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Congress of the United States
House of Representatives
Washington, DC 20515

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October 15, 2018

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, D.C. 20429

Dear Chairman McWilliams:

I want to first thank you for taking the time to meet with me last month. In the course of our conversation, I expressed my deep concern over bank de-risking and specifically on initiatives such as Operation Choke Point, which seek to drive a wedge between legitimate businesses and the financial services they need to survive. This has been an issue of significance to me for many years, and one that I am fully committed to ending and protecting against in the future.

Last Friday, newly-unsealed documents linking Federal Deposit Insurance Corporation (FDIC) staff and Operation Choke Point were released as part of a motion for summary judgment in the case of *Advance America et al. v. Federal Deposit Insurance Corporation*. While I have long understood the connection between FDIC staff and this abusive initiative, this new information gives more insight into deeply disturbing trends within your agency. The evidence proves that your predecessor and the senior staff at the FDIC, many of whom remain in place today, not only allowed but in fact fostered a culture where political opinion and personal belief trumped the agency's mission to protect customers of and promote safety and soundness in the banking system.

Today, we have more compelling evidence that tells the story of intimidation and abuse, and supervisory decisions based not on wrongdoing or risk but on a personal disdain for certain products being offered. We have learned from the recently-released documents that senior FDIC Washington staff threatened Regional Directors with termination should financial institutions engage in business with payday lenders. One of those individuals, then Atlanta Regional Director Thomas Dujenski, discussed the fact that he "literally can not stand pay day lending," going on to describe the activities of the industry as "abusive" and "fundamentally wrong."¹ According to the documentation, he reported this and any other actions related to payday lending to Mark Pearce, who serves as your Director for the Division of Depositor and Consumer

¹ Plaintiffs' Statement of Undisputed Material Facts, *Advance America, Cash Advance Centers, Inc., et al., v. Federal Deposit Insurance Corporation, et al.*, Civil Action 14-953-TNM (United States District Court for the District of Columbia October 12, 2018) [Doc. #199-2]

Protection. One must question whether or not Mr. Pearce's division only offers protection to depositors that are attuned to his personal morals and beliefs.

Anthony Lowe, who was at the time the regional director in the Chicago office, instructed his staff to use "all available means, including verbal recommendations, to strongly encourage [banks] to refrain from any activities that provide assistance to the business activities of [payday] lending."² It is my understanding that Mr. Lowe now serves as your ombudsman, supervising the office that serves as "a confidential, neutral, and independent source of information and assistance to anyone affected by the FDIC in its regulatory, resolution, receivership, or asset disposition activities."³ It is undoubtedly a safe assumption that the services offered by the FDIC Office of the Ombudsman extend only to those entities with which the ombudsman has no personal objection.

As a former examiner, I find it appalling that senior regulators would not only allow but encourage this type of irresponsible behavior. Licensed, legally-operating U.S. businesses have lost access to the financial services space and been forced to close their doors. This has gone on for too long and has eroded the trust Congress and the American people have in your agency. I had many conversations with your predecessor about this initiative, few if any of which proved to be productive. I ask you to do what he consistently declined to do and investigate this matter and take immediate and firm action against those who have so blatantly abused the power vested in them.

I appreciate your leadership on this important issue and look forward to swift action on your part to restore the integrity of the FDIC.

Sincerely,



Blaine Lueckemeyer
Chairman
Subcommittee on Financial Institutions and Consumer Credit
House Financial Services Committee

² Plaintiffs' Statement of Undisputed Material Facts, *Advance America, Cash Advance Centers, Inc., et al., v. Federal Deposit Insurance Corporation, et al.*, Civil Action 14-953-TNM (United States District Court for the District of Columbia October 12, 2018) [Doc. #199-2]

³ <https://www.fdic.gov/regulations/resources/ombudsman/>