BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HOUSING, CONSTRUCTION, AND COMMUNITY DEVELOPMENT
AND
STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS
AND
NYS SENATE STANDING COMMITTEE ON CONSUMER PROTECTION

JOINT VIRTUAL PUBLIC HEARING:

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

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

PRESIDING:

Senator Brian Kavanagh, Chair
NYS Senate Standing Committee on Housing, Construction, and Community Development

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

Senator Kevin Thomas, Chair
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

SENATORS PRESENT (cont.)

Senator Todd Kaminsky

Senator Anna Kaplan

Senator Liz Krueger

Senator Monica Martinez

Senator Gustavo Rivera

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

The Committee on Investigations and Government Operations joins the Committee on Housing, Construction, and Community Development, chaired by Senator Brian Kavanagh, as well as the Committee on Consumer Protection, chaired by Senator Kevin Thomas, as hosts for today's hearing.

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

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

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

Subsequently, we in the state Senate issued

dozens of subpoenas to compel today's testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

backdrop of racial upheaval and reckoning in this country.

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

I look forward to today's testimony.

And I'll now turn it over to Senator Brian Kavanagh for opening remarks.

SENATOR KAVANAGH: Thank you, Senator Skoufis.

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

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

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

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

We're not doing this work in a vacuum.

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

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

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

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

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

So today is about connecting the dots.

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

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

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

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

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

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

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

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

We do have several pieces of legislation.

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

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

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

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

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

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

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

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

And, hopefully, this will serve as a

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

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

Thank you very much.

SENATOR SKOUFIS: Thank you.

To my other co-chair, Senator Kevin Thomas.

SENATOR THOMAS: Thank you.

Good morning, everyone.

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

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

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

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

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

The issue here is housing discrimination on

Long Island.

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

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

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

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

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

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

They found the following during paired testing:

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

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

Hispanics, 39 percent of the time;

And, Asians, 19 percent of the time.

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

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

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

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

Enough is enough.

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

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

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

And I want to thank our leader,

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

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

Today we change all that.

SENATOR SKOUFIS: Thank you.

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

Do you have any opening remarks?

(No response heard.)

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

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

(Off-screen indiscernible voice.)

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

SENATOR O'MARA: No.

Thank you very much, I'm good.

Sorry. I was on mute.

SENATOR SKOUFIS: No worries.

Great to see you.

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

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

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

If you can all turn on your videos, please.

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

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

SENATOR SKOUFIS: Okay. Very good.

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

ANN CONROY: I do.

FRANCIA PEREZ: I do.

DONNA ROGERS: I do.

JUDI ROSS: I do.

SENATOR SKOUFIS: Thank you.

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

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

SENATOR SKOUFIS: Okay.

Please keep it under five minutes, please.

ANN CONROY: Okay.

SENATOR SKOUFIS: Thank you.

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

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

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

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

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

counsel for the company.

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

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

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

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

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

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

Douglas Elliman and its agents must comply

with all fair-housing laws."

Specifically, the policy states:

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

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

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

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

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

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

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

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

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

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

times.

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

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

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

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

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

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

SENATOR SKOUFIS: Thank you very much.

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

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

SENATOR SKOUFIS: Okay.

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

Okay, okay.

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

Just unmute yourself as well.

DONNA ROGERS: I'm sorry.

Can you hear me now?

SENATOR SKOUFIS: Yep, yep. Thank you.

DONNA ROGERS: Okay.

Good morning. My name is Donna Rogers.

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

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

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

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

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

My actions had absolutely nothing to do with race.

I was influenced by each tester's stated

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

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

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

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

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

Thank you.

SENATOR SKOUFIS: Thank you very much.

We'll next go to Francia Perez.

You just muted yourself.

There you go.

FRANCIA PEREZ: Good morning.

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

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

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

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

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

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

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

My actions had absolutely nothing to do with race.

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

I absolutely did not discriminate against the minority tester.

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

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

Thank you.

SENATOR SKOUFIS: Thank you.

We'll now go to Judi Ross.

JUDI ROSS: Good morning.

SENATOR SKOUFIS: Good morning.

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

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

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

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

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

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

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

My action had absolutely nothing to do with

race.

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

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

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

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

Thank you.

SENATOR SKOUFIS: Thank you.

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

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

If you can unmute yourself.

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

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

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

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

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

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

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

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

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

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

SENATOR SKOUFIS: Was anyone -- was anyone fired?

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

We spoke to the agents.

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

And we --

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

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

And we felt that they did not discriminate.

Yes, that is true.

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

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

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

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

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

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

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

SENATOR SKOUFIS: Okay.

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

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

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

I'm not talking about you.

I'm talking about generally.

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

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

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

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

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

percentages, et cetera.

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

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

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

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

So, you know --

SENATOR SKOUFIS: Your attorney -- sorry.

I know my time is running out here.

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

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

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

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

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

Has your thoughts on this evolved?

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

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

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

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

So that was one of the criteria.

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

SENATOR SKOUFIS: Okay.

I'll turn it over to Senator Kavanagh.

SENATOR KAVANAGH: Great.

Thank you, Senator Skoufis.

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

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

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

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

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

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

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

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

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

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

FRANCIA PEREZ: Can you hear me?

SENATOR KAVANAGH: Yes, I can.

FRANCIA PEREZ: Okay.

The --

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

Do we have the clip?

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

OFF-CAMERA TECHNICIAN: Yes, we do.

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

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

FRANCIA PEREZ: Oh, I'm sorry.

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

(Video clip playing, and transcribed as follows:)

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

THE TESTER: Uh-huh, Uh-huh.

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

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

THE TESTER: Uh-huh.

Okay. Well, I appreciate --

AGENT FRANCIA PEREZ: Oh, you know what?

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

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

(End of video clip and corresponding transcription.)

SENATOR KAVANAGH: Okay.

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

FRANCIA PEREZ: That's what usually is done.

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

I ask everyone that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And, you know --

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

The Asian tester, you did not do so.

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

Just how should we interpret that difference?

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

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

I would never discriminate.

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

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

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

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

I didn't even know if he worked.

I still was willing to show it on the computer.

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

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

I was willing to show him.

SENATOR KAVANAGH: Okay, but you didn't show

him. Is that right?

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

And I didn't show Mr. Owens either.

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

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

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

Thank you.

SENATOR SKOUFIS: Thank you.

Senator Thomas.

SENATOR THOMAS: Thank you.

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

Ms. Conroy, what licenses do you work under?

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

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

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

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

I have approximately 26 offices.

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

We have --

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

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

But, currently, I believe around 1700 licensees.

So our --

[Simultaneous talking by both parties.]

SENATOR THOMAS: And do you have a --

ANN CONROY: -- huh?

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

ANN CONROY: Absolutely.

Supervision of agents is part of our licensing requirement.

SENATOR THOMAS: And what have you --

ANN CONROY: But I also have --

SENATOR THOMAS: And what have you --

ANN CONROY: -- I also have 26 --

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

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

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

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

I have town hall meetings.

I have one scheduled in October.

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

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

ANN CONROY: They work under my license, yes.

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

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

SENATOR THOMAS: Okay?

ANN CONROY: Associate broker.

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

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

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

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

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

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

So this did not go unhandled.

I couldn't --

SENATOR THOMAS: I mean --

ANN CONROY: -- possibly speak with 1700 agents.

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

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

that there's something wrong here.

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

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

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

And I find that --

ANN CONROY: Well, I --

[Simultaneous talking by both parties.]

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

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

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

place.

You mandate training --

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

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

And I don't see you doing that.

That's it.

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

I think you just cut her off.

Can she finish what she is answering?

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

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

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

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

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

We'll give her a few additional seconds.

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

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

Please, Ms. Conroy.

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

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

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

We go over agents and productivity.

It's a sales organization.

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

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

We're probably the only company that has

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

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

So we are very strict with guidance and with responsibility.

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

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

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

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

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

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

But they're working under your license.

That's the issue here.

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

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

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

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

So that's all I have to say.

Thank you so much.

SENATOR SKOUFIS: Yeah, thank you.

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

And next for questions is Senator Kaminsky.

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

My first question is for Ms. Conroy.

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

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

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

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

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

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

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

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

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

That's something you're comfortable with?

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

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

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

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

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

But I don't know the whole conversation.

And --

SENATOR KAMINSKY: Did you not watch the video?

ANN CONROY: I did watch the video.

SENATOR KAMINSKY: Okay, so in --

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

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

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

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

Don't even think about these schools.

That didn't give you any pause?

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

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

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

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

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

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

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

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

That's the first thing.

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

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

There are certain school districts --

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

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

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

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

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

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

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

But that is one of the things that is driven

by the consumer.

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

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

So --

SENATOR KAMINSKY: Thank you.

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

SENATOR SKOUFIS: Thank you, Ms. Conroy.

Thanks, Senator Kaminsky.

Next is Senator Gaughran.

SENATOR GAUGHRAN: Thank you, Mr. Chairman.

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

Okay. I've got to start my video.

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

or anyone can.

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

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

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

Like, what is your opinion of steering?

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

Ms. Perez? Ms. Ross?

ANN CONROY: I can --

SENATOR GAUGHRAN: Ms. Conroy, how are you?

ANN CONROY: Hi. How are you?

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

SENATOR GAUGHRAN: Okay.

Ms. Perez?

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

it, I don't know about it.

I try to do my best with everyone.

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

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

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

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

We don't steer.

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

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

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

SENATOR GAUGHRAN: Okay.

Ms. Rogers?

DONNA ROGERS: Same thing.

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

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

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

DONNA ROGERS: I personally have not, no.

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

I just have your first name on my screen.

Lisa?

SENATOR SKOUFIS: You're muted.

If you can unmute yourself, please.

Seems we're having trouble with her.

SENATOR GAUGHRAN: Okay.

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

SENATOR GAUGHRAN: That's fine. All right.

Well, thank you very much, Chairman.

Thank you, ladies, for your answers.

SENATOR SKOUFIS: Thank you.

Next we'll go to Senator Anna Kaplan.

SENATOR KAPLAN: Thank you, Chairman Skoufis.

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

these awful practices taking place in our community.

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

So my question is for Ms. Conroy.

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

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

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

ANN CONROY: Yes, I am confident of that.

SENATOR KAPLAN: Okay.

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

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

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

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

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

SENATOR KAPLAN: Okay.

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

Are they checked --

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

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

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

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

SENATOR KAPLAN: Thank you.

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

ANN CONROY: No.

SENATOR KAPLAN: Okay.

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

ANN CONROY: Well, I think we're doing that.

I think that we have to insist that the agents take their compliance classes.

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

SENATOR KAPLAN: Okay.

You talked about strict guidelines that you have developed.

Can you talk about a little bit of those guidelines?

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

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

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

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

their own.

So we're careful about that.

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

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

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

SENATOR KAPLAN: [Inaudible] --

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

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

We used to use [simultaneous talking] --

SENATOR SKOUFIS: Thank you, Ms. Conroy.

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

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

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

No one here talks about the testers.

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

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

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

My time is up.

Thank you, Chairman Skoufis.

SENATOR SKOUFIS: Thank you, Senator Kaplan.

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

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

So if you can please unmute yourself.

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

So I don't know what her problems are.

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

Like, can they --

ANN CONROY: She has to unmute it.

SENATOR SKOUFIS: She would have to unmute

it.

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

ANN CONROY: I understand that.

SENATOR SKOUFIS: I did want to --

ANN CONROY: I understand that.

SENATOR SKOUFIS: -- thank you.

So without further ado, Senator Krueger.

SENATOR KRUGER: Thank you very much.

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

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

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

So we've read the "Newsday" articles.

We know you have.

We've heard the tapes.

We know you have.

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

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

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

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

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

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

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

They very well know what "steering" is.

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

fair-housing laws.

So I would put our training up.

I -- we sent you our training.

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

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

We don't tolerate it.

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

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

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

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

But I just heard your three representatives

say --

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

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

So I have to say --

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

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

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

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

So they all know what "steering" is.

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

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

And I think that's what they said.

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

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

And that seems to me to be impossible.

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

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

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

Thank you, Mr. Chair.

SENATOR SKOUFIS: Thank you, Senator Krueger.

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

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

We've received most, if not all, written

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

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

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

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

So what would we discipline them for?

I mean, there was no reason to discipline.

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

We had outside counsel, not even our legal counsel.

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

I hear you.

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

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

SENATOR SKOUFIS: To that point --

ANN CONROY: And we were told --

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

(Video clip playing, and transcribed as follows:)

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

THE TESTER: Oh, okay.

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

(End of video clip and corresponding transcription.)

SENATOR SKOUFIS: Thank you.

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

But my question is to Ms. Conroy.

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

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

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

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

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

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

misconstrued.

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

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

And I agree that that would be a violation.

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

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

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

What convinced you that it was not a violation?

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

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

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

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

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

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

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

SENATOR SKOUFIS: Okay.

I'll wrap up my questions.

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

I know Senator Kavanagh had some follow-up.

SENATOR KAVANAGH: Great.

Thank you very much.

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

Just a few follow-up questions.

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

I think you're on mute.

DONNA ROGERS: Yep. Sorry about that.

SENATOR KAVANAGH: That's okay.

DONNA ROGERS: I have been an agent since 2012.

SENATOR KAVANAGH: Okay.

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

Is that correct?

DONNA ROGERS: That is correct. [Inaudible.]

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

DONNA ROGERS: I didn't realize it.

I didn't realized it.

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

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

SENATOR KAVANAGH: I understand.

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

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

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

DONNA ROGERS: Right.

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

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

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

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

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

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

DONNA ROGERS: Right.

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

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

depending on, what's your reasoning for it?

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

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

DONNA ROGERS: Can you repeat that?

I'm sorry. Repeat that again?

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

DONNA ROGERS: I wouldn't --

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

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

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

DONNA ROGERS: Apparently so, yeah.

Yeah, I would never do it.

I would never do it.

SENATOR KAVANAGH: Okay. That's helpful.

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

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

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

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

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

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

snippets.

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

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

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

No doubt about it.

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

I'm sorry. Go ahead.

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

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

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

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

SENATOR KAVANAGH: So if the behavior, if,

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

ANN CONROY: Absolutely I would.

See, they have to be --

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

ANN CONROY: -- agents have to be consistent.

So -- and every agent is different.

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

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

When an agent does not do that consistently,

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

So I absolutely agree with you.

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

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

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

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

discrimination.

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

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

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

Obviously, I don't feel that way.

But, why I wouldn't fire an agent?

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

SENATOR KAVANAGH: Would you discipline --

ANN CONROY: So I absolutely agree that --

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

ANN CONROY: Absolutely.

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

ANN CONROY: Absolutely.

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

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

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

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

There's no doubt about it.

And so we did learn that as well.

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

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

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

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

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

So I'm going to leave it there.

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

SENATOR SKOUFIS: Thank you, Senator Kavanagh.

Senator Kevin Thomas.

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

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

What's wrong with them, by the way?

What's wrong with those school districts?

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

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

So --

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

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

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

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

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

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

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

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

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

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

ANN CONROY: Not anymore, not anymore.

We don't anymore.

But those are open to the public.

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

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

So what -- what's the problem there?

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

What's the problem?

ANN CONROY: No problem.

Why would there be a problem?

97 [simultaneous talking] --

SENATOR THOMAS: Because one of your agents --

ANN CONROY: -- I think [simultaneous

talking] --

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

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

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

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

SENATOR THOMAS: She said "stay away."

ANN CONROY: -- I'm sorry?

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

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

SENATOR THOMAS: Yeah.

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

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

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

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

That's the main thing a consumer asks.

[Simultaneous talking by both parties.]

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

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

ANN CONROY: Absolutely. I agree with you.

SENATOR THOMAS: All right?

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

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

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

You cannot just look at that as an isolated incident.

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

unintentional.

It's not.

ANN CONROY: I agree with you.

I do agree with you.

SENATOR SKOUFIS: All right.

ANN CONROY: You know, Lisa Casabona is on.

Can -- can [indiscernible] --

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

I think that is it for questions.

I want to thank all of you for your testimony.

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

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

So, thank you.

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

So on the second panel is:

Richard Amato, from Keller Williams of Greater Nassau;

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

Are they both here?

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

There we go.

KEVIN GEDDIE: I'm here. Hello?

SENATOR SKOUFIS: Hello, welcome.

KEVIN GEDDIE: Thank you.

SENATOR SKOUFIS: And do we have Mr. Amato?

Yes.

RICHARD AMATO: Yes. Good morning.

SENATOR SKOUFIS: Very good.

Good morning.

If you can both please raise your right hand.

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

KEVIN GEDDIE: I do.

RICHARD AMATO: I do.

SENATOR SKOUFIS: Thank you.

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

RICHARD AMATO: Yes.

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

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

Thank you for having me today.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Simply stated, the Senate should know that

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

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

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

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

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

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

Responsible for running their own business,

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

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

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

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

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

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

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

Thank you.

SENATOR SKOUFIS: Thank you.

Mr. Geddie.

KEVIN GEDDIE: Yep.

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

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

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

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

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

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

Nothing could be further from the truth.

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

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

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

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

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

This suggestion is absolutely wrong.

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

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

In my listings reflected those preferences.

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

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

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

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

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

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

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

Specifically, I said, that, "The growth in

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

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

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

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

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

SENATOR SKOUFIS: Thank you for your testimony.

I'd like to start with Mr. Amato.

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

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

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

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

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

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

SENATOR SKOUFIS: Just Aminta?

RICHARD AMATO: Yes, sir.

SENATOR SKOUFIS: Okay.

The others have no association --

RICHARD AMATO: I don't know them.

SENATOR SKOUFIS: -- with Keller Williams?

RICHARD AMATO: No, none of them.

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

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

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

What do you make of that?

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

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

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

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

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

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

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

Aminta went and took training on a buyer brokerage.

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

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

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

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

So that's what that buyer brokerage is for.

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

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

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

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

SENATOR SKOUFIS: Do you agree you have to be

at least consistent? You can't --

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

SENATOR SKOUFIS: Okay.

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

RICHARD AMATO: Another great question.

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

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

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

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

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

What would do you do differently?

What would do you do differently?

What would do you do differently?

SENATOR SKOUFIS: How many agents are under your license?

RICHARD AMATO: 418 in Greater Nassau.

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

RICHARD AMATO: Yes, sir --

SENATOR SKOUFIS: Yep.

RICHARD AMATO: -- at the current time.

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

RICHARD AMATO: I'm sorry?

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

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

[Simultaneous talking by both parties.]

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

Have you done anything that --

RICHARD AMATO: Have -- that they have?

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

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

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

RICHARD AMATO: No, no, no.

SENATOR SKOUFIS: -- that they take the training?

RICHARD AMATO: No, sir.

We bring in special speakers that work with fair housing.

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

We do daily Zoom calls on this.

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

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

SENATOR SKOUFIS: Okay. My time is up.

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

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

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

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

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

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

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

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

I mean --

RICHARD AMATO: Well, we --

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

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

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

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

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

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

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

They don't know anything about the next guy.

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

that sort of complaint.

RICHARD AMATO: I'll check into it.

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

SENATOR THOMAS: Thank you, Senator Skoufis.

I have a quick question for Richard Amato.

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

RICHARD AMATO: No, sir.

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

SENATOR THOMAS: You just missed the deadline?

RICHARD AMATO: Yes, sir.

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

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

That's a very good question.

I could see that possibly being true.

SENATOR THOMAS: Okay.

Next couple of questions is for Mr. Geddie?

KEVIN GEDDIE: Yes.

SENATOR THOMAS: All right.

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

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

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

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

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

KEVIN GEDDIE: I was formerly with Douglas Elliman.

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

I tried go as much as possible.

SENATOR THOMAS: Uh-huh?

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

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

KEVIN GEDDIE: No, sir.

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

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

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

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

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

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

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

RICHARD AMATO: You were coming in and out.

SENATOR THOMAS: Did you --

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

questions.

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

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

SENATOR THOMAS: All right.

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

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

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

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

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

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

Because they need more supervision.

RICHARD AMATO: I do agree with you.

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

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

I do agree with you.

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

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

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

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

RICHARD AMATO: So we do have that.

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

[Simultaneous talking] --

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

RICHARD AMATO: It's done quite often.

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

We do.

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

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

RICHARD AMATO: We can definitely look at that.

SENATOR THOMAS: -- so that we --

All right.

Thank you so much.

RICHARD AMATO: Thank you, sir.

SENATOR SKOUFIS: Senator Kavanagh.

SENATOR KAVANAGH: Thank you, Senator Skoufis.

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

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

Talking with the Black tester, Mr. Hackett,

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

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

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

KEVIN GEDDIE: Certainly.

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

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

I grew up in the area.

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

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

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

KEVIN GEDDIE: I would have loved to.

She anchored herself to South Hampton.

Her mother was in a rehabilitation center in South Hampton.

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

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

I asked her to look at everything.

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

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

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

It wasn't meant to stop there.

SENATOR KAVANAGH: Okay.

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

KEVIN GEDDIE: Yes, sir.

SENATOR KAVANAGH: Subsequent to these incidents?

KEVIN GEDDIE: Oh, no, sir.

When -- I was already happily housed at Compass when I found out that this had happened.

SENATOR KAVANAGH: Right, but the actual

events that took place were when were you at Douglas Elliman?

KEVIN GEDDIE: Yes, sir.

SENATOR KAVANAGH: Right.

Douglas Elliman's representative, a lawyer, Mr. Rosenberg, said that your remarks, I'm going to quote here again, "are inconsistent with Douglas Elliman policies and applicable law, and are not tolerated. Had Douglas Elliman been informed of such remarks at the time they were made, Douglas Elliman would have taken immediate and appropriate corrective disciplinary action."

I would just note that this is pretty remarkable, given that Douglas Elliman just testified that they have disciplined no one as a result of this investigation.

Are you surprised that Douglas Elliman is singling you out as a person who should have been disciplined, as the only person who is not with their firm, as they're making that decision?

KEVIN GEDDIE: If I could answer this question to the best of my ability:

I admit that I was clumsy.

What Douglas Elliman would have done with me would have been their own decision to make with me.

I can't speculate what they would have done with me, but I do find it highly ironic what she just said before.

SENATOR KAVANAGH: Okay.

And you -- you, presumably, have had a chance to review the materials on other Douglas Elliman agents since the investigation came out?

KEVIN GEDDIE: It was a very lengthy article, as we all are aware.

