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Submitted via electronic mail to yrodriguez@council.nyc.gov

Committee on Transportation
New York City Council
City Hall
New York, NY 10007

Re: Oversight of Medallion Relief Program

Dear Council Members:

I am a staff attorney at the New York Legal Assistance Group (NYLAG). I submit this testimony in my personal capacity and not on behalf of NYLAG or any other entity. This letter, along with various other communications from me to relevant parties, including but not limited to my oral testimony before this committee on October 8, 2021, should be understood as a whistleblower complaint made pursuant to Section 12-113 of the New York City Administrative Code.

From September 8, 2020, until September 10, 2021, I exclusively represented taxi medallion owners and their families referred to NYLAG through the TLC's Owner/Driver Resource Center (DRC). NYLAG has been providing no-cost legal representation to medallion owners referred via the DRC since May 2020, pursuant to a contractual agreement with the New York City Department of Consumer and Worker Protection (DCWP). As you know, the provision of services to taxi drivers struggling with medallion debt was an initiative of the City Council.¹

Since the TLC announced the MRP in March 2021, the utilization of legal services from NYLAG has been made a key aspect of the Program's rollout. As the webpage for the MRP instructs, "How to Participate: Schedule a legal services appointment with TLC's Owner/Driver Resource Center to speak with a free legal services professional from the New York Legal Assistance Group. These experts are available to help you negotiate new loan terms with your lender."²

The primary purpose of my testimony is to shed light on a deeply troubling pattern of misrepresentations made by the TLC about the Medallion Relief Program (MRP) and its purported successes. For example, despite repeated public representations and assurances about the willingness of the industry's lenders to participate in the MRP, I possess a recording from September 9, 2021, that tells a different story. In it, Cynthia Davidson (TLC's Executive Director of Policy Initiatives & Driver Education) indicates to attorneys at NYLAG that TLC is planning to increase the amount of the grant available under the MRP from \$20,000 to \$30,000 or \$40,000

¹ See Local Law 220 of 2018.

² N.Y.C. Taxi and Limousine Comm'n, Taxi Medallion Owner Relief Program, <https://www1.nyc.gov/site/tlc/about/taxi-medallion-owner-relief-program.page> (last accessed Oct. 13, 2021).

for the lenders who have been unwilling to agree to provide the 20%, 30%, or 40% of loan forgiveness required under the current rules of the MRP. It is vital that the TLC's misrepresentations be exposed as such, because they speak directly to and are intended to mollify the near-universal concerns that have been raised about the adequacy and design of the MRP by industry stakeholders and officials throughout federal, state, and city government.³

The Creation of the Medallion Relief Program

The MRP has been characterized by arrogance and untruth on the part of the TLC since its inception. According to the testimony of Commissioner and Chairperson Aloysee Heredia Jarmoszuk at this Committee's oversight hearing on October 8, 2021:

Over a seven-month period after the [DRC] opened, TLC learned that medallion owners working with the Center and with means for a down payment for refinancing were able to achieve improved loan terms and better financial stability. TLC also learned that a number of medallion owners were unable to afford the down payment needed to refinance.

During this time, TLC also engaged in numerous discussions about how to address the debt issue with the industry stakeholders, including medallion owners, drivers, advocates, attorneys, and financial experts.⁴

Similarly, earlier this year, during the Committee's preliminary budget hearing on March 9, 2021, when Chairperson Rodriguez asked the Commissioner how she knew that the MRP would work, she stated the following:

[W]e know that many lenders over the last year that have written down hundreds of millions of dollars in loans through restructurings. What we have heard time and time again . . . from our medallion owners is that . . . they cannot afford the down payment that

³ The lengths to which TLC and DCWP have gone to try to prevent me from speaking out publicly underscore the extent of their efforts to obscure the truth. On September 10, 2021, without warning, I was suspended by NYLAG from continuing to work with my medallion-owner clients (i.e., all of my clients) after I began to raise concerns about the MRP in public. NYLAG's general counsel informed me that, at the urging of the TLC, DCWP had threatened to pull its funding from NYLAG if I was not immediately removed from working with my clients. TLC and DCWP's sole complaint about me at this time was that I had given a presentation about the taxi medallion debt crisis, in my personal capacity, in which I briefly criticized the MRP.

