

July 27, 2015

Attorney General Lynch
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Re: August 2014 Settlement Agreement with Bank of America

Dear Attorney General Lynch:

In August 2014 the Department of Justice announced a “historic” settlement involving \$16.65 billion in relief for financial fraud leading up to and during the financial crisis. Under Paragraph 9 of the Settlement \$45,000,000 was committed to the remediation of harms to the State of Delaware allegedly resulting from unlawful conduct by Bank of America. Paragraph 9 explicitly states, “The payment to the State of Delaware shall be used, to the maximum extent possible, for purposes of providing restitution and remediating harms to the State and its communities allegedly resulting from the unlawful conduct of [Bank of America], including efforts to address the mortgage and foreclosure crisis, financial fraud and deception, and housing related issues.” Moreover, in a contemporaneous press release issued by the Delaware Attorney General, the funds at issue here “must be used to remediate the harm Delaware communities suffered as a result of the housing crisis,”

The Delaware Community Reinvestment Action Council, Inc. (DCRAC) is a non-profit organization whose mission is to ensure equitable treatment and equal access to credit and capital for Delawareans. Since its founding in 1987, it has commented on the abusive and discriminatory mortgage lending practices that have visited misery upon low- and moderate income and minority communities.

We have learned that the General Assembly of the State of Delaware has retained \$30,000,000 in settlement funds to close the expected budget gap in the next fiscal year in a manner that does not comply, in our view, with the terms of the Settlement Agreement. There exists a real danger that this sizeable chunk of remedial relief will not be used by the State of Delaware for the purpose of providing restitution or remediating harms to Delaware and its victim communities.

It has become all too clear that the Settlement Agreement, however vigilant to the need for a monitor to oversee the conduct of Bank of America, did not foresee the need for a monitor to oversee the distribution of \$16.65 billion by the state government signatories. Regrettably, it falls to DCRAC to allege non-compliance by the State of Delaware, a designated plaintiff in the Settlement Agreement, with the terms of the

Settlement Agreement. Such non-compliance with the monetary distribution requirements of the Settlement Agreement, as well as the contemporaneous publicly announced intentions of the United States and Delaware with regard to the use of this “historic” \$16.65 billion in monetary compensation, renders illusory the promise of justice for a much abused and exploited community in the State of Delaware.

DCRAC requests that the Department of Justice conduct an inquiry into the allocation of \$45,000,000 under the Settlement Agreement by the State of Delaware to determine whether its disbursement was in accord with the meaning and intent of the Agreement. If necessary, we would urge the Department of Justice to present the matter to the United States District Court, District of New Jersey, to ensure compliance by the State of Delaware with the Settlement Agreement and recoup any funds that have been misappropriated.

Thank you for your timely attention to the matters set out herein.

Sincerely,
Rashmi Rangan,
Executive Director