

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NATIONAL URBAN LEAGUE

500 E. 62nd Street
New York, New York 10021
(212) 644-6500

NATIONAL COMMITTEE AGAINST DISCRIMINATION
IN HOUSING

1425 H Street, N.W.
Washington, D.C. 20005
(202) 783-8150

NATIONAL ASSOCIATION FOR THE ADVANCEMENT
OF COLOURED PEOPLE

1790 Broadway
New York, New York 10019
(212) 245-2100

AMERICAN FRIENDS SERVICE COMMITTEE

1501 Cherry Street
Philadelphia, Pennsylvania 19102
(215) 241-7000

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

1730 M Street, N.W.
Washington, D.C. 20037
(202) 296-1770

NATIONAL NEIGHBORS

17 Maplewood Mall
Philadelphia, Pennsylvania 19144
(215) 848-9094

HOUSING ASSOCIATION OF DELAWARE VALLEY

1317 Filbert Street
Philadelphia, Pennsylvania 19107
(215) 563-4050

LEADERSHIP COUNCIL FOR METROPOLITAN
OPEN COMMUNITIES

407 South Dearborn Street
Chicago, Illinois 60605
(312) 341-1470

METROPOLITAN WASHINGTON PLANNING AND
HOUSING ASSOCIATION

1225 K Street, N.W.
Washington, D.C. 20005
(202) 737-3700

RURAL HOUSING ALLIANCE

1346 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 659-1680

NATIONAL ASSOCIATION OF REAL ESTATE BROKERS

1028 Vermont Avenue, N.W.
Washington, D.C. 20005
(202) 638-1280

Civil Action No. 76-0718

Plaintiffs

v.

OFFICE OF THE COMPTROLLER OF THE CURRENCY
Department of the Treasury
490 L'Enfant Plaza East
Washington, D.C. 20219

JAMES E. SMITH, Individually, as Comptroller
of the Currency, and as a Member of the
Board of Directors of the Federal Deposit
Insurance Corporation
490 L'Enfant Plaza East
Washington, D.C. 20219

THE BOARD OF GOVERNORS OF THE FEDERAL
RESERVE SYSTEM
Constitution Avenue and 20th Street, N.W.
Washington, D.C. 20551

ARTHUR BURNS, Individually and as Chairman
of the Board of Governors of the Federal
Reserve System
Constitution Avenue and 20th Street, N.W.
Washington, D.C. 20551

PHILIP E. CALDWELL, STEPHEN GARDNER, ROBERT
C. HOLLAND, PHILIP JACKSON, J. CHARLES
PARTEE AND HENRY C. WALLICH, Individually
and as Members of the Board of Governors
of the Federal Reserve System
Constitution Avenue and 20th Street, N.W.
Washington, D.C. 20551

THE FEDERAL DEPOSIT INSURANCE CORPORATION
550 17th Street, N.W.
Washington, D.C. 20429

ROBERT E. BARNETT, Individually and as
Chairman of the Board of Directors of
the Federal Deposit Insurance Corpora-
tion
550 17th Street, N.W.
Washington, D.C. 20429

GEORGE A. LEMAISTRE, Individually and as
a Member of the Board of Directors of
the Federal Deposit Insurance Corpora-
tion
550 17th Street, N.W.
Washington, D.C. 20429

THE FEDERAL HOME LOAN BANK BOARD
320 First Street, N.W.
Washington, D.C. 20552

GARTH MARSTON, Individually and as Acting
Chairman of the Federal Home Loan Bank
Board
320 First Street, N.W.
Washington, D.C. 20552

and

GRADY PERRY, JR., Individually and as a)
 Member of the Federal Home Loan Bank)
 Board)
 320 First Street, N.W.)
 Washington, D.C. 20552)
)
)
)
)
 Defendants.)

AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE AND OTHER RELIEF

INTRODUCTION

1. This is an action for declaratory and injunctive relief against the four federal agencies which supervise and regulate the vast majority of the Nation's home mortgage lending institutions. The action is brought to remedy the continuing failure and refusal of these agencies to take action to end discriminatory mortgage lending practices by institutions which they regulate and to which they provide substantial federal benefits. This failure and refusal has persisted despite the accumulation of evidence, including evidence in the files of the defendant agencies, that such practices are widespread among regulated lending institutions; despite efforts of other federal agencies, including the United States Department of Justice, the Department of Housing and Urban Development, and the United States Commission on Civil Rights, to induce the defendant agencies to institute effective enforcement procedures; and despite the fact that such practices violate the Constitution and laws of the United States (most notably Title VIII of the Civil Rights Act of 1968), artificially restrict credit opportunities of borrowers and business opportunities of lenders, and subject discriminating institutions to the risk of substantial civil liability.

2. Plaintiffs are eleven organizations whose activities are devoted to aiding and assisting all Americans in securing equal housing opportunity; whose membership and clientele have suffered damage from the failure and refusal of the defendants to act against discriminatory lending practices of institutions which they regulate; and whose membership and clientele will continue to suffer damage from such practices unless the defendants act to prevent them. In 1971 ten of the plaintiffs filed rule making petitions with the four defendant agencies, which these agencies entertained but which they have not made any formal disposition of in the five years since. This action is brought in the conviction that only court intervention will induce the defendant agencies to carry out their duty to enforce non-discrimination among the institutions whose lending practices they supervise and regulate.

3. This action arises under the Fifth Amendment to the United States Constitution Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) et seq.; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.; the Civil Rights Acts of 1870 and 1866, 42 U.S.C. 1981, 1982; the Financial Institutions Supervisory Act, 12 U.S.C. 1730, 1818; 12 U.S.C. 1464 (d) 1437; Section 2 of the Housing Act of 1949, 42 U.S.C. 1441, 1441a; Section 527 of the National Housing Act, as amended, 12 U.S.C. 1735f-5; and the Administrative Procedure Act, 5 U.S.C. 555. The matter in controversy exceeds, exclusive of interest and costs, the sum of value of \$10,000.

4. This court has jurisdiction under 28 U.S.C. 1331, 1337, 1343, 1346, 1361, 2201, 2202, 5 U.S.C. 701-706, 12 U.S.C. 1819, and 42 U.S.C. 3612, 3617.

PLAINTIFFS

5. The National Urban League is a non-profit corporation organized under New York law, with headquarters at 500 E. 62nd Street, New York,

New York. The League and its predecessors have been in existence for more than 65 years; currently it has 104 affiliated Leagues located in cities throughout the United States. Its general purposes are, among others to improve the living and working conditions of blacks and other similarly disadvantaged minorities and to foster better race relations and increased understanding among all persons. In furtherance of these purposes it develops, organizes and carries out, and assists its affiliates in conducting action programs in such fields as housing and employment. Specifically, through its "Operation Equality", the League and its affiliates seek to assist black residents of low income, deteriorating neighborhoods to find and finance standard housing outside such areas. It conducts studies and provides information concerning discriminatory practices of real estate and mortgage lending firms, and organizes communities to combat such practices. As part of its efforts to eliminate discriminatory mortgage lending practices, it filed a petition for rule making with the defendants in this action in 1971. In their efforts to find and finance homes outside ghetto areas, the clientele served by the League and its affiliates, as well as members of the League and of its affiliates, suffer and continue to suffer from the discriminatory practices listed in Paragraph 25 of this complaint, engaged in by lending institutions regulated and supervised by the defendants. Accordingly, the League, its affiliates, their members and clientele, are directly and adversely affected by the failure and refusal of the defendants to act to end such discriminatory practices by institutions which they regulate. Such discrimination also interferes with the League's efforts to aid and assist its members and other minority persons in securing their right to equal housing opportunity. In addition, the defendants' failure injures the League and its affiliates in that it compels them to expend funds, staff time, and other resources in combating such practices which they would not be compelled to expend were the defendants to take action as prayed in this complaint.