I subsequently gave an interview to a journalist in which I explained how some of the claims that TLC was making about the MRP were untrue. See Wen Zhuang, *Cab Drivers Are Drowning in Debt. The City's Plan Won't Help*, New York Focus (Sept. 23, 2021), <https://www.nysfocus.com/2021/09/23/taxi-cab-drivers-debt-protest/>. I also signed up to testify at the TLC hearing on the proposed rules for the MRP, to be held on September 27, 2021, in order to express similar concerns. On the day the journalist's article was published, NYLAG suspended me from all work and cut off my access to my email account and to other internal documents. On September 27, TLC refused to allow me to testify at the hearing on the proposed rules.

⁴ Video: N.Y. City Council Comm. on Transportation Oversight Hearing (Oct. 8, 2021) (beginning at 18:28), available at <https://councilnyc.viebit.com/player.php?hash=vH2Duv2wzWC>.

is necessary to restructure the loan. And so, this \$65 million plan will facilitate that so that the medallion owners don't have to worry about stringing \$20,000 together.⁵

These statements are remarkable and disturbing because they are unfounded.

For nearly a year before the TLC announced the MRP in March 2021, NYLAG attorneys had been representing taxi medallion owners and their families, most often directly in relation to their medallion debt, on a day-to-day basis. In doing so, we became highly familiar with each of the lenders active in the industry. To my knowledge, however, there was from 2020 to early 2021 only a single lender in the industry offering to provide a significant amount of loan forgiveness in exchange for a one-time payment in the vicinity of \$20,000. This lender—as reported in the *Wall Street Journal* in September 2020—was Marblegate Asset Management LLC (“Marblegate”).⁶ I know of no other lender who was willing to enter into a similar agreement with medallion owners during this time. It is simply untrue that “many lenders” were “writ[ing] down hundreds of millions of dollars in loans” through such restructurings during this time.

Had the Commissioner or her team in fact consulted with the team of City-funded attorneys at NYLAG dealing with the industry's lenders on a daily basis on behalf of medallion owners when conceiving the MRP, we could have explained this to them. But the truth is that NYLAG knew nothing about the MRP before it was announced to the public on March 9, 2021, nor were any NYLAG staff, to my knowledge, consulted about it. Thus, any suggestion that the TLC consulted with attorneys at the DRC about “how to address the debt issue,” or that the MRP reflects insights gained from the work of attorneys at the DRC is also untrue.

Inconsistencies between the Commissioner's testimony when the MRP was first announced in March 2021 and the present should similarly raise serious questions about the degree of study and consultation that actually went into the conception of the MRP. On March 9, 2021, the Commissioner testified that the \$65 million from the MRP would be used to “restructure[e] around 3200 or 4000 medallions,” postulating that if “each loan has achieved something in the ballpark of \$250,000 in debt forgiveness . . . that creates a pathway for hundreds of millions of dollars collectively in debt forgiveness” and assuring this Committee that “\$65 million will yield over \$400 to \$800 million in debt relief.”⁷ When the Commissioner testified at this Committee's oversight hearing on October 8, 2021, however, she indicated that the \$65 million fund would now only be able to cover 2,250 medallion loans.⁸ Furthermore, according to an October 9, 2021, press release from Mayor de Blasio, the average debt forgiveness purportedly obtained through the MRP

⁵ Testimony of Commissioner Aloysee Heredia Jarmoszuk at 99:24-100:10, Hearing of the N.Y. City Council Comm. on Transportation (Mar. 9, 2021), *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4809579&GUID=3237E7F8-DA59-4B1D-93C2-B9CB90C8E8C8&Options=&Search=>.

⁶ Paul Berger, *Investment Firm Forgives \$70 Million in New York City Taxi-Cab Debt*, *The Wall Street Journal* (Sept. 13, 2020), <https://www.wsj.com/articles/investment-firm-forgives-70-million-in-new-york-city-taxi-cab-debt-11600012810>. Notably, Marblegate was only willing to enter into such agreements with respect to a portion of its loan portfolio, specifically loans with unpaid principal balances of \$325,000 or more.

⁷ Testimony of Commissioner Jarmoszuk, *supra* note 5, at 92:19-24, 106:8-10.

⁸ Video: Transportation Oversight Hearing, *supra* note 4, beginning at 31:00.

so far has been only ~\$155,000.⁹ This average has been declining each week since the administration began issuing weekly press releases touting the purported results of the MRP on September 18, 2021¹⁰—with the average amount of forgiveness for “deals” approved in the most recent week being ~\$109,000.¹¹ (Tellingly, in her written testimony to this Committee for its October oversight hearing, Commissioner Jarmoszuk now boasts only that “some medallion owners . . . will attain over \$100,000 in debt forgiveness.”¹²)

Yet, despite now admitting that it has “never been able to figure out what the debt issue is, or . . . how many medallion owners actually need assistance,”¹³ the de Blasio administration continues to claim that “\$500 million in total relief [is] expected” from the MRP.¹⁴ Even using the TLC’s own numbers for the average debt forgiveness obtained through the MRP so far (\$155,000), and assuming that 2,250 medallion owners are able to get their lender to participate, however, one can see the Program is only on track to yield approximately \$350 million. Furthermore, for reasons that I explain below, the debt forgiveness figures that the TLC has reported for the MRP so far are misleading; and it is practically unfathomable that the MRP in its current design will actually benefit 2,250 medallion owners.

