

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Civ. No. 17-136 (PAM/FLN)

Plaintiff,

v.

AMENDED ORDER
FILED UNDER SEAL

KleinBank,

Defendant.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Franklin L. Noel dated January 30, 2018. (Docket No. 51.) Defendant filed timely objections to the R&R (Docket No. 61), and Plaintiff responded to those objections. (Docket No. 68.) The matter is now ripe for the Court’s review.

The Court must conduct a de novo review of any portion of the R&R to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Based on that de novo review, and for the reasons set forth below, the Court overrules Defendant’s objections and adopts the R&R.

The background of this matter is fully set forth in the thorough R&R and the Court will not repeat it here. In brief, this case involves allegations that Defendant’s lending practices violate the Fair Housing Act (“FHA”) and related statutes and regulations. Defendant moved to dismiss, arguing that the Government failed to plausibly allege all of the elements of its claims. The motion was referred to Magistrate Judge Noel for disposition.

Magistrate Judge Noel determined that the Government had plausibly pled its claims in this matter. The R&R specifically noted Defendant's arguments regarding estoppel and Defendant's policy arguments regarding the difficulty of compliance with the myriad federal statutes involved here, and determined that those arguments are more appropriately raised on a motion for summary judgment.

Defendant insists that Magistrate Judge Noel erred by not examining whether the Government had plausibly pleaded intent, which is an element of a disparate treatment claim under the FHA. But the R&R discussed the Government's allegations that Defendant drew its lending boundaries to exclude majority-minority areas, something that necessarily requires intent. Indeed, most of the Government's allegations in this case require intent, whether in the form of Defendant's alleged purposeful avoidance of majority-minority areas or Defendant's decisions regarding where to market its services.

Magistrate Judge Noel thoroughly and correctly analyzed the allegations and the relevant law, and determined that the Complaint in this matter satisfies the applicable pleading standards. Defendant has not established that this conclusion is erroneous.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The R&R (Docket No. 51) is **ADOPTED**;
2. The Objection (Docket No. 61) is **OVERRULED**; and
3. Defendant's Motion to Dismiss (Docket No. **18**) is **DENIED**.

Dated: March 28, 2018

s/ Paul A. Magnuson

Paul A. Magnuson

United States District Court Judge