6. The National Committee Against Discrimination in Housing (NCDH) is a non-profit corporation organized under the laws of the District of Columbia and located at 1425 H Street, N.W., Washington, D.C. A principal objective of NCDH is to assist minority group persons in securing the right to equal housing opportunities guaranteed under Title VIII of the Civil Rights Act of 1968 and other fair housing laws. In carrying out this objective, NCDH engages in fair housing litigation on behalf of minority group homeseekers challenging, among other discriminatory housing practices, discrimination in mortgage lending. NCDH also aids and assists minority group homeseekers by representing them in administrative proceedings before such executive agencies as the Department of Housing and Urban Development. Further, NCDH participated in a petition for rule making submitted to the defendants in this action, as part of its effort to eliminate discrimination in mortgage lending as a barrier to equal housing opportunity. The failure and refusal of the defendants to take action necessary to correct the discriminatory practices of lending institutions which they regulate, alleged in Paragraph 25 of the complaint, causes injury to the clientele served by NCDH and interferes with NCDH's efforts to assist its clientele in securing their right to equal housing opportunity. Such failure and refusal also injures NCDH by requiring it to spend funds, staff, and other resources, to eliminate discriminatory practices in mortgage lending. But for the failure and refusal of the defendants to remedy these discriminatory practices, NCDH would not be forced to deplete its scarce resources to seek compliance with the nondiscrimination requirements of federal law in mortgage lending.

7. The National Association for the Advancement of Colored People (NAACP), organized as a non-profit corporation under New York law in 1909, and with headquarters at 1790 Broadway, New York, New York, is the oldest and largest civil rights organization in the country. It has a membership of 450,000 persons, most of them black, and 1,700 branches in all 50 states and the District of Columbia. A principal objective of the organization is to assist minority group persons, both NAACP members and others, in securing rights guaranteed under various

civil rights laws, including Title VIII of the Civil Rights Act of 1968. The organization endeavors to remove all barriers of racial discrimination, including barriers to equal housing opportunity resulting from discriminatory practices in mortgage lending, through the enforcement of legal rights for the benefit of its members and other persons seeking its assistance. Throughout its existence the NAACP has actively sought to achieve fair housing for minority Americans through such means as litigation, administrative actions, including a petition for rule making submitted to the defendants in this action, and through efforts to resolve complaints from minority citizens, both members of the NAACP and others who seek its assistance. NAACP members have suffered and continue to suffer discrimination in their efforts to secure mortgage loans from lending institutions supervised by the defendants in this action. The continuation of such discrimination directly and adversely affects the NAACP and its members, and interferes with the organization's efforts to aid and assist its members and other minority persons in securing their right to equal housing opportunity. The failure and refusal of the defendants to take action necessary to eliminate the discriminatory practices alleged in Paragraph 25 of this complaint have caused and continue to cause injury to the NAACP, to its members, and other persons to whom it provides assistance.

8. The American Friends Service Committee (AFSC) is a non-profit corporation organized under Delaware law and with headquarters at 1501 Cherry Street, Philadelphia, Pennsylvania. It has been actively concerned with the denial of equal housing opportunity for over 25 years. Its Community Relations Division, with a staff of 100 in 32 states administers programs for the benefit of the poor, minority group persons, and other disadvantaged persons, in the fields of housing, jobs and income, education, health and the administration of justice. In past years it has operated specific action programs in Chicago, San Francisco, Philadelphia, Atlanta, Washington, D.C. and Richmond, Indiana, designed to assist minority group and other disadvantaged persons confronted with housing discrimination, through direct assistance to individuals and by seeking changes in institutional discriminatory policies and practices in the real estate

industry. As part of this effort, it petitioned the defendants in this action to exercise their regulatory authority over mortgage lending institutions so as to end discriminatory home finance practices. The clientele served by AFSC has suffered injuries from the discriminatory practices of lending institutions which the defendants regulate, listed in Paragraph 25 of this complaint, and will continue to suffer such injuries unless the defendants take action to end such practices. The failure of defendants to act to end discriminatory mortgage lending practices interferes with AFSC's efforts to assist minorities in securing their right to equal housing opportunity and causes it to expend funds, staff and other resources which it would not be compelled to expend were the defendants to take effective action as prayed in this complaint.

9. The League of Women Voters of the United States is a non-partisan, non-profit District of Columbia Membership Corporation with its principal office at 1730 M Street, N.W., Washington, D.C. Its general purpose is to encourage the informed and active participation of all citizens in the processes of government. It has a membership of 150,000, mostly women, in more than 1300 state and local Leagues in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands. Since 1964, it has given concerted attention to efforts at securing equal opportunity, without regard to sex or race, in housing, jobs, transportation and recreation. In furtherance of its efforts to secure fair housing, it distributes educational literature to state and local Leagues and individual members informing them of methods for monitoring compliance with federal fair housing laws and regulations and for challenging restrictive housing and land-use practices. The League, state and local Leagues, and individual members have been active in such monitoring and enforcement activities, and have participated directly or as amicus curiae in lawsuits and other activities (including a rule making petition to these defendants) designed to end housing discrimination, and to secure housing opportunities for the poor and minority groups in the suburbs. Members of the League have

suffered discrimination on the basis of their sex in seeking mortgage loans and have been otherwise injured by the discriminatory practices of lending institutions which the defendants regulate, listed in Paragraph 25 of this complaint. They will continue to suffer these injuries unless the defendants take action to end these practices as sought in this action.

10. National Neighbors is a non-profit corporation organized under Missouri law, with headquarters at 17 Maplewood Mall, Philadelphia, Pennsylvania. Its purpose is to encourage the development and maintenance of stable multi-racial residential communities throughout the United States. Approximately 100 local organizations with similar purposes are members of National Neighbors. The national organization provides information, advice and technical assistance to these and other community groups to assist them in achieving and stabilizing integrated neighborhoods and in combating forces which inhibit the development and stabilization of such neighborhoods. Among these forces are mortgage lending practices, including practices listed in Paragraph 25 of this complaint, engaged in by lending institutions supervised and regulated by the defendants in this action. National Neighbors and its members accordingly are directly injured by the defendants' failure to take action to end such practices by institutions which they supervise and regulate, since this failure interferes with the achievement of the purposes of National Neighbors and its members to aid and assist its members and others to secure the right to equal housing opportunity and causes these organizations to spend money, staff time and other resources combating practices which would not occur were the defendants to take such enforcement action. In addition, individual members of National Neighbors' constituent organizations, who desire to live in multi-racial neighborhoods, are injured by defendants' failure to act against mortgage lending practices engaged in by lending institutions regulated by them which make financing of homes in such

neighborhoods more difficult and which tend to destabilize such neighborhoods.

