

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,
Plaintiff,

v.

SHAWMUT MORTGAGE COMPANY,
Defendant.

CONSENT DECREE

The United States files this Consent Decree simultaneously with its complaint against the Shawmut Mortgage Company ("the mortgage company" or "the lender") alleging violations of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988), 42 U.S.C. §§ 3601-3619; the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-691f; and the Federal Trade Commission Act, 15 U.S.C. §§ 45(A) (1), 45(m) (1) (A), 49, 53(b), 56(a), and 57b. The Complaint alleges that the mortgage company has engaged in policies and practices that discriminated on the basis of race and national origin in its home mortgage lending business.

The lender denies all of the allegations in the Complaint and states that it has never discriminated on the basis of race or national origin in its mortgage lending business.

More specifically, the United States alleges that the mortgage company, during the period January 1990 through October 1992, engaged in lending practices that discriminated on the basis of race and national origin by requiring a higher level of documentation of black and Hispanic applicants' qualifying information than it required of white applicants; failing to make the same level of effort to obtain documentation of black and Hispanic applicants' qualifying information that was made to obtain documentation of the qualifying information of white applicants; failing to obtain qualifying information from black and Hispanic applicants that would compensate for apparent disqualifying information; applying more stringent underwriting standards to black and Hispanic applicants by failing to consider the offsetting or compensating information they supplied to the same extent that such information was considered in approving the loan applications of similarly situated white applicants; failing to approve loans for black and Hispanic applicants whose qualifications as documented in the mortgage company's loan files did not meet all of the mortgage company's underwriting standards but nevertheless met standards that were equal to or greater than those applied to similarly situated white applicants; and failing to take steps to insure that the policy of granting exceptions for certain applicants did not result in the application of discriminatory standards to black and Hispanic applicants.

The parties have agreed that, in order to avoid protracted and costly litigation, this controversy should be resolved voluntarily. The parties have also agreed that there should be no evidentiary hearing, trial or other adjudication on the merits, and that the entry of this Consent Decree is not to be construed as an admission by the mortgage company of the validity of any of the claims asserted in this action.

Now therefore, on the basis of the foregoing representations of the United States and the mortgage company, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. GENERAL INJUNCTIVE PROVISION

1. The Shawmut Mortgage Company, its officials, employees, and agents, as well as successors, as provided in [paragraph 10](#), below, are enjoined from engaging in any act or practice that discriminates on the basis of race or national origin in the provision of home mortgages, or in the provision of services or facilities in connection with any such transactions; and from imposing on the basis of race or national origin different terms or conditions for the availability of home mortgage loans. Fair Housing Act, 42 U.S.C. §§ 3604 and 3605; Equal

Credit Opportunity Act, 15 U.S.C. § 1691(a)(1), and Regulation B, 12 C.F.R. § 202.

II. SPECIFIC INJUNCTIVE PROVISIONS

2. The United States recognizes that the mortgage company, beginning in late 1991, and particularly since October 1992, has implemented a comprehensive fair lending compliance program to improve its outreach to potential black and Hispanic borrowers and to ensure that black and Hispanic borrowers who apply for credit are treated in a non-discriminatory fashion, both in the processing of their applications before underwriting, and in the underwriting decisions themselves. Several of the key elements of this program include the planned opening of a branch in the predominantly minority community of Roxbury, Massachusetts; the change of the compensation structure of loan originators to add incentives to encourage the origination of loans on lower-valued homes; the extension of its advertising program in minority-oriented media, such as newspapers and radio stations; the extension of its marketing program efforts to reach into predominantly minority neighborhoods; the training of loan counsellors, loan originators, loan processors and loan underwriters in the principles of fair processing and fair underwriting of loan applications; and the expansion of the role of its Mortgage Review Committee, which re-evaluates the qualifications of all denied minority applicants, to include all other applicants whose applications were denied and whose incomes are 115% or less than the median for their metropolitan areas.