And I did my best to dissect it as much as possible and really learn more about it.

To be honest, my main focus was what I partook in that whole entire investigation, and not so much focused on other colleagues.

SENATOR KAVANAGH: Okay.

Do you -- so based on what you know now, you know, the experts on fair housing reviewed this -- reviewed these interactions.

A Mr. -- you know -- oh, sorry.

Mr. -- Mr. Freiberg said that your comments about span -- "Hispanics have been taken over the area, and recommendations of houses only in that area to Mr. Hackett."

And the fact that you provided listings only to Olsen Kopp [ph.] in Sag Harbor, and said,

[indiscernible] after praising the schools, that conduct indicates differential treatment.

Do you accept that conclusion at this point?

KEVIN GEDDIE: No, sir, I do not.

I detest completely, whereas both individuals anchor themselves to two completely different areas.

And as a larger scale, if you look at South Hampton to East Hampton, I almost consider it as New York to, you know, Los Angeles. It's a wide in-between, and I don't try to make someone go the other way unless they tell me they want to be there.

Although, I did reiterate, please, let's look at everything on the market to make sure you're getting the best deal.

SENATOR KAVANAGH: Do you -- you concede at this point that making comments about a certain ethnic group taking over a neighborhood is prohibited under fair-housing law?

KEVIN GEDDIE: It was such a clumsy way to ever put it. It was never intended to ever deter or talk badly about someone.

It was, in my opinion, something that was great.

SENATOR KAVANAGH: Okay. So just -- just to conclude, and we had this conversation

[indiscernible], you know, the fact of what you do in the last panel as well, but, making that comment, making comment about the ethnic composition, based on your understanding now and the training you've had since that time, which was a number of years ago, you understand, making a comment about the ethnic composition of a community changing, and a particular ethnicity taking over a neighborhood, you understand making that comment as a violation of the fair-housing law at this point?

KEVIN GEDDIE: I was not [inaudible].

SENATOR KAVANAGH: Even if it was inadvertent or unintentional?

KEVIN GEDDIE: I was not aware of that.

And, with intention or not intention, I was not aware of that.

I continue to grow and learn as much as possible, and thank you for bringing that up.

SENATOR KAVANAGH: But your understanding today is that that's not a comment you should make?

KEVIN GEDDIE: It should definitely not be a comment. There's nothing that should be worded that way.

It was clumsy. I apologize.

SENATOR KAVANAGH: Okay. I appreciate that.

Thank you.

SENATOR SKOUFIS: Okay, thank you, Senator Kavanagh.

Next up is Senator Kaminsky.

SENATOR KAMINSKY: Mr. Geddie, when you said "Hispanics had taken over," what did you mean?

KEVIN GEDDIE: To be honest with you, I didn't mean anything by it. I don't know what I meant. It was diarrhea of the mouth.

I just was saying that, you know, it's a great community. It used to be vacant there. Whatever families move there, brought kids, and it's a thriving community now.

SENATOR KAMINSKY: That's what you meant by that comment, that you were giving positive attributes to the community by saying Hispanics had taken over?

KEVIN GEDDIE: Yes, sir. I truly believe it was only the best intention.

It was worded poorly.

SENATOR KAMINSKY: Okay.

On behalf of people with brains everywhere, I want to let you know how ridiculous that sounds.

When someone says, the Jews took over a community, X took over a community, it's not meant

in a positive way.

You know that.

What they're trying to say is, there's an ethnic group in this neighborhood. They're there. You are not part of that ethnic group, so you better be careful. Probably isn't a place you want to live.

Do you deny that obvious common centriality [ph.]?

KEVIN GEDDIE: I don't feel that way.

SENATOR KAMINSKY: Okay, well, I think the comments that you said on tape when you didn't know people were listening to your words are the best -- the best inkling we have, the best evidence we have, of who you really are.

And when you said Hispanics had taken over an area, it said everything we need to know about what actually really takes place in the real-estate world, what you do when you are out there operating when you don't think people are listening.

And it's actions exactly like that that have caused the current status of our divided Long Island.

So I think you may have chosen the wrong industry.

I think were you caught red-handed.

And I think there's nothing else to say, other than, that the lack of people accepting responsibility, or the industry doing anything about it, during this hearing is astounding.

Any hope that we might have had that the industry would decide that it's reached a critical inflection point, and wants to better itself, has just completely been eviscerated by this hearing.

Everyone is doing these (indicating), blaming the other person.

Douglas Elliman is throwing you under the bus when you left there, even though their people did things just as bad that they won't acknowledge because they're still under their license.

And you're out there saying Hispanics took over a neighborhood, but you don't even know what you were saying.

It was just diarrhea of the mouth. I don't even know what I say half the time. I mean, you know, words just come out of my brain. Who knows who put them there.

Our society demands better. We deserve more accountability.

And what we have heard today is just

astounding, and it means that we've got work to do; that it's going to take real government oversight, action, legislation, penalties, to change things here.

And I'm sorry, Mr. Geddie, that you were the one who got caught doing it, but caught is what you were.

Thank you, Chairman Skoufis.

SENATOR SKOUFIS: Thank you, Senator Kaminsky.

Next is Senator Kaplan.

SENATOR KAPLAN: Thank you, Chairman.

So this is a question for either one of you.

Many of the agencies' heads testifying here today have said there was no discriminatory intent on their conduct.

The sales agents, even after receiving training, still testified that they don't believe their conduct was discriminatory.

My question is:

Since the "Newsday" investigation clearly shows we continue to have a problem, we need to do better, does your new-and-improved training include training on "implicit bias," which is identified as attitudes or stereotypes that affect our

understanding, actions, and decisions in our unconscious manner?

Some of the bias shown by your agents in the video could potentially be described as having been done in an unconscious manner.

Given the repeated denials of discriminatory intent, I'd like to know, what measures have you taken to counter this glaring problem?

RICHARD AMATO: I'd like to answer that.

I'm open to definitely looking into that, and going further with it.

And what we have taken, what we have done is, again, we have daily Zoom calls right now. And, unfortunately, we can't have in-person, you know, to a big crowd.

But we're having daily Zoom calls, to get to know each other, to get to know and make sure that everything is being done the right way, and getting across.

SENATOR KAPLAN: Okay.

Do you talk about it; do you talk about unconscious manner of bias?

RICHARD AMATO: Absolutely, at least I hope I do.

And I -- you know, Senator, again, I've

always been like this; I've always tried to be fair in life with everybody.

So I talk about it on a daily basis.

SENATOR KAPLAN: I appreciate that.

I feel -- I understand, and I listened to your testimonies, and I see that you clearly don't see how this being translated.

But I also understand, and see the testers and what they have gone through.

So there has to be an effort here made to make sure that we are not making unconscious discriminatory decisions or comments, and that's going to come from the top up, all the way to every member that you represent.

RICHARD AMATO: I was just going to say that I believe that New York State would need to require something like that.

SENATOR KAPLAN: Thank you.

Thank you, Chairman.

SENATOR SKOUFIS: Thank you.

And unless my fellow chairs have additional questions, I believe that is all we have.

Senator Kavanagh, do you have anything more?

SENATOR KAVANAGH: No, I'm good.

Thank you very much.

Just to, again, thank the witnesses for appearing today.

KEVIN GEDDIE: Thank you.

SENATOR SKOUFIS: Very good.

Thanks to you both.

And we'll now move on to the third panel.

RICHARD AMATO: Thank you.

Have a blessed day.

SENATOR SKOUFIS: Next up, we have number of individuals from Charles Rutenberg Reality; namely, Joseph Moshe, Stephanie Giordano, Maurice Johnson, and Edwin Torres.

If you can please turn on your video.

Okay. I think we're -- is Stephanie here?

I see her.

If you could please turn on your video.

Ms. Giordano, if you're there, if you could please turn on your video.

Okay, well, we will proceed in the meantime without her, for now.

The expectation is, that she ought to be able to join us and participate here, and so we look forward to that.

But in the meantime, if the rest of you could please raise your right hands.

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

JOSEPH MOSHE: Yes.

MAURICE JOHNSON: Yes.

EDWIN TORRES: Yes.

SENATOR SKOUFIS: Thank you.

Who has opening remarks?

JOSEPH MOSHE: (Raises hand.)

SENATOR SKOUFIS: Joseph, why don't you take it away.

JOSEPH MOSHE: Sure.

First up, I want to thank you for conducting this hearing.

Anything that we can do to eliminate unconscious and conscious systemic racism in our society is welcome.

I want to start by saying about our agency, is Charles Rutenberg is probably the most diverse agency on Long Island, with agents from all corners of the earth -- okay? -- speaking approximately 50 languages.

I know that Charles Rutenberg stands for fair housing and equal opportunity.

These are bedrocks on which we have built our entire company.

We not only train our agents accordingly, but we also work with an environment where uniqueness is celebrated.

We practice what we preach by becoming the most inclusive real-estate company amongst our competition.

Most importantly, we provide incredible opportunity to our agents to succeed professionally.

Our company model is quite different from those of other large real-estate companies.

This provides an opportunity for every individual who chooses to work in real estate, thereby creating a company rich in diversity.

Charles Rutenberg Reality agents range between 18 and 90 years old. They live in every possible borough, town, village, county, and ZIP Code in the New York metropolitan area.

They live in every -- they serve every neighborhood because they live in every neighborhood.

We do not invest in huge numbers of brick-and-mortar buildings in house of our agents because that is not the direction of real estate in this decade.

The public does not knock on the real-estate

door to find housing. They search on the Internet.

When they do, they find a Charles Rutenberg agent who knows and lives locally. They will find an agent who can speak to them in a language they understand.

On our website, you can choose different languages to speak to different agents, if that's what you so desire.

From the very moment that an agent becomes the career in Charles Rutenberg, they're notified that they are invested in delivering housing opportunities to every individual who seeks our assistance.

When they walk through the door, they see the fair-housing declaration in our lobby, if they visit our facility.

When they enter our conference room to be interviewed, it is displayed again when they sign our new-agent paperwork.

We include non-discrimination documents and compliance documents that they must sign, which outlines their obligations.

We, over and over, tell our agents, and supervise them and educate them, about fair housing and discrimination.

I can't -- I can't emphasize that enough, that there is no room for discrimination in your society.

While agents are required to take our new-agent orientation within 60 days of joining, I am there, instructing them. We discuss fair housing, and present written educational materials, to help them understand their obligations to the public.

They are instructed to check our website for additional resources that we have for them, to better understand what they can and cannot do, say, or print.

We outline our company best practices, which include:

Making sure to treat each client and customer identically.

To document, to the best of their ability, and to read all company updates, regarding changes in the law, which we continually provide.

We have a robust line presence for our agents.

In addition to weekly at-a-minimum training, I host an online chat for our agents, which is available 24/7.

I also send a minimum of three e-mails a day with revelent [sic] updates -- "relevant" -- of industry standards and best practices. Fair housing and the law, are common topics.

The rental market is an area where fair housing is often a topic of discussion.

We run a class on a regular basis which includes industry experts.

At that time, we convey the importance of equal treatment under the law.

SENATOR SKOUFIS: If you can please wrap up, your time is up.

JOSEPH MOSHE: I'm sorry.

Okay, I will.

We monitor every license renewal, CE obligations, and we specifically mention fair housing in many, many documents that we use.

We also recently have, and put it in place, many different and new programs in place to increase our training and education.

Thank you.

SENATOR SKOUFIS: Thank you very -- thank you.

Anyone else have testimony or remarks -- opening remarks?

MAURICE JOHNSON: Yes, I do.

SENATOR SKOUFIS: Okay, yes, please. Go ahead.

MAURICE JOHNSON: Hello. My name is Maurice Johnson.

My initial statement was previously submitted to Mr. Little, who I understand is the Senate's counsel.

However, I would like to, you know, first read the first few paragraphs of my statement that was submitted.

Thank you for the opportunity to provide this statement, which reiterates and/or supplements some of my answers given on February 13, 2020.

I'm an African-American male who has been subjected to direct and indirect discrimination and/or racial prejudice, both in my personal and professional life.

Consequently, because of my experiences and background, I'm not only extremely sensitive to treating everybody equally, but I try to be involved wherever I can in organizations that promote equality and opportunities for minorities.

In this regard, for example, I'm actively involved with the Neighborhood Assistance

Corporation of America, often speaking about housing --

JOSEPH MOSHE: (Speaking off-camera) Can you come in? I messed something up.

MAURICE JOHNSON: -- often speaking about housing-related issues, most of whom are minorities.

Moreover, while I have had -- while I have, and have had, clients who are White, and, substantially, a majority of my business comes from Black and Latino individuals, therefore, to publicly declare as "Newsday" did, through, supposedly, objective expert opinions based on nothing more than two, approximate, 45-minute conversations and analysis of computer-generated [indiscernible] separated by three weeks, that I engaged in racial and/or ethnic discrimination with regard to how I conduct myself in my chosen profession, was not merely personally offensive, and likely professionally damaging, but patently absurd.

Just, quickly, I have never [indiscernible] engaged, and never will engage, in any type of discrimination, racial or otherwise, whether in my personal life or in my professional life.

Likewise, I have never steered any client to a particular neighborhood, either because of the

neighborhood's racial or ethic makeup or because of the client's racial -- I'm sorry -- or because of a client's racial or ethnic makeup.

Last, I have never treated one client differently than another because of his or her race or ethnicity.

While I have received significant training from Charles Rutenberg Reality on fair-housing issues, complying with my continuing-education requirements, I am generally knowledgeable about fair-housing issues.

I don't need to be trained to be given continued -- I don't need to be trained or be given continuing education or provided literature to read -- I'm sorry -- requirements [indiscernible] fair-housing issues, I don't need to be trained and given continuing education or provided literature to read to know that no person should be treated differently because of race or ethnicity with regard to housing, or anything else.

As I understand it, "Newsday" and its experts have generally claimed that I treated the Hispanic tester unequally, not as well, in comparison with the White tester, and that I did so because of discriminatory animus against the Hispanic tester

based on his and/or ethnicity.

I categorically deny both equivocally, and I felt unequal treatment and discriminatory motivation, and will address "Newsday's" completely speculative conclusions in more detail below, the following reasons I challenge the fairness of "Newsday's" investigation, as well as its experts' speculative conclusions as to both my actions and motivations.

SENATOR SKOUFIS: Okay. Thank you very much.

I think I saw Ms. Giordano's hand's raised?

Yeah, if you can --

STEPHANIE GIORDANO: Thank you.

Can you hear me today?

SENATOR SKOUFIS: Yep.

STEPHANIE GIORDANO: First I want to thank you all for being here with me. I appreciate the opportunity to come.

And I understand, and have listened to, the hearings prior to this, and my colleagues in the field.

I would like to first, and foremost, read the statement that you already have, but, please, in the middle of my statement, I would like to just say a word or two, just because I feel very strongly about

it. Okay?

You have my written statement, all of you.

I thank you for the opportunity to provide this written statement, which reiterates the supplement to the answer given on February 5th.

Before I continue, I want to make it clear to everyone here, that this is my father, Albert Cruz.

I am Hispanic and Black.

These are my siblings, which are Hispanic and Black.

I would like to also make note that I am a lesbian woman in the community who has fought with Governor Cuomo for equality in our community.

I want the governors and the Senate -- or, the senators here today to hear me when I say, I always walk, have always walked, with equality in this -- in my life, and in my business.

And, Senator Thomas, I implore you to listen.

I would ask that you read my statement through my attorney.

I will just briefly read what he has asked, and then please ask me any questions.

According to the public declaration of "Newsday," the supposed objectives, the expert opinion, I engaged in racial or un -- or ethical

discrimination with regards to how I conduct my business, it is not merely -- it is not merely professionally damaging to me, but it is my personal feelings about this that is damaging to me.

I have walked with equality.

I have been with -- I was, at the time that I was tested, with Charles Rutenberg Reality.

And I would again like to reiterate that Charles Rutenberg gave great training.

I spoke to Mr. Moche many times about equality.

He afforded me an opportunity, as a lesbian woman, to conduct business in Brentwood at my address at 1600 Calebs Path.

He afforded me an opportunity to manage one of his locations.

And I thank him for that opportunity.

The testers that came to me during this test were, in my opinion, if you saw all the videos, "Newsday" did not provide any of us, or all of us, with all the evidence in this particular testing.

You saw two tests.

There were five tests that were conducted; five tests, in which the Hispanic tester had asked me to go to predominantly White area, which would

have been Ronkonkoma, and, in addition to that, Holbrook.

I took the Hispanic tester to those areas.

When I asked Arthur -- he is the author of this test -- when I asked Arthur to provide me with those videos, he refused.

And, in addition, he stated that there was nothing in the videos that would have shown steering.

I invite the Senators today to bring my videos up today and show me where I might have steered someone along the way.

I additionally want to bring to the senators' attention, that the testers were both provided a link, which enabled them to change the criteria at any time, any day, any hour, and, they were instructed upon how to use it.

Okay?

Additionally, the White tester never asked me, if you were testing me about inequality, you would ask the White tester to say, Bring me to Brentwood, and then I would have to say to steer.

But the White tester never requested.

The Hispanic tester requested showings in predominantly White areas, and were given those

showings.

Okay?

I just want to say that the "Newsday" experts, when I went in with "Newsday" to respond, I had, and still emphatically deny, any source or any type of steering.

I ask you, today, because I've come here, not because you subpoenaed me, but because this is my first opportunity to speak with you, to say, please, show me if I -- if you have some proof of me steering, which never would happen, that you bring it to me today in this hearing.

I know my time is up.

Senators, I appreciate you, and I appreciate you letting me speak.

I know that I have been a little bit more animated because I believe in what I'm saying.

The test showed 10 percent difference in properties that I showed, or -- or sent, not showed, sent to.

I never sent a single property.

The algorithm of the computer sent the properties.

I did not send a single property.

And when those testers asked to see any

community, I showed them.

SENATOR SKOUFIS: Thank you, Ms. Giordano.

Mr. Torres, do you have anything to say before we get to questions?

EDWIN TORRES: Uh, yes.

I would like to thank everybody for being here in the meeting.

I just wanted to -- I mean, I'm going to be brief.

I've been with Charles Rutenberg since 2009.

They do a lot of training, like they mentioned, virtually, you know, in person.

I, primarily, most of my sales have been to minorities. 90 percent to 95 percent minorities.

So, for me to be considered discriminating towards minorities, that would be completely against what I do.

So, I mean, like I said, I'm going to be brief.

That's all have I to say for now.

And I don't agree with "Newsday's" report.

SENATOR SKOUFIS: Okay.

Thank you.

I'd like to start with you, Mr. Torres.

The testing that -- or, the testers that were

engaged with you, and please correct me if I'm mischaracterizing this, the White tester was not required, you waived the requirement, for a preapproval from their lender.

The African-American tester was required to obtain a preapproval letter from you.

Is that accurate?

EDWIN TORRES: Let me explain.

The Black tester sat down with me just like the White tester. I explained the same thing to both.

The Black tester simply understood that he needed to get a preapproval, but he still wanted to see a home. I indicated that I would need a preapproval.

The White tester must have stayed at least a half hour in my office, without leaving, until I told him, okay, I'll show you a house.

So he was very eager to see a house. Very eager.

So I just -- I made a misjudgment, and I said, okay, I'm going to show it to you, but, I need you to get your preapproval.

After a week or so that he didn't get a preapproval, I just simply stopped working with him.

The Black tester, in reality, never showed, you know, that dedication to go get a preapproval, so he never got shown a home.

SENATOR SKOUFIS: So what is -- if I may ask, what is your criteria for requiring preapproval of a client or not? Is it how pushy they are?

EDWIN TORRES: My criteria beforehand was, it's all based on your interest.

We're here to provide a service. And the more interested you are as an individual, that's -- that sometimes triggers your -- you know, you bending the rules, if you want to call it that way, to be able to show them a house.

But, now, after the training that I've gone through, I'm not taking anyone out if you don't have a preapproval; no ifs or buts about it.

Do I get push back from the public?

Yes, because they want to know, why do you need a preapproval?

Well, there's two reasons why [simultaneous talking] --

SENATOR SKOUFIS: Well, you don't -- and this was discussed with the last panel, you don't need to require a preapproval. You need to be consistent with whether you require a preapproval or not.

And your characterization of "bending the rules," for someone who finds out after the fact that they were treated very differently, I suspect that, you know, that African-American, that minority, would not just mildly characterize it as "bending the rules." They would find it offensive and, quite frankly, it would be illegal.

So, you know, it seems to be a recurring pattern with all these panels, that there is an epiphany that happens after, you know, "Newsday" publishes their video or their story, and, you know, they go through this additional training, and, now, you know, "I would never do that today."

You know, I suspect that we're not quite getting the full story.

If I may move to Maurice/Mr. Johnson, you had mentioned you have been subject to discrimination personally as an African-American man.

And I wonder, you know, the hearing we've heard from the principals of these companies, the written testimonies from folks who are going to be with us later today, it seems as though, at least as far as I could tell, that a single realtor, not a single agent has been fired as a result of -- as --

as a result of what has come about from this "Newsday" exposé, the enormous volume of testing, the enormous volume of videos.

And, perhaps, even if you can argue, okay, well this one was a gray area; this one, you know, I don't believe "Newsday," to suggest that every single one of these allegations is discredited is unfathomable to me.

As an African-American man who just testified that you have been discriminated against, how do you feel about the fact that not a single real-estate agent, as far as we can tell from the principals who are testifying today, have held any of their agents accountable?

MAURICE JOHNSON: Well, I don't -- I didn't really look at too many of the other agents.

I only concerned myself with the accusations that was brought against myself.

So I didn't really follow the stories of all the other agents and what happened to them, and what those agencies did or did not do, because I was just, more or less, upset that "Newsday" tried to steer.

And I'm definitely using that word for "Newsday's" purposes.

SENATOR SKOUFIS: Yeah, I understand your feelings about the allegations lodged against you.

But, you know, do you not have any sort of fundamental, emotional reaction to the fact that there doesn't seem to be any accountability on the other side of this "Newsday" exposé?

MAURICE JOHNSON: Well, that's what I'm saying.

I didn't -- if they did something wrong, and it can be proven that they did something wrong, then there should be discipline taken care of.

Whether it's discipline, whether it's training, or a combination of the law, yes, something should be done.

That's what I'm saying.