The Failure of the Medallion Relief Program

In the months following the announcement of the MRP, the TLC solicited hundreds of medallion owners to schedule appointments with NYLAG, making bold claims to medallion owners about the ability of NYLAG’s attorneys to negotiate significant amounts of loan forgiveness from lenders using \$20,000 from the MRP. For example, the TLC’s webpage for the MRP states that \$20,000 “can be used as a down payment to restructure loan with your lender. They create a multiplier effect: \$20,000 can mean hundreds of thousands of dollars off your loan principal.”¹⁵ Likewise, Commissioner Jarmoszuk reportedly assured one medallion owner that the \$20,000 would “cut your debt in half. So today you owe \$400,000. If you participate in this program, when it’s done you will owe \$200,000.”¹⁶

⁹ Press Release, Office of the Mayor, Taxi Medallion Relief Program Sees First 90 Owners Receive \$14 Million in Debt Forgiveness (Oct. 9, 2021), *available at* <https://www1.nyc.gov/office-of-the-mayor/news/682-21/taxi-medallion-relief-program-sees-first-90-owners-receive-14-million-debt-forgiveness>.

¹⁰ Press Release, Office of the Mayor, First Taxi Medallion Owners Receive \$700,000 in Debt Relief, as \$500 Million in Total Relief Expected for More Drivers (Sept. 18, 2021), *available at* <https://www1.nyc.gov/office-of-the-mayor/news/629-21/first-taxi-medallion-owners-receive-700-000-debt-relief-500-million-total-relief>.

¹¹ Taxi Medallion Relief Program Sees First 90 Owners Receive \$14 Million, *supra* note 9.

¹² Written Testimony of Commissioner Aloysee Heredia Jarmoszuk at 4, Hearing of the N.Y. City Council Comm. on Transportation (Oct. 8, 2021), *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5158117&GUID=7F7270B6-1281-4A7D-A13D-5B0B26AAF6FB&Options=&Search=>.

¹³ Video: Transportation Oversight Hearing, *supra* note 4, beginning at 48:02.

¹⁴ Press Release, Office of the Mayor, First Taxi Medallion Owners see Over \$5 Million in Debt Relief (Sept. 25, 2021), *available at* <https://www1.nyc.gov/office-of-the-mayor/news/650-21/first-taxi-medallion-owners-see-5-million-debt-relief>.

¹⁵ Taxi Medallion Owner Relief Program, *supra* note 2.

¹⁶ Brian Pascus, ‘Stop with the Suicide Thing,’ Taxi Chief Tells Cab Owner Opposed to Mayor’s Medallion Plan,” Crain’s N.Y. Business (Apr. 14, 2021), <https://www.crainnewyork.com/transportation/stop-suicide-thing-taxi-chief-tells-cab-owner-opposed-mayors-medallion-plan>.

The story told by the TLC about what happened next is as follows. According to the Statement of Basis and Purpose of the proposed rules for the MRP, published in mid-August, “The TLC’s Owner-Driver Resource Center has worked with over 700 medallion owners and a dozen different lenders on renegotiating loans. Lenders have participated in the process and have offered restructuring and forgiveness terms that would meet the required parameters of the proposed rules.”¹⁷ Similarly, the Office of the Mayor stated in a September 18th press release that “[n]early 800 medallion owners are in stages of renegotiations, a significant portion of which will be completed by the end of 2021.”¹⁸ And, in her written testimony to this Committee, Commissioner Jarmoszuk claimed that “over 1,000 Medallion Owners and a dozen lenders are in various stages of working with the TLC Owner/Driver Resource Center to restructure loans and lower monthly payments.”¹⁹

These claims are extraordinarily misleading, if not outright false. As of the date I was suspended from working with medallion owners, September 10, 2021, there were to my knowledge at most two lenders agreeing to provide loan forgiveness to borrowers through restructurings in amounts that qualified them for grants under the proposed rules for the MRP.

