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April 3, 2020

The Honorable Steven T. Mnuchin
Secretary
Department of Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Jovita Carranza
Administrator
Small Business Administration
409 3rd St., SW
Washington, D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza:

Yesterday, I wrote to you about conflicting or erroneous information regarding the eligibility of churches and religious non-profit organizations to participate in the Paycheck Protection Program (PPP), despite the fact that Congress left no ambiguity when it authored the CARES Act. The law makes clear that non-profits may participate so long as they meet the minimum requirements explicitly defined by statute: satisfying the employee size standard, having been in operation on February 15, and having paid employees or contractors at that time. The law made no distinction for organizations with a religious or sectarian affiliation or purpose.

Unfortunately, Treasury and Small Business Administration still have not provided definitive guidance to lenders and borrowers about the eligibility of religious non-profits. When asked about the question of a religious organization's eligibility at the President's daily briefing on April 2, Secretary Mnuchin stated, "It does, although there are some technical issues but yes, it does include faith organizations. This is under the PPP, yes, the new SBA program, they are covered." Later that evening, the Small Business Administration issued 13 CFR Part 120 Interim Final Rule for the Paycheck Protection Program, which states: "SBA intends to promptly issue additional guidance with regard to religious liberty protections under this program." Worse, other parts of the Interim Final Rule seem to suggest that a preexisting—and unconstitutional—regulation will apply to forbid religious organizations from applying for the Paycheck Protection Program if their activities are somehow deemed too religious.

Religious organizations may continue to suffer economic hardship in this crisis, and it is unacceptable that your agencies' guidance would leave uncertain their ability to gain the relief to which they are entitled by the law Congress passed. Moreover, the Constitution

demands that the government may not discriminate against these religious nonprofits on account of their religious status—whether they engage in sectarian activities or not—in providing this public benefit. *See Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017).

It is imperative that you immediately issue follow-up guidance, consistent with the Constitution and federal law, including the Religious Freedom Restoration Act, to make clear that these religious organizations can seek immediate relief along with other small businesses and non-profits.

Time is of the essence. The churches and faith-based non-profit organizations that play such a vital role in serving our neighborhoods need these funds—and Congress intends to provide them. Thank you for your attention to this urgent matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Josh Hawley
United States Senator