I concerned myself -- I concerned everything that was going on with myself and what was being displayed with me. I wasn't really concerned about everybody else.

And like I said, I have been discriminated against, and I've been discriminated against even with "Newsday" itself, throughout my years of living where I live.

So it's, like, it's, to me, before you say anything, for "Newsday" to bring about an article

about discrimination, if you asked a lot of Black people, especially the community where I live at, they can tell you how often we have been discriminated against by "Newsday," blatantly.

And no senators that I know of, nobody in the local government, ever even addresses that.

SENATOR SKOUFIS: Okay. Thank you.

MAURICE JOHNSON: I'm a public person.

At what point do we address that?

And there's plenty of documentation.

But at what point do the senators say, well, let's go up against "Newsday" for the blatant discrimination on how they show Black people committing crimes versus White people?

The narrative is always different. The way they publicize it on their front page, we have documentation for years.

But now I have to sit and listen to "Newsday" completely pull out certain pieces of information to try to paint this narrative, which they do very well --

SENATOR SKOUFIS: Okay. Thank you.

So I'll just remind everyone --

MAURICE JOHNSON: -- to make it seem [simultaneous talking] --

SENATOR SKOUFIS: -- just remind everyone that this hearing is about the housing discrimination that's been raised, not about other issues that have been portrayed or not portrayed.

Just a yes-or-no question, because my time is up: Mr. Moshe, have -- just to confirm, have any of your agents, subsequent to this investigation, faced discipline?

Just "yes" or "no," please.

MAURICE JOHNSON: No.

SENATOR SKOUFIS: Okay. Thank you.

Senator Kavanagh.

SENATOR KAVANAGH: Thank you, Senator Skoufis.

So I'm just gonna -- a few questions for Ms. Giordano.

Am I saying that right?

STEPHANIE GIORDANO: Yes.

SENATOR KAVANAGH: Okay, great.

So before we get to the evidence from the investigation, I want to address something from your statement, and I'm going to quote.

You said that you did not conduct yourself with a racially discriminated -- discriminatory animus."

Do you think we need to find discriminatory animus in order to find violation of the fair-housing laws?

STEPHANIE GIORDANO: I'm sorry, I'm sorry, Senator. I didn't hear you fully.

SENATOR KAVANAGH: Does there need to be "discriminatory animus," I think those were your words from your statement, in order to find a violation of the fair-housing laws?

STEPHANIE GIORDANO: Sir, I don't know how you will navigate through fair housing.

I can only speak for myself, and the way I respond to fair housing.

And I can tell you that I would invite you, sir, to explain to me where I was discriminatory in any way, fashion, or form in all five videos.

Do you have all five videos, sir?

SENATOR KAVANAGH: We -- we can -- we can perhaps have that conversation some other time.

In fact [simultaneous talking] --

STEPHANIE GIORDANO: Because I wasn't actually --

SENATOR KAVANAGH: -- just the way --

[Simultaneous talking by both parties.]

STEPHANIE GIORDANO: -- sir -- Senator --

SENATOR KAVANAGH: -- just the way [simultaneous talking] --

STEPHANIE GIORDANO: -- Senator, I just want to say one thing.

I was not provided with all five videos.

So you're asking me to respond to something that I haven't even been completely --

SENATOR KAVANAGH: Ms. Giordano, just do -- with all -- with great respect, I'm just asking you what you meant by a particular thing you said in your written statement, and you repeated here orally.

I'm trying to understand, before we get into any of the particulars here --

STEPHANIE GIORDANO: Yes.

SENATOR KAVANAGH: -- if one -- if people of one race or ethnicity are treated -- are routinely treated differently than people of another race or ethnicity, in your mind, can we call that "discrimination," and does that violate the fair-housing laws?

STEPHANIE GIORDANO: Well, sir, I can only tell you my own experience. Okay?

As a lesbian Black Hispanic woman, I have been discriminated against, many times, questions

asked about, one way or another.

But, sir, I do not, at all, ever ask anybody any of those type questions.

So do -- is there discriminates?

We saw the "Newsday" article.

Is there discrimination that has happened?

I would say that there is.

SENATOR KAVANAGH: Okay, and that discrimination -- again, that -- because -- because just -- just to be clear, like, the -- the way brokers and people in the business understand the laws is part of what we're talking about today, because we're talking about training, we're talking about, you know, how to alter behavior.

In your mind, someone is asking inappropriate questions, or if someone is treating somebody differently, based on their race or ethnicity, they can be violating the fair-housing laws even if they don't have what you call a "discriminatory animus."

Is that right?

STEPHANIE GIORDANO: Sir, again, when you're saying a "discriminatory animus," let's define that in your -- in -- with you.

SENATOR KAVANAGH: Well, those are your words, so why don't you define [simultaneous

talking] --

STEPHANIE GIORDANO: And, sir, and just so that we're all understanding -- okay? -- together, I want it to be very clear for everybody here.

SENATOR KAVANAGH: Okay, so how would you define that to make it clear for everybody?

STEPHANIE GIORDANO: In what way would you like me to define it?

SENATOR KAVANAGH: They're your words. I'd like you to tell us what you meant by them.

STEPHANIE GIORDANO: Sir, here's what I say, here's what I have to say:

I never discriminate against anyone based on any of the protected classes and/or the non-protected classes, ever.

SENATOR KAVANAGH: If someone in your business were to treat Hispanic homebuyers differently from non-Hispanic homebuyers, and do that routinely, in your mind, based on your training and your experience in the industry, that would -- and you said you had a supervisory role as well, that would constitute discrimination, even if they did not --

STEPHANIE GIORDANO: [Indiscernible] -- I'm sorry, sir.

SENATOR KAVANAGH: -- intend bad things to happen to people?

STEPHANIE GIORDANO: Sir, any discrimination, whether intended or non-attended -- or, non-intentional, is discrimination.

And I think, as agents, we understand what discrimination is.

I personally understand what discrimination is.

I cannot speak for my colleagues. I can only speak for myself.

And, please, don't ask me to make such a broad statement for all of my colleagues.

For myself, I understand, completely, unemphatically, what discrimination looks like.

And I will say to you that have I never participated in it.

Additionally, I would ask you, today in this hearing, to provide me proof of the discriminatory action that you are implying that I am taking.

I invite you to ask for all five of my videos to be displayed for all the senators to hear and see it.

SENATOR KAVANAGH: Ms. Giordano, first, we'll -- we'll perhaps have -- we'll have

additional -- perhaps have additional questions for you, and maybe we'll get into some of those issues.

But, again, I'm not -- I haven't implied anything about your conduct, other than asking you what something [simultaneous talking] --

STEPHANIE GIORDANO: "Newsday" has implied that I steered.

SENATOR KAVANAGH: -- okay.

That's fair enough.

[Simultaneous talking by both parties.]

STEPHANIE GIORDANO: Additionally, they have --

SENATOR KAVANAGH: And that's certainly why we're here today.

STEPHANIE GIORDANO: -- they have put my name into a newspaper article on page 15.

I was not a part of the exposé, because there was nothing clear -- there was no discrimination, sir.

SENATOR KAVANAGH: Okay, again, we'll probably get into that in a minute.

STEPHANIE GIORDANO: Yes, sir.

SENATOR KAVANAGH: But, my time is up, so I'll yield it back.

STEPHANIE GIORDANO: Thank you.

SENATOR SKOUFIS: Thank you.

And if I may just remind all the witnesses, it's a -- you know, we, after asking questions, are, to the extent practicable with their time, allowing for a response.

And, you know, please allow my colleagues and I to, you know, get out our questions and our comments without being interrupted.

Senator Thomas.

SENATOR THOMAS: Thank you.

I have a question for Mr. Moshe.

According to the documents that you had submitted, you supervise about 896 agents. Is that correct?

JOSEPH MOSHE: Yes.

SENATOR THOMAS: And the Plainview office alone has about, what, 834 agents; correct?

JOSEPH MOSHE: Yes.

SENATOR THOMAS: The three agents "Newsday" flagged for potential fair-housing violations are all from the Plainview office; correct?

JOSEPH MOSHE: Well, not really, no.

At the time of the -- of the incident, I believe Miss Giordano was in a branch office. [Indiscernible] --

SENATOR THOMAS: And so -- okay.

Do you think that one licensed real-estate broker can properly supervise 834 agents?

JOSEPH MOSHE: Absolutely.

SENATOR THOMAS: Okay, you need to explain that.

JOSEPH MOSHE: Excuse me?

SENATOR THOMAS: You need to explain how one licensed broker can supervise the actions of more than 800 sales agents.

JOSEPH MOSHE: Okay.

SENATOR THOMAS: Explain that to me, because it's -- it's -- it's mind-boggling --

JOSEPH MOSHE: Okay.

SENATOR THOMAS: -- to, basically, sit down with every single one of these agents, and to help them sell the American dream to individuals that are out there.

JOSEPH MOSHE: Okay, let me describe to you.

First off --

SENATOR THOMAS: Okay.

JOSEPH MOSHE: First off, which is very important in our company, we do not take on new real-estate agents as a matter of policy.

Any agent who joins my company has to have

experience in the industry, which we know that, during the course of their education, as being a licensed real estate, they have to take education on an ongoing basis.

We also look for many of them to have done transactions.

We interview them before they come on board.

So we do a fair amount of work to ensure that the agents who join our company will represent our company professionally, and are educated enough to perform the duties that we very intently provide, and mandate.

SENATOR THOMAS: Here's the thing, here's the thing: Everyone is human.

JOSEPH MOSHE: All right.

Thank you.

SENATOR THOMAS: Including these agents here that are defending themselves from the actions that "Newsday" recorded them doing.

I don't think they're bad human beings at all, but, there needs to be proper supervision.

To say that, you, being the broker, hold -- like, super -- being able to supervise more than 800 of these agents, who are human beings, who go out there and sell homes and show homes, is a very

surprising answer to me.

JOSEPH MOSHE: Okay, Mr. -- Mr. Thomas, I've heard your statements before.

And I think what you're looking for, honestly, is unrealistic, in the sense that you cannot go out and be with an individual every time they take out a buyer and every time they go and show an open house.

That is physically impossible for even an agency that has five agents.

It just doesn't work.

SENATOR THOMAS: [Indiscernible] what I'm asking, Mr. Moshe.

What I'm saying is, during the training process --

JOSEPH MOSHE: Yes.

SENATOR THOMAS: -- we have heard testimony from others, where they are simply put in a room and injected with legalese about the rules and regulations that they just simply don't comprehend, you know, what's happening out there when they show homes.

Right?

Their -- your bottom line, as a company, is to make profit. And hiring as many of these sales

agents, basically, helps you meet your goal.

JOSEPH MOSHE: That's not true.

SENATOR THOMAS: I just don't see how someone can supervise -- someone can supervise 800 agents --

JOSEPH MOSHE: Let me define it.

SENATOR THOMAS: -- who are all human beings, and you just don't have the capacity to do it.

JOSEPH MOSHE: Let me define it. Okay?

First off, when you talk about 800 agents, you talk about, and I'm sure everyone here has heard the "80/20 rule."

Is that -- I'm sure everybody knows that?

If not, I'll be happy to explain it.

20 percent of the agents do 80 percent of your business, and 80 percent of your agents only do 20 percent of your business.

So to categorize that I have to supervise 800 agents that work along the lines of Mr. Johnson, Mr. Torres, and Ms. Giordano is not accurate.

These are active agents. These are good agents. These are agents that have the ability to perform their functions honestly, credibly, without discrimination -- okay? -- that don't require day-to-day supervision.

When they do, they will tell you that they have access to me and my staff 24/7, for any reason, any question that they can have --

SENATOR THOMAS: But Mr. Moshe --

JOSEPH MOSHE: -- to provide supervision to them.

SENATOR THOMAS: But, Mr. Moshe --

JOSEPH MOSHE: Can I finish, please?

SENATOR THOMAS: One second.

[Simultaneous talking by multiple parties.]

SENATOR THOMAS: Okay. Go ahead.

JOSEPH MOSHE: That they will -- they could ask me any question about whether it's a question on fair housing, discrimination, commission, not being cooperated amongst the agency; anything that they ask in the real-estate industry, they will get a response immediately.

Not within 24 hours. They will get a response immediately.

And that's how my office supervises.

We have an excellent staff that provides them with education and support, and I use the word "support" with emphasis.

Okay?

So, remember, we're not talking about 800 agents being supervised in the field on a daily basis.

You're talking about a much, much lower number, and many of those are very, very professionally qualified.

SENATOR THOMAS: But, Mr. Moshe, the investigations in the undercover video shows, you know, something else.

JOSEPH MOSHE: I disagree with you.

SENATOR THOMAS: That's all I'm saying.

[Simultaneous talking by both parties.]

JOSEPH MOSHE: I disagree with you, I disagree with you.

SENATOR THOMAS: Okay, you would, you would. But, again --

JOSEPH MOSHE: I would?

SENATOR THOMAS: -- it goes to --

JOSEPH MOSHE: Because my agents --

SENATOR THOMAS: -- but --

JOSEPH MOSHE: -- my agents -- okay? -- and I saw those videos, my agents were very professional, extremely professional, in their presentations.

There was no discrimination in any one of the

presentations.

The justification of what "Newsday" found, I have to leave up to them; their individual responses as to why, what came out, came out.

But I don't see, honestly.

I'm not speaking to the -- you've asked --

SENATOR SKOUFIS: We have one other senator who needs to ask questions.

JOSEPH MOSHE: Okay.

SENATOR SKOUFIS: Senator Thomas, you can come back for a second round.

SENATOR THOMAS: Sure.

SENATOR SKOUFIS: But, Senator Kaplan, if you can proceed.

SENATOR KAPLAN: Hello.

I wanted, again, thank you for appearing here today and giving us your testimony.

Mr. Moshe, I was so glad to hear that you are committed to rooting out the unconscious bias and racism.

So tell me about the implicit-bias training program you and your agents are going through right now.

AGENT JUDI ROSS: We have a staff that is strictly dedicated toward training.

And, you know, I think recently, when this -- the whole arena of this country has been exposed to discrimination -- okay? -- it has brought on a new level of where discrimination comes from.

And a lot of times discrimination comes from our upbringing; our parents, our grandparents. And it is -- I'm going to say almost unconscious behavior.

SENATOR KAPLAN: That's exactly what we said.

And I appreciate that.

JOSEPH MOSHE: And -- and we --

SENATOR KAPLAN: But the training --

JOSEPH MOSHE: -- we --

SENATOR KAPLAN: -- that you have -- hopefully, have come up with, have you come up with any new training?

JOSEPH MOSHE: Yes. That is the training -- that is the training that we give.

We -- we -- we're not -- we just don't talk about discrimination, but we talk about what may come out of your mouth without really thinking about it, and to think about it before time, because of that subconscious behavior that has been, for hundreds of years, ingrained in us.

And we're very, very stringent on that.

SENATOR KAPLAN: And this is new, or is this something [simultaneous talking] --

JOSEPH MOSHE: The -- well, I -- relatively -- relatively new is the -- is the aspect of -- of unconscious behavior, yes.

SENATOR KAPLAN: Okay.

Today I [simultaneous talking] --

JOSEPH MOSHE: In light -- in light of the investigation, and in light of the "Newsday" article, it has been enhanced.

And, truthfully, I think it -- not just in the real-estate industry, but I think the behavior, the unbiased behavior and the unconscious behavior, should be spoken about more across the country.

SENATOR KAPLAN: Yes.

So today I plan on introducing legislation, mandating implicit-bias training for all realtors, both pre-licensed and in continuing education.

Can I count on your support of this legislation in order to address the glaring problems that have been revealed in this hearing today?

JOSEPH MOSHE: Absolutely.

SENATOR KAPLAN: And do we need to add hours of training for this?

JOSEPH MOSHE: Well, I believe, yes.

Absolutely.

I think in any type of discrimination training there should be that type of training as well, for sure.

SENATOR KAPLAN: Thank you very much.

JOSEPH MOSHE: My pleasure.

SENATOR SKOUFIS: Thank you, Senator.

We will return to Senator Kavanagh.

Great. Thank you, Senator Skoufis.

So just to continue the conversation with Ms. Giordano, you know, you had asked to us talk about the particulars.

So I'm going to just do a little bit of that here before I move to the next panel.

[Off-video voices.]

SENATOR SKOUFIS: Senator Kaplan, if you could mute yourself. Thank you.

SENATOR KAVANAGH: Thank you, Senator Skoufis.

So, Ms. Giordano, during the investigation, you met with a White non-Hispanic tester and another tester who's Hispanic.

And you gave the non -- the White non-Hispanic tester 152 listings, and the Hispanic tester only 74.

Do you know which of the incidents we're -- the pairs were referring to?

STEPHANIE GIORDANO: I didn't give any of the testers any listings.

The algorithm was put into the computer, the computer spits out the listings.

So I didn't send a single listing to either of the testers.

I cannot represent the time, five years ago, as to what or what was on the market at that time to prompt the initial conversation.

But if you listen to the initial conversation, you will hear the towns that they spoke about, and those towns were sent over.

SENATOR KAVANAGH: Okay. And I assume you've had opportunity to review the -- the -- at least the material that was published --

STEPHANIE GIORDANO: No.

SENATOR KAVANAGH: -- by "Newsday"?

STEPHANIE GIORDANO: "Newsday" has never sent me a single document with re -- with regards to any of the properties I sent.

And additionally I will state, that they have not sent me all of the recordings in order to answer the questions that you're posing against me today.

I can't answer without all of the evidence, and they have not provided me with all of it.

SENATOR KAVANAGH: Ms. Giordano, I understand you feel that you're working [simultaneous talking] --

STEPHANIE GIORDANO: Well, that's the truth, sir. That's not a feeling. That's the truth.

SENATOR KAVANAGH: -- I understand that you feel you're working with complete info -- incomplete information.

STEPHANIE GIORDANO: That's correct.

SENATOR KAVANAGH: But, you know, you asked to talk about a few of the incidents, so we're going to talk them.

STEPHANIE GIORDANO: Absolutely.

SENATOR KAVANAGH: [Inaudible] --

STEPHANIE GIORDANO: We can't talk about them in their entirety without all of the information.

You can understand that -- correct? -- sir?

SENATOR KAVANAGH: We always -- we always work with the information that we have.

STEPHANIE GIORDANO: Right, but we weren't given all the information.

SENATOR KAVANAGH: Right.

STEPHANIE GIORDANO: Okay.

SENATOR KAVANAGH: So after the Hispanic tester explicitly stated that the distance from New York City was not relevant to her, you said that, quote, you wanted to bring her -- you did not want to bring her any further out east; and, instead, you wanted to keep her around Brentwood and Bay Shore --

STEPHANIE GIORDANO: That's correct.

SENATOR KAVANAGH: -- which are predominantly minority neighborhoods.

STEPHANIE GIORDANO: That's -- those are the words used in the video, sir.

But the actual property addresses, as you can clearly see, did not represent that.

SENATOR SKOUFIS: Ms. Giordano, you have to let Senator Kavanaugh, please get through his thought.

STEPHANIE GIORDANO: Oh, I'm sorry. I thought he was done.

I'm sorry. I thought he was done.

SENATOR KAVANAGH: That's okay.

So you're saying that the addresses -- that -- so, again, the -- the assertion -- the assertion that has been presented to us, that you presented 27 listings to the Hispanic tester in

Brentwood and Bay Shore, and none to the non-Hispanic homebuyer.

And, again, each of them asserted that the distance, east or west, was not relevant to them.

Do you, having -- looking at what you -- you know, recognizing this was a while back, can you explain the difference?

STEPHANIE GIORDANO: How can I explain -- oh, I'm sorry.

Are you finished, sir?

SENATOR KAVANAGH: Yeah, the different -- yeah, the --

STEPHANIE GIORDANO: How can I explain when I have not been presented all of the information, nor have you?

How can I explain something that you and I don't have all the information for?

So I will say this to you, I cannot tell you.

Both of these testers, White and Hispanic, were given an app to change the criteria, as you can see in many of my -- in my written testimony, and in the video testimony, and, additionally, in "Newsday's" testimony, stated that I gave them an app to change the criteria at any time during the entire process.

Okay?

SENATOR KAVANAGH: And in your practice -- in your practice, you don't put any of the inputs into that app?

STEPHANIE GIORDANO: Absolutely put the inputs into the app on the first meeting, and explain that they can change it at any time.

Additionally, they can see all the information that I see.

Additionally, they can see the school reports.

Additionally, they can see everything that they want to see.

They can change it at any time.

I ask you:

Where are the listing reports?

Who handled handling those listings; who brought them in?

How do you know that it wasn't changed through the app?

I give -- I gave both the testers, as you can see in my video, the application to change the search criteria at any moment.

I do not know if they changed the search criteria.

I do not have evidence of the listings that were provided.

I only have a map that generally states where I sent criteria in two different market conditions, one in the winter, one in the spring, when we all know, as real-estate professionals, that there is a flux of inventory between those times.

So, I say to you, sir, show me where I steered this particular Hispanic buyer?

Show me the video of the house that I took her to in Ronkonkoma.

Show me the video of the house that she went to in Holbrook.

Show me where I steered these people.

SENATOR KAVANAGH: So we do have limited time.

STEPHANIE GIORDANO: I know you have a limited time, but you want to have a limited time when I ask to explain.

I've only had two minutes to explain to the Senate, which I'm privileged to be in front of. And thank you [simultaneous talking] --

SENATOR KAVANAGH: Okay, I'm going to ask you another question, and -- I'm going to ask you another question, and, perhaps, with the indulgence

of the chairs, you'll another minute.

If -- if lots of paired testers go to lots of --

STEPHANIE GIORDANO: I can't answer what paired testers do, sir.

That's not a fair question [simultaneous talking] --

SENATOR SKOUFIS: Ms. Giordano, you really have to give the courtesy to my colleagues of letting them finish their questions.

SENATOR KAVANAGH: Thank you.

If -- if a paired testing program, like what "Newsday" did, or like what we're contemplating, having government entities contract with nonprofits to do, send lots of paired testers that are similarly situated, that have similar economic needs, and state their housing preferences similarly, and non-Hispanic homebuyers are generally directed to predominantly minority neighbors --

And, again, I recognize that you're asserting that that's not something you were involved in, but you are a professional in the industry.

