

THE ATTORNEY GENERAL'S  
2006 ANNUAL REPORT TO CONGRESS  
PURSUANT TO THE  
EQUAL CREDIT OPPORTUNITY ACT  
AMENDMENTS OF 1976

SUBMITTED BY  
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This report is submitted pursuant to Section 1691f of the Equal Credit Opportunity Act, as amended, regarding the activities of the Department of Justice under the statute. This report covers the 2006 calendar year.

## I. REFERRALS

In 1996, upon the recommendation of the General Accounting Office, the Department of Justice provided guidance to the bank regulatory agencies on the characteristics of a referable pattern or practice of discrimination. In this guidance memorandum, we described the distinction between referrals that we would return to the agency for administrative resolution and those we would pursue upon referral. Referrals that would likely be returned generally have the followings characteristics: (1) the practice has ceased and there is little chance that it will be repeated; and (2) the violation may have been accidental or arose from ignorance of the law's more technical requirements, such as spousal signature violations and minor price breaks for certain age groups not entitled to preferential treatment. The majority of referrals received this year fall into this category.

There were a total of 34 fair lending referrals involving potential ECOA claims from the federal regulatory agencies during the year 2006. As of December 31, 2006, 20 of these referrals had been returned to the agencies for administrative resolution. We continue to investigate the allegations in 14 of the 2006 referrals: ten from the FDIC and four from the Federal Reserve Board (FRB). The referrals are described (by agency) below:

### **Federal Deposit Insurance Corporation**

The FDIC made 29 referrals in 2006. As described below, 19 of these referrals were returned for administrative resolution. Five of the referrals involved allegations of age discrimination where a lender either provided preferential treatment to persons in age groups not entitled to preferential treatment. Twelve of the FDIC's referrals involved allegations of marital status discrimination, where the lender improperly required spousal signatures on loan documents making a non-applicant spouse liable for the entire amount of the loan – not just on any jointly owned collateral – either when the individual spouse should have independently qualified for the loan under the creditor's standards of creditworthiness, or when only one spouse filed for a tax refund anticipation loan with a married couple's joint income tax return as collateral. One of these refund anticipation loan referrals also involved allegations of age and gender discrimination. In each of these cases, the bank revised its lending policy and expressed willingness to take appropriate corrective action for any persons who were aggrieved by the discriminatory policy. In addition, there were two other referrals involving allegations of technical violations of ECOA based on religion and gender.

Each of these 19 referrals was returned to the agency for administrative resolution.

At the end of the calendar year 2006, we continued to review the ten remaining FDIC referrals, which involve the following allegations: (1) that seven lenders have discriminated on the basis of borrowers having exercised rights under the Consumer Credit Protection Act; (2) that two lenders have discriminated on the basis of race in the pricing of mortgage loans; and (3) that one lender has discriminated on the basis of national origin in the pricing of loans.<sup>1</sup>

### **Federal Reserve Board**

The FRB made five referrals in 2006. One of the referrals was returned for administrative resolution. That referral involved allegations of race and national origin discrimination, where one loan officer at a small bank rejected five minority applications based on insufficient collateral without requesting a formal appraisal. We returned the matter for administrative resolution, in light of the isolated nature of the violation (the loan officer had left the bank) and the fact that the bank had implemented both measures to redress the harm to victims and significant policy changes.

At the end of 2006, we continued to review the four remaining referrals. Two of the referrals involve allegations of marital status discrimination, where the lender improperly charged higher rates in automobile loans to co-applicants who are not married to each other. The third referral involves allegations that a mortgage company engaged in redlining on the basis of race, thereby excluding certain neighborhoods from the bank's mortgage lending activities.<sup>2</sup> The fourth referral involved allegations that a

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<sup>1</sup> During 2006, we continued to review three referrals received from the FDIC during 2005. One referral involved allegations that a lender discriminated on the basis of age by improperly considering age in a credit scoring system. After reviewing the evidence, including the fact that the bank stopped the practice during the FDIC exam process, we returned the referral to the agency for administrative resolution early in 2006. A second referral involved allegations that a lender discriminated on the basis of race in a single business lending transaction. This was not a pattern or practice referral, and, after the lender and the individual loan applicant reached a settlement in 2006, we returned the matter to the agency for administrative resolution. The third referral involved allegations that a lender discriminated on the basis of marital status by charging co-applicants for a loan, who were not husband and wife, higher interest rates than similarly situated spousal co-applicants. At the end of 2006 we continued to review this matter.

<sup>2</sup> During 2006, we continued to review one referral received from the FRB in 2005. That referral involved allegations that a lender discriminated on the basis of marital status by charging co-applicants for a loan who were not husband wife higher interest rates than similarly-situated spousal co-applicants. On January 12, 2007, this

bank discriminated on the basis of age by offering a special discount to borrowers over the age of 50.<sup>3</sup>

### **The Department of Housing and Urban Development**

HUD made no referrals during the year.<sup>4</sup>

### **Office of Thrift Supervision**

The OTS made no referrals during the year.

### **Office of the Comptroller of the Currency**

The OCC made no referrals during the year.

### **National Credit Union Administration**

The NCUA made no referrals during the year.