The United States believes that this fair lending compliance program, as more specifically described below and in Attachment 1 to this Decree, is now working well and is adequate to ensure the lender's compliance with the fair lending provisions of the Equal Credit opportunity Act and the Fair Housing Act. Those aspects of the fair lending compliance program the mortgage company has devised to insure that all home loan applications are fully processed and fairly considered are set out below. In addition, Attachment 1 describes the lender's innovative loan products designed to facilitate home ownership by low-to-moderate income persons; its participation in a variety of state and federal loan programs with similar goals; and the marketing and outreach activities it uses to inform potential low-to-moderate income and minority borrowers of loan availability.

A. Mortgage Review Committees

In November 1991 the mortgage company established Mortgage Review committees ("MRCs"), one for Massachusetts/New Hampshire and one for Connecticut/Rhode Island, to provide a mandatory second look at all minority applications before they are declined. The mortgage company gave the committees authority to approve the loan, affirm the underwriter's decision, or return the file with a request for more information. The MRCs initially consisted entirely of senior managers. The committee structure has become more formalized over time. Since October 1992 the MRCs have been staffed by an array of experienced managers and underwriters, including experienced lending professionals who are members of minority groups. In addition, in April 1993 the lender's minority advocate, an African-American with extensive experience in affordable housing issues, joined both MRCs.

The MRC process has evolved in other ways as well. Over time, the committee members have kept more detailed minutes and have distributed the minutes more widely to enable underwriters to better understand the analytical basis for MRC loan approval decisions and to use that learning to improve their own underwriting. On November 1, 1993, the mortgage company invested six senior underwriters with the MRC's approval authority so that they could work with their underwriting colleagues to ensure that all avenues for potential approval are exhausted at the initial underwriting stage. In addition, on November 23, 1993, the lender issued a memorandum informing its underwriters of the major reasons the MRC has approved loans and directing them to employ these analytical tools themselves.

2. Mortgage Customer Assistance Program

In early 1993, the mortgage company created the Shawmut Mortgage Customer Assistance ("SMCA") program and hired an African-American with extensive affordable housing experience to serve as an advocate for minority applicants. Since April 1, 1993, at the time of application, all minority applicants have received a letter informing them of the SMCA program and giving them a telephone number to call for assistance. The letter also describes the twin goals of the SMCA program: (1) to provide information

and assistance in the loan application process; and (2) to ensure that every loan application is processed in full compliance with the lender's equal credit and fair housing obligations.

3. Self-Evaluation

The mortgage company engages in rigorous self-analysis of its fair lending performance. In late 1992, the Corporate Credit Review Department conducted a sample file review to assess whether white and black applicants with similar credit characteristics were being treated similarly in the underwriting process. In addition, the lender retained an outside consultant in late 1992 to conduct a "mystery shopper program" to assess whether it was treating minority and non-minority applicants similarly in the pre-application process. The testing was conducted between February and April 1993.

On October 8, 1993, Shawmut National Corporation's CRA Policy Committee initiated a comprehensive fair lending compliance program. Pursuant to this initiative, the mortgage company has begun the process of reviewing all of its lending policies and procedures for conformity with its regulatory fair lending obligations and with the Corporation's Fair Lending Mission Statement. It has retained a well regarded outside consultant to assist with this program and has commenced a search for an experienced Director of Consumer Compliance.

The mortgage company will continue these programs, or similar programs, along with additional programs that have been implemented by the lender to serve these goals, during the duration of this Decree.