11. The Housing Association of Delaware Valley is a non-profit corporation organized under the laws of Pennsylvania with headquarters at 1317 Filbert Street, Philadelphia, Pennsylvania. It is devoted to the goals of a decent home and decent living environment within the means of every family, freedom of housing choice, and equality of housing opportunity. The Association studies and reports on the extent of discrimination in both private and government housing agencies and programs, acts as a clearinghouse for housing information of importance to communities throughout the Delaware Valley, prepares publications and proposals which offer alternative solutions to housing problems, and upon request, assists community groups in solving redlining and other housing problems in their communities throughout the Delaware Valley. Its activities have included testifying before local and national governmental and administrative bodies concerned with housing and housing discrimination, and the filing of rule making petitions with the defendants in this action. The Association has over 400 members, both individuals and organizations. Individuals who are members of the Association or of its organizational members have been injured and continue to be injured by mortgage lending practices of lending institutions regulated by the defendants and listed in Paragraph 25 of this complaint, and such injuries will continue unless the defendants act to correct such practices as prayed herein. Further, these practices interfere with the Association's efforts to aid and assist others in securing the right to equal housing opportunity. The Association has been compelled to expend funds, staff time and other resources in combatting redlining and other discriminatory practices which it would not have had to expend had the defendants acted to end such practices.

12. The Leadership Council for Metropolitan Open Communities is a non-profit corporation organized under Illinois law for the purpose of securing equal housing opportunity for all. Its office

is at 407 South Dearborn Street, Chicago, Illinois. It has filed more than 120 suits under the 1968 and 1866 Civil Rights Acts and engaged in other action designed to achieve its corporate purpose, including the filing of a rule making petition with the defendants in this action. The Council has been particularly concerned with discrimination by banks in mortgage lending; and the failure and refusal of the defendants in this action to take action to end discriminatory practices by regulated lending institutions has caused, and continues to cause, the Council to expend money, staff time and other resources combatting such practices which it would not be compelled to expend were the defendants to take action as prayed in this complaint.

13. Metropolitan Washington Planning and Housing Association (MWPFA) is a District of Columbia non-profit membership corporation organized in 1935 under the name Washington Committee on Housing, Inc., with its office at 1225 K Street, N.W., Washington, D.C. It has approximately 125 members, including those of the former Housing Opportunities Council of Metropolitan Washington, which merged with MWPFA in 1975. The Association's purpose is to promote improved housing conditions for all throughout the metropolitan Washington area through planning, educational and other activities. In particular, its efforts are directed at assuring black people equal access to housing for low and moderate income families throughout the metropolitan area. On behalf of members and other minority residents seeking its assistance or referred to it, it has sought to resolve complaints of housing and home finance discrimination against Washington area real estate and lending institutions. Its members and others whom it serves have suffered and continue to suffer from the discriminatory practices of lending institutions regulated by the defendants, listed in Paragraph 25 of this complaint. These practices also interfere with MWPFA's efforts to aid and assist in securing equal housing opportunities for its members and other minority individuals. For this reason, MWPFA

joined in petitioning the defendants in this action. The failure of the defendants to take such action continues to cause injury to MWPHA's members and other whom it serves; continues to interfere with its efforts to secure equal housing opportunities in the Washington Metropolitan area; and further injures MWPHA by compelling it to expend money, staff time and other resources to resolve mortgage lending discrimination complaints which would not occur were the defendants to take the actions sought in this suit.

14. The Rural Housing Alliance (RHA), formed in 1966 as the International Self-Help Housing Association, is a non-profit, educational organization, incorporated under the laws of the District of Columbia with offices at 1346 Connecticut Avenue, N.W., Washington, D.C. It provides technical and advisory services to individuals and groups seeking to provide homes for low-income families in rural areas. RHA has approximately 500 members and is supported by individual contributions as well as grants from foundations and the government. The majority of RHA's clientele, the beneficiaries of its services, are black or from other minority groups in rural areas. RHA's purpose is to see that this clientele is adequately sheltered in decent and sanitary housing, using as a vehicle its educational and technical services. The achievement of RHA's goals is made more difficult by the discriminatory practices listed in Paragraph 25 of this complaint, and for that reason RHA petitioned the defendants in this action to use their regulatory and enforcement powers to end such practices among lending institutions which they supervise. Moreover, RHA's members and clientele are injured by these practices, directly and by interfering with their efforts to aid and assist minority families in securing their right to equal housing opportunity, and therefore by the defendants' failure and refusal to end them through regulatory and enforcement action.

15. The National Association of Real Estate Brokers (NAREB), founded in 1947, is organized under the laws of the State of Michigan, and is located at 1028 Vermont Avenue, N.W., Washington, D.C. Its

principal function is to serve the needs of the nation's minority real estate brokers, sales persons, and allied professionals. It has 2,600 members, engaged in real estate and related business, in 31 states. A goal of NAREB is to increase housing opportunities for minority homeseekers. The members of NAREB deal mainly with minority clientele and operate principally in areas and neighborhoods where minority families reside in disproportionate numbers. NAREB members assist minority families in securing equal housing opportunities, including the right to reside in neighborhoods in which few such families currently reside. The failure and refusal of the defendants to take action necessary to correct discriminatory practices of lending institutions regulated by them, listed in Paragraph 25 of this complaint, have caused injury to NAREB, to its members and to its members' clients. The continuation of such discriminatory practices, unchecked by the defendants, severely restricts business opportunities for NAREB members by imposing undue burdens on their minority clientele in securing mortgage loans and by making it more difficult to finance the purchase of homes in minority neighborhoods, where NAREB members principally operate. The failure and refusal of the defendants to end such discriminatory practices among lending institutions which they supervise also injures NAREB and its members by interfering with their efforts to assist minority families in securing their rights to equal housing opportunity, regardless of the racial character of the neighborhood.

DEFENDANTS AND INSTITUTIONS WHICH THEY REGULATE

16. Defendant Office of the Comptroller of the Currency is an agency within the United States Department of the Treasury. Defendant James E. Smith is the Comptroller of the Currency. The Office of the Comptroller of the Currency approves the issuance of federal charters to National banks, specifies the terms and conditions of such issuance, and supervises and regulates the activities of such National banks.

