talking by multiple
11 parties.]

12 SENATOR KAVANAGH: I think it's worth noting
13 that the Association of Realtors also testified at
14 our previous hearing. They're not here today.

15 SENATOR SKOUFIS: That's right.

16 SENATOR KAVANAGH: They have been on the
17 record on this issue as well.

18 SENATOR SKOUFIS: Senator Krueger.

19 SENATOR KRUGER: Thank you so much.

20 Again, I'm finding this hearing so
21 educational and valuable, and I'm sorry I missed the
22 first one.

23 So when you were both -- actually, several of
24 my questions, my esteemed colleague Brian Kavanagh
25 just asked, so I really only have two left now. So

1 I already know.

2 SENATOR KAVANAGH: Sorry.

3 SENATOR KRUGER: That's okay, Brian. You
4 didn't know. Great minds think alike.

5 You are the chair of this committee, damn it.

6 So I'm not clear whether this did come up
7 earlier, but, are real-estate agents asking people
8 for their credit scores, or other questions like
9 that, during their initial interview of where
10 they're going to direct them?

11 Because, at least for people who live in the
12 city of New York, who might be trying for rental
13 apartments, not purchasing homes, that is one
14 mechanism that is used to steer people away from
15 certain kinds of housing.

16 So, the fact is, if you are low income, or
17 you were low income at some point, if you were a
18 single mom at some point, if you were Black or Brown
19 at some point, which pretty much follows you around
20 your whole life, you may have had credit-score
21 problems.

22 And is that used to sort of also discriminate
23 against people before they even start to look for a
24 house? Is that part of the story?

25 FRED FREIBERG: Well, I think I can possibly

1 answer that.

2 And part what you have to recognize with the
3 real-estate industry, is there's not just one way
4 companies and agents work. They're all structured
5 differently.

6 I would say that, where you have credit
7 entering into the equation, is to the extent you
8 have agents, and you heard some today, who said, you
9 have to be preapproved for a loan before I'm going
10 to take you out to see homes.

11 Well, the credit score is going to enter into
12 that equation.

13 You know, there's such a thing as
14 prequalification that a lender can do, to give you a
15 rough idea of how much housing you can afford.

16 You don't have to have a credit check done to
17 get a prequalification.

18 A preapproval, though, suggests you're,
19 pretty much, ready, willing, and able to purchase
20 that day, and they are going to do a credit check --
21 most lenders are going to do a credit check in order
22 to qualify you.

23 So if a real-estate agent is saying, I won't
24 take anyone out who is not preapproved, it means,
25 for instance, for a first-time homebuyer, you have

1 to be ready to lock in a rate on a loan before you
2 even looked at a home, which seems a little
3 ridiculous to me.

4 Most people want to search for a house for a
5 while, and get an idea of the market and what they
6 can afford, before they want to lock in a rate and
7 have their credit checks done on their background as
8 well.

9 So it comes into play, but I think in a more
10 subtle fashion, and in some of the ways that the
11 "Newsday" investigation actually uncovered.

12 SENATOR KRUGER: Because [indiscernible] my
13 experience, that for first-time homeowners, and also
14 for new Americans, it's more likely that they then
15 might be going to their extended family and saying,
16 Hi, can you help me out with the down payment,
17 because I can't quite do it myself?

18 And that's a perfectly acceptable and
19 reasonable way to ensure that you might be able to
20 afford that home.

21 But if they're going to predetermine you
22 before you ever get to even see houses in certain
23 communities, it seems to me that that really is a
24 problem, and is parallel to what we see in steering
25 around in what you're allowed rent or not rent in

1 the city of New York.

2 Because we all know on this hearing, that
3 discrimination takes place, pretty much, everywhere.
4 God knows it's not unique to Long Island. We just
5 had a "Newsday" exposé there.

6 So is there something we should be trying to
7 do to prevent that from happening?

8 FRED FREIBERG: It's funny you should bring
9 up renting in the city of New York, because,
10 actually, one of the disturbing trends with some
11 landlords is that you've got to submit a full
12 application and have a credit check done before you
13 are even able to see or know what's available by
14 that landlord -- which is ridiculous.

15 I mean, I've been a renter all my life. And
16 I could not imagine disclosing all of my personal
17 identity information before I even see the unit that
18 I'm going to be applying for.

19 And, yet, that is increasingly becoming a
20 problem.

21 So there may be some policy, or legislative,
22 solutions to that problem, because I think that's
23 pretty onerous for renters, to have to submit all of
24 their documentation in the private market before
25 even knowing what apartments are available, or

1 knowing whether they can see the apartments.

2 So that might be necessary.

3 In the sales market, I think it's, uhm --
4 it's a question of this preapproval thing, and
5 whether there's some way to regulate that.