-- if, in general, non-Hispanic White homebuyers are directed to different neighborhoods, whether it be by an app or -- with input from the

salespeople, or through directly -- you know, [indiscernible] people, directly bringing them to homes, if -- if the -- if people are treated differently based on their race or ethnicity in the outcomes, in the neighborhoods they're shown, in the listings they're shown, is that -- is that a problem?

Would you count that as discrimination?

And, in your understanding, would that be a violation of the fair-housing laws?

STEPHANIE GIORDANO: Are you asking me to speculate on all of my colleagues?

SENATOR KAVANAGH: No. I'm asking you your understanding of whether homebuyers who are directed to different neighborhoods --

STEPHANIE GIORDANO: I've never directed anybody to a different neighborhood, sir.

SENATOR KAVANAGH: -- I'm asking you your understanding of what the law requires.

Do you believe that if Hispanic homebuyers are generally directed to predominantly minority neighborhoods, and White non-Hispanic homebuyers are generally directed to neighborhoods that are a greater percentage White, that that would -- that would -- without -- without us getting into why they

did that, would you -- would you agree that that constitutes a violation of our fair-housing laws?

STEPHANIE GIORDANO: Generally speaking, in your general overtones, I will generally see -- or, generally state, that people should not be discriminated based upon their race, their sex, their sexual orientation, and on and on, with regards to our fair-housing laws.

I am in agreement with you, sir.

If somebody should have been discriminated against, there should be some -- I guess what you're asking me, some sort of repercussion to that.

I am again emphatically stating that I have never participated in any of this.

And you're asking me for a general statement, which I'm not educated to give you, for everyone.

I'm just myself.

SENATOR KAVANAGH: Okay.

Again, I just I appreciate it, and I'll end there.

And I just would note that the question of what brokers are educated to understand, and what their understanding of these laws --

STEPHANIE GIORDANO: I understand very clearly, sir.

SENATOR KAVANAGH: -- is relevant to our proceedings today.

STEPHANIE GIORDANO: Senator Kavanagh --

SENATOR KAVANAGH: But thank you for your testimony.

STEPHANIE GIORDANO: Senator Kavanaugh, I understand completely, that every agency should take fair housing very seriously.

In addition to that, under my time with Mr. Moshe, he took these things very seriously.

SENATOR SKOUFIS: Okay. Thank you.

Thank you very much.

Not seeing any other senators with questions, I want to thank the panel for your participation and your testimony.

And, we'll now move on.

Thank you very much.

JOSEPH MOSHE: Hold on one second.

STEPHANIE GIORDANO: Senators?

Senators?

I invite any of you to call me, directly.

Thank you.

SENATOR SKOUFIS: And thanks very much for your participation.

Okay, we're going to move on, but, first, a

couple of notes here, since we will be moving a little bit out of order.

The next panel on the witness list, the fourth panel, will be joining us. But they're -- one of the witnesses is not quite available until a little bit later this afternoon, and so we will circle back to the fourth panel.

The fifth panel, you know, I had -- I referenced in my opening remarks that there were a handful of witnesses who were ignoring, or defying, our legislative subpoenas.

And that was in reference to this fifth panel at the start of this morning. They had not committed to participate.

That recalcitrance has continued to this very moment.

Our legal counsel has attempted, and re-attempted, to get them to come and participate today, without success.

And so, at 1:30 today, our counsel is going to be before a Supreme Court judge, looking to enforce our subpoenas.

We will take additional steps after that if necessary.

But in the meantime, the fifth panel

continues to be absent.

And so, given that, we'll actually now move to the sixth panel, which is a number of folks from Keller Williams and RE/MAX; primarily RE/MAX, one individual from Keller Williams [sic].

And those four are: Alan Eldridge, Joy Tuxson, Christopher Hubbard, and Rosemarie Marando.

OFF-CAMERA TECHNICIAN: Senator, we're having trouble reaching Rosemary [sic].Mirando.

We will keep attempting that, and keep you updated.

SENATOR SKOUFIS: Okay. Very good.

In the meantime, I see Mr. Eldridge has joined us.

And we're waiting on Ms. Tuxson and Mr. --

ALLAN R. ELDRIDGE: She's with me, she's next to me.

SENATOR SKOUFIS: Oh, okay. Very good.

And I see Mr. Hubbard has joined us as well.

And so the three of you will get started with you-all.

If you could please, first, raise your right hand.

Do you solemnly swear that you will tell the

truth, and nothing but the truth, so you help you God?

ALLAN R. ELDRIDGE: I do.

JOY TUXSON: I do.

CHRISTOPHER HUBBARD: I do.

SENATOR SKOUFIS: Very good. Thank you.

I -- we'll start with opening remarks.

Mr. Eldridge, do you have anything to begin?

ALLAN R. ELDRIDGE: I do.

SENATOR SKOUFIS: Okay.

ALLAN R. ELDRIDGE: I'm going to read them.

I am the founder of -- sorry -- I'm the broker of RE/MAX Beyond. My office is in Melville.

My office has produced documents to the committee in response to your subpoenas, and I'm here today to answer your questions.

Under state law, real-estate agents are required to undergo training to maintain their license status.

Furthermore, agents must follow the National Association of Realtors Code of Ethics, and comply with local, state, and federal law.

RE/MAX Beyond holds monthly office meetings where new topics are discussed, such as recent changes in law.

Topics discussed are informative and assist the agents in furthering their careers.

The topics include: Market conditions, new technology, and new rules and regulations in the real-estate industry.

Fair-housing issues will also be a topic for discussion.

Handouts are prepared for any agent who misses the meeting so they can stay informed and up to date on new developments.

Since the "Newsday" article was published, I have had discussions with staff to outline their responsibilities.

Also, there's an opportunity for new agents to gain experience by shadowing an agent in the field.

With brand-new agents, I have spent a considerable amount of time ensuring they are aware of their responsibilities with regard to agency and fair-housing law.

New agents must learn how to practice in the field, and spending time with experienced agents helps to further that goal.

RE/MAX also has policies in place to assist agents with any questions they may have regarding

fair housing.

RE/MAX agents have also been encouraged to call, text, or walk into my office with any questions they may have.

I have an open-door policy for any questions or concerns, and I will reach out -- sorry.

I have an open-door policy for any questions or concerns. And if I don't know the answer, I will reach out to the Long Island Board of Realtors for clarification.

Joy Tuxson has been an agent associated with RE/MAX Beyond since 2011.

I know Joy to be extremely diligent in following the rules and conscientious in dealing with clients.

As such, I have had no issues with Joy since her time at RE/MAX Beyond, and know her to be a valuable member of the office.

I have reviewed the tape associated with the "Newsday" article, and, for the most part, believe Joy acted with professionalism.

I understand how some of the statements could have been taken differently than what was intended, and as Joy could have chosen her words more carefully.

However, I feel strongly that that was not her intention or the outcome she desired.

I have had conversations with Joy about her statements. I am confident that her intent was not to discriminate or disparage any race, nor did she intend to steer either of the testers.

In fact, the "Newsday" article clearly shows a listing sent to both testers overlap in the same neighborhood and in the same school district.

Indeed, since the "Newsday" article was published, Joy -- excuse me -- has obsessively followed the law, and even sought out more effective training in order to make sure she's complying with the law.

My office takes the allegations in the "Newsday" article, and any allegations of discrimination, very seriously.

And we will do everything within our power to assure our clients, moving forward.

Thank you.

SENATOR SKOUFIS: Thank you very much.

Do you have anything to add?

I know you're together there.

Ms. Tuxson, do you have anything?

JOY TUXSON: Well, I have an opening

statement.

SENATOR SKOUFIS: Yes, that's what I mean.

Please, go ahead.

JOY TUXSON: I've been a real-estate agent in New York starting 19 -- since 1972.

I briefly left the state in 1980. I went to another state where I became a licensed agent, and then a licensed broker.

I returned to New York State in 1985, obtained my salesman's license, and then my broker's license.

I've been at RE/MAX for a total of 25 years.

And since 2011, as Allan had stated, I've been with RE/MAX Beyond.

In my over 40 years of experience as a real-estate broker and agent, I have never once received a complaint for discrimination or violations of federal fair-housing law.

I practice with the utmost respect and professionalism that the real-estate industry deserves.

I follow the law extremely carefully, and ensure that I am up to date on all regulations and changes to the law.

I'm constantly seeking out new changes to the

law, to make sure that I am in compliance with all recent fair-housing and non-discrimination laws.

I also make sure to fulfill the necessary requirements for my license to remain active and in good standing with the department of state and division of licensing.

I am up to date on all training and educational requirements, as required by -- to be an associate real-estate broker in New York.

Furthermore, I believe my conduct and actions support my position that I treat clients with the respect and professionalism they deserve.

I have never used ethnic backgrounds or race to steer any of my clients away from towns or areas.

I informed both of the testers to conduct their own research online.

Furthermore, there is a direct quote in the "Newsday" article which states I proved -- I provided comparable listings to both testers.

The experts cited in the "Newsday" article agreed with this assertion.

I have learned a great deal from this experience, and will take the lessons learned with me as I continue in my profession as a licensed real-estate associate broker.

As a result of this investigation, I sought out a course, which -- from a new instructor hired by my board, Sharon Mullen, who works for Fair Housing on Long Island.

I took her course, and she was very clear, presenting the course, going through how fair housing arrived, year after year after year, which I lived through personally. And she made it very crystal-clear that we were only allowed to speak about the house.

Very clear.

I now only discuss the property itself. And if asked about any other extraneous factors, I reply, "The fair-housing laws prohibit my commenting on that topic."

I take my position as a real-estate agent for over 40 years very seriously, and will continue to serve my community with utmost respect and professionalism it deserves.

SENATOR SKOUFIS: Thank you very much.

I know that we've been -- I think we've been joined by Ms. Marando.

I see you there.

Thanks for getting onto this Zoom.

If I may, before we move on, we swore each of

the rest of the witnesses under oath.

If you can please raise your right hand for me.

Do you solemnly swear that you will tell the truth, and nothing but the truth, so help you God?

ROSEMARIE MARANDO: Yes.

SENATOR SKOUFIS: Thank you very much.

I will now move to Mr. Hubbard.

CHRISTOPHER HUBBARD: Yes.

SENATOR SKOUFIS: Do you have any opening remarks?

CHRISTOPHER HUBBARD: I do.

I just want to thank everyone for being here today, and for holding this hearing in order to address what is a very serious topic.

I am here in my capacity as a broker, to do my best answer your questions regarding the "Newsday" article, and my profession more generally.

As it's already been a long day I think for, you know, many of us, and there is a lot more to go, so I do want to be brief.

I do want to take a moment to address the allegations in the "Newsday" article.

First, I do note, and I want to note, that I share my concerns raised by my colleagues

regarding the methodology "Newsday" used in conducting its investigation.

For example, "Newsday" admits that, while it obtained expert opinions, those experts' opinions were based only on portions of broker interactions with testers.

We do not know specifically which clips "Newsday" shared with these experts.

Additionally, the investigation was imprecise.

"Newsday" drew conclusions from only two testers in interactions with me, the smallest possible sample size.

Each tester provided a different background that influenced the recommendations I provided.

Leaving aside the serious concerns I have over "Newsday's" methodology, I do want to address the allegations against me.

I categorically deny engaging in any evidence of steering, and note that, in my 17-plus years of work in this field, I have never treated clients differently based on race, gender, ethnicity, sexual orientation, or any other such characteristic.

First, you know, in my circumstances, "Newsday" alleges I have inconsistent statements

regarding the quality of certain neighborhoods to each tester.

You know, I believe, based on my review of the conversations with the testers, it shows that my description of the neighborhoods were consistent to both testers in those conversations in those consultations.

Similarly, "Newsday" alleges that I provided inconsistent properties to the testers.

But, again, within review of my case, that is not true neither.

I am here to, you know, help in this serious circumstance and review.

So whatever questions you have, I am here to, you know, provide whatever information I can.

And I do just want to make a note that each office -- each RE/MAX office is independently owned and operated.

And, you know, I'm not aware of any other agents -- RE/MAX agent or any agent's circumstances or their specific circumstances with the "Newsday" article.

SENATOR SKOUFIS: Thank you for those remarks.

Ms. Marando, do you have any opening

statement?

ROSEMARIE MARANDO: Good day, Senators.

My name is Rosemarie Marando, and I am a real-estate salesperson with Coldwell Banker Realty.

I'm here today because you have asked me to testify in relation with the November 2019 "Newsday" report.

Let me start by telling you a little bit about myself.

I've been working as a real-estate salesperson for over nine years.

I am a single mother, and my children have all attended schools on Long Island.

I absolutely love my job, which has helped me financially support my family.

I've been humbled and blessed to assist many families make Long Island their home.

I am also a Christian woman, and I respect all people. I believe that we are all created in God's likeness and image, and we have all been created for his purpose and plan.

These last few months have been for me the most difficult of my life.

The "Newsday" report inaccurately and unfairly accused me of providing unequal treatment

to undercover testers sent to me in 2016.

As a result of these allegations and publication of my personal information, I've been threatened, ostracized, and harassed.

My reputation in the community, and professionally, has been destroyed.

In addition to the industry-wide damage caused by the COVID pandemic, my health and my career have been significantly damaged as a result of my cooperation with multiple agencies.

To be clear, I have never had a single complaint filed against me from any client, or previous client, in my entire career.

I have been compliant with all continuing-education requirements.

You have seen the content selected by "Newsday" for publication, so I would like to take an opportunity to provide additional information that "Newsday" omitted or that you may not be aware of.

For example, despite the "Newsday" report making me the focus of an article titled "They Call It Steering," "Newsday" dedicated a single sentence to truth, which read, "She gave both testers comparable listings in similar areas, showing no

evidence of steering."

The fact that I provided Mr. Tune [ph.] information for a listing around the corner from my home, and toward properties in my neighborhood, and also the fact that I needed to stop all communications with Mr. Samuels after he left me aggressive messages.

I was first contacted by Mr. Samuels in May of 2016.

Mr. Samuels told me that he would meet me at my office, with his wife. But he showed up alone for our appointment, as reflected in the report.

My meeting with Mr. Samuels lasted only 26 minutes, during which time he told me that he was looking for a house for him, his wife, and their son within 30 minutes of [indiscernible] Hospital where his wife worked, with a budget of 500,000.

I provided information about the areas requested by Mr. Samuel, who also expressed a concern about living near college students, especially considering the proximity to the local university.

Because of his concern about the neighborhood, I suggested that he visit areas at different various times of the day, and that he

speak with residents and get a feel for the community and the quality of the schools.

What "Newsday" does not reflect is that, when Mr. Samuels arrived for his second visit, he did so without his wife again.

I initially followed up with him, but stopped corresponding with him when I began to feel very uncomfortable.

Specifically, Mr. Samuels became aggressive, leaving me aggressive messages, at which point I stopped all communications with him.

In October of 2016, a total of 139 days after the meeting with Mr. Samuels, I met the second tester sent by "Newsday," Mr. Tune. And he told me he was looking for a home within 30 minutes of a rehabilitation center in Edgewater where his mother was living.

As reflected in the video, Mr. Tune spent an hour and thirteen minutes in my office.

Similar to my initial discussion with Mr. Samuels, I provided extensive information about the home-buying process, and provided a referral for a mortgage broker.

SENATOR SKOUFIS: Ms. Marando, if you can just wrap up in the next 20 seconds or so, your time

is up.

ROSEMARIE MARANDO: Okay.

I fully understand why the comments [indiscernible] by "Newsday" report video clips may be hurtful to some.

I understand that a home is the largest purchase most people will ever make in their lives.

And my goal has always been to ensure every client is ultimately happy with their purchase; that I have been able to make a living in the industry.

And my prior clients have been very satisfied with my level of service that I have provided, and, therefore, have referred me to their family and their friends.

Thank you for taking time to listen to a snapshot of my story.

SENATOR SKOUFIS: Thank you very much for your participation and your testimony.

I'll get started with questions, and I'll begin with Mr. Eldridge, if I may.

I just want to confirm, based on your written testimony, it appears that, in the aftermath of "Newsday's" investigation, there has -- there has been no disciplinary proceedings within your brokerage. Is that correct?

ALLAN R. ELDRIDGE: That is correct.

SENATOR SKOUFIS: Okay.

Can you explain to me, how long have you been a broker?

Why don't I start there, how many years?

ALLAN R. ELDRIDGE: Approximately 15 years.

SENATOR SKOUFIS: 15 years.

In your 15 years, have you had to -- or, have you fired anybody, not related to sales and sales numbers, but have you fired anybody for violations of the law, or unscrupulous behavior?

ALLAN R. ELDRIDGE: Yes, I have.

SENATOR SKOUFIS: You have?

Okay.

So if I may ask our folks in the back end here, if you can please play the clip associated with Joy Tuxson. I would like to play that, and then follow up with a question or two.

(Video clip playing, and transcribed as follows:)

AGENT JOY TUXSON: Oh, do you really want your future children going to Amityville School District?

Again, I'm not allowed to steer you.

But you go on -- and I'm not going to send

you anything in Wyandanch, unless you don't want to start your car to buy crack. Unless you just want to walk up the street.

Wow.

(End of video clip and corresponding transcription.)

SENATOR SKOUFIS: So, Mr. Eldridge, you commented that you felt that Ms. Tuxson, I think your words were, "mostly acted with professionalism."

I think anyone who is objective and looking at, or listening to, that clip, where Ms. Tuxson, you know, is quoted as saying, you know, basically, "stay away from Wyandanch, unless you want [sic] to start your car to buy your crack."

What would she have had to have said in addition to that for it to have crossed the line for you?

Would she have had to explicitly say, well, you're White. So unless you want [sic] to start your car to buy your crack, you should stay away from there?

What else would she have had to have said for you to have taken disciplinary action?

ALLAN R. ELDRIDGE: Well, Senator, first, you

have taken a 30-second clip out of a 45-minute discussion.

And if you were listening, or if you showed the entire piece, you would have understood that there was some background regarding the discussion with the individual that Joy Tuxson was talking to, and there was concerns about crime.

In fact, "Newsday" itself had had articles appearing at that time all over the front page about issues in Wyandanch.

So I think that was the crux of the comment.

SENATOR SKOUFIS: Uh-huh.

So -- so you don't have any issue with what was -- what we just heard?

ALLAN R. ELDRIDGE: If you take it out of context the way you said it, and that was the end of it, yes, I would have.

But, again, I think when you take it into the -- you know, the entire discussion that was had, and I -- and, again, if you looked at the -- if you listen to the additional 45-plus minutes of the discussion, in general, I had -- I didn't have a problem that rose to the level of where I would take action in -- in -- in -- with Ms. Tuxson.

So that's why -- that was the reason for my

comments before.

SENATOR SKOUFIS: So crime came up in a conversation, and then that comment was made.

Quite frankly, even with that context, that sort of messaging is abhorrent, I think most people would agree, and, no doubt, is steering that White tester in a way, that the message was not relayed to the minority tester.

Is that -- am I characterizing that unfairly somehow?

ALLAN R. ELDRIDGE: No, again, I think if you -- if you take -- if you take the, you know, 30 or 40 seconds that you played out of context, it certainly appears that way.

SENATOR SKOUFIS: Do you believe that comment, even with your context, is appropriate?

Or -- or -- I mean, that is an abhorrent statement.

And, quite frankly, I think most people would agree, a violation of fair-housing laws.

Do you disagree that that is a wildly inappropriate comment?

ALLAN R. ELDRIDGE: Again, based upon the 30 or 40 seconds, I do.

SENATOR SKOUFIS: That is astonishing to me.

My time is up.

I'll move over to Senator Kavanaugh.

SENATOR KAVANAGH: Great. Thank you, Senator Skoufis.

I'd like to note that we've been joined by Senator Rivera.

And I don't know if we mentioned Senator Comrie already, but he's also joined us.

So, Mr. Eldridge, you mentioned in your opening remarks that it was important to you that Ms. Tuxson did not intend to discriminate or steer.

Do you believe intent is required for conduct to be discriminatory?

ALLAN R. ELDRIDGE: I'm sorry.

Senator, could you repeat the last part of your question?

SENATOR KAVANAGH: Do you believe that it is necess -- that intent is required for conduct to be discriminatory?

ALLAN R. ELDRIDGE: Under the law, no. Absolutely [simultaneous talking] --

SENATOR KAVANAGH: So your -- under your view of -- your use of the word "discriminatory?"

ALLAN R. ELDRIDGE: No.

SENATOR KAVANAGH: Okay.

And, presumably, just to follow up, you also believe that intent to discriminate is not required to demonstrate a violation of the fair-housing laws?

ALLAN R. ELDRIDGE: That's correct.

SENATOR KAVANAGH: Okay.

I want to -- I want to ask Ms. Tuxson, what is your understanding of what it means to, quote, steer a potential homebuyer?

JOY TUXSON: I don't steer, so I -- to tell them where they should live?

Would that be --

SENATOR KAVANAGH: Okay.

So -- so you think if you are telling somebody where they should go, if you're encouraging them to live in one neighborhood, if you're discouraging them from living in a certain neighborhood, is that what you consider "steering"?

JOY TUXSON: Yes.

SENATOR KAVANAGH: Okay.

And in your understanding, that's not legal?

JOY TUXSON: Yes.

SENATOR KAVANAGH: Okay.

So the comment that Mr. Skoufis -- that Senator Skoufis showed you, what do you think the effect is of telling somebody that, in a given

community, if you live there, you can buy crack within walking distance?

JOY TUXSON: What do I think, what?

SENATOR KAVANAGH: What do you think the effect is on that -- on that potential homebuyer's interest in living in that community?

JOY TUXSON: You're talking about the comment that I made to the White tester?

SENATOR KAVANAGH: Yes, saying that, "if you live in that community, you won't need to start your car to buy crack."

JOY TUXSON: The White tester told me that her and her husband both lived in apartments in Queens. They lived in an apartment in Queens. They both grew up in apartments in this city.

They had no knowledge whatsoever of Long Island. They didn't know any of the towns. They had no relatives who lived on Long Island. They had no friends who lived on Long Island.

The woman was very concerned, and nervous, about that fact.

And, at the time, that particular year, and in that time frame, "Newsday" had on the front page about drug busts, about crack busts. There was a lot of crime, a lot of drugs, and it was continually

in the news.

And I assumed that she was concerned with that, and that was her distress.

SENATOR KAVANAGH: Okay.

And you think that's a sort of accurate measured way of describing the situation, that you can -- you know, one thing you can be sure of, living there, is that you'll be able to buy crack within walking distance?