Of equal importance to the United States in agreeing to the terms of this settlement is that the changes the mortgage company made in November 1992 in its loan processing and underwriting procedures were the direct result of the lender's forthright self-evaluation of the differences in the ways it treated minority and white applicants. In recognition of the mortgage company's incremental, and ultimately effective, steps to correct its fair lending deficiencies, the United States has agreed that it will not be necessary to have this Court impose upon the mortgage company extensive affirmative procedural practices to insure compliance with the general injunctive provisions of this Decree. In further recognition of the self-evaluative and immediate self-corrective steps that the mortgage company has taken, the United States has agreed to a compensation amount, as described in [paragraph 7](#), below, for those injured by the lender's practices during the period January 1990 through October 1992, that is designed only to make whole those persons who may have been injured by past discriminatory conduct; the amount contains no punitive sanctions and is approximately half of the amount the United States would have insisted upon in the absence of such corrective actions. The agreed-upon level of compensation also takes into consideration the reduced costs to the United States in proving its case.

III. RECORD-KEEPING AND REPORTING REQUIREMENTS

3. For a three-year period, the mortgage company will retain all loan application files submitted for home mortgage loans and all documents and notices relevant to any underwriting decisions, including Mortgage Review Committee decisions. The lender will also retain all records relating to its fair lending compliance program, including documents concerning its employee training on fair lending, mortgage production, employee recruitment, and compliance activities, as they relate to black and Hispanic borrowers and potential borrowers.
4. To fairly monitor the mortgage company's processing and evaluation of home mortgage loan applicants under this Consent Decree, the United States may, from time to time, seek and be provided access to individual home mortgage loan application files and related records such as the minutes of the lender's Mortgage Review Committees, provided such requests are reasonable and are made upon reasonable notice and in writing to the mortgage company. The United States will keep all records and information relating to loan applicants confidential to protect the applicants, privacy rights. If the United States identifies any concerns with respect to the mortgage company's compliance with this Consent Decree in its treatment of home mortgage loan applicants, it will promptly notify the lender of its concerns and seek to resolve them.

5. The mortgage company will report its progress under this Consent Decree to the Civil Rights Division of the United States Department of Justice on a semi-annual basis for the first year, and annually thereafter for the next two years. All reports will be submitted to the United States within 30 days after the close of each reporting period and will include the following information:
 - a. A general report on the mortgage company's performance, in marketing and outreach to potential borrowers, and in its processing and underwriting of black and Hispanic applicants for mortgage credit. This report should discuss, among other things, the lender's advertising, marketing, mortgage production, employee recruitment, compliance activities, underwriting, and Mortgage Review Committee activities, as they relate to black and Hispanic borrowers and potential borrowers; and
 2. A report in machine-readable form from its automated loan tracking system for all home mortgage loan applicants. The variables to be included in the reports will be agreed upon by the parties prior to the first reporting period.
6. Copies of all notices, correspondence, reports, or documents required to be provided by one party to the other under this Consent Decree will be mailed to the following addresses:

For the United States:

Chief, Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 65998
Washington, DC 20035

For the Shawmut Mortgage Company

Director of Compliance
433 South Main Street
West Hartford, CN 06110

IV. COMPENSATORY RELIEF

7. The mortgage company will place Nine Hundred and Sixty Thousand Dollars (\$960,000.00) into a Shawmut Mortgage Company Consent Decree Compensation Fund to be administered at the direction of the United States. The purpose of this fund is to compensate those who were injured by the mortgage company's practices during the period January 1990 through October 1992. It is agreed and understood between the parties that \$160,000 of the compensation fund is to be paid by the mortgage company in lieu of civil money penalties that would have been payable, if assessed, to the United States Treasury pursuant to Section 5(m) (1) (A) of the Federal Trade Commission Act, Section 704 (c) of the Equal Credit Opportunity Act, and Regulation B. The compensation fund will be administered as follows:
 - a. the lender's personnel will review all loan files of rejected black and Hispanic applicants under the review standards that have been used by the Mortgage Review Committee since October 1992;
 2. the mortgage company will then compile a list of those applicants who would have been accepted or made counteroffers, and state its reasons for affirming all loan denials for black and Hispanic applicants during the period January 1990 through October 1992; and
 3. the United States will then review the files and the reasons for continued denial of those not identified as eligible for compensation and will have the right to add any whom it believes should be included as payees. The United States will also review the circumstances surrounding the denials of the payees' applications, and will identify any persons who were unusually damaged by the denial and who may, therefore, be entitled to additional compensation (not to exceed a total of \$15,000 for any individual).
8. The mortgage company will then notify all payees by registered mail, return receipt requested, of the nature of