6 You know, I notice a lot of the agents in the
7 "Newsday" thing did not -- you know, there's state
8 rules that the division of licensing has on
9 disclosing to a perspective buyer, whether you're a
10 buyer's agent, a seller's agent, or -- or both.

11 And my understanding is, that didn't happen
12 very much either. And that's an actual regulation.

13 So, I mean, there's a lot of rules that get
14 passed, but don't get followed by real-estate
15 agents.

16 And, of course, fair-housing laws are one,
17 but there's other -- others as well that are more
18 consumer-related.

19 So I think there may be some issues.

20 I haven't thought deeply about that issue in
21 the sales market, but I know in the rental market
22 it's a real serious problem.

23 ELAINE GROSS: May I add one clarification?

24 SENATOR KRUGER: Please.

25 ELAINE GROSS: Because there was some

1 confusion, the nicest way to put it, concerning
2 disparate treatment.

3 And so just to state for the record, the
4 problem that was identified with a number of these
5 real-estate agents, was that they would say to
6 one -- on of the clients, the client of color, you
7 have to have your -- you know, your certification.

8 And then to the White client, they wouldn't
9 say that.

10 And that seems very straightforward to me.

11 But I did hear a lot of, sort of, confusion,
12 they'd bring up a whole nother issue, rather than,
13 on its face, that's discrimination.

14 SENATOR KRUGER: Thank you.

15 ELAINE GROSS: Uh-huh.

16 SENATOR KRUGER: I guess there was one other
17 question, I'll try to be careful about how I put it.

18 So there was at least one real-estate agent
19 who testified earlier, who said, because I am Latino
20 and Black, I couldn't possibly discriminate against
21 someone in the job I do.

22 And I had an immediate reflection back to my
23 own life and childhood, where, I happen to be
24 Jewish. And my parents went to buy a house, and the
25 Jewish real-estate agent wouldn't show them houses

1 in certain communities because they said Jews aren't
2 welcome there.

3 But my mother decided she didn't care,
4 because a town had the best school system in
5 New Jersey, and she decided her kids could cope with
6 anti-Semitism in exchange for a good educational
7 system.

8 So they bought a house on a bank auction,
9 because no one would show them a house in the town.

10 And then when we moved there, all of our
11 neighbors came with a petition, "Get out Jews."

12 But it was actually Jewish real-estate agents
13 who were telling us, don't even try to live in that
14 town.

15 So I'm just wondering, are we past all that?

16 Yes, you can fall into these patterns no
17 matter who you are, if that's the message coming
18 through from your industry.

19 Would you agree?

20 ELAINE GROSS: Absolutely.

21 FRED FREIBERG: I would absolutely agree.

22 SENATOR KRUGER: Thank you?

23 Thank you, everyone.

24 SENATOR SKOUFIS: Thank you.

25 I think Senator Thomas has some questions.

1 SENATOR THOMAS: I'll be quick with this.

2 Thank you, Fred; thank you, Elaine, for all
3 the testimony that you have given so far.

4 You two are experts in this.

5 You probably heard the testimony of some of
6 these brokers when I questioned them about their
7 lack of supervision.

8 I had one that I had asked, whether it's even
9 possible to supervise 800-plus agents under his
10 license, and he said "yes." And he said "it's
11 easy."

12 What are your thoughts on this, either one?

13 FRED FREIBERG: Well, I have 13 staff, and
14 I find that very difficult to supervise.

15 So --

16 [Laughter.]

17 FRED FREIBERG: My staff will appreciate my
18 saying that.

19 But I -- but I think 800 is -- runs into the
20 category of the absurd.

21 The notion that you can provide the kind
22 of -- the level of supervision that's required to
23 ensure that people are complying with the rules and
24 laws, and so forth, would seem to me to be a
25 monumental challenge for any supervisor.

1 And they can develop a structure, as I saw
2 with the one with the tiered managers, and so forth.

3 But that may not be the best structure,
4 actually, to ensure that people are complying with
5 laws.

6 Sorry, Elaine, I interrupted you.

7 ELAINE GROSS: Nope, that's fine.

8 And I certainly agree with you on the 800
9 being absurd.

10 But I also would add that, again, it makes
11 you wonder what the policy is for the firm, because
12 you know, if you're not really doing any
13 supervision, and, you know, if people are
14 discriminating the way they -- they way they are,
15 the way they were shown on the "Newsday"
16 investigation, you would have no problem with that
17 if that's the policy of the firm.

18 So I think that there are underlying issues
19 here which are certainly disturbing, but it just
20 affirms what appears to be a widespread problem.

21 You know, this is not a few agents in a firm.
22 These are firms that have allowed this behavior to
23 flourish.

24 SENATOR THOMAS: Absolutely.

25 I mean, you talked about the lack of

1 enforcement from state agencies, that has led to
2 what we see right now.