Specifically, for borrowers who owe \$325,000 or more in unpaid principal, Marblegate had been offering to lower the borrower’s balance to \$275,000 and to accept a minimum monthly payment of \$1,607.62, in exchange for the \$20,000 MRP payment and a \$1,500 upfront “legal fee” from the borrower. (Because the rules for MRP require the lender to provide at least 30% forgiveness if the minimum monthly payment is more than \$1,500,²⁰ only Marblegate borrowers with an unpaid principal balance of approximately \$400,000 or more actually stood to qualify, however.) As the TLC also knows, for borrowers who owe between \$200,000 and \$325,000 in unpaid principal, Marblegate was only willing to provide 10% loan forgiveness in exchange for the \$20,000 MRP grant (and a \$1,500 fee from the borrower). And, for borrowers who owe less than \$200,000, Marblegate was only willing to provide 5% forgiveness.

Based on my knowledge of lenders’ negotiating activity, a second lender, Signature Financial LLC (“Signature”), may have begun tendering restructuring offers that would have qualified borrowers for grants under the proposed rules. However, I am not aware of specific instances where this had occurred. Signature has a substantially smaller medallion loan portfolio than Marblegate.

There were some additional lenders that had indicated their willingness to accept money from the MRP as part of a borrower’s payment to settle their medallion loan. Loan settlements involve the borrower making a one-time payment—typically between \$80,000 and \$250,000 depending on the lender and the borrower’s unpaid principal balance—to settle their debt outright. As I will explain shortly, the difference between a loan settlement and a loan restructuring is significant.

¹⁷ N.Y.C. Taxi and Limousine Comm’n, Notice of Public Hearing and Opportunity to Comment on Proposed Rules, Aug. 2021, *available at* <https://www1.nyc.gov/assets/tlc/downloads/pdf/proposed-eligibility-for-medallion-reliefprogram-08-19-2021.pdf>.

¹⁸ First Taxi Medallion Owners Receive \$700,000 in Debt Relief, *supra* note 10.

¹⁹ Written Testimony of Commissioner Jarmoszuk, *supra* note 12 at 5.

²⁰ Notice of Public Hearing and Opportunity to Comment on Proposed Rules, *supra* note 17.

The information about the first 57 medallion owners approved for the MRP provided by Commissioner Jarmoszuk at the October 6, 2021, TLC meeting is revealing. According to her, “Of that group of people, we had about 11 . . . that were able to settle, and will owe no money now. Um, we had eight, uh, we had eight who will have monthly payments of less than \$615 a month under their new restructuring, um, and 37 of the, the, remaining, um, group, uh, will have payments below \$1,600 a month.”²¹ The Commissioner also stated that these 57 medallion owners collectively achieved \$10.4 million in debt forgiveness.²²

One crucial thing to recognize about these figures is that, in those instances where the borrower settled their loan, they would have generally paid tens (if not hundreds) of thousands of dollars in addition to the \$20,000 provided through the MRP in order to settle. For obvious reasons, this option is not available to most medallion owners. Additionally, it is misleading to include the debt forgiveness achieved by these borrowers in the total and/or average amount that the MRP has yielded, because most of the forgiveness obtained by these borrowers is not actually attributable to the MRP.

Also significant is the Commissioner’s seemingly arbitrary delineation between eight borrowers whose monthly payments will be less than \$615 and 37 borrowers who “will have payments below \$1,600.” To me, this information is not arbitrary, but clearly indicates that the 37 borrowers are Marblegate borrowers who all entered into the same agreement, with identical loan terms (described above), to lower their principal balance to \$275,000.²³ Finally, based on my knowledge of Signature’s loan portfolio and NYLAG’s prior experience negotiating agreements with them, the monthly payment amounts obtained by the remaining eight borrowers are suggestive of restructurings with Signature.

For all of these reasons, as well as others which follow, any suggestion that the “deals” completed via the MRP thus far are representative of individual medallion owners as a whole is grossly misleading.

An Ongoing Effort to Obscure the Program’s Failures

Among the industry’s other lenders, one of the largest holders of medallion loans, OSK, a Minnesota-based hedge fund, had at the time of my suspension continually refused to engage in substantive discussions regarding the MRP with attorneys from NYLAG. Instead, beginning before my suspension and continuing during it, OSK has recently been engaged in an aggressive effort to enforce its loans, repossessing numerous medallions and filing a wave of new litigation against borrowers.²⁴ In other words, just as the Commissioner testifies that the “TLC expect[s] to

²¹ Video: N.Y.C. Taxi and Limousine Comm’n Meeting (Oct. 6, 2021) (beginning at 12:48), *available at* <https://livestream.com/nyctaxi/100621commmeeting>.

