

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

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UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
FIRST LOWNDES BANK, INC.,  
Defendant.

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TERESA P. HACKETT, CLK  
DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions of the Fair Housing Act, 42 U.S.C. §§3601-3619 ("FHA"), 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. §1345, 42 U.S.C. §3614, and 15 U.S.C. §1691e(h). Venue is appropriate pursuant to 28 U.S.C. §1391.

3. Defendant First Lowndes Bank, Inc. ("Bank") is a state-chartered full-service bank headquartered in Fort Deposit, Alabama, that conducts business primarily in the State of Alabama. The Bank is a subsidiary of The Fort Bancorp., Inc., a bank holding company incorporated in 1986 under the laws of the State of Alabama.

4. First Lowndes Bank offers the traditional services of a financial depository and lending institution, including the extension of credit for and financing of residential housing loans. As of March 31, 2007, the Bank had total assets of approximately \$170 million, and, as of June 30, 2006, it had total deposits of nearly \$150 million. The Bank is subject to the federal regulatory authority of the Federal Deposit Insurance Corporation ("FDIC").

5. The Bank is subject to the federal laws governing fair lending, including the Fair Housing Act and the Equal Credit Opportunity Act, and the regulations promulgated under each of those statutes. The FHA and the ECOA prohibit financial institutions from discriminating on the basis of, inter alia, race or color in their lending practices.

6. Beginning in January 2006, the FDIC conducted an examination of the lending practices of First Lowndes Bank to evaluate its compliance with the Fair Housing Act and the Equal Credit Opportunity Act. The FDIC examiners initially found a substantial interest rate differential for this category of loans between African-American and white borrowers. After receiving from the Bank a list of the factors that it represented its loan officers used to price these loans, the FDIC conducted further analyses of the loan file data. Based on information gathered in its examination, the FDIC determined that it had reason to

believe that First Lowndes Bank was engaged in a pattern or practice of discrimination on the basis of race or color against African-American borrowers in setting interest rates for conventional, first-lien loans for owner-occupied manufactured housing, in violation of both the FHA and the ECOA and their implementing regulations.

7. Pursuant to 15 U.S.C. §1691e(g), the FDIC referred the matter to the Attorney General on September 22, 2006, for appropriate enforcement action, following its determination as described in Paragraph 6.

8. Between at least January 2004 and September 2005, First Lowndes Bank loan officers did not use formal, written, uniform underwriting guidelines and procedures to set interest rates for conventional, first-lien loans for owner-occupied manufactured housing. Instead, the Bank granted them the discretion to engage in subjective decision-making and set interest rates within broad parameters.

9. During the relevant time period referenced in Paragraph 8, First Lowndes Bank charged African-American borrowers higher rates of interest for conventional, first-lien loans for owner-occupied manufactured housing than it charged to similarly-situated white borrowers. The differences in the interest rates charged to African-American borrowers obtaining loans for manufactured housing from First Lowndes Bank and those charged to

white borrowers cannot be explained fully by factors unrelated to race, such as differences in individual creditworthiness or differences in loan amount. These interest rate differences, approximately 150 basis points (1.5%) between similarly situated African-American and white borrowers, are statistically significant.

10. The defendant Bank's actions as alleged herein constitute:

a. Discrimination on the basis of race or color in making available, or in the terms or conditions of, residential real estate-related transactions, in violation of the Fair Housing Act, 42 U.S.C. §3605(a);

b. Discrimination on the basis of race or color in the terms, conditions, or privileges of the provision of services in connection with the sale of dwellings, in violation of the Fair Housing Act, 42 U.S.C. §3604(b); and

c. Discrimination against applicants with respect to credit transactions on the basis of race or color in violation of the Equal Credit Opportunity Act, 15 U.S.C. §1691(a)(1).

11. The defendant's policies and practices as alleged herein constitute:

a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act and the Equal Credit Opportunity Act; and

b. A denial of rights granted by the Fair Housing Act to a group of persons that raises an issue of general public importance.

12. Persons who have been victims of the defendant's pattern or practice of discrimination are aggrieved persons as defined in the FHA, 42 U.S.C. §3602(i), and aggrieved applicants as described in the ECOA, 16 U.S.C. §1691e, and have suffered injury and damages as a result of the defendant's conduct in violation of both the Fair Housing and the Equal Credit Opportunity Acts.

13. The defendant's pattern or practice of discrimination has been intentional and willful, and has been implemented with reckless disregard for the rights of African-American borrowers.

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

1. Declares that the defendant's discriminatory conduct violates the Fair Housing Act, 42 U.S.C. §§3601 et seq., and the Equal Credit Opportunity Act, 15 U.S.C. §§1691 et seq.;

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

a. Discriminating on the basis of race or color against any person in making available, or in the terms or conditions of, a residential real estate-related

transaction;

- b. Discriminating on the basis of race or color in the terms, conditions, or privileges of the provision of services in connection with the sale of dwellings;
- c. Discriminating on the basis of race or color against any person with respect to any aspect of a credit transaction;
- d. 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; and
- e. Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future.

(3) Awards monetary damages to all the victims of the defendant's discriminatory policies and practices for the injuries caused by the defendant, pursuant to 42 U.S.C. §3614(d)(1)(B) and 15 U.S.C. §1691e(h); and

(4) Assesses a civil penalty against the defendant in an amount authorized by 42 U.S.C. §3614(d)(1)(C), in order to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.

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

MICHAEL B. MUKASEY  
Attorney General

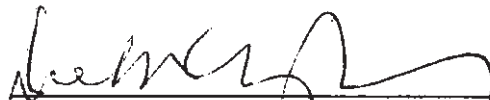


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