17. National banks receive the benefits associated with federal charters, including exclusive right among commercial banks to use the word "National" in their title. By law they are members of the Federal Reserve System and their deposits are insured by the Federal Deposit Insurance Corporation (FDIC); thus they are accorded the benefits and privileges of such membership and insurance. They represent 33 percent of the nation's commercial banks, but hold in the aggregate 58 percent of all commercial bank resources. As of 1974, they held \$43 billion in non-farm residential mortgages.^{1/}

18. Defendant Board of Governors of the Federal Reserve System (hereafter Federal Reserve Board) is an agency of the United States. Defendant Arthur Burns is Chairman of the Federal Reserve Board. Defendants Philip E. Caldwell, Stephen Gardner, Robert C. Holland, Philip Jackson, J. Charles Partee, and Henry C. Wallich, are members of the Federal Reserve Board. The Federal

^{1/} All figures based on 1-4 family residential properties.

Reserve Board admits state-chartered commercial banks as members of the Federal Reserve System, specifies the terms and conditions of such membership, and supervises and regulates the activities of such state-chartered member banks.

19. State-chartered Federal Reserve member banks (like National banks) receive the benefits of membership in the Federal Reserve System, including use of Federal Reserve clearinghouse facilities and access to loans from Federal Reserve banks. Deposits of state-chartered Federal Reserve member banks by law are also FDIC-insured, thereby according such banks the benefits of such insurance. State-chartered member banks represent 11 percent of the nation's state-chartered commercial banks, but hold 46 percent of the resources of such banks. As of 1974, state-chartered member banks held \$11 billion in non-farm residential mortgages.

20. Defendant Federal Deposit Insurance Corporation (FDIC) is an agency of the United States. Defendant Robert E. Barnett is Chairman of FDIC. Defendants George A. LeMaistre and James E. Smith are members of the Board of Directors of FDIC. FDIC admits state-chartered, non-Federal Reserve member commercial banks and mutual savings banks as members of FDIC, specifies the terms and conditions of such membership, insures deposits at such institutions, and supervises and regulates their activities.

21. Ninety-eight percent of the nation's commercial banks (all National banks, all state-chartered Federal Reserve member banks, and 8,436 of the 8,685 state-chartered, non-member banks) are members of FDIC and hold 99 percent of all commercial bank resources. Sixty-seven percent of the nation's mutual savings banks are members of FDIC and hold 87 percent of the resources of all mutual savings banks. FDIC member commercial and mutual savings banks receive the benefits of insurance of deposits by FDIC. As of 1974, FDIC member commercial and mutual savings banks held \$115 billion in non-farm residential mortgage loans, constituting 94 percent of all such outstanding loans of commercial and mutual savings banks. FDIC insurance is essential to the prosperity and growth of commercial and mutual savings banks.

22. Defendant Federal Home Loan Bank Board (hereafter FHLBB) is an agency of the United States. Defendant Garth Marston is Acting Chairman of the FHLBB. Defendant Grady Perry, Jr. is a member of the FHLBB. The FHLBB issues federal charters to Federal savings and loan associations and specifies the terms and conditions of such charters; admits state-chartered savings and loan associations as members of the Federal Home Loan Bank System (hereafter FHLBS) and specifies the terms and conditions of such membership; directs the activities of the Federal Savings and Loan Insurance Corporation (hereafter FSLIC), admits state-chartered savings and loan associations as members of FSLIC, and specifies the terms and conditions of such membership. The FHLBB supervises and regulates the activities of all Federal savings and loan associations and all state-chartered savings and loan associations which are members of the FHLBS and/or FSLIC.

23. Savings and loan associations engage almost exclusively in residential loans. Forty percent of all savings and loan associations, holding 57 percent of all savings and loan resources, operate under federal charters issued by the FHLBB, and receive the benefits associated with federal charters, including the exclusive right among savings and loan associations to use the word "Federal" in their title. By law Federal savings and loan associations are members of the FHLBS and their deposits are FSLIC-insured, thereby according them the benefits and privileges of such membership and insurance. Eighty-four percent of all savings and loan associations, holding 98 percent of all savings and loan resources, are members of the FHLBS and receive the benefits of such membership, including the right to secure advances, in the form of loans, from Federal Home Loan banks. Eight-one percent of all savings and loan associations, holding 98 percent of all savings and loan resources, are members of the FSLIC and receive the benefits of FSLIC insurance of their accounts. As of 1974, the aggregate of FSLIC-insured savings and loan associations held \$195 billion in non-farm residential mortgage loans, 97 percent of the non-farm residential mortgage loans held by all savings and loan associations. FHLBS Membership and FSLIC insurance are essential to the prosperity and growth of savings and loan associations.

24. As of 1974, the total amount of residential mortgage loans held by federally regulated commercial and mutual savings banks and savings and loan associations was \$310 billion, 75 percent of outstanding non-farm residential mortgage loans.

RACE AND SEX DISCRIMINATION IN HOME

MORTGAGE LENDING BY REGULATED INSTITUTIONS

25. Mortgage lending institutions supervised, regulated and benefitted by the defendant federal agencies maintain discriminatory policies and practices, in violation of federal laws, including the following:

(a) They deny loans to otherwise qualified non-white families because of their race;

(b) They impose more stringent terms and conditions on loans to otherwise qualified non-white families because of their race;

(c) They refuse to make loans to otherwise qualified non-white families for the purchase of homes in residential areas occupied by white families;

(d) They refuse to make mortgage loans to otherwise qualified female-headed families because of the family head's sex;

(e) They impose more stringent terms and conditions on loans to otherwise qualified female-headed families because of the family head's sex;

(f) They discount all or a substantial part of a wife's income, because of her sex, in determining the eligibility of families for mortgage loans. Since a higher proportion of wives in black families than in white families work, this practice also discriminates against black borrowers;

(g) They refuse to make loans to otherwise qualified families, white and non-white, for the purchase of homes in racially integrated or predominantly non-white neighborhoods, because of the racial composition of such neighborhoods;

(h) They impose more stringent terms and conditions on loans to families, white and non-white, for the purchase of homes in racially integrated or predominantly non-white neighborhoods, because of the racial composition of such neighborhoods;

(i) They designate certain residential neighborhoods, principally in central city areas, that are racially integrated or predominantly non-white as ineligible for any mortgage loans;

(j) They refuse to lend to married women in their own names;

(k) They require information concerning a wife's birth control practices in connection with a mortgage loan application;

(l) They require fluency in the English language as a prerequisite for obtaining a loan;

(m) They use isolated past credit difficulties as a bar to receiving a mortgage loan. Since non-whites, in part because of discriminatory credit practices, experience a higher incidence of credit difficulties, this practice discriminates against them without regard to current credit-worthiness.

(n) They use the existence of a prior criminal record or a prior arrest record, regardless of the nature of the charge and even without conviction, as a bar to a mortgage loan. Since non-whites, in part because of discrimination in law enforcement, experience a higher incidence of arrest with and without conviction, this practice discriminates against them.

(o) They deny loans to persons who have not previously owned their own home. Since home ownership is less common among non-whites, in part because of discriminatory real estate and lending practices, this practice discriminates against them.