the settlement and of their right to receive compensation, and will include a copy of the Consent Decree with the notice. It will notify the United States of the names and last known addresses of all payees from whom no return receipt has been received within thirty days of the mailing of the notice, and the United States will have an additional thirty days to locate these payees and provide them with a copy of the notice. The notice will include a requirement that each payee respond within 60 days of receipt of the notice and execute a waiver, in the form set forth in attachment 2, of any additional rights to proceed against the mortgage company on claims arising from the same facts. Each payee will receive \$10,000, except where special circumstances warrant a greater payment (as described in [paragraph 7](#)) or a lower amount (if the United States agrees that any lower payments are warranted by the circumstances of the denials). The mortgage company will issue checks to each payee for the designated amount.

9. The disposition of any amount remaining in the fund after all payees have been compensated will be determined by the United States. In the event that the fund is insufficient to compensate all payees according to the provisions of this decree, the mortgage company will supplement the fund to provide the required compensation.

V. SUCCESSOR IN INTEREST

10. The terms of this Consent Decree will bind any successor in interest to the Shawmut Mortgage Company as to employees, branches, and offices now under the control of the mortgage company, branches subsequently acquired by the mortgage company, and any branches into which the mortgage company branches are consolidated. It is assumed by the parties that any successor in interest will voluntarily implement the provisions of this Consent Decree in all successor-in-interest branches located in the lender's current service area, but if any such successor in interest declines to voluntarily implement the provisions of the Decree in all such branches and offices, it shall present to the United States its proposed plan of operation. If the United States concludes that the proposed plan of operation will hinder the attainment of the goals of this Consent Decree it shall present such concerns to the successor in interest and attempt to resolve the differences voluntarily. Any differences that cannot be resolved by the parties may be presented to the court for resolution.

VI. MODIFICATION

11. This Consent Decree may be modified by written agreement of the defendant, the Department of Justice, and the Federal Trade Commission.

VII. RETENTION OF JURISDICTION

12. For a three-year period, this Court will retain jurisdiction for purposes of enforcing all provisions of this Consent Decree. The parties to the Decree will endeavor in good faith to resolve informally any differences regarding interpretation and compliance with this Consent Decree prior to bringing such matters to the court for resolution. Thereafter, the court will retain jurisdiction for an additional seven-year period solely for the purpose of enforcing the general injunctive provision.

VIII. COSTS

13. Each party to this litigation will bear its own costs.

It is so ORDERED, ADJUDGED, and DECREED this _____ day of 1993.

UNITED STATES DISTRICT JUDGE

The undersigned apply for consent to the entry of this Order:

For the United States:

JANET RENO
ATTORNEY GENERAL

JAMES P. TURNER
ACTING ASSISTANT ATTORNEY GENERAL

PAUL F. HANCOCK
ALEXANDER C. ROSS
JEFFERY M. SENGER
Attorneys, Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 65998
Washington, DC 20035-5998
(202) 514-4713

CHRISTOPHER F. DRONEY
UNITED STATES ATTORNEY

JOHN B. HUGHES
Chief, Civil Division
450 Main Street, Room 328
Hartford, CT 06103
(203) 240-3270

DAVID MEDINE
Associate Director
PEGGY L. TWOHIG
Assistant Director
SANDRA M. WILMORE
Attorney
Division of Credit Practices
Federal Trade Commission
Washington, D.C. 20580
(202) 326-3210

For the Shawmut Mortgage Company:

ROBERT S. BENNETT
WILLIAM J. SWEET, JR.
ANDREW L. SANDLER
Skadden, Arps, Slate Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005
(202) 371-7103
Attorneys for the Shawmut Mortgage Company