JOY TUXSON: According to "Newsday," yes.

SENATOR KAVANAGH: Okay. And I assume "Newsday" didn't quite characterize it that way.

Do you think that providing that information to White homebuyers should be of concern if we're concern -- to us if you're -- if we're concerned about enforcing fair-housing laws?

JOY TUXSON: The words I used were unfortunate. I shouldn't have said what I said.

I've since taken a course that -- the board of realtors -- I belong to the Multiple Listing.

And their instructors had taught, previously, that anything affected the price of a house, you could -- you can talk about.

Since then, I took this course with Sharon Mullen. She was very clear. She works with

Long Island Housing.

I know now I'm only allowed to speak about the house.

SENATOR KAVANAGH: Okay.

And you -- but -- and you think -- so you think the effect of this comments, and your intent, was to discourage them from living in that area?

JOY TUXSON: No. Absolutely not.

SENATOR KAVANAGH: What was your intent if not to discourage them from living in that area?

JOY TUXSON: I'm sorry, what was the question?

SENATOR KAVANAGH: What was your intent of saying -- of pointing out the availability of crack, if it was not --

JOY TUXSON: [Simultaneous talking] --

SENATOR KAVANAGH: -- to discourage them from living there?

JOY TUXSON: To calm her down.

And I wasn't -- I was going to find her a home.

People hire me to sell their homes or to find them a home, and that's what I do. And they have to feel comfortable with me.

SENATOR KAVANAGH: Okay, and, again, your --

but your intent, when you said that "you can buy crack within walking distance," you're telling us today that that was not -- you didn't think that would either encourage or discourage them from living there?

That was just a -- you know, a fact, sort of like, you know, it's a sunny day, or the houses are blue?

JOY TUXSON: What I did was, the -- she -- she asked for houses in Bethpage -- within 30 miles of Bethpage.

I sent her houses in Bethpage.

The two testers, the one White and the one Asian, I sent one 6 houses, one 7 houses.

When we went into "Newsday" to first review the tapes before the article was published, Mr. Herbert turned the laptop around and he showed us a map interlacing the homes that I sent.

They were all in Bethpage, which both buyers had asked for.

One of the houses was the same house.

SENATOR KAVANAGH: Okay.

Just, my time is up.

I'm [indiscernible] -- I'll just say, like, it seems perplexing to say that those words are

unfortunately chosen, but that, somehow their intent was not to discourage the person to whom you were saying them from -- from considering living in that community.

But I'll yield my time.

SENATOR SKOUFIS: Okay.

Thank you, Senator Kavanaugh.

I know that -- oh, Senator Thomas, you are back.

Do you have any questions?

SENATOR THOMAS: I just have a few for Mr. Eldridge.

There seems to be a deep misunderstanding, not only on the part of the agents, but among brokers too, that fair-housing laws don't apply if the agent did not intend to discriminate.

Where do you think this "intent" standard originated?

ALLAN R. ELDRIDGE: Well, I think, first of all, that the past training that we've had in this area is -- is woefully inadequate.

I mean, we have to take three -- I think it's three hours of fair housing every two years.

I've had agents, you know, 10 years, they take the same course every 2 years. So, I mean,

they've had 15 hours of fair housing, but they've heard the same over and over and over, and it goes back to citing, you know, when the first law was enacted back in 1867. And the next law was enacted in 1879, and then 1912, rather than really getting into the crux of the issues.

And I -- you know, after this came out, I went back to the National Association of Realtors, and looked in, and pulled out videos that you were able to, you know, provide to brokers so that they could -- and you had actors, you know, and these actors would portray a scenario where discrimination was occurring.

And the agents in my office, seeing this all of a sudden -- and -- and -- and it's, you know, the nuances of it, all of a sudden, they got a -- you know, you get a new understanding.

And so, for me, that was very enlightening.

And I think that helps to overcome this specific issue where, you know, as you said, you know --

SENATOR THOMAS: So you're trying to correct the problem, basically?

ALLAN R. ELDRIDGE: -- oh, absolutely.

SENATOR THOMAS: Okay.

Let me go to the next question, then.

Ms. Tuxson stated today that she obtained the statistic on drug prevalence from "Newsday".

Mr. Hubbard got live -- liveability statistics from areabuy.com.

Does RE/MAX, dot, encourage its agents to get crime or school statistics from legitimate government sources?

Why are agents using these unreliable or potentially biased sources as a basis for their information?

ALLAN R. ELDRIDGE: I can't -- I can't comment on Mr. Hubbard because he's -- you know, he's in a different office. So I'm not sure what he was doing.

But I can tell you what we do is, we encourage agents to tell their clients, their customers/the consumer, to go out and do their own research.

We really don't want them going to a specific site.

"Newsday" used to provide sites.

I mean, there's so many different places you can go to to find information.

And the problem you have is -- you know, is

if you point out one, and they're wrong, then you're wrong.

So what we do is, we go out in those instances and say, there's plenty of information on the web. There's plenty of places you can go and find information. Do your own research.

SENATOR THOMAS: But, again, what we saw on video just recently showed that an agent was giving information rather than telling a customer to do their own research.

What do you have to say about that?

JOY TUXSON: I think that's wrong.

I think you should be encouraging agents to tell their customers to go out and do their own research.

SENATOR THOMAS: Okay.

All right. I don't have any more questions.

SENATOR SKOUFIS: Okay.

Thank you, Senator Thomas.

I'll -- I'll take a moment, if I may, to follow up with Ms. Tuxson.

Have you ever made a comment like the one we heard in that clip before, or is that the only time you ever made a comment like that, that can very easily, to 99 percent of people, be construed as,

you know, very negative and broad-brush towards an entire community, derogatory towards an entire community?

Is that -- have you ever made that kind of a comment before?

JOY TUXSON: It was a very flippant comment that I shouldn't have made. And, yes, I probably have. And it was not directed at a community.

It clearly states in the article that I informed both buyers that they should do their own research.

I told them, I'm not allowed to steer, and that they need to do their own research and tell me what they want.

SENATOR SKOUFIS: Okay.

Thank you.

Now, you've talked about, and Mr. Eldridge has talked about, additional training that you've received since this all came to light.

Do you think, if you can sort of step outside of your shoes for a moment, and look at what's going on from the outside, do you think that you'd -- you know, objectively speaking, that you would have learned a lesson from this new training without this "Newsday" exposé and this video have -- you know,

having come out?

Or, you know, is this a matter of, like, you know, having -- I hate to phrase it this way -- having gotten caught, and now being very much aware of it, and I, you know, can't be caught doing that again?

Or do you think this training actually -- if it's someone else, someone who wasn't caught by "Newsday" in your brokerage, Mr. Eldridge, different agent, who wasn't caught, but was doing -- you know, making similar, quote/unquote, flippant remarks, do you think this new training is actually getting them to stop?

JOY TUXSON: I think as, Mr. Eldridge stated, we were being taught by Multiple Listing.

After this -- I can't really answer that question.

After this article came out, Multiple Listing fired the instructors, they fired the two attorneys, and they brought in this new woman and other people who are teaching us differently.

So, I don't know.

SENATOR SKOUFIS: So I guess, Mr. Eldridge, do you have a very high level of confidence that this new training is going to ensure that this --

these types of comments are not made, moving forward?

ALLAN R. ELDRIDGE: I can't -- I can't give you a definitive answer.

I think it will definitely help.

I think changing the training, again, to -- to -- you know, to promote real situations, as opposed to historical, what happened when, I think will help significantly.

You know, when you -- when you look at something, and you can -- as I said, if you're looking at a video and you can see something happening before your eyes, even though it may be, you know, a performance, it still makes you, I think, significantly more aware of what can happen, or what has happened, as opposed to the way our training had been prepared in the past.

So, yes, I do think it will help.

SENATOR SKOUFIS: Okay.

Do you think we need more testing in the industry?

ALLAN R. ELDRIDGE: I think it's -- it's -- absolutely.

I mean, everyone, you know, if you didn't have traffic lights, you didn't have people giving

tickets for traffic lights, we'd all be going through traffic lights.

So I think there should be more testing.

SENATOR SKOUFIS: Is there anything that you can do, do you think, as a broker?

Now, you know, it's been mentioned, not just on this panel, but many of the previous panels today, that, you know, people claiming, well, I've never had a complaint lodged against me, so, you know, this is an outrageous allegation.

I mentioned previously, you know, it's -- it's incredibly difficult, if not impossible, for someone to know to lodge a complaint for being treated inappropriately or inconsistently because they don't know how other people were treated by that agent.

You have to know that someone else was treated better, or know that someone else was treated consistently, to realize, oh, I was mistreated, I was treated inconsistently.

And, of course, people have no idea how the next guy was treated by the agent, so of course they don't know to file a complaint.

What more can you do?

So testing, I think, is really crucial here.

But what more can you do as a broker to ensure that -- you know, knowing that complaints only materialize if you have some magic ball and know how others are treated, what more can you do as a broker to ensure that your agents are not behaving like what we're talking about?

ALLAN R. ELDRIDGE: I think you have to continuously bring it to their attention.

It's not something, you know, we -- we talk about it once and then you forget about it.

You have to talk about it.

As I said, I hold monthly meetings.

So, you know, every time you have a meeting, it should come up and there should be a discussion.

You know, if my agents aren't at a meeting, when I send them information, I have them sign off that they've read this and they understand it, and they e-mail it back to me.

So I want to make certain that I cover everyone in the office.

But I think you have to do it continuously, that's all.

SENATOR SKOUFIS: Okay.

Just one last question, yes or no: Have you ever fired someone over your 15 years as a broker

for violating fair-housing laws?

ALLAN R. ELDRIDGE: No.

SENATOR SKOUFIS: Okay.

Thank you.

Senator Kavanaugh?

SENATOR KAVANAGH: Am I up, Senator Skoufis?

SENATOR SKOUFIS: Yes, yes.

SENATOR KAVANAGH: Okay. Great.

Thank you very much.

So, Ms. Marando, I do have a couple of questions for you.

You met, during the course of the investigation, with a White homebuyer and a Black homebuyer, both of whom were looking for a house within 30 minutes of Port Jefferson, for up to $500,000.

We're going to show a clip.

Here is what you said to the White homebuyer.

Can we roll that clip?

(Video clip playing, and transcribed as follows:)

AGENT ROSEMARIE MARANDO: [Indiscernible.]

It's okay. I just -- I -- you know, you may -- you don't really know certain areas --

THE TESTER: Uh-huh.

AGENT ROSEMARIE MARANDO: -- what you're going to get next to.

THE TESTER: Right.

AGENT ROSEMARIE MARANDO: That's the problem.

And there's pockets, Port Jeff, too, you know, down by the train, like, in the area there.

What I say is, always to women, "Follow the school bus."

You know, that's what I would say:

Follow the school bus. See the moms that are hanging out on the corners.

Wherever you're going to buy diapers, you know, during the day, go at 10:00 at night, and you see if you like [indiscernible].

And, really, that's the way to really take a look [indiscernible].

I tell women this all the time.

THE TESTER: Right, right.

AGENT ROSEMARIE MARANDO: There was one fella who would -- like, insisted on this house. And the wife was pregnant, had a little one.

I said to him: I can't say anything, but I encourage you, I want you to go there at 10:00 at night, with your wife, to buy diapers. Go to that 7/11.

They didn't buy there. You know?

THE TESTER: No, that's great.

AGENT JOY TUXSON: I have to say it without saying it. You know, you have the knowledge of the areas, you know.

THE TESTER: Yes.

AGENT ROSEMARIE MARANDO: And, look, I care for families. I'm a family person.

THE TESTER: Right.

AGENT ROSEMARIE MARANDO: I care for my children.

And, you know, when you're putting them in other people's care, like, take first-time homebuyers out all the time.

I don't want to use the word "steer," but I try to [indiscernible] [simultaneous talking] --

THE TESTER: No, no, listen, absolutely. That's --

AGENT ROSEMARIE MARANDO: -- in the areas.

SENATOR KAVANAGH: Thank you.

So, Ms. Marando, let me begin by asking you: What did you specifically think that the White homebuyer and his partner would observe about the mothers who are waiting for the school bus, that would be relevant to their choice of housing?

ROSEMARIE MARANDO: Well, they were transitioning here to Long Island. And seeing moms at the school bus are just a great resource of information.

SENATOR KAVANAGH: Okay.

And you -- so you were -- but you said they should follow the school bus and look at the moms.

You're suggesting that, the idea --

ROSEMARIE MARANDO: No, I didn't say "look at the moms."

I said "see the moms."

SENATOR KAVANAGH: Right, [simultaneous talking] --

ROSEMARIE MARANDO: And [simultaneous talking] --

SENATOR KAVANAGH: -- you can see them as they follow the school bus.

What was it that they were supposed to see?

ROSEMARIE MARANDO: Well, "following the school bus" was just referencing that they would get to know the route, and how long that the son would be on the bus, because I believe he was coming out with the son.

And if you're following the school bus, you will get a better idea of how long the children will

be on the bus, how many stops to the bus -- to the school.

SENATOR KAVANAGH: Why would you -- why would you -- why would you look at the moms along the way?

ROSEMARIE MARANDO: I didn't say -- I said: See the moms hanging out in the corners. You can get out and talk to them, because they're a great resource.

SENATOR KAVANAGH: I think you said you'd see who is hanging out at 10:00.

I think you said that they should follow -- we can run it again if you want, but I think you said, they should follow the school bus and look at the moms along the route.

Again, it's hard to -- it's hard to hear that any other way than, there may be some kinds of people that you can observe that are the kind of people you want to live with, and other kinds of people that you can observe, by passing them by at the school bus stop, that you don't want to live.

ROSEMARIE MARANDO: Absolutely not.

SENATOR KAVANAGH: Okay. Do you see [simultaneous talking] --

ROSEMARIE MARANDO: That's not what I [simultaneous talking] --

SENATOR KAVANAGH: You said you don't want to use the word "steer."

Why didn't you want to use that word?

ROSEMARIE MARANDO: I shouldn't have used that word.

I know that I don't steer my clients, ever.

And he -- we were talking in the context of, he was speaking about the university, or not wanting to live near the college kids.

So that's why I referenced, well, you know, to go down to a local store at 10:30 at night, or wherever you're going to go, and run an errand.

And when you're going at 10:30, 11:00 at night and you're near an university, if it is a college town, and he was specific that that's -- he did not want a college town, well, then maybe that's not where they wanted to live.

SENATOR KAVANAGH: Do you think saying -- do you think saying the word "steer" or not saying the word "steer" is relevant to whether you're violating the law?

ROSEMARIE MARANDO: I should have not used the word "steer."

SENATOR KAVANAGH: Okay, but do you think that -- that's probably correct.

But do you think that -- that whether you use the word or not use the word is relevant to the question of whether you're violating the fair-housing laws?

ROSEMARIE MARANDO: I know I shouldn't have used the word. And I don't think I -- I didn't violate any laws because I was being clear with both my testers that I do not steer.

And I wanted them to understand that.

But if you do have some information, and they're asking you a question about a community, offering the information is not steering.

It's helping a buyer make an informed decision.

SENATOR KAVANAGH: Why -- why did you say -- why did you say you need to "say it without saying it"?

ROSEMARIE MARANDO: I'm sorry, say that again?

SENATOR KAVANAGH: You said in the clip we just watched, that you need to -- "I need to say it without saying it," is what you said.

ROSEMARIE MARANDO: Right, because --

SENATOR KAVANAGH: What does that mean?

ROSEMARIE MARANDO: -- well, buying a house

is, you know, probably the biggest purchase that a buyer is going to make. And I want them to make an informed decision.

I cannot say it. I do not steer.

And perhaps they could use other resources to help them make that decision.

SENATOR KAVANAGH: Isn't "saying it without saying it" a viola -- isn't it a violation of the law if you impart information --

ROSEMARIE MARANDO: I wasn't --

SENATOR KAVANAGH: -- implicitly, if you use coded language, if you -- I mean, that -- "saying it without saying" almost seems like a textbook definition of what we sometimes call "coded language" for certain realities in communities.

ROSEMARIE MARANDO: I did not use any coded language to help make up any composition of any neighborhood. I didn't.

SENATOR KAVANAGH: What did you mean by "saying it without saying it"?

ROSEMARIE MARANDO: I believe I was speaking with, I guess it was Mr. Samuels with that. And I cannot steer, I will not steer.

And I let him know that, I guess, when we were talking about the 7/11, or where he can go make

some errands, and just get a better idea for the community.

SENATOR KAVANAGH: Turning to Mr. Eldridge, as somebody with a leadership position in this firm, do you believe that brokers, quote, saying it without saying, is appropriate? is it legal?

ALLAN R. ELDRIDGE: I'm sorry, Senator?

SENATOR KAVANAGH: Do you believe, as somebody with a leadership position in this organization, that your brokers should be telling potential homebuyers that they need to say it without saying it?

ALLAN R. ELDRIDGE: Well, I'm not part of her organization, Senator.

SENATOR KAVANAGH: Oh, sorry. Forgive me.

Oh, sorry. Our panels have been mostly -- let me ask -- ask you: As leadership -- as a leader --

I forgot Ms. Marando was originally going to be on a different panel.

-- as -- do you -- having just seen that material today, and recognizing that you may not have the full context, and maybe not had an opportunity to speak with Ms. Marando about it previously, but do you believe that a broker

mentioning that they shouldn't steer people, and saying that out loud, that "I can't say 'steer,' and I don't like to use that word," does that -- is that a practice that you think is appropriate?

ALLAN R. ELDRIDGE: Senator, it's a hard question for me to answer without having any background.

I mean, I wouldn't say to someone, that I can't say -- I can't talk to you about this because it's steering, but I'm going to talk to you anyway.

So I'm not certain her circumstances, so it's a tough question to answer for me.

SENATOR KAVANAGH: Okay.

Again, I'm -- my time's up.

ALLAN R. ELDRIDGE: [Indiscernible] is, I wouldn't steer anyone.

And if your talk -- if you're talking about steering, you're doing steering, no, you shouldn't be doing that.

SENATOR KAVANAGH: You shouldn't be mentioning steering, and -- and mentioning that you can't do it. That you don't like to call it that, anything you're doing.

Is that a fair statement?

ALLAN R. ELDRIDGE: Again, Senator, I wouldn't go beyond saying, we don't -- I wouldn't talk about steering, and I wouldn't advise my agents to tell people, you know, to talk about steering.

So I don't know her circumstances.

SENATOR KAVANAGH: Okay.

I -- let me just conclude there.

But, again, I think that, if I were in a family, and I were told that one of the things that people should do before they decide whether to move to my community, is follow the school bus and look at the mothers of our families, you know, it's hard -- I think it would be hard to interpret that as anything other than an insult to that community.

But I'll leave it there.

SENATOR SKOUFIS: Thank you, Senator Kavanaugh.

I think that concludes our questions.

So I want to thank each of you on the panel for coming and participating, and answering our questions in a forthright manner.

I appreciate it, and wish you all a good rest of the day.

ALLAN R. ELDRIDGE: Thank you.

CHRISTOPHER HUBBARD: Thank you.

SENATOR SKOUFIS: Next up, so we will return to Panel 4, which I'm told is now available.

So these are a couple of fair-housing experts that we're looking to hear from, the first of which is Dr. Jacob Farber [sic], and the second of which is Dr. Max Besbris.

DR. MAX BESBRIS: So, Senator, I'm going to be speaking on behalf of both myself and Dr. Faber.

SENATOR SKOUFIS: Okay. Is -- he is joining us, though. I do see him.

Okay, very good.

If I may, just to be consistent, ask each of you to please raise your right hand.

Do you solemnly swear that you will tell the truth, and nothing but the truth, so help you God?

DR. MAX BESBRIS: Yes.

DR. JACOB FABER: (Nods head.)

SENATOR SKOUFIS: Thank you.

Please proceed.

DR. MAX BESBRIS: So I'd like to start by thanking the Andra Stanley of Senator Kavanagh's office, and thank the committee for hearing our testimony, for and addressing such a pressing issue.

So my name Max Besbris. I'm an assistant professor sociology at the University of Wisconsin,

Madison, where I'm affiliated with the Center for Demography and Ecology, and the Center for Financial Security.

For the past 10 years I have studied real-estate agents in New York State.

And in a new book called "Upsold," which was published by the University of Chicago Press, I show that real-estate agents are key for understanding various aspects of urban inequality.

With me today is Dr. Jacob Faber.

Dr. Faber is an associate professor of sociology and public service at NYU, where he is affiliated with the Furman Center for Real Estate and Urban Policy. He is an expert in housing markets and foreclosures, the history and present-day consequences of residential racial segregation, and mortgage redlining.

Together, he and I have conducted multiple studies of discrimination in housing and other consumer markets in New York and across the country.

The findings of "Newsday's" investigation into racial steering by real-estate agents on Long Island are, sadly, not surprising.

Discrimination in housing is a problem across the United States.

Study after study has demonstrated that non-White home-seekers, particularly Black and Latino ones, are at a disadvantage relative to Whites in terms of the quality and the housing made available to them, and the resources of the neighborhoods in which they are shown available house units.

We want to stress that discrimination is not only harmful to the individuals who are unable to access housing as a result of that discrimination, but that discrimination itself in the housing market perpetuates racial inequality and segregation more generally.

By directing home-seekers of color away from White neighborhoods, racial steering helps maintain segregation.

A wide body of research has established the negative effects of segregation. These effects are pernicious and widespread.

Residential segregation leads to adverse health outcomes, lower levels of economic mobility, poorer quality of schools, fewer community institutions, uneven exposure to environmental pollution, higher crime, and lower housing values.

All of these social ills fall

disproportionately on people and communities of color.

We can clearly see the consequences of persistent segregation and inequality in the dramatic impact of the ongoing pandemic that has affected communities of color in New York State and nationwide.

In our own research, we have found that real-estate agents in New York State are less likely to work in Black and Latino neighborhoods.

Many neighborhoods with more real-estate agents experience higher increases in home value over time.

While we found that few real-estate agents outwardly support residential racial segregation, we also found that agents' sole concern about racial steering was getting caught rather than the impacts of their discriminatory behavior.

In other words, agents were worried about enforcement of existing fair-housing laws, and often sought to avoid explicit talk of race with their clients.

However, as we've noticed, they often used coded language about the racial composition of different neighborhoods.

