

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

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	Civil Action No. 07-H-0102-S
v.	:	
	:	
COMPASS BANK,	:	
	:	
Defendant.	:	

COMPLAINT

Plaintiff, United States of America alleges:

1. The United States brings this action to enforce provisions of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f (“ECOA”), and its implementing regulations located at 12 C.F.R. Part 202 (“Regulation B”).

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 15 U.S.C. § 1691e(h), and venue is appropriate pursuant to 28 U.S.C. § 1391(b) and (c).

3. Defendant Compass Bank (“Compass Bank”) is wholly owned by Compass Bancshares, Incorporated, a holding company located in Birmingham, Alabama. Compass Bank operates 412 full-service commercial banking branches in six states: Alabama, Arizona, Colorado, Florida, New Mexico and Texas. As of December 2006, Compass Bancshares had assets of \$34 billion, was among the top 30 U.S. bank holding companies by asset size and ranked among the top earners of its size based on return on equity. Compass Bank is regulated by the Federal Reserve Board (hereinafter “the Board”).

4. Compass Bank is a creditor as defined by ECOA, 15 U.S.C. §1691(e) and by Regulation B, 12 C.F.R. 202.2(1).

5. Beginning in March 2003, the Board examiners conducted a compliance examination

of Compass Bank. The examination included a review of Compass Bank's indirect automobile lending program, in which the Bank makes loans to customers who are buying cars through a network of automobile dealerships that arrange the loan terms with the customers. Examiners found that Compass Bank distributed to dealerships various forms of "rate sheets" that instructed dealers to price loans to unmarried ("non-spousal") co-applicants at higher rates than loans to married ("spousal") co-applicants. In the case of Compass Bank's low-documentation approval program, some rate sheets instructed dealers to prevent non-spousal co-applicants from applying altogether. The Board determined that the Bank's adoption of this pricing program and its dissemination of the rate sheets to its dealer network constituted an overt pattern or practice of disparate treatment in violation of Section 701(a) of the ECOA and Section 202.4(a) of the Board's Regulation B.

6. Pursuant to 15 U.S.C. §1691e(g) of the ECOA, the Board referred the matter to the Attorney General on January 18, 2005, for appropriate enforcement action, following the Board's determination described in Paragraph 5.

7. During the time period in which the allegations occurred, Compass Bank's indirect automobile lending operation was conducted through its Dealer Financial Services ("DFS") which is operated from two loan centers: one had headquarters in Birmingham, Alabama, and the other had headquarters in Tucson, Arizona. These two DFS loan centers were responsible for underwriting and originating all of Compass Bank's automobile loans.

8. During the time period in which the allegations occurred, Compass Bank's indirect automobile loan application process involved an automobile dealer in Compass Bank's network sending the consumer loan application and accompanying information to the appropriate DFS

loan center. The application and/or accompanying information was compiled electronically and the data was used to populate certain fields in Compass Bank's underwriting database, including a field entitled "Relationship of Co-Signer." This field specified for the DFS underwriters a relationship category for each set of co-applicants – either "parent", "spouse" or "other".

9. During the time period in which the allegations occurred, the interest rate at which Compass Bank's DFS purchased a loan from an automobile dealer within its network was called the buy rate. The rate that the dealer charged the consumer was the contract rate. The difference between the buy rate and the contract rate, which typically resulted from negotiations between the dealer and the consumer, was the dealer's interest rate markup. The DFS written policies and procedures directed loan officers to set buy rates for loans on the basis of specified credit-risk and competitive factors.

10. At least between May 2001 and May 2003, Compass Bank treated non-spousal co-applicants less favorably than similarly-situated spousal co-applicants:

a. Compass Bank provided written instructions in the form of rate sheets to over 700 automobile dealerships in both of its regional loan centers. The intent of those rate sheets was to provide guidance to automobile dealers on interest rates that Compass Bank would accept for automobile loans. Some rate sheets explicitly prohibited non-spousal co-applicants from involvement in certain loan programs, while other rate sheets stated that an additional 1 to 2 percentage points should be added to the projected buy rate whenever joint applicants had a non-spousal relationship.

b. Compass Bank charged higher buy rates to non-spousal co-applicants than to similarly-situated spousal co-applicants. The differences in the buy rates between the

automobile loans made to spousal co-applicants and those made to non-spousal co-applicants cannot be explained fully by factors unrelated to marital status. These differences are highly statistically significant.

11. Compass Bank's automobile lending policies and practices between May 2001 and May 2003, as described above, discriminated on the basis of marital status in violation of ECOA, 15 U.S.C. §§ 1691(a)(1), and Regulation B, 12 C.F.R. 202.4 and 202.2(n) and 202.6(b)(8).

12. As described in the preceding paragraphs, between May 2001 and May 2003, Compass Bank has engaged in a pattern or practice of discrimination, as defined in ECOA, 15 U.S.C. § 1691(e) and Regulation B, 12 C.F.R. 202.17(b)(4).

13. Persons who have been victims of Compass Bank's pattern or practice of discrimination are aggrieved applicants under ECOA, 15 U.S.C. §1691e; and have suffered injury and damages as a result of Compass Bank's conduct.

14. The discriminatory policies and practices of Compass Bank as described herein were intentional and were implemented with reckless disregard for the rights of non-spousal co-applicant consumers.

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

(1) Declares that the policies and practices of the defendant constitute a violation of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

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

(a) discriminating on the basis of marital status in any aspect of their business practices;

(b) failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the defendant's unlawful practices to the position they were in but for the discriminatory conduct;

(c) failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of the defendant's unlawful practices, including revising its decision making process to eliminate considerations of marital status in the setting of buy rates for automobile loans; and providing policies, procedures, and guidelines to ensure that marital status is not a factor considered in making loan pricing decisions;

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

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

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