Exhibit 44

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*, Plaintiffs, v. TRUMP, *et al.*, Defendants.	20 Civ. 5770 (JMF) **DECLARATION OF VATSADY SIVONGXAY**

Pursuant to 28 U.S.C. § 1746(2), I, Vatsady Sivongxay, hereby declare as follows:

1. I am over the age of eighteen. This declaration is made based on my personal knowledge and business records kept by the Massachusetts Immigrant and Refugee Advocacy Coalition ("MIRA").

2. I serve as the Director of Organizing and Census Manager for MIRA. In this role, I develop, implement, and manage MIRA's statewide organizing and civic engagement strategies, including working closely with our partner organizations. I joined MIRA in July 2019 to lead its statewide outreach for the 2020 Census. Prior to my work at MIRA, I served as the Director of Public Policy for the City of Boston for two years. I have been licensed as an attorney in the Commonwealth of Massachusetts for 8 years.

3. MIRA, founded in 1987, is the largest immigrant and refugee advocacy organization in New England, representing approximately 130 organizational members, including organizations that provide services for immigrants and foreign-born individuals such as community health care

centers, unions, English for Speakers of Other Languages groups, faith-based and grassroots organizations, and ethnic groups and associations. Through our membership and networks, MIRA represents around 1.2 million foreign-born people, many of whom are part of the 1.6 million people in Massachusetts who are "hard to count" for purposes of the decennial census. Since our founding, we have worked diligently in collaboration with our partners across the state and nation to build trust, provide services and resources, and share critical information with our immigrant communities. MIRA's mandate is to increase the economic, social, civil, and linguistic integration of foreign-born individuals and their families in the Commonwealth.

4. MIRA has participated in past decennial census efforts, including in the 2000 and 2010 censuses. MIRA's past census work centered on organizing outreach efforts with partner organizations, including media and faith-based groups, to conduct door-to-door canvassing, disseminate translated materials in key spaces, and create public service announcements and advertising to attempt to increase participation and reduce the amount of any undercount.

5. For the 2020 Census, MIRA is the recipient of a grant from the Secretary of the Commonwealth to assist with community education and outreach aimed at ensuring a complete count of the residents of Massachusetts. As a part of this work, MIRA convenes the Statewide Complete Count Committee, which includes partner organizations from around the state, including MassCounts (a coalition of nonprofits working on census outreach), service providers, state agencies (*i.e.*, Department of Secondary Education, Council on Aging), faith-based groups, immigrant-led organizations, local and regional complete count committees, and other civic organizations, including ethnic groups and associations. MIRA also coordinates census messaging with national and state partners; trains local partner organizations on outreach to hard-to-count populations; produces educational, communication, and advertising materials for local

distribution to encourage participation in the census; and tracks response rates for planning and targeting efforts to increase response rates in historically undercounted areas and populations.

6. Notwithstanding our preparations and commitment to achieving a complete count, the 2020 Census has been beset with challenges and barriers to participation that were not present during the 2000 or 2010 census. These issues include the ultimately unsuccessful attempt to add an untested citizenship question to the 2020 census form, the COVID-19 global pandemic, and, now, a last-minute Presidential Memorandum directing the Department of Commerce to omit undocumented people from the population count to be reported to Congress for the purpose of apportioning seats in the U.S. House of Representatives.

7. These unforeseen challenges have seriously impacted implementation of the 2020 Census. For example, Non-Response Follow-Up ("NRFU")—the critical, in-person phase of the census designed to help count hard-to-count populations and other non-responders—was scheduled to begin in Massachusetts on May 13, 2020. However, due to COVID-19, NRFU will not begin until August 11, 2020, for most of the state (however, there are soft launches in certain areas that started on and around July 30, 2020). In addition to this delay to NRFU, Massachusetts census partners have had to reduce outreach activities due to coronavirus. Moreover, many local partners lack funding and are working at reduced capacity. For instance, one entire region of our state no longer has an organization to convene its local Complete Count Committee because the convener's funding for census-related activities ran out in July, when NRFU was originally supposed to have been completed.

8. Additionally, we just learned on Friday, July 31, 2020, that the Census Bureau is shortening its timeline for NRFU: it is now planning to conclude its efforts by September 30 versus October 31, 2020, effectively halving the time to complete NRFU activities.