## **II. LITIGATION**

1. On April 27, 2006, we filed United States v. First National Bank of Pontotoc, Mississippi, Civil Action No. 3:06CV061-D-A (N.D. Miss.). This case involves allegations of sexual harassment by a former vice president of the bank who used his position to sexually harass female borrowers and applicants for credit. The lawsuit asserts that the vice president's conduct included making offensive comments of a

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referral resulted in the filing of a complaint and proposed consent order in United States v. Compass Bank, Civil Action No. 07-H-0102-S (N.D. Ala.). The consent order was entered by the Court on February 21, 2007.

<sup>3</sup> This referral was returned to the FRB in January 2007.

<sup>4</sup> During 2006, we continued to review one referral received from HUD during 2005. That referral involves allegations that the lender discriminated against African Americans by targeting them for "predatory loans" with high fees and interest rates. At the end of 2006 we continued to review this matter. We also continued to review one referral received from HUD during 2004 that also involved allegations that the lender discriminated against African Americans by targeting them for "predatory loans" with high fees and interest rates. After reviewing and analyzing all the evidence, including additional information obtained in 2005, and considering the fact that HUD achieved a conciliation agreement between several complainants and the lender, we closed this matter and returned it to HUD in the fall of 2006.

sexual nature, engaging in unwanted sexual touching, and requesting or demanding sexual favors from female customers over a period of years before his employment with the Bank ended. On November 3, 2006, the Court denied defendants' motions to dismiss the allegations in the complaint. The litigation is ongoing.

2. On October 13, 2006, we filed a complaint and consent order in the Northern District of Indiana against Centier Bank of Whiting, Indiana, alleging that Centier Bank violated the Fair Housing Act and the Equal Credit Opportunity Act by unlawfully avoiding and refusing to provide its business and residential lending products and services to predominantly African-American and Hispanic ("majority-minority") neighborhoods in the Gary metropolitan area, while making loans and services available in white areas. United States v. Centier Bank, Civil Action No. 2:06-CV-344 (N.D. Ind.). Specifically, the complaint alleges that as of 2003 only two of Centier's 29 branches were located in majority-minority areas, that those branches did not provide full lending services and were opened only in late 2002 after pressure from the bank's regulator, and that Centier defined its Community Reinvestment Act service area over time to exclude most majority-minority areas. The complaint also alleges that in 2000-2004, Centier Bank made only 3.4% of its loans reportable under the Home Mortgage Disclosure Act, and 4.3% of its small business loans, in minority census tracts.

Under the terms of the consent order, Centier Bank will open two new full-service branch offices in majority-minority census tracts; expand an existing supermarket office in a majority Hispanic census tract into a full service branch; invest \$3.5 million in a special financing program for residents and small businesses in the minority communities of the Gary areas; invest at least \$500,000 for consumer education and credit counseling programs; and spend at least \$375,000 to advertise its products in media targeted to minority communities.

3. During 2006, we conducted pre-suit negotiations in cases alleging that two automobile dealerships have engaged in similar patterns or practices of discrimination, over a period of years, by charging African-American applicants for automobile loans higher interest rates than similarly-situated non-African-American applicants for such loans. Our investigations into these matters were conducted jointly with a State Attorney General's office.

### III. INVESTIGATIONS

During 2006, the Department concentrated significant resources on fair lending investigations involving a variety of allegations. The Department continued its focus on investigating potential redlining cases, in which a lender chooses not to do business in a neighborhood because of the race, color, or national origin of the people who live in the neighborhood, thereby denying residents of minority communities equal access to residential, consumer, or small business credit. When communities are abandoned by prime lenders through redlining, they become targets for less scrupulous lenders who

may target minority neighborhoods for abusive products or loans. Lawsuits challenging redlining practices thus are an effective means to combat predatory lending. During the year 2006, in addition to the U.S. v. Centier Bank case described above, we examined allegations that several lenders in major metropolitan areas discriminated on the basis of race and national origin by avoiding or refusing to do business in majority African American and/or Hispanic neighborhoods because of the race, color, or national origin of those neighborhoods. We also continued an investigation involving alleged discrimination by a lender that refused to make certain loans on Indian reservations.

We also continued the work that the Department and other federal agencies began in 2005, to analyze the new loan pricing data under the Home Mortgage Disclosure Act that may indicate fair lending violations. Under HMDA, lenders must collect and publicly report certain information about all of the home mortgage loans that they originate each year. In 2004, lenders were required to collect for the first time certain limited information about loans in which the borrower was charged an interest rate above thresholds established by the Federal Reserve Board regulations ("high cost loans"). Studies by FRB staff indicate that nationwide minority borrowers receive such high-cost loans at a significantly higher rate than whites. In November 2005, we initiated several investigations to examine whether specific lenders were discriminating against minority borrowers by charging those borrowers higher interest rates than similarly-situated white borrowers. Based on a thorough review of the evidence, we closed one of those investigations in 2006; the others are continuing.

#### IV. OTHER ACTIVITIES

We continue to participate in an interagency task force convened by the Federal Reserve Board, with HUD, the OCC, the OTS, the NCUA, the Office of Federal Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the Federal Trade Commission (FTC) to discuss fair lending issues and the activities of the various agencies.

During the year, Division representatives participated in a variety of conferences and meetings involving lenders, enforcement agencies, advocacy and consumer groups, and others interested in fair lending throughout the country, in order to disseminate information on our enforcement policies and activities.