



WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

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STATEMENT OF MR. HILARY O. SHELTON
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ON
H.R. 3149, THE *EQUAL EMPLOYMENT FOR ALL ACT*
BEFORE THE HOUSE COMMITTEE ON FINANCIAL AFFAIRS
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

September 23, 2010

Good morning. My name is Hilary Shelton and I am the Director of the Washington Bureau of the NAACP, our Nation's oldest, largest and most widely-recognized grassroots-based civil rights organization. The Washington Bureau is the federal legislative and national public policy arm of the NAACP; we currently have more than 2,200 membership units in every state across the country.

I would like to begin by thanking Chairman Gutierrez and Ranking Member Hensarling for calling this important hearing and for supporting this bill. I would also like to extend the sincere appreciation of the NAACP to our good friend Congressman Cohen for introducing this crucial legislation.

The NAACP strongly supports H.R. 3149, the *Equal Employment for All Act* and urges its swift enactment. We continue to oppose the use of credit reports by employers when considering potential employees as they have been proven to racially discriminate, and, in most cases, are irrelevant to the position for which the individual is being considered.

Mr. Chairman and members of this subcommittee, as you know our nation is going through one of the most difficult economic times in our history. The national unemployment rate has stubbornly remained unacceptably high, disproportionately so among African Americans and other racial and ethnic minority Americans. The most recent numbers indicate that almost 15 million Americans were unemployed in August of this year, which has resulted in a national unemployment rate of 9.6%. At the same time, the unemployment rate among African Americans was 16.3%, and among Latinos it was 12%.

As we all know or can imagine, these high unemployment rates have lead millions of Americans to postpone paying back their credit card debt, to borrow, to charge their credit cards to the limit, or to make difficult financial decisions they would not ordinarily be faced with if they had a job. As a result, their credit ratings may be more reflective of their current situation than of the type of consumer they are. And since African Americans and other racial and ethnic minority Americans are disproportionately unemployed, their credit ratings are going to be unduly lower.

Furthermore, African Americans and other racial and ethnic minorities, as we all know, were targeted for decades by unscrupulous predatory lenders and are now facing or have gone through a foreclosure at unprecedented, and highly racially disparate, rates.

And now we enter into the “Catch -22”. With more potential employers using credit reports than ever before to assess potential employees, those with checkered credit histories are going to be the first eliminated from the potential job pool; despite the fact that many of them are the very people who most need a job in order to bring stability to their lives financially and otherwise.

Are employers using credit reports more now than ever before? Studies suggest they are. More than 47% of employers admitted to currently using credit checks at least sometimes, up from 25% in 1998. Furthermore, this share is certainly on the rise, say career counselors.

In addition to disproportionate unemployment rates, and disparately high foreclosure rates due to years of systematic targeting, there are several other reasons that credit reports, and similarly credit scores, which often use the same information, appear to be an unfair and racially biased means of screening potential employees. If I may digress for a moment, I say “appear to be” because as I testified before this committee in 2003, we do not know how, exactly, credit scores are determined¹.

What was clear at that time, and what continues to be evident as more studies are conducted and released, is that racial and ethnic minorities consistently have disproportionately lower credit scores and worse credit reports than their Caucasian counterparts.

Because we are assured that credit reports and credit scores are often based on similar information, it is fair to conclude that problems with one are true for the other, as well. A 2007 Federal Reserve Board report to Congress on credit scoring and racial disparities, which was mandated by the 2003 Fair and Accurate Credit Transactions Act of 2003 (FACTA), analyzed 300,000 credit files. Not surprisingly, the study found significant racial disparities. In fact, the average

¹ Testimony of Hilary O. Shelton before the House Financial Services Committee, July 9, 2003, on the Fair Credit Reporting Act and Its Impact on African Americans and other Racial and Ethnic Minorities

credit score of African Americans was approximately half that of white non-Hispanics with Hispanics fairing only slightly better². There have also been several other well documented studies by respected governmental, quasi-governmental, private organizations and academia all of which come to the same conclusion: racial and ethnic minorities have lower credit scores than their Caucasian counterparts³. Taking the next logical step, as go credit scores, so are credit reports.

So if credit scores and credit reports are disproportionately unfair to racial and ethnic minority Americans, why are they being used by more potential employers than ever before? Frankly, I do not have an answer to that question.

With a few obvious exceptions (such as governmental employees who handle high level information), there is no credible evidence that credit reports are an accurate indicator of a potential employee's propensity to commit a crime, trustworthiness or even perform his or her assigned duties. A credit score, if it is accurate (an assumption to which the NAACP does not necessarily subscribe) is more reflective of a person's employment history, and perhaps shopping habits, than anything else. Has this person had a job in the past year? Has the potential employee lived in the same area, and if so for how long? Does this person have the skills and experience necessary to perform the duties of the job?

It is the contention of the NAACP that a resumé, job references and perhaps a face-to-face interview, are much more reliable in telling a potential employer more about a job applicant without distortion. This would allow an individual to be judged on his or her experience, not on unsubstantiated numbers.

Mr. Chairman, I thank you for the opportunity to participate in this important hearing, I appreciate the subcommittee holding this hearing and I look forward to your questions.

² Board of Governors of the Federal Reserve System, *Report to the Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit* 80-81 (Aug. 2007).

³ See: Robert B. Avery, Paul S. Calem, & Glenn B. Canner, *Credit Report Accuracy and Access to Credit*, Federal Reserve Bulletin (Summer 2004); Raphael W. Bostic, Paul S. Calem, & Susan M. Wachter, Joint Ctr. for Hous. Studies of Harvard Univ., *Hitting the Wall: Credit As an Impediment to Homeownership* (Feb. 2004).; Tex. Dep't of Ins., *Report to the 79th Legislature--Use of Credit Information by Insurers in Texas* (Dec. 30, 2004); Fair, Isaac & Co., *The Effectiveness of Scoring on Low-to-Moderate Income and High-Minority Area Populations* 22, Fig. 9 (Aug. 1997); Freddie Mac, *Automated Underwriting: Making Mortgage Lending Simpler and Fairer for America's Families* (Sept. 1996), available at www.freddie.mac.com/corporate/reports/moseley/mosehome.htm.