



## **Neighborhood Economic Development Advocacy Project**

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### **Testimony of Alexis Iwanisziw Neighborhood Economic Development Advocacy Project**

#### **Before the Office of Thrift Supervision at the Public Meeting Regarding the Applications of Republic Bank, Port Richey, Florida, Republic Bank & Trust Company (Republic), and Republic Bancorp, Inc. Louisville, Kentucky, and Related Parties, Related to the Proposed Merger of Republic Bank & Trust Company with and into Republic Bank**

**December 18, 2008**

Thank you for holding today's hearing, and for giving the public the opportunity to raise material issues concerning the Republic Bank's application for a federal thrift charter. The Neighborhood Economic Development Advocacy Project (NEDAP) strenuously urges the Office of Thrift Supervision to deny the application. The primary reason why we ask the OTS to deny the application is Republic's status as a major funder of Refund Anticipation Loans (RALs).

NEDAP is a resource and advocacy center that promotes economic justice in New York's low-income neighborhoods and communities of color. We work with hundreds of community-based groups throughout the state to press for fair access to credit, which is fundamental to equitable community development and necessary to ensuring that all New Yorkers may build and preserve assets. NEDAP engages in a wide range of activities. We operate a broad-based consumer education program, engage in corporate accountability campaigns, and provide free legal assistance to low-income New Yorkers who have experienced discriminatory and abusive practices in the banking and credit arenas. NEDAP also convenes New Yorkers for Responsible Lending, a state-wide coalition of 144 community and consumer organizations and community development financial institutions dedicated to ending abusive financial services practices in our state.

Each year NEDAP conducts a study of the impact of RALs in New York City communities. RALs take a substantial bite out of tax filers' returns, and these short-term loans often carry APRs as high as 160% which can go even higher as some tax preparers add additional fees onto that already exorbitant price. Deceptive advertising on the part of tax preparers means that filers are often not aware that RALs are loans and that e-filing would allow filers to receive their returns in less than two weeks with no additional fees or risks. RALs are also risky. If the tax preparer overstates filers' returns and makes RALs larger than the actual returns, the filers, most often low income people with tight budgets, must repay the difference with interest or face abusive cross-lender debt collection practices.

Year after year, NEDAP has found that the market for this abusive financial product has shrunk across New York City as a whole but has grown within low income communities and communities of color, and among Earned Income Tax Credit (EITC) recipients. RALs made to EITC recipients are especially problematic. EITC was designed to provide income support to the

working poor, and most EITC recipients receive all of their benefits with their tax returns. During tax filing year 2006 in New York City alone, RALs siphoned off over \$36 million of EITC payments that would have otherwise been returned to the local economy. RALs not only take a huge bite out of working families' income, but they also directly undermine community development and the city's economy, overall.

Our comments focus on four main points.

1. Refund Anticipation Loans (RALs), a major business line for Republic Bank & Trust and an abusive financial product, are disproportionately concentrated in low income communities and communities of color in New York City. We believe that Republic is poised to become a major RAL lender in New York. We call on Republic to be transparent and to provide data about the bank's current and expected market share in New York and in other markets.

From tax filing years 2003 through 2006, the most recent IRS data available, RALs siphoned more than \$314 million out of New York City's poorest communities. RALs were overwhelmingly concentrated in the city's lowest income neighborhoods and communities of color.

- Four out of five RALs made in New York City were made in communities of color.
- Forty-five percent of tax filers in predominantly black or Latino communities received a RAL; compared to 13.5% of tax filers in predominantly white and Asian neighborhoods.
- RALs extracted more than \$248 million in fees from black and Latino communities between tax filing years 2003 and 2006—79% of all RALs fees charged in New York City.

Most RALs are made to low income New Yorkers and EITC recipients.

- In 2006, 72% of all RALs were made to low-income tax filers; in 2003, that figure was 66%.
- More than one in ten low income New Yorkers was made a RAL in 2006 (12% of all low income New Yorkers).

Filers receiving EITC followed a similar pattern.

- Half of all RALs made in 2006 went to EITC recipients, up from 45% of all RALs in 2003.
- More than one in five (22%) of New Yorkers claiming EITC received a RAL in 2006.

2. Republic Bank & Trust's agreement to provide RALs to Jackson Hewitt franchises and the bank's pursuit of RALs business from independent tax preparers is likely to expand the bank's presence in New York City substantially.

Republic's RALs business has grown significantly, with fees from RALs totaling \$19.3 million in 2008, up from \$6 million in 2007. Republic's overall tax refund volume increased 270% between 2007 and 2008. This growth has been driven by Republic's partnership with Jackson Hewitt and by the bank's sales efforts to independent tax preparers. Jackson Hewitt has 110

branches in and around New York City, and there are more than 2,000 independent tax preparers in New York City.

This expansion is cause for concern as Republic's RALs are among the most expensive in the country with an APR of at least 161% for a typical refund when loans are made by an independent tax preparer. Republic's recent amendment to the bank's program agreement with Jackson Hewitt that will allow Republic to keep fees otherwise payable to Jackson Hewitt if profitability benchmarks are not met suggests that Republic is unlikely to voluntarily lower fees on RALs in the near future, as many other RALs lenders have done. Before Republic entered the market, RALs were already siphoning over \$70 million per year from low income communities and communities of color in New York City, and nearly half of the fees were drained from EITC payments. Republic's expensive RALs will consume even more hard-earned tax dollars and EITC payments from these communities.

3. Republic's RAL business has received regulatory warnings from the FDIC for Equal Credit Opportunity Act violations, and Republic's RAL lending is conducted through tax preparers that have been the subject of enforcement actions by the New York City Department of Consumer Affairs and are the subject of a pending investigation by the New York State Division of Human Rights.

Although Republic claims that approval of this applicaiton will facilitate expansion and streamline regulatory compliance, the FDIC's crackdown on Republic's RALs business and the bank's subsequent application to the Office of Thrift Supervision suggest that the bank is hoping that the OTS will not scrutinize its RALs business as closely as the FDIC has. Republic has also partnered with tax preparers that engage in deceptive advertising and target communities of color when marketing RALs.

In January, 2008, the New York State Division of Human Rights filed a complaint against Jackson Hewitt because an analysis of the company's advertising and sales data showed that Jackson Hewitt targeted black and Latino taxpayers as well as military families for RALs and other high-cost products in violation of New York State Human Rights Law.

In 2004, Jackson Hewitt signed an agreement with the New York City Department of Consumer Affairs and paid \$125,000 to settle charges for not clearly differentiating between its RALs and its non-loan refund products. Nearly 30 Jackson Hewitt franchises settled similar charges independently.

Independent tax preparers also fail to disclose important information about RALs to consumers. In 2008, the New York City Department of Consumer Affairs issued more than 500 violations to tax preparers—mostly independent preparers—for deceptive or misleading advertising. NEDAP's own study of RALs disclosures found that in 2008 only 12% of independent tax preparers surveyed displayed a sign showing how fees for RALs are computed, as required by New York City law.

4. Recommendations on the pricing and marketing of Republic's RALs.

We urge the Office of Thrift Supervision to deny Republic's application. If the application is approved, we ask that the OTS limit the damage Republic's RAL business can do to communities in New York City and across the country by requiring Republic to:

- Limit the price of borrowing a RAL to 25% APR which complies with New York State's criminal usury cap;
- Stop making RALs to EITC recipients; and
- Eliminate cross-lender debt collection agreements that violate the Fair Debt Collection Practices Act;

Thank you for holding a meeting on this important issue.