9. Each of these unprecedented challenges to the 2020 Census has also had real world consequences on people's trust in the confidentiality of the decennial census as well as their willingness to participate in the count, particularly among Massachusetts' immigrant communities.

10. Prior to the launch of the census in mid-March, MIRA identified forty-five historically hard-to-count municipalities for participation monitoring. These are cities with large immigrant populations that had low participation rates (less than 76%) in the 2010 census. As COVID-19 surged in Massachusetts, we saw more and more of these municipalities fall below the statewide response rate; and, as of July 31, 2020, more than half (26) had fallen below the statewide response rate. At an even more granular level, there are nearly 300 census tracts with immigrant populations of at least 30%, and *all* of these tracts are below the statewide response rate. These immigrant-rich communities in cities such as Chelsea, Everett, Lawrence, Worcester, and Boston, among others, are also some of the places that have been hit the hardest by both the health and economic impacts of COVID-19.

11. Presently, I am working to anticipate and address the impact of President Trump's July 21, 2020, memorandum (the "Memorandum"), which, among other things, directs the Department of Commerce to exclude undocumented residents from its transmittal of the population count for purposes of apportionment in Congress. In short, despite MIRA's ongoing efforts to achieve a complete count and the efforts of our local partners and similar organizations nationwide, the President has directed that undocumented residents be retroactively disregarded for calculating Congressional apportionment.

12. We are very concerned that the Memorandum will have the effect of discouraging undocumented individuals from participating in the census: if undocumented individuals will be

erased from the count, why should they participate at all? Moreover, a major component of our messaging thus far has been that census participation is critical because it determines the allocation of resources and representation over the next decade. This is a simple and historically accurate message that runs parallel to messaging from the Census Bureau. However, the Memorandum directly contradicts this messaging.

13. We are also very concerned that the Memorandum discourages documented individuals, including U.S. citizens, from participating in the census. Many documented individuals and U.S. citizens live with undocumented individuals. There is already pervasive fear about participation in the census in immigrant communities, spurred on by the Trump Administration's earlier effort to include a citizenship question. A major component of our messaging—again borrowed from the Census Bureau—has been that the census is safe and confidential. We have highlighted the Title 13 protections, which threaten severe financial penalties and imprisonment for any Census Bureau staff who discloses individuals' data. Yet, the Memorandum undermines this message by directing the Census Bureau to identify and remove undocumented people from the apportionment base. As we have heard directly from communities across Massachusetts, given this latest development, immigrants are afraid that legal protections will be insufficient. They fear that if the President wishes to identify undocumented individuals, he will use any means to do so, regardless of present assurances regarding census confidentiality. In fact, several partners, including Agencia Alpha, are no longer willing to champion the security and confidentiality of the 2020 Census.

14. This Memorandum has been incredibly disruptive to MIRA's complete count work, particularly in light of the already significant delays and strained funding and resources for census outreach due to COVID-19.

15. Among other things, prior to the Memorandum, MIRA had developed messaging that was consistent with our national partners for use by local partners in their outreach efforts. Following the issuance of the Memorandum, we have had to spend time reconsidering our messaging to evaluate if it is still accurate and if it sufficiently addresses new concerns raised by the Memorandum.

16. At the very least, we know that this Memorandum will make our work and that of our partner organizations significantly more difficult as we continue to work toward a complete count in Massachusetts. In the first ten days following issuance of the Memorandum, my staff and I collectively spent more than 25 hours reviewing it, researching its impact on the census and our own messaging, and meeting internally to discuss these issues and coordinate our response and external messaging. We also attended meetings with national partners such as Census Counts to stay on top of the developments and ensure that our message to immigrant communities would stay consistent nationally.

17. I have spent significant time since the Memorandum was issued talking to local partner organizations who contacted me concerned and confused about the Memorandum and its impact on their census outreach and on the communities they are helping to count. These include Agencia Alpha, a faith-based non-profit serving Latinos across the Commonwealth, the Immigrant Family Services Institute, a Massachusetts non-profit that provides targeted academic and enrichment services to immigrant children, and the Brazilian Women's Group, a non-profit serving the Portuguese-speaking community. We anticipate needing to provide additional training to our partner groups relating to this Memorandum and have scheduled an emergency webinar for August 5 to address the Memorandum and other related operational changes by the Census Bureau. Additionally, given the resource constraints, I am concerned that even if we

expend the necessary resources to produce and run such trainings, some of our partners may not have capacity to participate.