And in our work, as well as in the "Newsday" investigation, reveals that agents continue to steer home-seekers based on their race and ethnicity.

What this indicates, is that agents broadly do not understand or appreciate the full scope of what discrimination is or why it is harmful.

In some ways, this is not surprising.

The topic of fair housing constitutes less than 5 percent of the curriculum of the State-mandated course needed to become a licensed real-estate salesperson.

Moreover, there's very little oversight in how these courses are taught.

When I, for example, sat in on multiple fair-housing courses, precious time was taken by instructors making flippant jokes about discrimination, debating with students about whether or not different ethnic or religious groups constituted racial categories, and what kinds of individuals are more or less racist.

This leads us to suggest that stronger, more robust educational requirements are desperately needed. Not only should a larger portion of the curriculum be dedicated to fair housing, but more education, overall, should be required.

The 75 hours of required classroom time is not onerous compared to other states.

Obtaining a real-estate salesperson license in Texas, for example, requires 180 hours of instruction.

So, the State could require more education on fair housing without burdening those who want to become a listed real-estate salesperson.

But additional education will only work if the content of that education is better regulated.

The State must have higher standards for licensing real-estate instructors, and should do more to ensure that what they teach students is not simply rote memorization.

Moreover, licensees must receive better training about what to do when their clients ask about the racial composition of neighborhoods or express racist preferences.

Simply ignoring race in racism itself perpetuates racially-unequal outcomes.

Because real-estate agents are still central to how we find housing, it seems more than reasonable to expect real-estate agents to know the law, and know why it is harmful when they discriminate.

We, therefore, propose that agents learn not simply to ignore questions of race from clients, but, instead, to confront racism, be transparent with their clients about an agent's responsibilities by abiding by fair-housing laws.

While we believe that efforts to better educate real-estate professionals and the public are essential, we also need additional tools to ensure fair-housing access.

The "Newsday" article was an excellent example of the importance of housing audits for exposure to discrimination.

Dr. Faber and I have conducted similar research, and have shown that this kinds of bias -- these kinds of biases are pervasive.

So, in closing, I'll say:

That the secretary of states' and attorney generals' and governors' offices should conduct regular audits of housing markets across the state to identify and track bias against people of color, as well as other people of protected classes.

Testing can be a valuable and relatively inexpensive tool to identify where discrimination is, more or less, prevalent.

Dr. Faber and I are more than willing to

assist in this effort.

I know my time is up, but the last thing that I'll advocate for is more funding for housing counselors.

Past research has shown that home-seekers who use housing counselors during their search find better-quality housing in less-segregated neighborhoods, and tend to say in their homes for longer.

We want to thank the committee for the invitation to testify, and for beginning to engage in a very serious problem.

SENATOR SKOUFIS: Thank you, Dr. Besbris, and thank you, Dr. Faber, for being here.

I'm going to turn it over to Senator Kevin Thomas.

SENATOR THOMAS: Sorry. I pressed the wrong button.

So got a quick question.

We heard from a number of licensed brokers throughout this hearing today. And, they apparently supervise thousands of sales agents -- right? -- that go around selling the homes and everything.

And they say that they can supervise these individuals, even though they're in the thousands.

What do you have to say about that?

DR. MAX BESBRIS: I would say that I think the oversight that they're referring to tends to be quite lax, if available at all.

I think brokers have a large incentive to have their agents make deals because that's what makes them money.

And I think as long as they're bringing in sales, in my experience and in my research, I don't seem to see a ton of -- let's put it this way: There's a lot of variation in what brokers think oversight is, and how they relate to their real-estate agents that they supervise.

SENATOR THOMAS: Do you believe that there should be a limit on how many agents can work under a specific license?

DR. MAX BESBRIS: It's something that I haven't thought about in terms of policy, but it does seem reasonable to expect that one particular broker can't legitimately supervise more than a certain number of agents, or give them the kinds of advice when they're confronted with problems, whether it's not just in fair housing, but in any kind of aspect of doing the work.

And so, if we expect brokers to have regular

meetings with their agents -- right? -- for their agents to have free lines with communication to their brokers, then, yes, I would say it seems extremely reasonable to put some cap on the number -- right? -- that brokers are able to, technically, supervise if we're seeing that that supervision tends to be pretty weak.

SENATOR THOMAS: Thank you.

Senator Kavanaugh.

SENATOR KAVANAGH: Great.

Thank you very much for your testimony, and for all of your work.

And, you know, as you mentioned, you've been working with Andra Stanley in our office on these issues.

And we appreciate all of your input.

So just to review -- you have very thoughtfully laid out the issues here.

Just to [indiscernible] -- the -- the -- the proposes -- the things that you're proposing that we consider are, additional training, better training, that focuses on the effects of discrimination, a -- making sure that those things are actually mandated and not just sort of optional parts of training.

We had -- we had somebody testify before that

the people that were doing this training on Long Island were fired, at least by one firm. They were through some multiple listing service, and new trainers have come in.

Is there an issue of the quality of -- of -- of trainers?

Are there states that are reviewing that certifying trainers, that sort of thing?

DR. MAX BESBRIS: There's definitely an issue with quality, in my investigation of housing, of real-estate licensing classes. I think the quality of that instruction, overall, tends to be pretty poor.

From my understanding, the requirements to become an instructor for licensing real-estate classes is not particularly onerous.

You simply have to have worked in the industry for a fair amount of time, and take a test on your own.

So this is -- when we're advocating, I think, for more education, this is obviously something that needs to happen at multiple levels. Right? It needs to happen, certainly, for people who are seeking to become licensed real-estate salespeople.

But absolutely what we're advocating for is

more regulation of instruction -- right? -- and how that actually occurs, which includes, I think, probably more information, more education, and stricter standards for people who are seeking to become instructors in licensing real-estate schools.

DR. JACOB FABER: Let me add one quick addition to that.

It was -- one of the things that was made dramatically clear by the testimony from earlier, real-estate agents, he just -- and Max mentioned this in our opening statement, is just a complete misunderstanding of what discrimination is, and how it works.

You know, being a person of color or having people of color, your friends, circle, or family, or your office, doesn't preclude you from acting in discriminatory ways, nor does what -- you know, what's in your heart, which is something that I heard come up over and over again in the -- in the testimony.

But intent is irrelevant if the patterns of behavior --

SENATOR KAVANAGH: And not to --

DR. JACOB FABER: -- are what [simultaneous talking] --

SENATOR KAVANAGH: -- not to put too fine a point on it, but we made that point a few times, that the law certainly doesn't talk about what's in your heart or intent.

But there -- there is research that demonstrates that people can be engaging in discriminatory behavior without a conscious animus towards any of the people they're dealing with?

DR. JACOB FABER: Absolutely.

There's a very, very large literature on what's generally called "implicit bias."

That, you know, there's a lot of cognitive processing that all of us are doing all the time, and much of it we're not aware of.

And so even people acting in the best intent can still carry around these biases around race, gender, and other protected classes.

And there's numerous studies connecting these measurements of implicit bias with mistreatment of people of color.

SENATOR KAVANAGH: You mentioned that -- and I thought this was really important -- this notion that brokers need to know from the training not just, sort of, how to -- like, what the law says, and how to avoid being found to have violated it,

but the effects of discriminatory behavior.

Can you talk a little bit more about -- you know, for our -- for our purpose, and for everybody who is watching, can you talk a little bit more about why housing discrimination is so problematic?

DR. MAX BESBRIS: Jacob, do you want to go ahead?

DR. JACOB FABER: Why don't you go.

DR. MAX BESBRIS: So to the first part of your question, Senator, I think the issue about what the content of the classes needs to entail and include, is that, you know, these classes basically say, this is what "discrimination" is: It's treating people differently based on their race or their gender, or whatever category.

Don't do it.

Right?

And you should remember, here's the date of the passage of the Fair Housing Act.

Here's the list of categories that you can't discriminate against.

That's obviously all information we want real-estate agents, I think, to know on some level.

But without, I think, a firm understanding of why discrimination is harmful to communities --

right? -- then there's not a lot of incentive, really, for real-estate agents to think deeply about what their actions do.

Right?

And so there's a lot of research showing that, in communities across the United States, real-estate agents are very quick to categorize people based on their race and match them to particular neighborhoods.

Right?

And like I said in my comments, the reason that segregation -- that discrimination, inclusive segregation, is so harmful is these myriad effects that it has, not just on the people who get the, you know, one housing -- one housing unit versus another, but on the effects of the community.

And so I definitely believe that if real-estate agents had more training about why segregation is harmful -- what segregation is, why it's harmful, I think, hopefully -- right? -- they would at least be thinking a little more deeply about what the consequences of their own actions are, because I think, real-estate agents, they have these incentives to close deals.

Right?

They're doing this because it's their economic imperative, to some extent, and they're doing it in quick ways -- right? -- and it's easy to categorize people, it's easy to categorize neighborhoods.

Right?

But trying to get at those implicit biases that Dr. Faber was just talking about, we can do that in classes.

Right?

We can provide them with very -- you know, not a ton more information, just a little bit, and it might allow them to reflect, somewhat -- right? -- on what their actions are and the consequences of them.

SENATOR KAVANAGH: Okay. My time is up.

I may have a few more questions if there's more -- but I want to turn it back over to the chair first.

SENATOR SKOUFIS: Thank you.

I'll go to Senator Krueger.

You need to unmute yourself and turn on your video, Senator.

SENATOR KRUGER: Am I here now?

SENATOR SKOUFIS: Your voice is here.

SENATOR KAVANAGH: We can hear you, but do not see you.

SENATOR KAPLAN: Okay. I'm trying to get the audio -- the video on also.

Here we go.

SENATOR SKOUFIS: There you go.

SENATOR KAPLAN: Thank you.

I want to thank the chairs of this committee and the staff work that went into this hearing today.

I have actually been listening all day.

And I pretty much heard every single real-estate agent we had, and their bosses, tell us that "Newsday" must have been completely wrong, everything that "Newsday" wrote up was wrong, they've now all been retrained, and yet they still can't actually explain the definitions of what it would be to be steering people or discriminating.

So I wanted to ask you two experts, did you read the "Newsday" results?

Do you think it was all made up?

Or don't you think, as I do, that this is all true?

Do either -- either of you read the "Newsday" --

DR. MAX BESBRIS: Yes.

SENATOR KAPLAN: -- exposé?

DR. JACOB FABER: Yes.

And I was actually in communication with the reporters who were doing it, because I was in the middle of a similar study of discrimination in the housing market myself.

And, you know, the findings that they came to, as Dr. Besbris said earlier, are no surprise.

You know, virtually, every study of this type shows discrimination against people of color in the housing market.

And the evidence that they -- that they provided, and that was shown in clips today during this hearing, were incredibly damning, I think.

And I, with you, was kind of amazed and appalled at the same time about the numerous efforts to avoid naming or describing a certain behavior, while also claiming that they don't participate in it.

And how could you know whether or not you're doing something you don't know how to define.

So, you know, the ability of each of these agencies to police and educate themselves just is wholly inadequate.

SENATOR KAPLAN: And that's exactly what I also wanted to say.

I think the system we have clearly is fully and completely inadequate, and that these agencies should not be doing or developing their own training materials and testing their own people, because I just don't think they're prepared to even admit there's an issue out there for them.

I'm also very curious whether you have seen -- you're both professors from different parts of the country, and who are, you know, really expert in this.

What models have you seen that have been effective in turning around the industry in any part of this country?

Because I think, as the Senate Democrats, and Republicans who might be joining us on this hearing, we want to make sure we come up with a model that's actually going to get at the problem and solve it, rather than have another hearing in five years and learn nothing has gotten better.

So, would you recommend a specific path for us to get there, either through regulation, through statute, or even through a specific curriculum that might be required of real-estate agents and brokers

in our state?

DR. MAX BESBRIS: So I think one thing that Dr. Faber and I are -- are -- certainly would advocate for, like he mentioned, is more testing -- right? -- more testing across the state in communities -- right? -- because you will see some variation.

I think there are some places where real-estate agents may be more or less prone to discriminatory behavior.

And -- but only through testing would we be able to identify which communities need more or less interaction.

Right?

So testing is certainly one.

And then something I alluded to you at the end of my prepared remarks was that, you're asking, Senator, about interventions that seem to have worked in other parts of the country.

And, unfortunately, there's not a lot of great research about what's to be done, because I think this problem goes beyond simply great training for real-estate agents.

I think that can be better, that can improve -- right? -- the issue. But this is

obviously something systemic -- right? -- about biases in the housing market. Segregation is a longstanding geographic issue, one that is not going to be solved simply by changing real-estate agent behavior.

But one thing that has shown to be somewhat effective is the use of housing counselors and taxpayer dollars for nonprofit groups that advertise integrated, safe places to live that have remained integrated for long periods of time.

So there's one particular community, Oak Park, Illinois, which is a suburb of Chicago, which Chicago is a very segregated place, a very segregated city, a very segregated region.

But this one town has been able to be relatively racially integrated for quite a long period of time.

And there's some research indicating that there's a housing council, nonprofit, that's been set up there for at least the past 30 years.

And one thing that it does, is it advertises Oak Park as a great place to live to home-seekers, but it also provides housing counseling to people moving from other places to Oak Park and within Oak Park.

So providing more information for consumers about where housing is available, this is one thing that the State could do.

Right?

The State could actually mandate that real-estate agents provide more information, whether it's in an online clearinghouse or in other forms of communication, about all available housing to consumers.

Right?

So if the housing market is going to remain a market, one thing that we absolutely want as consumers is to have more access to information.

And, right now, real-estate agents have a great deal of discretion about where they share their information about available listings, with whom they share it with.

One thing that municipalities and the State certainly could do, is mandate that that information gets aggregated to a higher level and is more accessible to broader set of consumers.

SENATOR KAPLAN: That's a very interesting idea.

I lived in Chicago. I remember Oak Park being somewhat different than many of the other

parts of Chicago.

Thank you, both, for testifying today.

Thank you, Mr. Chairs.

SENATOR SKOUFIS: Thank you.

I'll grab the mic here for a question.

One of the many remarkable insights that we've gleaned from today is the simple fact that it seems like no one, no agents, after, I think it's 86 matching tests were conducted by "Newsday," and all of these findings of discrimination, people on videotape, no one was fired.

No one.

And even other, you know, disciplinary action that, you know, maybe stopped short of firing.

No disciplinary action.

Can I get your reaction to that?

Look, you two are experts in this subject.

I am a mere layperson trying to help run a hearing, and look at this issue as a legislator.

Do you think this is -- is this part of a pattern that you've -- you know, in other regions around the country you've looked at, where, these agents, they just walk away from these studies and from these tests without any repercussion?

Your general reaction.

DR. JACOB FABER: So, for me, it was kind of both shocking and not for the reasons that -- many of the reasons that we've talked about already, that this kind of discrimination is pervasive in housing markets across the country, and all kind of markets as well.

But the -- it felt particularly brazen to hear several people testify to committing acts that are plainly illegal, like, talking about schools.

The one real-estate agent saying, I forget the exact, it was something, like, Latinos are taking over this neighborhood, or school district.

You know, plainly illegal activities with, you know, very little remorse and no -- and no discipline.

And this is -- you know, this is a pattern that we see whenever industry is asked to police its own behavior.

DR. MAX BESBRIS: I would add to that, that I think the issue -- right? -- is not that these individual agents haven't been fired.

I mean, the real-estate agent-brokerage relationship is independent contracting. You know, they could very easily, sort of, go to another brokerage.

Right?

It really is incumbent upon the State to do a better job of regulating licensure.

Right?

And so I believe it was Senator Thomas -- right? -- who had the question about brokerage oversight, which I think is certainly part of this.

Right?

And I think some of what you're getting at, Senator, is that these brokers aren't paying any attention, and so why would they care even if their agent is sort of caught, you know, being -- uh -- uh -- steering, breaking the law?

But, ultimately, I think it's really going to be an issue that is incumbent -- it's incumbent upon the State, I think, to do the regulating, because, as Dr. Faber alluded to, whenever you ask an industry to police itself, it's, you know, plainly obvious that they -- they don't -- they never -- they very rarely do a good job of it.

SENATOR SKOUFIS: Understood.

Senator Kavanaugh, do you have anything?

You had follow-ups, I think.

SENATOR KAVANAGH: Just one, and I alluded to this earlier.

But, just for the record today, and for anybody who's watching, and, I mean, this is I guess maybe particularly for Dr. Faber, but, Dr. Besbris, you could also jump in.

The effect of housing discrimination on families who are excluded from particular, who are steered to certain communities, both in the short run and the long run in terms of their wealth accumulation, in terms of their well-being, could you talk a little more about that?

DR. JACOB FABER: Sure.

So, you know, one of the things that social scientists have really provided mounting evidence for, over the past decade or so, is that place matters tremendously.

Where you grow up can have an enormous effect on a whole host of life outcomes: educational opportunity, environmental quality, access to employment, et cetera.

And because where you live matters in all of these arenas, you know, how the housing-search process sorts different people into different types of neighborhoods in a racialized manner carries forward this inequality.

You mentioned the wealth gap, which is

something that is larger today than it was three decades ago, and a great deal of that has to do with the way that residential segregation has not just segregated individuals, but it's segregated the opportunity for wealth accumulation.

And then that wealth accumulation, of course, you know, translates into better schools, intergenerational transfers of status through investments in entrepreneurship and education.

So there's really -- this is a really enormous problem that is, you know, reciprocal in the way that it recreates inequality over time.

And we know, of course, that racial discrimination, which "Newsday" has shown, which Dr. Besbris and I have shown, plays an important role in sorting individuals across neighborhoods.

SENATOR KAVANAGH: We've been talking a lot about overt discrimination here today, because, of course, that was the subject of the investigation.

But, you know, there's been this thing -- ongoing thing in the last couple of years, where the Obama administration had recommitted itself to Affirmatively Furthering Fair Housing.

The Trump Administration has abrogated its commit -- the federal government's commitment to

that.

Is that something that we should be doing?

Obviously, should we be doing it at the national level? should we be doing it at the state level? should we be incorporating obligations for state and local government and other participants in housing markets, to Affirmatively Further Fair Housing?

DR. JACOB FABER: Absolutely.

And I think that, you know, New York State can implement, you know, its own version of AFFH.

And, you know, hopefully, conditional on a successful election this coming November, we can get the Obama rule back in place.

I would say another place -- policy lever here is, is -- you know, and this is not just me the researcher talking here, but, the data collection.

So, you know, the Home Mortgage Disclosure Act requires that every mortgage lender provide data to the federal government on every single application that the lender receives, and basic demographic information about the applicant, and then what happens to the application, whether or not it gets approved, and the price of that loan.

And something like that for the real-estate

industry could also shed tremendous light on discriminatory patterns that, to your point and your question earlier about implicit bias, often happens without intent.

SENATOR KAVANAGH: So you would -- you would require brokers to gather data on the ethnic composition of their clientele on some of the outcomes of -- of their contacts with those folks, and then, on an aggregate level, we could see how different parties are -- are -- are performing?

Is that --

DR. JACOB FABER: Yeah, absolutely.

I mean, we could see that on the aggregate level. You could even see it on the firm level.

You know, one way of addressing this problem is to not, you know, wait for investigative journalism's bombshells, but -- of showing discrimination, because we know every single study that has explored racial discrimination has shown it.

So a way of addressing this proactively could take the form of reversing the roles of providing evidence in the situation.

So assuming, or requiring, real-estate agencies to prove that they don't discriminate,

rather than policing or search -- seeking out and then punishing discrimination.

SENATOR KAVANAGH: Okay. Thank you.

My time is up.

SENATOR SKOUFIS: Thank you very much.

I'm not seeing any other questions.

I think you're free to go.

Thank you very much for coming by, and your testimony.

DR. MAX BESBRIS: Thank you.

DR. JACOB FABER: Thank you.

SENATOR KAVANAGH: Thank you both for all of your work, and for joining us today:

SENATOR SKOUFIS: We are going to now take a 15-minute break.

We are probably a little past lunchtime.

But, for those of us who have been here since the start, we're probably hungry.

I know I am.

So we'll be back at 2:45, to continue.

SENATOR KAVANAGH: Thank you, Senator Skoufis.

(A recess was taken.)

(The hearing resumed.)

SENATOR SKOUFIS: Okay, welcome back.

We are nearing the home stretch here.

We are going to call Panel 7, which is comprised of Akhtar Somekh and Rosalind Resnick from Coldwell Banker.

Okay, we have both of you.

Very good.

I -- who -- I -- I suspect you both have some opening remarks?

Who would like to start?

ROSALIND RESNICK: I'm okay to start.

SENATOR SKOUFIS: Okay.

ROSALIND RESNICK: Good afternoon, Senators.

SENATOR SKOUFIS: Welcome.

ROSALIND RESNICK: My name is Rosalind Resnick. I'm a real-estate salesperson in Great Neck, New York.

I was asked to testify before the committee today in connection with a November 19 "Newsday" report.

My attorney, John Mancebo of Tressler, LLP, is present with me today.

I'd like to start off -- (audio interference).

I would like to start off by telling each of you a little bit about myself.

I was raised on Long Island. I became a real-estate agent in 2015. I've lived in Great Neck for 19 years. I'm able to use my knowledge of the area, as well as Nassau County, Suffolk County, and Queens, sir, to help clients search for their dream home.

I love my job.

SENATOR SKOUFIS: I apologize. My mistake.

I forgot to swear you both in before proceeding.

So if you could both please raise your right hands, and then we can get to your remarks.

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

ROSALIND RESNICK: I do.

AKHTAR SOMEKH: I do.

SENATOR SKOUFIS: Thank you.

Again, I apologize.

Go ahead.

ROSALIND RESNICK: Can I continue?

SENATOR SKOUFIS: Yes, yes.

ROSALIND RESNICK: I love my job. I'm passionate about serving people.

And I do understand the gravity of the decision of -- to purchase a home, and consider it

to be a great honor to be given the opportunity to assist a client in this special process.

10 months since the publication of the "Newsday" reporter has had a significant impact on my life.

The allegations stem from tests conducted by their investigators approximately three years before the publication of the report.

At the time of the tests, I had only been in the industry a little over a year, having switched careers to work in real-estate.

I truly believe my lack of experience at the time the tests were conducted contributed to the issues we are discussing today.

Since the issues raised in the "Newsday" report were brought to my attention, I worked to continuously improve myself professionally and personally.