(p) They refuse to count stable income from overtime, production bonuses or part-time work, thus discriminating against minority and female borrowers who more frequently rely on such income;

(q) They impose overly restrictive payment-to-income ratios on loans to black and female borrowers;

(r) They refuse to make loans in certain areas, or make them on less favorable terms, based solely on the age of the homes or the income level of the neighborhood. Since non-whites, in part because of discriminatory real estate and lending practices, more commonly live in lower income neighborhoods and neighborhoods of older homes, this practice discriminates against them.

(s) They finance and otherwise do business with builders, developers, brokers or other firms that practice racial and sex discrimination;

(t) They avoid doing business with minority brokers or brokers whose clientele is predominantly non-white;

(u) They fail to advertise their services in media reaching predominantly minority borrowers while continuing to advertise in media reaching predominantly white borrowers;

(v) They refuse to make federally subsidized or federally guaranteed loans or to make loans to borrowers receiving federal subsidies, thus discriminating against minority persons who more frequently seek such loans and subsidies.

26. These discriminatory lending policies and practices place arbitrary and artificial restraints upon the free flow of mortgage credit. They deny to otherwise qualified non-white families the opportunity to purchase homes, and to purchase homes outside areas of non-white concentration; deny otherwise qualified female-headed families the opportunity to purchase homes; and deny to otherwise qualified families, white and non-white, the opportunity to purchase homes in racially integrated or predominantly non-white residential areas. The policies and practices also contribute to the deterioration and abandonment of racially integrated and predominantly non-white residential areas.

27. In part because of the greater difficulty experienced by minority families in securing mortgage loans from institutions supervised, regulated and benefitted by the defendants, disproportionately few black families own

their homes compared with other families. In 1970, only 42% of black households and 44% of Hispanic households owned their own homes compared to 65% of other households. This racial disparity existed between black and other homeowners of equal income levels. For example, in 1970, 70% of black but 82% of other families earning \$15,000 or more owned their own homes; 57% of black but 74% of other families earning \$10,000 to \$15,000 owned their own homes; and 47% of black but 63% of other families earning \$7,000 to \$10,000 owned their own homes. These disparities prevailed in urban, suburban and rural areas.

28. In part because of greater difficulty in securing home financing, the housing conditions of black homeowner families are worse than those of other homeowner families. For example, in 1970, 15% of black but only 4% of other owner-occupied homes lacked some or all normal plumbing facilities; 4% of black but only 1% of other owner-occupied homes had all plumbing facilities but were in dilapidated condition; 5% of black but only 1% of other owner-occupied homes had more than 1.5 persons per room; and 43% of black but only 35% of other owner-occupied homes were built before 1940.

29. In part as a result of the practices listed in paragraph 25, minority homeowners who are able to secure mortgages are subject to more restrictive terms than white homeowners. In 1970 20% of black homeowners but only 10% of white homeowners paid interest rates of 8% or more on their first mortgages. Similarly, 39% of black homeowners but only 16% of white homeowners had first mortgages of 12 years or less duration. Nine percent of black but only 3% of white homeowners paid 25 to 50% of their incomes in interest and principal on their first mortgages.

30. In part because of the practices listed in paragraph 25, disproportionately few black homeowners who secure mortgages are able to secure them from institutions supervised, regulated and benefitted by the defendants. In 1970, only 57% of black homeowners were able to secure first mortgages from commercial banks, mutual savings banks or savings and loan associations, while 74% of white homeowners secured their first mortgage loans from these institutions.

31. In part because of the practices listed in paragraph 25, residential segregation is widespread, especially in metropolitan areas which have experienced housing growth in recent decades. In 1970, there were 47 cities with populations above 100,000 which had black populations above 50,000. Although the aggregate populations of these cities was only 28% black, 85% of the black residents lived in majority-black census tracts and 53% lived in 90-100% black census tracts. By way of illustration:

City	Percent of population which is black	Percent of black population living in majority-black census tracts	Percent of black population living in 90-100% black census tracts
Atlanta	51	91	76
Baltimore	46	92	71
Cleveland	38	94	67
Chicago	33	94	78
Houston	26	83	39
Pittsburgh	20	81	38
Los Angeles	18	87	30
Milwaukee	15	86	42
Oklahoma City	14	91	60

Racial segregation in housing has contributed substantially to racial segregation in public schools. In 45 of the 47 cities referred to above, ^{2/} having total black student enrollment of 2,906,941 in 1973, 67% of black students attended schools with 90-100% minority enrollment.

32. Since at least 1971, the defendant agencies have had in their possession concrete evidence of discrimination by regulated lending institutions. In June of that year, at the instance of the Department of Housing and Urban Development, the defendant agencies distributed a questionnaire to more than 18,000 lending institutions inquiring into their lending practices as they might be discriminatory with respect to minority loan applicants. The responses from more than 15,000 institutions revealed widespread discrimination

^{2/} Jackson, Mississippi, and Savannah, Georgia, are two of the 47 cities, but school enrollment figures are not available for them.

in mortgage lending. For example, 899 institutions admitted considering the racial or ethnic character of neighborhoods in determining whether to make loans secured by property therein; 99 admitted considering the applicant's race in determining whether to approve a loan. Four hundred fifteen institutions admitted that they refuse to make loans on property in areas of minority concentration; in some large cities with large minority populations, over half of the savings and loan associations admitted refusal to make such loans.

33. In March, 1972, the FHLBB released the results of a survey conducted among selected member institutions concerning their lending practices and criteria. Among those responding, four percent admitted requiring lower loan-to-value ratios and shorter loan terms on loans to minority-group applicants, and 1.35 percent admitted requiring higher interest rates on loans to such applicants. In addition, in the case of loans on property located in low-income or minority group neighborhoods, 28 percent admitted requiring lower loan-to-value ratios (averaging 12.5 percent lower); 11 percent admitted requiring higher interest rates (averaging 1/2 percent higher); 32 percent admitted requiring shorter loan terms (averaging 7.5 years shorter); and 30 percent admitted disqualifying some such neighborhoods altogether on the basis of their income or racial characteristics. Furthermore, substantial proportions of the respondent institutions stated that they evaluated and even disqualified applicants on the basis of discriminatory criteria, such as whether the applicant had ever been arrested (23 percent used to evaluate, 12 percent to disqualify), marital status (64 percent used to evaluate, 13 percent to disqualify), type of employment (81 percent used to evaluate, 39 percent to disqualify), prior home ownership (57 percent used to evaluate, 23 percent to disqualify), length of present employment (89 percent used to evaluate, 49 percent to disqualify), and length of residence in community (42 percent used to evaluate, 5 percent to disqualify). Finally, 78 percent of the respondent institutions stated that, in considering the income of a 25-year-old wife with two school-age children

working full time as a secretary, her income would be discounted by 50 to 100 percent for underwriting purposes.