18. Prior to the Memorandum, we had created digital graphics and physical outreach materials, including palm cards, for partners to distribute in the areas in which they work. We ordered 30,000 of these cards in mid-July and ordered another 30,000 in late July, which cost approximately $6,000. To date, the total cost of the creation of digital graphics and advertising, as well as the staff time required to research and develop these materials, is well over $60,000. Because of the Memorandum, I am concerned that these materials will not be as effective, especially in our immigrant communities and with mixed-status households. As I discussed in paragraphs 12 and 13 above, the Memorandum critically undermines our present messaging about the importance of the decennial census for all inhabitants of our Commonwealth and its safety and confidentiality. There was no way to anticipate the existence or issuance of this Memorandum when we designed our outreach materials, so our current materials do not address any new questions arising from the Memorandum. For instance: "Is it safe for undocumented individuals to participate if the government is going to investigate their status in order to exclude them for the purposes of apportionment?" and "Why bother to be counted at all if the government is just going to exclude you later?" While, out of necessity, our original messaging may still ultimately be used, additional one-on-one conversations and relational outreach are necessary to maintain trust among communities and census partners to ensure confidence that census information will remain confidential and that there are still important benefits to responding to the census, such as ensuring receipt of critical federal funding.

19. At this stage, we do not have the time or funding to replace the palm cards, translate new messaging to reach our immigrant communities, hire additional outreach workers,

or provide financial support to our partner organizations to conduct effective in-person, direct outreach. Organizations, including government departments, are already overwhelmed by adjusting census outreach plans during COVID-19. It is especially challenging to conduct the necessary outreach with limited capacity during the shortened NRFU period.

20. The week of July 27 through July 31, 2020, was supposed to be a huge organizing surge before NRFU begins. However, I and other MIRA staff, as well as our partner organizations, have had to divert time and resources to dealing with issues related to the Memorandum rather than focusing on the planned surge. We anticipate that the loss of time dedicated to encouraging residents to self-respond will result in a significantly larger non-response rate on August 11, 2020, thereby increasing the necessary scope of the resource-intensive NRFU process.

21. Moreover, MIRA partner organizations, including those mentioned in paragraph 17, are reporting that they believe their outreach efforts will be less effective because of the Memorandum, and that people who have not responded to the 2020 Census to date are even less likely to respond to NRFU efforts following the Memorandum. I share these concerns.

22. Since the issuance of the Memorandum, MIRA and our partner organizations have received questions and concerns from other census partners and community members. Local census partners reached out to us to ask if the messaging and outreach needs to be changed, in light of the Memorandum, to include special messaging to immigrants who live in mixed-status households in order to avoid or reduce fear, misinformation, or disinformation and clarify the directives in the Memorandum for these households. A few of our partners have also specifically asked for guidance on communicating the impacts of the Memorandum to immigrants who already took the census and feel that their information will no longer be kept

confidential. As one example, Agencia Alpha's outreach workers shared that when they followed up with immigrant families, those families asked whether or not they should be worried about the information they had shared when they completed the census. Partners have requested simple and clear talking points explaining: the importance of taking the census; the present attempt by the Trump Administration to exclude undocumented individuals from the apportionment base; that undocumented individuals will still be included in the count for other purposes; and how the Census Bureau could discern documentation status data while maintaining confidentiality (to the extent that an answer exists to this question). Grassroots partners have also shared that they anticipate an increase in community fears that the census could be used to identify people for deportation, similar to the wave of fear that followed the 2018 attempt to add a citizenship question to the 2020 census questionnaire.

23. Although MIRA and our partner organizations are still planning the extent of our response to the Memorandum, it is clear that we must act to mitigate the anticipated negative impacts of the Memorandum on census response rates in Massachusetts. While this is a novel situation, our years of experience in organizing underscore our concern that an effective response will require significant additional expenditures of time and money, during a very short period of time, to develop messaging and materials, as well as to ensure these materials reach the hard-to-count communities we are working to engage in the census.

24. Mitigating the negative impact of the Memorandum on response rates will be a costly, time-consuming effort, which comes at a time when funding for census outreach is essentially exhausted and time to complete the census count is running out.

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Executed on this 5th day of August, 2020

Vatsady Sivongxay