

October 5, 2018

The Honorable Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Acting Director Mulvaney,

We, the undersigned organizations, call on you to abandon your proposed reorganization of the Office of Fair Lending and Equal Opportunity, and to remove Mr. Eric Blankenstein from having any involvement in the Bureau's oversight and enforcement of antidiscrimination laws. We have long voiced strong concerns about your plans to relocate the Office of Fair Lending, and our concerns have grown even stronger in light of the shocking revelations about Mr. Blankenstein's writings on issues of race. His views are beyond inappropriate for a public policy official charged with protecting consumers against unlawful discrimination, and entrusting him to lead the Bureau's efforts in this area would send the worst message possible about the Bureau's intentions.

As reported by the Washington Post and New York Times, Mr. Blankenstein has questioned whether the use of the "N word" is racist, has raised doubts about the motivations of people who use racial slurs, has baselessly claimed that the overwhelming majority of hate crimes are "hoaxes," has espoused patently incorrect views about hate crime laws, and has more recently claimed that "birther" conspiracy theories about President Obama had nothing to do with racism.

Asked about his troubling writings by the Washington Post, Mr. Blankenstein initially declined the opportunity to distance himself from his comments. He asserted that calling attention to these remarks shows that his critics are complaining that he is guilty of nothing more than "governing while conservative." But there is nothing conservative about questioning whether racist speech evidences racist motivation.

Instead, Mr. Blankenstein claimed that his remarks "have nothing to do with consumer protection law."¹ Yet protecting consumers against racial discrimination in lending is a cornerstone of consumer protection law. His claim is not only wrong, but directly contradicts the express purpose of the fair lending office he would oversee. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Congress mandated that the Consumer Financial Protection Bureau (CFPB) implement, enforce, and oversee fair lending laws, and

¹ Robert O'Harrow, Jr. et. al., Trump Anti-Discrimination Official Faces Rebellion at Agency over Racially Tinged Blog Posts, The Washington Post, Sept. 28, 2018, *available at* https://www.washingtonpost.com/investigations/trump-anti-discrimination-official-once-called-most-hate-crimes-hoaxes/2018/09/26/05438bbe-c0fe-11e8-92f2-ac26fda68341_story.html?noredirect=on&utm_term=.50d6cf720d59.

specifically established the Office of Fair Lending and Equal Opportunity to promote fair, equitable, and nondiscriminatory access to credit for all consumers. The Office of Fair Lending and Equal Opportunity has actively pursued and confronted redlining, mortgage and student loan servicing abuses, and other discriminatory practices through its fair lending examinations and enforcement actions.

We are appalled that you are attempting to strip the Office of Fair Lending of its ability to enforce long-established laws against discrimination, and that you would entrust what would be left of the office to someone who has such profound difficulty recognizing when discrimination has actually taken place.²

At least two senior CFPB officials have expressed their concerns at Mr. Blankenstein's comments,³ and it is reported that these sentiments are "shared by the entire enforcement division of roughly 100 attorneys."⁴ In addition, at least two United States Senators have called on Mr. Blankenstein to resign.⁵

According to a subsequent Washington Post article, Mr. Blankenstein's career deputy addressed the comments in a Bureau-wide email, noting "Blankenstein's 'affirmation of those posts in his public statement, and his failure to denounce those statements or acknowledge their hurtful nature.'"⁶

With pressure mounting and given another chance to renounce his prior writings, Mr. Blankenstein this week expressed regret but noted only that the "tone" and "framing" of some of his statements reflected poor judgment. It is true that the tone of his prior writings reflected poor judgment.⁷ But the underlying context is far more troubling. If the Bureau is serious about eradicating discrimination, it must ensure that the Office of Fair Lending actually has the power to do something about it, and that it is led by someone who is capable of looking out for it. We urge you to immediately stop the reorganization of the Office of Fair Lending and to remove Mr. Blankenstein from having any role in it.

² See, e.g., the BancorpSouth Bank case from 2016, where a key piece of evidence was a recording of bank employees joking about black customers, their lack of black employees, and using the N-word, *available at* <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-and-department-justice-action-requires-bancorpsouth-pay-106-million-address-discriminatory-mortgage-lending-practices/>.

³ Kate Berry & Rachel Witkowski, "It is an Issue for All of Us": Dissent Spreads at CFPB Over Top Aide's Writings, *American Banker*, Sept. 30, 2018, *available at* <https://www.americanbanker.com/news/it-is-an-issue-for-all-of-us-dissent-spreads-at-cfpb-over-top-aides-writings>.

⁴ *Id.*

⁵ *Id.*, supra note 1.

⁶ Renae Merle & Robert O'Harrow, Jr., Trump Anti-Discrimination Office Apologizes for Racially Tinged Blog Posts, *The Washington Post*, Oct. 1, 2018, *available at* https://www.washingtonpost.com/business/2018/10/01/trump-anti-discrimination-official-apologizes-racially-tinged-blog-posts/?noredirect=on&utm_term=.b5e4a129352d.

⁷ *Id.*

With questions, please contact Hilary O. Shelton at the NAACP at hoshelton@naacpnet.org and Remington A. Gregg at Public Citizen at rgregg@citizen.org.

Sincerely,

Allied Progress
Americans for Financial Reform
California Reinvestment Coalition
Center for Global Policy Solutions
Center for Responsible Lending
Consumer Action
Housing Choice Partners
The Leadership Conference on Civil and Human Rights
Main Street Alliance
NAACP
NAACP Legal Defense and Education Fund, Inc.
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
Protect All Children's Environment
Public Citizen
Tennessee Citizen Action