34. Between June 1, 1974 and November 30, 1974, the defendant agencies conducted fair housing information surveys covering lending institutions in 18 Standard Metropolitan Statistical Areas (SMSA's). The surveys were conducted to determine, inter alia, whether supervised lending institutions were in compliance with statutory prohibitions against discrimination in mortgage lending. These surveys collected information concerning approximately 105,000 mortgage applications. The results demonstrate sharp disparities in the rejection rates of white and minority applications, further evidencing widespread and continued discriminatory policies and practices by lending institutions. Specifically:

- A. The Survey A approach, devised and analysed by the FHLBB, was used in Atlanta, Georgia; Buffalo, New York; Chicago, Illinois; San Antonio, Texas; San Diego, California; and Washington, D.C. This survey collected information on the race, sex, marital status, and age of the applicants and the census tract in which the security property was located. Among the 53,705 applications analysed,^{3/} white applicants suffered an 8% rejection rate while black applicants suffered an 18% rejection rate. This disparity existed in each of the six SMSAs included in Survey A:

^{3/} 66,320 applications were collected, of which 18% were not analysed because they did not include race or other personal data. The furnishing of this data by the applicant was optional. A sampling of those electing not to furnish this data indicates that they suffered a somewhat higher rejection rate than those who furnished it.

<u>SMSA</u>	<u>White Rejection Rate (%)</u>	<u>Black Rejection Rate (%)</u>
Atlanta	7.1	12.4
Buffalo	15.1	28.8
Chicago	7.0	18.4
San Antonio	8.8	23.3
San Diego	5.4	18.2
Washington, D.C.	8.8	15.1

In the two Southwestern cities, similar disparities appeared in the rejection rates of white and Spanish applicants:

<u>SMSA</u>	<u>White Rejection Rate (%)</u>	<u>Spanish Rejection Rate (%)</u>
San Antonio	8.8	18.0
San Diego	5.4	8.7

B. The Survey B approach, devised by the Federal Reserve Board and FDIC and analyzed by the Federal Reserve Board, was used in Baltimore, Maryland; Jersey City, New Jersey; Tampa-St. Petersburg, Florida; Galveston-Texas City, Texas; Jackson, Mississippi; and Valejo-Fairfield-Napa, California. Lending institutions collected data on the race of loan applicants and the postal ZIP code of the security property, aggregated this information by ZIP code, and submitted aggregate figures to the Federal Reserve Board. Among more than 20,000 applications received in the six SMSA's covered by this survey, whites suffered a rejection rate of approximately 12% while minority applicants suffered a rejection rate of approximately 22%. The approximate rejection rates for each SMSA are:

<u>SMSA</u>	<u>White Rejection Rate (%)</u>	<u>Minority Rejection Rate (%)</u>
Baltimore	12	24
Jersey City	12	22
Tampa-St. Petersburg	11	18
Galveston-Texas City	7	18
Jackson	14	17
Valejo-Fairfield-Napa	24	10

C. The Survey C approach, devised and analyzed by the Comptroller of the Currency, was used in Bridgeport, Connecticut; Cleveland, Ohio; Memphis, Tennessee; Montgomery, Alabama; Topeka, Kansas; and Tucson, Arizona. This survey collected data concerning the race, sex and marital status of each applicant; information relevant to his or her creditworthiness; the census tract of the security property; the amount of loan requested and the purchase price of the property. Of the 12,707 applications analyzed, ^{4/} 14.8% of white applicants were rejected while 24.8% of non-white applicants were rejected. The comparative rejection rates in each SMSA were as follows:

<u>SMSA</u>	<u>White Rejection Rate (%)</u>	<u>Non-white rejection rate (%)</u>
Bridgeport	11.1	15.8
Cleveland	16.2	26.5
Memphis	13.1	23.0
Montgomery	15.6	48.5
Topeka	11.5	33.5
Tucson	9.3	22.0

Because this survey included creditworthiness data, an analysis is possible holding constant certain factors relating to creditworthiness. This analysis strongly suggests that the difference in white and minority rejection rates cannot be explained by differences in creditworthiness. In every case, minority rejection rates are far higher than white rejection rates among persons having the same gross annual income, the same gross assets, the same outstanding indebtedness, the same monthly debt payment burden, and the same number of years in present occupation. For example:

- (1) Among persons with gross annual incomes of \$15,001 to \$25,000, the white rejection rate is 13.9% and the non-white 20.9%. Among persons with gross annual income over \$25,000, the white rejection rate is 12.1% and the non-white 22.6%.

^{4/} Of 18,372 forms collected from 152 institutions, 5665 were not analyzed because they were incomplete or appeared to contain substantial errors.

- (2) Among persons with assets between \$60,001 and 100,000, the white rejection rate is 14.0% and the non-white 18.8%. Among persons with assets over \$100,000 the white rejection rate is 13.8% and the non-white 18.8%.
- (3) Among persons with outstanding indebtedness under \$5,000, the white rejection rate is 14% and the non-white is 22.2%.
- (4) Among persons with monthly debt payments under \$100, the white rejection rate is 12.9% and the non-white 20.0%.
- (5) Among persons with more than five years in current occupation, the white rejection rate is 14.1% and the non-white is 23.2%.

DEFENDANTS' NON-DISCRIMINATION ENFORCEMENT DUTIES

Non-Discrimination Obligations of Federally Regulated Mortgage Lending Institutions

35. All national banks, state-chartered Federal Reserve member banks, and state-chartered non-member FDIC-insured banks are subject to applicable federal laws and to rules, regulations and procedures adopted respectively by the Comptroller of the Currency, the Federal Reserve Board, and FDIC. All federal savings and loan associations and those state-chartered savings and loan associations which are members of FHLBS or FSLIC are subject to applicable federal laws and to rules, regulations and procedures adopted by the FHLBB.

36. Mortgage lending discrimination by federally regulated lending institutions, because of race, color, religion, national origin, or sex, violates the provisions of the United States Constitution and various applicable federal statutes.

(a) The Fifth Amendment to the United States Constitution prohibits such discrimination by mortgage lending institutions that are regulated, supervised, and benefitted by federal agencies.

(b) Sections 1981 and 1982 of 42 U.S.C., which implement the Thirteenth Amendment to the United States Constitution, prohibit racial discrimination in mortgage lending.

(c) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance, including federal financial assistance by way of charters, loans, and advances provided to federally regulated lending institutions by the defendant agencies. Accordingly, federally regulated lending institutions are prohibited under Title VI from practicing such discrimination in their mortgage lending programs and activities.

(d) Section 527 of the National Housing Act (12 U.S.C. 1735f-5), as added by Section 808 of the Housing and Community Development Act of 1974, prohibits sex discrimination in mortgage lending by lending institutions supervised by, or whose deposits or accounts are insured by, any of the defendant agencies.

(e) Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq., prohibits inter alia, discrimination because of race, color, religion, national origin, or sex in mortgage lending.

37. Mortgage lending discrimination based on race, color, religion, national origin, or sex, subjects lending institutions to civil liabilities, including compensatory and punitive damages, and attorneys fees, under Sections 1981, 1982, and 3601 et seq. of Title 42 U.S.C. Accordingly, such discrimination subjects these lending institutions to probable substantial financial loss, as well as other damage resulting from the loss of public confidence associated with adverse publicity for engaging in such discrimination.

38. Mortgage lending discrimination based on race, color, religion, national origin, or sex, unduly limits the business opportunities of lending institutions and credit opportunities of borrowers.

