

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

FIRST NATIONAL BANK OF PONTOTOC
and WILLIAM W. ANDERSON, JR.,

Defendants.

NO. 3:06CV061-M-D

JURY TRIAL DEMANDED

AMENDED COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f ("ECOA").

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, 42 U.S.C. § 3614(a), and 15 U.S.C. § 1691e(h). Venue is appropriate pursuant to 28 U.S.C. § 1391.

3. Defendant First National Bank of Pontotoc ("First National" or "Bank") is a federally chartered full service bank headquartered in Pontotoc, Mississippi, that conducts business primarily in the State of Mississippi. The Bank is a subsidiary of Pontotoc BancShares Corporation, a bank holding company incorporated in 1996 under the laws of the State of Mississippi.

4. First National offers the traditional services of a financial depository and lending institution, including the receipt of monetary deposits; the extension of credit for and financing of residential housing, commercial, and consumer loans; and the making of other types of credit transactions. First National had total assets of approximately \$210 million and deposits of approximately \$179 million as of December 31, 2005. The Bank is subject to the federal regulatory authority of the Office of the Comptroller of the Currency ("OCC").

5. First National engages in residential real estate-related transactions within the meaning of the Fair Housing Act, 42 U.S.C. § 3605.

6. First National is a creditor as defined by ECOA, 15 U.S.C. § 1691a(e), and Federal Reserve Board regulation B, 12 C.F.R. § 202.2(1) ("Reg. B").

7. Defendant William W. Anderson, Jr., is a resident of Pontotoc, Mississippi. Anderson was employed by First National from January 1989 through May 2004. Anderson was employed by First National as a vice president and branch manager from February 1993 through May 2004. In the ordinary course of his responsibilities as a vice president and branch manager of the Bank, Anderson regularly participated in credit decisions. His job responsibilities included, but were not limited to: (a) approving or denying, or recommending the approval or denial of, loan applications; (b) approving or denying loan extension requests; (c) setting terms and conditions for loans, including interest rate terms, repayment terms, and repayment periods; (d) approving or denying account overdrafts or returned checks and the waiving of overdraft charges; (e) reviewing loans and accounts with outstanding unpaid balances; (f) seeking payment of past due accounts; and (g) engaging in loan collection proceedings.

8. William W. Anderson, Jr., is an individual who, as a vice president and branch manager of First National, engaged in residential real estate-related transactions within the meaning of the Fair Housing Act, 42 U.S.C. § 3605.

9. William W. Anderson, Jr., is a creditor as defined by ECOA, 15 U.S.C. § 1691a(e), and Federal Reserve Board regulation B, 12 C.F.R. § 202.2(1) ("Reg. B").

10. Section 805 of the Fair Housing Act, 42 U.S.C. § 3605, prohibits any person or other entity whose business includes engaging in residential real estate-related transactions from discriminating against persons on the basis of, inter alia, sex in the terms or conditions of such transactions.

11. As creditors, both the Bank and William W. Anderson, Jr., are subject to federal laws governing fair lending, including ECOA and the regulations promulgated thereunder. ECOA prohibits creditors from discriminating on the basis of, inter alia, sex with respect to any aspect of a credit transaction. 15 U.S.C. § 1691(a).

12. Between at least February 1993 and May 2004, William W. Anderson, Jr., in the course of carrying out his responsibilities as a vice president and branch manager of First National, discriminated against female applicants for credit, female borrowers, and/or female account holders at the Bank by subjecting them to severe, pervasive, and unwelcome sexual harassment in connection with residential real estate-related transactions and/or other credit transactions. Anderson's conduct included, but was not limited to: offensive and unwanted verbal sexual statements; offensive and unwanted sexual touching; offensive and unwanted solicitations for sex; and offensive and unwanted requests or demands for sexual favors in return for favorable action on his part with respect to residential real estate-related and/or other credit

transactions. Those female applicants, borrowers, and account holders are all "persons" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(d), and "applicants" within the meaning of ECOA, 15 U.S.C. § 1691a(b), and Reg. B, 12 C.F.R. § 202.2(e).

13. First National is liable for the above-described discriminatory conduct of its managerial employee William W. Anderson, Jr.

14. The conduct of the defendants described above constitutes:

a. Discrimination on the basis of sex in the terms or conditions of residential real estate-related transactions, in violation of the Fair Housing Act, 42 U.S.C. § 3605; and

b. Discrimination on the basis of sex against applicants with respect to credit transactions, in violation of ECOA, 15 U.S.C. § 1691(a).

15. The conduct of the defendants described above constitutes:

a. A pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq.;

b. A pattern or practice of discrimination in violation of rights protected by ECOA, 15 U.S.C. §§ 1691 et seq.; and

c. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., that raises an issue of general public importance.

16. Persons who have been victims of the defendants' discriminatory conduct are aggrieved persons as defined in the Fair Housing Act, 42 U.S.C. § 3602(i), and/or aggrieved applicants within the meaning of ECOA, and have suffered damages as a result of the defendants' conduct in violation of both the Fair Housing Act and ECOA, as described herein.

17. The defendants' conduct described above was intentional, willful, and taken in reckless disregard for the rights of others.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the defendants' discriminatory conduct constitutes a violation of the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

2. Enjoins the defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:

- a. Discriminating on the basis of sex against any person with respect to any aspect of a residential real estate-related transaction or other credit transaction; and
- b. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the defendants' unlawful conduct to the position they would have been in but for the discriminatory conduct;

3. Awards such damages as would fully compensate each identifiable victim of defendants' discriminatory conduct for injuries caused by the defendants, pursuant to 42 U.S.C. § 3614(d)(1)(B) and 15 U.S.C. § 1691e(h);

4. Assesses a civil penalty against the defendants in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C); and

5. Provides the United States with such additional and further relief as the interests of justice may require.

The United States demands a trial by jury of this action.

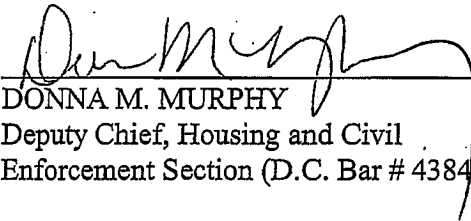
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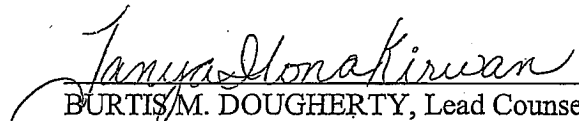
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