I have not been the subject of any complaint for any reason, not in the short time before the testing or in the years that followed.

My ability to earn a living and my reputation is at stake.

I'm here in the spirit of cooperation, and because I understand how important these issues are.

In regards to the tests at issue, I was contacted by the first tester on June 3, 2016.

I did not meet the second tester until more than nine months later, March 6, 2017.

Although the testers provided similar information, they added significantly details during their conversations with me that impacted the listings generated for each.

This was further impacted by the difference in available listings in the span of over nine months.

Prior to each meeting, I researched potential home listings in hopes of being as prepared as possible for these potential clients.

It was very early in my real-estate career and I was very eager.

Because each of the testers seemed unfamiliar with Long Island, I provided each with an overview of the North Shore area.

I also physically showed property listings to both of the testers, a fact which is missing from the "Newsday" report.

My hope is that my testimony today provides a fuller picture of my interactions with the testers.

I believe I did provide equal service to both

testers.

However, I would like to apologize to anyone who was offended by some of my comments.

I take great pride in my profession, and I've worked very hard to build a reputation in the real-estate community that people can trust.

Thank you for providing me with this opportunity to speak before you today.

SENATOR SKOUFIS: Thank you very much.

We'll now hear from Ms. Somekh.

And I apologize if I'm mispronouncing your name.

AKHTAR SOMEKH: Good afternoon.

My name is Akhtar Somekh, and I'm a real-estate broker in Coldwell Banker in Great Neck, New York.

I was asked to provide [indiscernible] testimony today about "Newsday" report on housing discrimination on Long Island.

I would first like to provide some background about myself.

As you can tell, probably, English is not my native language. I was born and raised in Iran.

In 1986 I move to United States with my family. I had to leave Iran with my family because

of discrimination and persecution we faced for our religion beliefs.

When we arrived to the United States, my husband, our children, and myself settled in Great Neck, New York.

Sadly, my husband passed away in 1994.

This required me to not only raise my four children by establishing a career as a real-estate salesperson.

All of my children attended in Great Neck public schools.

And from almost 30 years I have had a wonderful career of helping people finding place to call home.

I never received any complaint from any of my clients or prospective clients of any type of discriminations, or any other reason.

And I always completed continued education in real estate.

In November 2019, "Newsday" published their report.

I understand in -- that 2016 "Newsday" sent two undercover testers. I also understand that "Newsday" accused me of treating these two people differently.

This allegation from "Newsday" was very hurtful because I have personally experienced the horrible damage that discrimination can cause, and I would never do that to any another human being.

The "Newsday" report made an unfair interpretation of what happened during my interaction with these testers.

I would like to take this opportunity to tell you about the two undercover testers that "Newsday" sent.

On August 16, 2016, I met with Kelly Marchena [ph.].

She told me she was looking to purchase a home for her, her husband, and her son in North Shore, an area around Great Neck.

She said that she was looking for a place close to water, and her budget was $2 million.

During the meeting with Ms. Marchena, I told her about different villages of Great Neck. Ms. Marchena was able to view properties that day, and I drove Ms. Marchena in my car to see houses.

While in the car, Ms. Marchena asked if all of Great Neck was one school system or different villages.

As I mentioned, I am very familiar with this

school because my four children went to the local schools.

In 2016, when meeting took place, there were changes being made by school to address class size that were confusing, even for residents living in Great Neck.

What was shown in "Newsday" video was my attempt to answer Ms. Marchena question about the complicated optional zones created in that time.

What the short "Newsday" clip does not show, that I was -- that I go on saying that the school in Great Neck, there's no difference between south or north schools, and all the same -- they are the same.

About three months later, Ms. Ponceleon [ph.] contacted me. She told me she wanted to meet about buying a house in North Shore area.

On November 14, 2016, I met with Ms. Ponceleon.

She also she is looking to buy a house close to water, and her budget was $2 million.

I told to Ms. Ponceleon about nine different villages in Great Neck, and searched for listing to show to Ms. Ponceleon that day. But she was not available to do so during that meeting.

Ms. Ponceleon never asked me any questions about school.

It is important that you know that the "Newsday" [indiscernible] report mentioned that there -- we had another scheduled meeting with Ms. Ponceleon a few days later, and I drove her to view some houses.

According to -- [indiscernible] second meeting with Ponceleon was also not published by "Newsday".

I understand why some people may be upset with the way that I tried to describe the confusion changes being made to the school that time.

I hope that additional information provided today can help to better explain what happened that day.

I know in my heart that I am not a person "Newsday" had tried to portray me.

I would never treat anybody like I was treated when I was forced to leave my country because of my religion.

Since the "Newsday" report was published, I worked on my better understanding of English language, the way that I can express myself.

And I'm truly sorry if I ever offended

anybody.

Thank you for listening.

SENATOR SKOUFIS: Thank you for your testimony.

I'll now turn it over to Ms. Resnick.

ROSALIND RESNICK: Well, I'm muted.

Yes, sir.

I already had my --

SENATOR SKOUFIS: Oh, sorry. You already gave your opening statement.

I apologize.

SENATOR KAVANAGH: It's been a long day.

SENATOR SKOUFIS: That's what happens when you go on a break, because we're getting back into it here.

I'm going to turn it over to, actually, Senator Kevin Thomas for some questions.

SENATOR THOMAS: Thank you, Senator Skoufis.

Yeah, it is a very long day.

I just want to first say, thank you to both Ms. Resnick and Ms. Somekh, because you're the only two that apologized for the actions that "Newsday" reported on.

Out of so many agents, so many panels, today, you two are the only ones that said, hey, I have

tried to improve myself, and I also want to apologize for what was found.

So I want to thank both of you for that.

Listen, we all make mistakes.

That's why we are here, to figure out how to better all of this.

Can either one of you tell me what new trainings you received, and the new, you know, supervision that you've both received after all this came out?

ROSALIND RESNICK: Well, can I start?

SENATOR THOMAS: Yeah.

ROSALIND RESNICK: I took a couple of more fair-housing classes to get a better handle.

There is room, I think, for improvement in the training, because maybe we don't really understand the things -- the effects of something that might be said.

I think that needs to be taken into account.

AKHTAR SOMEKH: And, also, [inaudible] office always we are in training. Most every week we have meetings, and at the meetings, always, we have subject to talk about.

And also, for classes, I did extra that, always, I'm updated.

And in month of July, the -- the month -- two months ago, we did another three hours of fair-housing classes.

SENATOR THOMAS: And have either one of you receive -- are either one of you receiving, like, one-on-one supervision from brokers or from, you know, associate brokers, about how to go forward with selling homes from now on?

AKHTAR SOMEKH: Always -- our manager always is very involved. And we have, always, they're available for us to have a one-by-one, face-to-face meetings, and discussing any issues that we have.

And, definitely, I have 30 years' experience in real-estate. And we never can say that we are done and we know it all. We always learn new things.

SENATOR THOMAS: Okay.

How about Ms. Resnick?

I think she just --

ROSALIND RESNICK: Yes, I'm here.

I just -- I need to mention, I think that -- I am now with Douglas Elliman.

SENATOR THOMAS: Okay.

ROSALIND RESNICK: And -- but in both places, an emphasis I feel has been placed on awareness of

the situations and the problems.

SENATOR THOMAS: All right.

Thank you.

SENATOR SKOUFIS: Thank you, Senator Thomas.

Senator Kavanagh, do you have questions?

SENATOR KAVANAGH: I do. Thank you.

So you both have testified that you have become more aware, and you've done additional training.

Do you think that that -- from your experience, is that something that is going on throughout the industry in the various firms that you're familiar with, additional training, and --

ROSALIND RESNICK: I can only speak for the two agencies, and, yes, there's a lot of training.

SENATOR KAVANAGH: Okay.

And -- and -- and, Ms. Resnick, you mentioned that -- I think, that it has been helpful to you, but perhaps not adequately indicating the effects of some of these things?

ROSALIND RESNICK: Well, I think I was referring to the previous trainings over the years, that it was very cut and dried, and I don't think we went deep enough into the effects of not following the guideline.

SENATOR KAVANAGH: I just want to -- I want to get on the record, and you both have been very forthcoming here, and I appreciate that.

I just -- because, you know, we've had different witnesses about different issues today, and I don't think we discussed religion much.

So I just want to -- I -- just for the record here:

Ms. Resnick, you had met with a White homebuyer and a Black prospective homebuyer --

ROSALIND RESNICK: Yes.

SENATOR KAVANAGH: -- and they were similarly situated financially.

And one of the ways you treated them differently, is you discussed the religious makeup of Great Neck with the White homebuyer, but not the Black homebuyer.

And, again, you've said that -- you've expressed, you know, reservations now about the way you handled that.

What was your understanding then about discussing the religious makeup of a community, and what is your understanding now?

ROSALIND RESNICK: I'm not sure I didn't discuss it with both people.

I have never seen the entire three hours, or what -- how many hours it is.

I'm pretty consistent in what I try to tell people.

There was no hidden meaning behind it, if I did not mention it earlier to the first tester, I mean.

SENATOR KAVANAGH: Okay.

[Off-camera voices.]

Even though you don't have access to the entire video, I think "Newsday" asserts that you did not speak about that with the Black homebuyer.

ROSALIND RESNICK: They also didn't -- okay. I'm sorry.

SENATOR KAVANAGH: No, no -- I'm just -- I'm just saying for the record.

I'm not saying the fact that they -- you're making an assertion, they're making an assertion.

I'm just noting that for the record.

I'm not saying --

ROSALIND RESNICK: I understand.

SENATOR KAVANAGH: -- you're wrong, necessarily.

[Indiscernible] the -- based on your understanding now, is it acceptable to talk about

the racial or religious makeup of an area, unsolicited, with the homebuyer?

ROSALIND RESNICK: Absolutely not.

And it's very hard, because people do ask. And now I tell them I can't answer.

SENATOR KAVANAGH: Okay. So [indiscernible] -- is that an important thing in -- to be included in the training, how -- we had some experts testify to this earlier.

But from our perspective, is it important that brokers be trained in how to answer questions like that, if somebody says, you know, What's the race of this community? what -- you know, asks specific questions about their religion?

ROSALIND RESNICK: Yes, we need to be trained better.

SENATOR KAVANAGH: Okay. [Indiscernible] to actually -- to specifically to answer those questions, not just to, you know, try to avoid bringing up topics you're not supposed to bring up?

ROSALIND RESNICK: Correct.

SENATOR KAVANAGH: Okay.

But your understanding now is that, even if you did it in an even-handed way, if you discussed with two homebuyers, even if -- even if you say the

same words to both of them, if you're saying, I would like to note that Great Neck is a community with -- I'm trying the find the exact words here -- but, you know, it's a community with a lot of, you know, Orthodox Jewish people it in, that that's not behavior that is acceptable under the current law [simultaneous talking] --

ROSALIND RESNICK: I understand.

SENATOR KAVANAGH: -- even-handed way.

Okay.

I think I will end there, other than to thank you both for participating today, and for your testimony.

SENATOR SKOUFIS: Very good.

Thank you, Senator Kavanagh.

I'll jump in and ask each of you, if I may:

Putting your situations aside vis-a-vis the "Newsday" investigation, talk to me about what your general sense, on Long Island, in the industry, how often does steering happen?

Do you think, you know, by looking at your colleagues, by just, you know, sort of seeing and hearing, you know, what's going on around you, is it commonplace, would you say? Do you think it's very rare?

What do you think about, again, putting your situations aside, when you read the "Newsday" exposé, what was your take-away for everyone else that was looked at?

I would love to -- to get your insight on -- on those questions and feelings.

ROSALIND RESNICK: I don't think I can comment on all of Long Island.

I feel that, as in any profession, there must be people doing the right things, and some people maybe not doing the right thing.

SENATOR SKOUFIS: Okay.

AKHTAR SOMEKH: For me, that we are individual working. And, usually, when we work with people, it's us -- between us and our customers.

So I don't know about other people behavior, but, in general, I can tell, I was surprised with "Newsday" report because our office, always, we discuss these details.

And we always be -- we've been trained to treat people equally, with respect.

SENATOR SKOUFIS: Okay.

Do you -- now that you've been involved with "Newsday's" efforts, I'm curious what your thoughts are about testing, and whether you think that it is

valuable. Whether you think there should be more of it.

If you can speak to what your thoughts are about -- about that.

AKHTAR SOMEKH: My opinion is that education is the key.

As we get more education and information, we train better, it helps.

SENATOR SKOUFIS: So how do you suggest, though -- so I understand -- training is, I agree, a very important element of all this.

But once the agent leaves the training, what tools do you suggest be employed to make sure that agents aren't violating the law, aren't disregarding what they just learned in the training?

How do you -- if it's not more testing, how do suggest that we ensure that discrimination isn't happening?

AKHTAR SOMEKH: I can just talk about myself.

I just try to be more understanding of feeling of the people and respecting people, in any cases.

SENATOR SKOUFIS: Okay.

Thank you.

Rosalind, do you have anything?

ROSALIND RESNICK: Testing serves a purpose in many areas, not just this, but I think it has to be done in a much more measured way.

SENATOR SKOUFIS: If I can ask, what you mean by that?

ROSALIND RESNICK: Well, I believe the rules for testing are that, they should be on the same day, or within a couple of days.

My case was nine months apart.

SENATOR SKOUFIS: Okay.

That's your primary concern with testing?

ROSALIND RESNICK: No, I'm not a testing expert. I'm sorry.

SENATOR SKOUFIS: Okay.

Yeah, I -- I -- neither am I, for the record.

I was just curious what you had thought in light of everything that's transpired since last year.

I think I am okay with questions.

Do -- I don't see any other hands among colleagues.

I'll just throw it back out and ask if Senator Kavanaugh or Thomas has any follow-up?

You're good?

SENATOR KAVANAGH: No. I think I'm good

again.

Thank you again, both of you, for testifying today.

SENATOR SKOUFIS: Very good.

And thank you for being here.

AKHTAR SOMEKH: Thank you very much.

SENATOR KAVANAGH: Take care.

SENATOR SKOUFIS: We will now move on to Panel Number 8.

This is our second group of fair-housing professionals/experts, and we're going to hear from:

Elaine Gross, who is at Erase Racism;

And, Fred Freiberg, Fair Housing Justice.

And I believe both of you were at our first hearing, if I'm not mistaken, late last year, so, welcome back.

Who would like to begin?

Ms. Gross?

ELAINE GROSS: Sure.

SENATOR SKOUFIS: Okay.

ELAINE GROSS: Can you hear me?

SENATOR SKOUFIS: Yep.

ELAINE GROSS: Okay.

So, committee chairs and members of the committees, I am Elaine Gross, and I'm the

president/CEO of Erase Racism, the regional civil rights organization based here on Long Island.

And we've talked about Levittown today.

Long Island is renowned as the model of structural racism.

And the problem that we are examining today, structural racism as it relates to housing, is, therefore, not new to us, but it is a problem that deserves our relentless commitment to eradication.

So one of the things you asked me to talk about was COVID-19 pandemic.

And it has highlighted the enormous racial disparities evident in who is most impacted by it, with African Americans and Latinx people disproportionately affected.

And I would like to point out, just as an example, on Long Island, the age-adjusted death rate per 100,000 people currently stands at 60.9 for White people and 181.2 for Black people.

So that means, for every White person who dies COVID-19 -- dies of COVID-19 on Long Island, three Black people die.

So I will note that there is an overlap between the COVID-19 hotspots in the majority and minority neighborhoods, and the same neighborhoods,

for example, Huntington, Hempsted, Brentwood, that "Newsday" found the realty agent steered Black people towards and White people away from.

The other thing that you asked was, to speak on the tragic killings of African-Americans.

And the only thing that I would say, is that both the killing of George Floyd in Minneapolis and Breonna Taylor in Louisville have generated this nationwide discussion about inhumane actions of police officers.

I do mention in a June 4th commentary published in "The Hill," was titled "Underlying Americans Unrest is Structural Racism," there is a long history of government-sponsored structural racism. And that is, in the case of the police, and also in housing.

I also want to just point out that people remember that the national association of real-estate boards were the original creators of the racial covenants.

And I want to also point out that the Trump administration has undermined fair housing by eliminating AFFH.

So we've talked today, there are some pieces of legislation that are addressing some of the

current problems.

And I note that the Senate bill, 6874A, that passed, that's Senator Gaughran's bill, really leaves no excuse for the department of state now to discipline the realty agents.

And we applaud that bill.

There are several bills that have not been passed yet.

And taken together, all of the bills represent strong progress in the right direction.

We would note that, for Senate Bill 6713, Senator Hoylman introduced that. And we were -- were the original organizers of the statewide coalition pushing for source of income as a protected class.

So we're very, very happy to see this bill will provide the appropriate notification so that people know that they have this protection.

I think it's a game-changer.

For Senate Bill 7625, Senator Kaplan introduced that, and it talks about the fair-housing testing being done by the attorney general.

And as has been stated frequently, the people who are discriminated against will most likely not know that they are the victims.

And we want the power of the attorney general's office behind fair-housing enforcement.

So this is a great thing.

And I'm glad that it will be a public report that they provide, and that the legislature is asking for this.

For Senate Bill 8096, Senator Kavanagh's bill, that is certainly critical.

I mention that, on the federal level, Affirmatively Furthering Fair Housing has been eliminated.

And we in New York State should be proud that the State is taking broad steps to further fair housing.

And the Senate bill, 7581, Senator Skoufis's bill, it is mandating that the required instructions for realty agents include a focus on systemic racism.

And, of course, Erase Racism has been doing that kind of training since our inception in 2001.

It is critical, and I -- I suggest that you call on us if we can be some of assistance in -- of some assistance in that regard.

For Senate Bill 7632, introduced by Senator Thomas, we need to have increased penalties,

which is what this bill is doing. That will help us with the enforcement.

SENATOR SKOUFIS: Ms. Gross, if I could just ask you to wrap up in maybe 15 or 20 seconds.

ELAINE GROSS: Sure.

SENATOR SKOUFIS: Thank you.

ELAINE GROSS: So my final comment, and it's not the focus of this hearing, but I just want to have it on the record:

The primary culprit of perpetuating housing discrimination in New York State is New York State's adoption of the Home Rule Law.

Long Island has 2 county [sic] and 13 towns, 97 incorporated villages, creating municipal fragmentation that divides rather than unites.

And there is a recent paper that I wrote, which you can see on my website for the NYU Furman Center, "Housing Discrimination and Local Control."

So that's the next thing for you guys to think about.

So thank you again for the opportunity to testify today, and I welcome your intervention on these issues.

Thank you.

SENATOR SKOUFIS: Thank you very much.

I'll turn it over to Mr. Freiberg.

FRED FREIBERG: Thank you very much.

Good afternoon, Senators.

Thank you very much for inviting me to provide additional testimony at the second joint hearing of Senate committees today.

I know you've had a very long day, and I intend to make my remarks very brief.

As you know, my name is Fred Freiberg. I'm the founder and executive director of the Fair Housing Justice Center, a regional civil rights organization based in New York City.

First, I was asked to comment on some proposed legislation that is pending before the state legislature, and whether this legislation will help to address the problem of systemic discrimination and residential segregation.

And I provided written comments to the committees, and I put in those comments my specific suggestions.

Generally, I think they all are worthy of support, and I've made a few suggestions on a couple of the bills that I think will make them stronger and even better pieces of legislation.

So, I won't go over it in my oral testimony.

I'll just leave it with you in terms of my written testimony. But I do think they're worthy of support.

I was also invited to offer comments on the implications of the current COVID-19 pandemic, and the numerous protests against racial injustice that we've witnessed across the country in recent months.

As New Yorkers faced increased -- increased housing instability due to the COVID-19 pandemic, and at a time when our nation is engaged in a conversation about the issue of racial justice and equity, it is really the right time to enact some legislation that can help reduce illegal housing discrimination and residential racial segregation.

I think the legislative package that I just mentioned is worthy of broad support, but it's clearly not all that needs to be done from a policy perspective.

I mentioned some of the other issues in my December testimony.

And Elaine Gross has also referenced some additional issues that I think are worthy of consideration as well.

Finally, I was asked to respond to the testimony provided earlier by real-estate

professionals who were subpoenaed to testify at today's hearing.

As I explained to the Senate staff, I stand by my comments on the "Newsday" investigation, and that is still the case.

Obviously, I was not able to go back and check the facts in each of the tests to compare it against what each agent said today.

I will say, briefly, that I found the responses from the brokers of the firms rather uninspired when you asked the question about, what else could they do, to make sure that agents are complying with fair-housing laws?

I would have expected a few more creative responses to that question than what you actually received.

But since there are multiple government investigations underway right now, in examining the conduct of these real-estate agents and brokers, my preference is not to provide further comments, as I assume the factual evidence will guide these investigations, and not my opinion.

So I am going to refrain from talking more about that.

I didn't hear anything today that would

substantially change my opinion about the tests that "Newsday" conducted. I will say that much.

I do want to reiterate, what "Newsday" exposed is not peculiar to Long Island, or to the real-estate sales market, for that matter.

Systemic racism infects segments of the housing market and is still much too pervasive.

A few months ago, following the murder of George Floyd, Kareem Abdul-Jabbar wrote an op-ed in "The LA Times" and included the following quote that I would like to end with as a parting thought for all of us to ponder because it applies to housing as well.

He said, quote:

"Racism in America is like dust in the air.

"It seems invisible, even if you're choking on it, until you let the sun in. Then you see it's everywhere.

"As long as we keep shining that light, we have a chance of cleaning it wherever it lands, but we have to stay vigilant because it's always still in the air."

Previously, I thanked "Newsday" for shining a bright light on the issue of housing discrimination, but I also want to extend my appreciation to your

Senate committees for keeping the light on, and for formulating legislative and policy responses to address this problem.

Again, I'm here today, I'm happy to answer questions from committee members, and I again appreciate the opportunity to speak with you.

SENATOR SKOUFIS: Thank you, both, both for your testimony and your work on this issue.

I'll start.

And, you know, one of the recurring themes that we've heard from all of the brokers and agents are cries of fake news, basically -- right? -- where "Newsday's" investigation was flawed, was unfair, was, you know, incomplete, like, whatever adjective you want to throw in there, I think we heard them all today, and they all fall under this sort of -- this category that has existed four years now of "fake news."

Your reaction to that?

You both, no doubt, have taken a very close and hard look at the -- what "Newsday" produced.