3 But I -- I kind of feel, like, from all the
4 testimony these brokers gave, just their -- for
5 them, profit is everything, so they close their eyes
6 to certain issues, and that's why we are here, to
7 try to make things better, because our constituents
8 deserve a lot better of this.

9 So thank you so much, both of you.

10 FRED FREIBERG: Thank you.

11 ELAINE GROSS: You're welcome.

12 SENATOR SKOUFIS: Thank you, Senator Thomas.

13 Not seeing any other hands from colleagues,
14 I believe that concludes this panel.

15 I want to thank both of you again for coming
16 back for a second time.

17 I found it particularly helpful that, quite
18 frankly, you were at the tail end, and could respond
19 to some of what we had heard earlier in this
20 hearing.

21 So I appreciate you waiting to testify now,
22 and thank you very much for your insight.

23 And we look forward to continuing to be in
24 touch.

25 ELAINE GROSS: Thank you.

1 FRED FREIBERG: Thank you.

2 SENATOR KAVANAGH: Thank you both.

3 SENATOR SKOUFIS: Now, at first blush, it may
4 appear that we are at the end of our hearing and
5 witness list; however, we are not quite done yet.

6 As I had mentioned earlier in the hearing,
7 our counsel was in State Supreme Court before a
8 judge earlier this afternoon, seeking to compel the
9 testimony today of Panel 5, which are four
10 individuals from Realty Connect USA.

11 They -- they chose to ignore our subpoena.

12 Despite our reaching out, and continuing to
13 reach out, to their attorneys, they refused to
14 comply.

15 So we are awaiting court action.

16 We believe that that court action is
17 forthcoming in the very near term, today.

18 And so, instead of adjourning and closing
19 this hearing, we're actually going to go on a
20 temporary recess, so that we may see what action the
21 Court does come down with.

22 And so with that, it's 3:52. We will go on
23 temporary recess until we have further word.

24 Thanks very much.

25

1 (A temporary recess is declared by the
2 co-chairs for this date's joint virtual public
3 hearing, but the hearing was not adjourned.)

4 (An announcement by the three co-chairs is
5 as follows:)

6 SENATOR SKOUFIS: Okay.

7 Good evening, everybody.

8 I'm joined back by my Co-Chairs
9 Senator Thomas and Senator Kavanaugh.

10 I see there are a couple of colleagues still
11 here as well.

12 And we will be tentatively adjourning until
13 next Friday, that is September 25th, at 10 a.m.

14 After going to court to enforce our subpoena
15 that was issued to a number of individuals
16 associated with Realty Connect USA, our counsel has
17 reached agreement -- or, tentative agreement,
18 I should say, with the individuals' lawyer, to have
19 them appear before us, tentatively, next
20 Wednesday -- next Friday at 10 a.m.

21 And so a new public notice will go out, and,
22 until then, we bid you all farewell.

23 I don't know if my co-chairs have any parting
24 words?

25 SENATOR KAVANAGH: No, it's been a long day.

1 Just, I appreciate everybody out there who
2 has been monitoring and watching today's
3 proceedings, and all the witnesses, and my
4 co-chairs, and our other colleagues who joined.

5 But I'll save closing remarks for the -- kind
6 of the closing of our final -- or, possibly our
7 final event on this next Friday.

8 But, thank you.

9 And thank you to my co-chairs in particular
10 for, you know, all your work today.

11 SENATOR THOMAS: I just want to echo the same
12 thing.

13 I will do my closing, actually, after Round 3
14 on Friday next week.

15 But I just want to thank our co-chairs.

16 I want to thank central staff, and our
17 hard-working counsel who went to court this morning,
18 to get this done.

19 So, thank you to all, and take it away,
20 Senator Skoufis.

21 SENATOR SKOUFIS: Yeah, no, thanks.

22 And I just want to echo, again, gratitude to
23 central staff and the staff in each of our offices
24 for doing a tremendous amount of the legwork leading
25 up to today.

1 I guess this is 2.A.

2 Hearing 2.B. is next Friday.

3 We will all see you then.

4 And I think, you know, look, what's
5 transpired with this particular panel is a testament
6 to the fact that we in the state Senate Majority are
7 taking this issue extremely seriously.

8 We believe that when we issue a subpoena,
9 that is not something that folks can just sort of
10 thumb their nose at.

11 And, you know, we look forward to the
12 testimony that we will, it seems, be receiving late
13 next week.

14 Thanks very much, and see you then.

15 SENATOR KAVANAGH: Thanks, everybody.

16
17 (Whereupon, the announcement of the
18 hearing continuation by the co-chairs concludes.)

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