FILED
APR 27 2006
U S DISTRICT COURT
ABLENE COYLE, CLERK
By
Deputy

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 3:06CV061-D-A
	)	
v.	)	
	)	
FIRST NATIONAL BANK OF PONTOTOC and WILLIAM W. ANDERSON,	)	
	)	
Defendants.	)	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 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 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 Bank" 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 Corp., a bank holding company incorporated in 1996 under the laws of the State of Mississippi.

4. First National Bank 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 Bank 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. Defendant William Anderson is a resident of Pontotoc, Mississippi. Anderson was employed by First National Bank as a Vice President from February 1993 through May 2004. In the ordinary course of his responsibilities as Vice President 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.

6. Both the Bank and Anderson are creditors as defined by the Equal Credit Opportunity Act, 15 U.S.C. § 1691a(e), and Federal Reserve Board Regulation B, 12 C.F.R. § 202.2(l) ("Reg. B"). As creditors, both the Bank and Anderson 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).

7. In the course of carrying out his responsibilities as Vice President of the Bank, Anderson subjected female applicants for credit, female borrowers, and/or female account holders at the Bank to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment for a period of years before his employment by the Bank ended in May 2004. His 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 credit transactions. Those female applicants, borrowers, and account holders are all "applicants" within the meaning of ECOA, 15 U.S.C. § 1691a(b), and Reg. B, 12 C.F.R. § 202.2(e).

8. Defendant First National Bank is liable for the above-described discriminatory conduct of its managerial employee William W. Anderson.

9. The conduct of the defendants described above constitutes discrimination on the basis of sex against applicants with respect to credit transactions, in violation of Equal Credit Opportunity Act, 15 U.S.C. § 1691(a).

10. The conduct of the defendants described above constitutes a pattern or practice of discrimination in violation of rights protected by the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.

11. Female applicants have been injured by the defendants' discriminatory conduct and have suffered damages as a result. Those persons are aggrieved applicants within the meaning of ECOA.

12. 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 violates the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.;

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 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 the defendants' discriminatory conduct for injuries caused by the discriminatory conduct, pursuant to 15 U.S.C. § 1691e(h); and

4. 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.

ALBERTO R. GONZALEZ
Attorney General

WAN J. KIM
Assistant Attorney General
Civil Rights Division

STEVEN H. ROSENBAUM
Chief, Housing and Civil
Enforcement Section

DONNA M.MURPHY
Deputy Chief, Housing and
Civil Enforcement Section
(DC Bar #438436)

BURTIS M. DOUGHERTY, Lead
Counsel (DC Bar #225003)
TANYA ILONA KIRWAN (Md. Bar)
Attorneys
U.S. Department of Justice
Civil Rights Division
Housing and Civil
Enforcement Section (NWB)
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Burtis.m.dougherty@usdoj.gov
Tanya.kirwan@usdoj.gov
(Tel): 202/514-4737
(Fax): 202/514-1116