²² *Id.* (beginning at 11:20).

²³ Why the Commissioner would state that these borrowers’ payments would be “below \$1,600,” rather than the actual \$1,607.62 amount, I do not know. But doing so is not inconsistent with what seems to me to be a pattern of exaggeration and embellishment.

²⁴ These litigation filings are public record.

help all individual medallion owners who need assistance” and that she “is not aware of any lenders who are not participating” in the MRP,²⁵ one of the industry’s largest lenders is actively foreclosing on medallion owners.

Another lender had expressly declined to participate in the MRP for purposes of loan restructurings, stating that it would only be willing to accept money from the MRP as part of a borrower’s one-time payment to settle their loan.

Another lender, one of the largest in the industry, had indicated that it was only willing to provide \$40,000 in loan forgiveness to borrowers who wished to participate in the MRP (at least, on the understanding that the amount of the MRP grant would be \$20,000). This amount would be inadequate to qualify most of the lender’s borrowers for grants under the proposed rules of the MRP, given their typical unpaid principal balances.

At the time of my suspension, to my knowledge, there was only one other lender that was developing a serious proposal to provide loan forgiveness through restructurings in amounts that would qualify a significant number of its borrowers for grants under the now-final rules of the MRP. However, these efforts by the lender were only preliminary and were subject to an internal approval process, and no qualifying offers had yet been made. Moreover, this lender only holds minority participatory interests in a significant portion of the loans in its portfolio, while the majority owner varies from loan to loan. In these cases, the decision of whether to participate in the MRP would remain up to the majority participant.

Based on the actual response of the industry’s lenders to the MRP, it was not altogether surprising to me when, on September 9th, Cynthia Davidson informed NYLAG’s attorneys that the TLC was planning to increase the amount of the grant available under the MRP from \$20,000 to \$30,000 or \$40,000 where lenders are unwilling to agree to provide the 20%, 30%, or 40% forgiveness required under the rules of the MRP.

All of this is also generally consistent with reporting in *Crain’s New York Business* that Commissioner Jarmoszuk “held a call with skeptical lenders Aug. 18 [*sic*] to announce that the commission is now turning the \$29,000 into one-time grant payments,” and that “some lenders remain hesitant on whether it’s in their best interest to participate.”²⁶ As one industry insider explained: “Lenders were pushing back as far as the dollar amount they were willing to commit . . . lenders are looking at it and saying, ‘. . . it seems what we have to give up isn’t worth it.’”²⁷

What is surprising to me, and deeply troubling, is that the TLC nonetheless continues to push a narrative about the MRP in public and before the City Council that is sharply divergent from what is actually unfolding through the administration of the Program. Commissioner Jarmoszuk

²⁵ Video: Transportation Oversight Hearing, *supra* note 4, beginning at 48:02 and 1:12:30, respectfully.

²⁶ Brian Pascus, *\$65M Taxi Relief Fund Stalls Six Months On*, *Crain’s N.Y. Business* (Aug. 30, 2021), <https://www.crainsnewyork.com/transportation/new-york-city-tlc-65-million-medallion-relief-program-stalls-after-six-months>.

²⁷ *Id.*

reiterated at this Committee's recent oversight hearing that "The Program provides a \$20,000 grant to all participants to be used as a down payment to help restructure medallion-related loans," elaborating that "This \$20,000 can mean hundreds of thousands of dollars off loan principal. Through the multiplier effect of the grant payments, a \$65 million program can achieve as much as \$500 million in debt forgiveness."²⁸ She further stated that over 1,000 people are already "in various stages of debt restructuring,"²⁹ suggesting that the TLC's goal is to allocate funding for "all applicants [i.e., up to 2,250] by the end of this calendar year."³⁰

Stop the TLC from Continuing to Deceive This Committee and the Public.

You do not need to take my word for the things I have shared with you in this letter. There is extensive internal documentation available to you, should you choose to seek it, which confirms everything I have said. I strongly urge you to inquire further into the extraordinarily reckless and deceptive administration of the Medallion Relief Program. Our medallion owners do not have time to wait for the failure of the MRP to become apparent.

Respectfully Submitted,

/s/ Randal Wilhite

Randal Wilhite, Esq.

²⁸ Video: Transportation Oversight Hearing, *supra* note 4, beginning at 20:20.

²⁹ Written Testimony of Commissioner Jarmoszuk, *supra* note 12 at 4.

³⁰ Video: Transportation Oversight Hearing, *supra* note 4, beginning at 23:55.