39. Because mortgage lending discrimination based on race, color, religion, national origin, or sex violates federal law, subjects lending institutions to financial loss, and unduly restricts business opportunities, such discrimination constitutes unsafe and unsound practices within the meaning of 12 U.S.C. 1730 and 1818.

40. Mortgage lending discrimination based on race, color, religion, national origin, or sex, by federally insured commercial banks and mutual savings banks is in conflict with the FDIC requirement that insured banks serve "the convenience and needs of the community" (12 U.S.C. 1816, 1828(c)(5)).

41. Mortgage lending discrimination based on race, color, religion, national origin, or sex, by federally chartered, FHLBS-member, and FSLIC-insured savings and loan associations is in conflict with the major purpose of federal chartering of savings and loan associations and for which the FHLBS and FSLIC insurance were established, namely: to enable Americans to become homeowners by facilitating mortgage credit. Such discrimination also violates basic conditions of eligibility for membership in the FHLBS and insurance of deposits by FSLIC, namely: that the character of the institutions' management or its home financing policy not be "inconsistent with sound and economical home finance practices" (12 U.S.C. 1424(a), 1464(a), 1726(c)).

Non-Discrimination Enforcement Obligations of Defendant Agencies

42. The Fifth Amendment to the United States Constitution prohibits discrimination by the United States Government, including all departments and agencies thereof, and requires such departments and agencies to assure against discrimination by institutions with which they are significantly involved. Under the Fifth Amendment, the defendant agencies are obligated to take such action as is necessary and appropriate to prevent discrimination in mortgage lending by the lending institutions they regulate, supervise, and benefit.

43. Section 602 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, directs federal departments and agencies empowered to extend federal financial assistance to any program or activity by way of grant, loan, or contract other than a contract of insurance or guarantee, to issue appropriate rules, regulations, or orders, and to take other appropriate steps to assure against discrimination on the basis of race, color, or national origin in such

programs or activities. The Comptroller of the Currency and the FHLBB issue charters to National banks and Federal savings and loan associations, respectively, subject to specific terms and conditions. Such issuance confers upon federally chartered banks and savings and loan associations the exclusive right to use the words "National" and "Federal" respectively in their names, endowing them with the prestige and imprimatur of United States Government approval associated with these terms. The Federal Reserve Board extends financial assistance to National banks and to state-chartered banks which are members of the Federal Reserve System by making loans to them through Federal Reserve Banks when they are in need of additional funds (12 U.S.C. 347), by supplying them with currency when needed, and allowing use of its facilities for collecting checks, clearing balances and transferring funds to other cities (12 U.S.C. 248). The FDIC, in addition to insuring deposits of all banks (National and state-chartered) which are members of FDIC, makes loans or deposits and purchases assets when its members are in danger of closing (12 U.S.C. 1823(c)). The FHLBB extends financial assistance to savings and loan institutions which are members of the FHLBS by making loans to them through Federal Home Loan Banks (12 U.S.C. 1429, 1430). Through the FSLIC, in addition to insuring accounts at institutions which are members of FSLIC, the FHLBB makes loans to or purchases the assets of institutions which are in danger of default or liquidation (12 U.S.C. 1729).

44. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq., requires all federal departments and agencies that administer programs and activities relating to housing and urban development to administer such programs and activities in a manner affirmatively to further the purposes of the Act. Under Title VIII, the defendant agencies, all of which administer programs and activities relating to housing and urban development, are obligated to issue rules and regulations, adopt procedures, and otherwise administer their programs and activities, so as to assure against mortgage lending discrimination on the basis of race, color, religion, national origin, and sex, by the lending institutions they regulate, supervise and benefit.

45. Sections 1441 and 1441a of 42 U.S.C. direct all federal departments and agencies having powers, functions, or duties with respect to housing, to exercise them consistently with the national housing policy and in a manner that will facilitate sustained progress in attaining the national housing objective of "a decent home and suitable living environment for every American family." Those sections further direct that all such departments and agencies act to encourage "the development of well planned, integrated, residential neighborhoods." Pursuant to these statutory mandates, the defendant agencies are obligated to take such actions as are necessary and appropriate to ensure against mortgage lending discrimination by the lending institutions they regulate, supervise and benefit.

46. The Financial Institutions Supervisory Act, 12 U.S.C. 1464, 1730, 1818, requires that whenever a federally regulated or insured savings and loan association or commercial or mutual savings bank is violating or has violated an applicable law, rule, regulation, or order, or is engaging or has engaged in an unsafe or unsound practice, the appropriate defendant agency must take steps to secure corrective action. In the event such corrective action is not secured, these agencies are authorized to impose sanctions, including removal of the federal charter, termination of membership in the FHLBS or Federal Reserve System, issuance of cease and desist orders, and termination of federal insurance of accounts or deposits. The Financial Institutions Supervisory Act, 42 U.S.C. 1730, 1818, also authorizes the appropriate federal agency to suspend or remove a director or officer of a member lending institution for violating any applicable law, rule, or regulation, or final cease and desist order, or for engaging in any unsafe or unsound practice, when the agency determines that the lending institution has suffered or will probably suffer substantial financial loss or other damage.

DEFENDANTS' VIOLATION OF THEIR DUTY TO

ENSURE AGAINST DISCRIMINATION IN MORTGAGE LENDING

47. The principal way in which defendants normally assure compliance with law and the soundness and safety of operations by supervised institutions

is by issuing rules and regulations, establishing procedures, conducting periodic examinations of individual institutions, and requiring the collection and maintenance of sufficient records and data to enable examiners to detect violations so that necessary corrective action may be taken. The provisions of the Constitution and laws referred to in paragraphs 42 through 46 impose upon defendants the affirmative duty to exercise these powers in such a manner as to detect and prevent discriminatory mortgage lending practices by institutions subject to their supervision.

48. On March 8, 1971, plaintiffs (other than National Neighbors) filed a petition pursuant to 5 U.S.C. 553(e) with each of the defendant agencies requesting each of them to adopt rules, regulations and procedures which would assure against discriminatory lending practices by institutions which they supervise and regulate. Included in the procedures requested was a requirement that each lending institution collect and retain for examination by the supervising agency, data on the race or ethnic group identification of all mortgage loan applicants, together with information concerning the disposition of each application. Such racial or ethnic data is routinely required by most federal agencies having non-discrimination enforcement responsibilities, and is essential to the identification of patterns of potential discrimination and the initiation of effective remedial action.

49. Previously, in June of 1969, pursuant to the powers and responsibilities vested in him by 42 U.S.C. 3608, the Secretary of the Department of Housing and Urban Development (HUD) had recommended to the four defendant agencies the adoption of rules, regulations and procedures similar to those proposed by plaintiffs in their petitions, including specifically the requirement that supervised lending institutions collect and retain for examination racial and ethnic data on loan applicants. Section 3608 of 42 U.S.C. requires all federal agencies to administer their programs and activities relating to housing in a manner affirmatively to further fair housing, and to cooperate with the Secretary of HUD to further such purpose.