Can you speak to, in your professional opinions, the voracity of the "Newsday" investigation?

ELAINE GROSS: Well, I -- I would sort of

echo Fred, in that, what I said in the fall, I -- I felt that the "Newsday" investigation was absolutely stellar. And they took great pains to be conservative in terms of trying to be sure they had the same statements being made, that the -- that the -- that the two testers were asking for the same thing, et cetera, et cetera.

So I don't find it credible at all, the comments that suggest that "Newsday" is the problem, and -- and that the realtors are all innocent.

SENATOR SKOUFIS: Do you -- and, specifically, something that we heard frequently was, well, that clip, that video clip, those comments, were taken out of context.

Do you think that there is anything to that response that we heard frequently from agents and brokers?

FRED FREIBERG: My recollection -- my recollection is, that the -- when "Newsday" broke the story back in November of 2019, they posted all of the videos on which they relied for their story, in their entirety.

And I didn't listen to all of them, I will tell you that, honestly, because it's a lot of hours of recorded testing. But it was posted for all to

see.

I thought their transparency was remarkable, in that they weren't hiding anything.

A lot of times, in testing cases, I will tell you, defendants initially argue, well, it's what you're not showing us, or what you're not telling us, or what you can't hear on a particular recording, that they allege vindicates them in a situation.

But "Newsday" was much more transparent here.

And I think one of the reasons the study -- the investigation didn't receive a lot of criticism from the real-estate industry was the fact that they were pretty forthcoming about what they found, and laid it on the table for everybody to see.

ELAINE GROSS: And I would add that the statements speak for themselves.

I mean, and -- and -- you know, all of you, all the Senators, really pointed that out as well.

So I don't understand that comment about, it's something that wasn't said.

SENATOR SKOUFIS: And -- and to -- to that end, and to the end of, you know, what we're all talking about here, are you -- are you as stunned as I am, that it seems, as far as we can tell from the

brokers and CEOs and the written testimony, that it appears not a single real-estate agent faced disciplinary action at the end of all this?

Your reaction to that.

ELAINE GROSS: Well, I don't know that I can't say that I was stunned.

I had hoped, I really had hoped, that there would have been action, because it was so clear, as Fred said, they were -- "Newsday" was so transparent, there's no way you -- and even, you know, sometimes you said a comment, you said, Is there any way that comment would not be considered discriminatory?

And so I -- that there has been no action is -- is appalling.

And I hope that the State will not appall us, and what I mean is, I hope that there will be action on the part of the New York State Division of Licensing Services, the Division of Human Rights.

You know, that will stun me if there's no action by the -- by the enforcement agencies, if you will.

SENATOR SKOUFIS: Do you have anything to add, Fred?

FRED FREIBERG: The only thing I would add

is, I think the -- the lack of action by the companies is not terribly surprising, only because many of them, as you saw, were lawyered up for even this hearing.

They're facing investigations right now by various government agencies. So they're taking the position, I will say, at least somewhat understandably, that there's an explanation for what they did, and so forth, because if the companies actually discipline them, then it would become obvious to the government agencies investigating them that they did something wrong.

I think it's going to be obvious anyway, or should be obvious, to some of the investigations that are ongoing, that there were some acts here that were inappropriate under fair-housing laws.

But I don't -- I'm not surprised by it.

It is stunning, though, I agree with you.

SENATOR SKOUFIS: Thank you, both.

Senator Kavanagh, do you have anything?

SENATOR KAVANAGH: Uh, yes, I do. Thank you.

Fred, your -- I -- first of all, thank you both for testifying once again. It's very helpful to us.

You're actually the only two witnesses that

we've had back twice now.

So we appreciate your time and your commitment to this, and your expertise.

Fred, you -- your organization works -- you work, if I'm not mistaken, in New York City, and Dutchess and Nassau and Orange and Putnam and Rockland and Suffolk and Westchester. Is that right?

FRED FREIBERG: That's pretty good.

Yes.

SENATOR KAVANAGH: Okay, I try.

You -- they're helpfully alphabetized.

So the -- so I just want to get a sense, like, obviously, we focused on Long Island because of these dramatic -- very dramatic findings and very -- very specific findings.

Do you believe that the phenomena that we're seeing on Long Island, through this investigation, are widespread in other parts of the state, including other places where you're working?

FRED FREIBERG: I do.

And I think it's not only widespread in -- throughout the state, but I think, you could go to any number of metropolitan areas in the nation and produce similar results. Some might be slightly

worse, some might be slightly better, but you're going to see this.

I mean, it's a -- it's a culture within the real-estate industry that has not changed.

And I might add, because I know a lot of your questions today -- or, questions of the senators, had to do with training, and how do you make the changes, and the fact you got these rather uninspired responses from some of the brokers, there are some real-estate people out there in the country who are really thinking deeply about the issue of race, and how it impacts their work and the industry, and they're trying to make changes in their own communities.

And we're actually working with the National Association of Realtors to produce a video. We're interviewing those individuals, to show that they actually live their fair-housing values, and so forth, in the work that they do.

I think we have to get more of those voices out front, where people are talking about, yes, you know, you can be asked about race, or this, and this is how you should handle it.

But maybe it's more than that.

Having people be accountable in the office

for what they're doing, or not doing, in their real-estate practices, and holding them responsible for their actions.

And I do think that that was noticeably absent today. And I think it's where the direction the industry has to go.

And I think there's some movement in that direction, but I think we still have a long way to go.

SENATOR KAVANAGH: Do you think the "Newsday" investigation and its -- their reporting, it seems, if nothing else, certainly these firms are looking at their practices. They're, as you noted, getting lawyers in many cases. We had testimony that they -- you know, they fired the previous testers -- the trainers. They have new trainers now.

Whether that's -- putting aside the question of whether that is sufficient on Long Island, do you think that other actors in the industry are -- in New York State, say, are -- are responding to this, or are changing practices, at this point?

FRED FREIBERG: Well, I know we've trained the trainers for the New York State Association of Realtors. And we've got inquiries from other boards.

And I think there is interest in providing more quality training and instruction on fair housing, perhaps some on implicit bias, and some on the history.

You know, a lot of people discussed, including your other experts, the need to talk about the effects of this discrimination, and how it actually harms people and communities.

And I think that's a very essential element of this training that needs to happen.

I'm not as much sold, I will tell you, quite frankly, on the notion that all -- much of the discrimination that "Newsday" exposed is based on implicit bias.

I think it's convenient to suggest that.

I actually see a lot more intentional bias in some of the comments and statements that were made.

But I'm not saying implicit bias doesn't exist, or that it shouldn't be addressed in training. I'm merely saying, I think that the real-estate industry plays that card a little too often as a way to suggest, somehow, that they're going to minimize the -- the prevalence of intentional racism in their rank and file.

And I thing that's a mistake.

SENATOR KAVANAGH: I agree that we certainly had some behavior that seemed quite overt, that we tried to highlight today, that did not seem implicit or -- or it certainly wasn't well-coded if it was intended to be coded.

Elaine, can I ask you, just to follow up a little bit on something you said before?

You talked about the positive effect of the legislation that we're considering today, and, you know, our committees are considering.

You talked about the positive effect that would have, but you also mentioned that you think, sort of, the next frontier on this is the question of local control of home rule.

And -- can you talk a little bit more about the relationship between decisions that localities make and -- and racial segregation?

ELAINE GROSS: Sure.

So on Long Island, where we also have a multitude of localities, what happens is, very -- there's very little development that can happen as of right when you're talking about multi-family housing.

And that's -- that's a big way to keep out affordable housing, because the most affordable

housing is going to be multi-family; it's going to be less expensive, it's going to be apartments.

And -- and we have seen at hearings, where the residents make very clear, they're screaming and name-calling, and all kinds of things going on, that they don't want any of "those people," or things of that nature, coming into the community.

And the electeds, you know, I would say that there's a -- there's some spine missing, or, they are of the same mind of the residents.

And so what happens is, the developers are not able to make progress because the zoning is for single-family, and it's also for large lots.

And so you -- you don't have -- you -- it's hard to just get the multi-family, and then it's really hard to get enough density so that you can get enough affordability.

So given that structural racism is so endemic, which means that people have been living in the soup of structural racism since its inception, and since Long Island's inception, with Levittown, et cetera, and those notions, those ideas, are not disappearing.

And we saw it in the hearing today.

I would say, I would agree with Fred, that

the reason why people do what they do is because they have those prejudices, and they haven't been checked.

There's been -- there really hasn't been the kind of enforcement that would say to them, you can't -- I know that's the way you feel, but you can't get away with that.

And they do get away with it, they have been getting away with it, so that's why it is so rampant.

The most generous thing I can say about the people in charge of the real-estate agencies, is they need to be in a different profession.

I mean, they don't know -- if they don't know what "housing discrimination" is, which is clearly kind of what they were dancing around, I didn't know, and, then I had to have more training, or whatever, these are supposed to be the experts in real estate.

And they showed, flatly, that the best you could say, is that they don't know their job.

And this is a part of their job. This is not some kind of add-on.

It's integral to them being able to do their job in the way they should.

And then the worst thing you could say, you know, is a lot of other things, about how they are lying.

SENATOR KAVANAGH: Thank you.

Yeah, and thank you for -- you know, for your review, your comments earlier, on the legislation we're proposing today, but also thinking longer term and bigger picture about what we can do.

We did -- we did, the Housing Committee, along with Velmanette Montgomery, our great Senate colleague who is sadly departing from the Senate in the next few months, we did do a joint roundtable on Long Island last year about the difficulty of producing affordable housing.

I think some of my colleagues from Long Island were there as well.

And, you know, especially the difficulty of producing multi-family housing.

I will say, also, that this is a topic where we have heard directly from some of the builders on Long Island, that they would like to produce that kind of housing, which, as you note, might be more accessible to people, and they meet great obstacles.

So -- and I think that's a conversation to be continued.

You mentioned your report on the Furman Center site.

I think the Furman Center also has been doing some work on this.

And I do think this is a topic that we will be talking about more as we go into the next session.

But, again, thank you, both, for your -- all of your work, for your -- for your leadership in -- in this world that we're in, and for your expertise today, and always.

Thank you.

ELAINE GROSS: You're welcome.

FRED FREIBERG: Thank you.

SENATOR SKOUFIS: Before I turn it over to Senator Krueger, who I know has some questions, I do just want to acknowledge something that you said, Fred, and it was a good point, and that is, that there does seem to be other stakeholders here, industry stakeholders, that are taking this more seriously than some of what we've heard today at the hearing, including the New York State Association of Realtors, who have indicated they would welcome more testing, who, as you pointed out, are taking their trainings more seriously, who have been engaged, and

even supportive, in many of the pieces of the legislation that we are proposing.

And so, for anyone who is watching, I think that is an important point to reinforce, and that is, that there are some industry stakeholders who have been very engaged on this issue, and taking it a lot more seriously than what we've heard.

SENATOR KAVANAGH: I think it's worth noting --

[Simultaneous talking by multiple parties.]

SENATOR KAVANAGH: I think it's worth noting that the Association of Realtors also testified at our previous hearing. They're not here today.

SENATOR SKOUFIS: That's right.

SENATOR KAVANAGH: They have been on the record on this issue as well.

SENATOR SKOUFIS: Senator Krueger.

SENATOR KRUGER: Thank you so much.

Again, I'm finding this hearing so educational and valuable, and I'm sorry I missed the first one.

So when you were both -- actually, several of my questions, my esteemed colleague Brian Kavanagh just asked, so I really only have two left now. So

I already know.

SENATOR KAVANAGH: Sorry.

SENATOR KRUGER: That's okay, Brian. You didn't know. Great minds think alike.

You are the chair of this committee, damn it.

So I'm not clear whether this did come up earlier, but, are real-estate agents asking people for their credit scores, or other questions like that, during their initial interview of where they're going to direct them?

Because, at least for people who live in the city of New York, who might be trying for rental apartments, not purchasing homes, that is one mechanism that is used to steer people away from certain kinds of housing.

So, the fact is, if you are low income, or you were low income at some point, if you were a single mom at some point, if you were Black or Brown at some point, which pretty much follows you around your whole life, you may have had credit-score problems.

And is that used to sort of also discriminate against people before they even start to look for a house? Is that part of the story?

FRED FREIBERG: Well, I think I can possibly

answer that.

And part what you have to recognize with the real-estate industry, is there's not just one way companies and agents work. They're all structured differently.

I would say that, where you have credit entering into the equation, is to the extent you have agents, and you heard some today, who said, you have to be preapproved for a loan before I'm going to take you out to see homes.

Well, the credit score is going to enter into that equation.

You know, there's such a thing as prequalification that a lender can do, to give you a rough idea of how much housing you can afford.

You don't have to have a credit check done to get a prequalification.

A preapproval, though, suggests you're, pretty much, ready, willing, and able to purchase that day, and they are going to do a credit check -- most lenders are going to do a credit check in order to qualify you.

So if a real-estate agent is saying, I won't take anyone out who is not preapproved, it means, for instance, for a first-time homebuyer, you have

to be ready to lock in a rate on a loan before you even looked at a home, which seems a little ridiculous to me.

Most people want to search for a house for a while, and get an idea of the market and what they can afford, before they want to lock in a rate and have their credit checks done on their background as well.

So it comes into play, but I think in a more subtle fashion, and in some of the ways that the "Newsday" investigation actually uncovered.

SENATOR KRUGER: Because [indiscernible] my experience, that for first-time homeowners, and also for new Americans, it's more likely that they then might be going to their extended family and saying, Hi, can you help me out with the down payment, because I can't quite do it myself?

And that's a perfectly acceptable and reasonable way to ensure that you might be able to afford that home.

But if they're going to predetermine you before you ever get to even see houses in certain communities, it seems to me that that really is a problem, and is parallel to what we see in steering around in what you're allowed rent or not rent in

the city of New York.

Because we all know on this hearing, that discrimination takes place, pretty much, everywhere. God knows it's not unique to Long Island. We just had a "Newsday" exposé there.

So is there something we should be trying to do to prevent that from happening?

FRED FREIBERG: It's funny you should bring up renting in the city of New York, because, actually, one of the disturbing trends with some landlords is that you've got to submit a full application and have a credit check done before you are even able to see or know what's available by that landlord -- which is ridiculous.

I mean, I've been a renter all my life. And I could not imagine disclosing all of my personal identity information before I even see the unit that I'm going to be applying for.

And, yet, that is increasingly becoming a problem.

So there may be some policy, or legislative, solutions to that problem, because I think that's pretty onerous for renters, to have to submit all of their documentation in the private market before even knowing what apartments are available, or

knowing whether they can see the apartments.

So that might be necessary.

In the sales market, I think it's, uhm -- it's a question of this preapproval thing, and whether there's some way to regulate that.

You know, I notice a lot of the agents in the "Newsday" thing did not -- you know, there's state rules that the division of licensing has on disclosing to a perspective buyer, whether you're a buyer's agent, a seller's agent, or -- or both.

And my understanding is, that didn't happen very much either. And that's an actual regulation.

So, I mean, there's a lot of rules that get passed, but don't get followed by real-estate agents.

And, of course, fair-housing laws are one, but there's other -- others as well that are more consumer-related.

So I think there may be some issues.

I haven't thought deeply about that issue in the sales market, but I know in the rental market it's a real serious problem.

ELAINE GROSS: May I add one clarification?

SENATOR KRUGER: Please.

ELAINE GROSS: Because there was some

confusion, the nicest way to put it, concerning disparate treatment.

And so just to state for the record, the problem that was identified with a number of these real-estate agents, was that they would say to one -- on of the clients, the client of color, you have to have your -- you know, your certification.

And then to the White client, they wouldn't say that.

And that seems very straightforward to me.

But I did hear a lot of, sort of, confusion, they'd bring up a whole nother issue, rather than, on its face, that's discrimination.

SENATOR KRUGER: Thank you.

ELAINE GROSS: Uh-huh.

SENATOR KRUGER: I guess there was one other question, I'll try to be careful about how I put it.

So there was at least one real-estate agent who testified earlier, who said, because I am Latino and Black, I couldn't possibly discriminate against someone in the job I do.

And I had an immediate reflection back to my own life and childhood, where, I happen to be Jewish. And my parents went to buy a house, and the Jewish real-estate agent wouldn't show them houses

in certain communities because they said Jews aren't welcome there.

But my mother decided she didn't care, because a town had the best school system in New Jersey, and she decided her kids could cope with anti-Semitism in exchange for a good educational system.

So they bought a house on a bank auction, because no one would show them a house in the town.

And then when we moved there, all of our neighbors came with a petition, "Get out Jews."

But it was actually Jewish real-estate agents who were telling us, don't even try to live in that town.

So I'm just wondering, are we past all that?

Yes, you can fall into these patterns no matter who you are, if that's the message coming through from your industry.

Would you agree?

ELAINE GROSS: Absolutely.

FRED FREIBERG: I would absolutely agree.

SENATOR KRUGER: Thank you?

Thank you, everyone.

SENATOR SKOUFIS: Thank you.

I think Senator Thomas has some questions.

SENATOR THOMAS: I'll be quick with this.

Thank you, Fred; thank you, Elaine, for all the testimony that you have given so far.

You two are experts in this.

You probably heard the testimony of some of these brokers when I questioned them about their lack of supervision.

I had one that I had asked, whether it's even possible to supervise 800-plus agents under his license, and he said "yes." And he said "it's easy."

What are your thoughts on this, either one?

FRED FREIBERG: Well, I have 13 staff, and I find that very difficult to supervise.

So --

[Laughter.]

FRED FREIBERG: My staff will appreciate my saying that.

But I -- but I think 800 is -- runs into the category of the absurd.

The notion that you can provide the kind of -- the level of supervision that's required to ensure that people are complying with the rules and laws, and so forth, would seem to me to be a monumental challenge for any supervisor.

And they can develop a structure, as I saw with the one with the tiered managers, and so forth.

But that may not be the best structure, actually, to ensure that people are complying with laws.

Sorry, Elaine, I interrupted you.

ELAINE GROSS: Nope, that's fine.

And I certainly agree with you on the 800 being absurd.

But I also would add that, again, it makes you wonder what the policy is for the firm, because you know, if you're not really doing any supervision, and, you know, if people are discriminating the way they -- they way they are, the way they were shown on the "Newsday" investigation, you would have no problem with that if that's the policy of the firm.

So I think that there are underlying issues here which are certainly disturbing, but it just affirms what appears to be a widespread problem.

You know, this is not a few agents in a firm. These are firms that have allowed this behavior to flourish.

SENATOR THOMAS: Absolutely.

I mean, you talked about the lack of

enforcement from state agencies, that has led to what we see right now.

But I -- I kind of feel, like, from all the testimony these brokers gave, just their -- for them, profit is everything, so they close their eyes to certain issues, and that's why we are here, to try to make things better, because our constituents deserve a lot better of this.

So thank you so much, both of you.

FRED FREIBERG: Thank you.

ELAINE GROSS: You're welcome.

SENATOR SKOUFIS: Thank you, Senator Thomas.

Not seeing any other hands from colleagues, I believe that concludes this panel.

I want to thank both of you again for coming back for a second time.

I found it particularly helpful that, quite frankly, you were at the tail end, and could respond to some of what we had heard earlier in this hearing.

So I appreciate you waiting to testify now, and thank you very much for your insight.

And we look forward to continuing to be in touch.

ELAINE GROSS: Thank you.

FRED FREIBERG: Thank you.

SENATOR KAVANAGH: Thank you both.

SENATOR SKOUFIS: Now, at first blush, it may appear that we are at the end of our hearing and witness list; however, we are not quite done yet.

As I had mentioned earlier in the hearing, our counsel was in State Supreme Court before a judge earlier this afternoon, seeking to compel the testimony today of Panel 5, which are four individuals from Realty Connect USA.

They -- they chose to ignore our subpoena.

Despite our reaching out, and continuing to reach out, to their attorneys, they refused to comply.

So we are awaiting court action.

We believe that that court action is forthcoming in the very near term, today.

And so, instead of adjourning and closing this hearing, we're actually going to go on a temporary recess, so that we may see what action the Court does come down with.

And so with that, it's 3:52. We will go on temporary recess until we have further word.

Thanks very much.

(A temporary recess is declared by the co-chairs for this date's joint virtual public hearing, but the hearing was not adjourned.)

(An announcement by the three co-chairs is as follows:)

SENATOR SKOUFIS: Okay.

Good evening, everybody.

I'm joined back by my Co-Chairs Senator Thomas and Senator Kavanagh.

I see there are a couple of colleagues still here as well.

And we will be tentatively adjourning until next Friday, that is September 25th, at 10 a.m.

After going to court to enforce our subpoena that was issued to a number of individuals associated with Realty Connect USA, our counsel has reached agreement -- or, tentative agreement, I should say, with the individuals' lawyer, to have them appear before us, tentatively, next Wednesday -- next Friday at 10 a.m.

And so a new public notice will go out, and, until then, we bid you all farewell.

I don't know if my co-chairs have any parting words?

SENATOR KAVANAGH: No, it's been a long day.

Just, I appreciate everybody out there who has been monitoring and watching today's proceedings, and all the witnesses, and my co-chairs, and our other colleagues who joined.

But I'll save closing remarks for the -- kind of the closing of our final -- or, possibly our final event on this next Friday.

But, thank you.

And thank you to my co-chairs in particular for, you know, all your work today.

SENATOR THOMAS: I just want to echo the same thing.

I will do my closing, actually, after Round 3 on Friday next week.

But I just want to thank our co-chairs.

I want to thank central staff, and our hard-working counsel who went to court this morning, to get this done.

So, thank you to all, and take it away, Senator Skoufis.

SENATOR SKOUFIS: Yeah, no, thanks.

And I just want to echo, again, gratitude to central staff and the staff in each of our offices for doing a tremendous amount of the legwork leading up to today.

I guess this is 2.A.

Hearing 2.B. is next Friday.

We will all see you then.

And I think, you know, look, what's transpired with this particular panel is a testament to the fact that we in the state Senate Majority are taking this issue extremely seriously.

We believe that when we issue a subpoena, that is not something that folks can just sort of thumb their nose at.

And, you know, we look forward to the testimony that we will, it seems, be receiving late next week.

Thanks very much, and see you then.

SENATOR KAVANAGH: Thanks, everybody.

(Whereupon, the announcement of the hearing continuation by the co-chairs concludes.)

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