50. In the five years since plaintiffs filed their petitions, the defendant agencies, in violation of 5 U.S.C. 555(b) and (e) and their duties as alleged in paragraph 42 through 46, have not acted upon them. Only one of these agencies, the FHLBB, has adopted regulations dealing in any significant way with the issues raised by the petitions, but as alleged in paragraph 51, even in that one case the adoption of regulations has not been followed by effective implementation and enforcement. Specifically:

- (a) The Comptroller of the Currency on December 17, 1971 announced his intention to consider regulations prohibiting discrimination in mortgage lending by national banks (36 F. R. 25167). No such regulations have ever been proposed or adopted, nor have hearings been held.
- (b) The Federal Reserve Board has not even formally considered the adoption of regulations.
- (c) The FDIC on December 17, 1971 announced its intention to consider regulations (36 F.R. 25167), on September 20, 1972 published proposed regulations for comment (37 F.R. 19385), and on December 19, 1972 held hearings on the proposed regulations. Despite favorable comments from the Office of Management and Budget, the Department of Justice, the Department of Housing and Urban Development, and the United States Commission on Civil Rights on the proposed regulations, including specifically the proposal to require the collection and retention of racial and ethnic data on mortgage applicants, no further action has been taken by the FDIC and no regulations have ever been issued.
- (d) The FHLBB on December 17, 1971 announced its intention to consider regulations (36 F.R. 25151), on January 13, 1972 published proposed regulations for comment (37 F.R. 811), on April 27, 1972 published general regulations concerning non-discrimination by insured savings and loan associations (37 F.R. 8436), on July 5, 1973 published regulations implementing Title VI of the Civil

Rights Act of 1964 (38 F.R. 17929), and on December 17, 1974 published "Guidelines" discussing certain discriminatory practices (39 F.R. 43618). These regulations and "Guidelines" omitted the provisions contained in the original proposed regulations requiring the collection and retention of racial and ethnic data on loan applicants, despite the endorsement of this requirement by the Office of Management and Budget, the Department of Justice, the Department of Housing and Urban Development, and the United States Commission on Civil Rights.

51. In addition, all of the defendants have failed and refused to adopt effective procedures for detecting discriminatory patterns or practices at particular institutions which they supervise and regulate, and have failed and refused to undertake enforcement action against institutions where such discriminatory practices appear to exist. Specifically:

- (a) They do not require institutions to collect and retain racial or ethnic data on loan applicants which could serve to identify institutions at which discriminatory practices may exist, warranting further detailed investigation.
- (b) They have failed to investigate, or even schedule for investigation, institutions as to which they already possess data indicating the existence of discriminatory practices, derived from the 1971 HUD-sponsored lending practices survey (see paragraph 32, supra) and the 1974 Fair Housing Information Survey (see paragraphs 33 and 34, supra).
- (c) They do not include detailed investigation of potential discriminatory lending practices as part of their routine examinations, such as a review of appraisal forms, underwriting standards, and geographic lending patterns, and with the exception of the FILBB they lack any procedures for conducting such investigations.

- (d) They do not adequately train or instruct examination staff with respect to the investigation of discriminatory lending practices, an area of responsibility with which such staff is generally unfamiliar.
- (e) They do not conduct appropriate investigations of complaints which they receive concerning discrimination in mortgage lending by institutions which they supervise.

52. The refusal and failure of defendants to act upon plaintiffs' petitions or HUD's recommendations or otherwise to adopt effective rules, regulations and procedures to ensure against discrimination by lending institutions which they supervise and regulate has persisted despite repeated efforts by petitioners, by other federal agencies and by other persons and organizations to secure such action.

53. Defendants' failure and refusal to adopt appropriate rules, regulations, and procedures to ensure against discrimination in mortgage finance by institutions which they supervise violate duties imposed on them by the Fifth Amendment to the United States Constitution; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.; the Financial Institutions Supervisory Act, 42 U.S.C. 1464, 1730, 1818; and Section 2 of the Housing Act of 1949, 42 U.S.C. 1441, 1441a. Such failure and refusal also denies to plaintiffs and their members rights secured under the Fifth Amendment to the United States Constitution; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; the Civil Rights Acts of 1870 and 1866, 42 U.S.C. 1981 and 1982; Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.; and Section 527 of the National Housing Act, 12 U.S.C. 1735f-5.

W H E R E F O R E, plaintiffs pray that this Court advance the case on the docket and order a speedy hearing thereof and, after such hearing, enter an order:

A. Declaring that defendants' failure and refusal to carry out their responsibilities to ensure against discrimination in mortgage finance by supervised lending institutions violates plaintiffs' and their members' rights secured by the Constitution and laws of the United States.

B. Enjoining the defendants from continuing their failure and refusal to enforce the laws against discrimination in mortgage lending with respect to institutions which they supervise, regulate and benefit.

C. Ordering the Comptroller of the Currency, the Federal Reserve Board, and the FDIC forthwith to adopt rules and regulations to ensure against such discrimination, including regulations defining and prohibiting, in specific terms, lending practices which are discriminatory on the basis of race or sex.

D. Ordering all of the defendants to adopt procedures for the detection and investigation of potential discriminatory practices and for the prompt elimination of such practices where they are found to exist, including the following:

1. Procedures requiring the collection and retention of racial and ethnic data concerning mortgage applicants and concerning the areas in which loans are requested, and data concerning the sex of mortgage applicants.
2. Procedures for reviewing the foregoing data concerning loan applicants and lending areas, and for reviewing appraisal, underwriting and other practices which may be discriminatory in purpose or effect, as a regular part of routine examinations.
3. Special investigation procedures and examination schedules for institutions as to which information secured during routine examinations or complaints received indicate possible violation of laws concerning lending discrimination.
4. Training of examiners in routine and special examination and investigation procedures concerning non-discrimination in mortgage lending.

5. Schedules and deadlines for the commencement and conclusion of enforcement proceedings where violations of laws or regulations are discovered.
6. Requirements that lending institutions which have engaged in discriminatory practices or have historically financed and done business primarily with brokers and developers serving almost exclusively white clientele take affirmative action to overcome the effects of such practices and to make certain that minority and female applicants are no longer discouraged from applying for mortgage loans.

Plaintiffs pray for such additional relief as the interests of justice may require, together with the costs, including reasonable attorneys' fees, incurred in maintaining this action.

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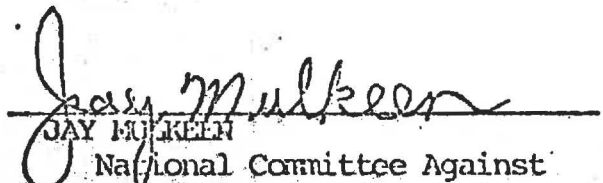
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CERTIFICATE OF SERVICE

I, Jay Mulkeen hereby certify that I have served a copy of the foregoing Plaintiffs' Amended Complaint upon attorneys for defendants by hand delivering a copy of same to them at the addresses shown below, this 13th day of July, 1976:

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