

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

OFFICE OF THE COMPTROLLER OF
THE CURRENCY, et al.,

Defendants.

Civil Action No. 76-0718

STIPULATION OF DISMISSAL

FILED

MAR 23 1977

JAMES F. DAVEY, Clerk

IT IS HEREBY STIPULATED that, in consideration of the attached Settlement Agreement, dated March 22, 1977, between Plaintiffs and Defendants Federal Home Loan Bank Board, Garth Marston, and Grady Perry, Jr., the above-entitled action against the defendants named herein may be and is hereby dismissed without prejudice.

Respectfully submitted,

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Garth Marston and Grady Perry, Jr

ORDER

IT IS SO ORDERED:

This 23 day of March, 1977.

Gerhard A. Lovell
UNITED STATES DISTRICT JUDGE

SETTLEMENT AGREEMENT

This Agreement between Plaintiffs National Urban League, National Committee Against Discrimination in Housing, National Association for the Advancement of Coloured People, National Neighbors, Metropolitan Washington Planning and Housing Association, and National Association of Real Estate Brokers (hereafter "Plaintiffs") and defendants Federal Home Loan Bank Board, Garth Marston and Grady Perry, Jr. (hereafter "Board") is made to resolve, as to the parties hereto, without adjudication of any issue of law or facts, litigation presently pending between Plaintiffs and the Board in the United States District Court for the District of Columbia entitled National Urban League, et al. v. Office of the Comptroller of the Currency, et al., (Civil Action No. 76-718) (hereinafter "the lawsuit"). In executing this Agreement, none of the parties hereto makes any admission whatsoever as to any issue of law or facts raised in the lawsuit or which might be raised in the lawsuit. The Board has entered this Agreement not only to settle the lawsuit, but also to further its existing commitment to effective enforcement of its nondiscrimination policies.

Section 1.

The Board agrees that it will use its best efforts to insure compliance by the financial institutions regulated by the Board with the prohibitions against mortgage lending discrimination, including the prohibitions provided in Title VIII of the Civil Rights Act of 1968 and Board Regulations issued pursuant thereto. The Board will use its best efforts to assure that applicants for real estate mortgage loans and for home improvement loans at institutions regulated by the Board shall be requested by the lender to indicate their race (as defined in 12 C.F.R. § 202.13(a)(i)) and sex. Plaintiffs have requested the Board to order that, in situations where applicants decline voluntarily to furnish data concerning their race and sex, the lenders be required to furnish such data, based upon visual observation and/or surnames of the appli-

(Res. B was our starting point)

- 2 -

cants. The Board at this time has declined to impose such a requirement. The Board recognizes, however, that effective monitoring and enforcement procedures may dictate that such a requirement be imposed on the lenders regulated by it at a later date. To this end, the Board agrees that it will select, within 60 days from the effective date of this Agreement, through voluntary cooperation, an adequate number of insured savings and loan associations to constitute a control sample group; that the institutions so designated as a control sample group shall be required to designate the race and sex of loan applicants (in a manner to be specified by the Board at a later time) whenever the applicants decline to provide such data; that the notice to the applicants advising them that the racial/sex data is being sought for monitoring purposes shall also indicate that if the applicant does not provide the information, the lender will do so.

If the Board, after good faith efforts, cannot obtain such a control sample group voluntarily, it promptly will take action to establish such a group through any means authorized by law, including a temporary regulation.

At the end of the year following establishment of the control group (or sooner, if significant and sufficient data is available before that time) the Board will make a study to compare the usefulness, for compliance and enforcement purposes, of the applicants' racial/sex notation data received at the control group of institutions with the racial/sex notation data received at other insured savings and loan associations. Should the facts indicate that the information obtained from the control group of associations has materially enhanced the Board's ability to enforce compliance with its nondiscrimination regulations at the control group or that the lack of similar information at other insured savings and loan associations has materially impeded the Board's efforts to monitor non-compliance with its nondiscrimination regulations at said other insured institutions, the Board

This is only the sample study to be done by the lender.

will take adequate steps to eliminate the problem by proposing a final regulation which would require all insured savings and loan associations to provide racial/sex notation data for loan applicants when the applicants themselves decline to do so, or will take other action, to the extent authorized by law, to produce substantially equivalent results.

The Board further agrees that it will make available to the Plaintiffs the information on non-response rates which is used by the Board to evaluate the results of the Board's efforts in this area, including the information called for in Section 10 of this Agreement, and to give Plaintiffs the opportunity to offer suggestions to the Board regarding actions the Board might take to make its enforcement efforts in this area more effective.

The Board agrees that it will consider such suggestions which may be provided by Plaintiffs, and will provide Plaintiffs with an explanation when their suggestions in this area are not accepted by the Board. Information furnished to the Plaintiffs by the Board pursuant to this Section 1 of the Agreement will not include examiners' work papers, examination reports or excerpts therefrom, confidential examiner programs, specific enforcement recommendations, material identifying particular savings and loan associations, or legal advice prepared by the Board's Office of General Counsel.

The signatory parties to this Agreement agree that the review conducted by the Board pursuant to this Section 1 of this Agreement will deal only with review of the effectiveness of the system for the collection of racial/sex notation data and will not encompass review of enforcement actions resulting from the collection of this data.

Section 2.

The Board agrees to develop and implement a system for the collation and analysis of the racial/sex notation data collected in accordance with Section 1 of this Agreement, which system will produce effective and meaningful use of the aforesaid data as

an aid to the Board's compliance program, without undue expense or undue diversion of personnel. The Board further agrees that it will review the system devised hereunder within one year following implementation of such system in accordance with Section 10 of this Agreement. The Board will provide to the Plaintiffs the data and analyses produced under this system, including those used by the Board to evaluate said system in order to enable the Plaintiffs to review such system and to provide suggestions to the Board for the improvement of such system; provided that the Board will not be obligated to turn over to the Plaintiffs copies of examination reports or excerpts therefrom, examiners' work papers and confidential examination programs, specific enforcement recommendations, material identifying specific savings and loan associations, and legal advice prepared by the Board's Office of General Counsel.

The Board further agrees that any system devised by it under this Section 2 of the Agreement will be structured so as to enable the Board, at a minimum, to discover areas and institutions where deviant adverse action or rejection rates are occurring, to identify patterns of rejections or adverse actions that warrant further study, to flag individual institutions for indepth studies, and to measure changes in rejection or adverse action rates over time. The Board further agrees that the tabulation system established by it pursuant to this Section 2 of the Agreement will provide data to indicate where a lender has taken adverse action on an application other than rejection of the application. (In this context, the phrase "adverse action" shall have the definition set forth in 12 C.F.R. § 202.2(c)(1)(i)).

Section 3.

The Board is presently studying the usefulness of data available to it under the Home Mortgage Disclosure Act and will attempt to develop a system for meaningful use of this data in connection with the Board's nondiscrimination in home mortgage lending regulations (12 C.F.R. § 528). Plaintiffs acknowledge

that they have been advised by Board representatives that devising such a system may be unfeasible. It is understood that the Board has no obligation to implement such a system if the Board reasonably and in good faith determines that it is unfeasible to implement such a system. Before the Board makes a final determination on feasibility, it will consult with Plaintiffs pursuant to Section 10 of the Agreement.

Section 4.

The Board agrees that it will continue its program of providing training to examiners which will enable the examiners to enforce the Board's nondiscrimination regulations, and that it will provide Plaintiffs with copies of new and additional course materials and examination manual sections and other non-confidential instructions used in such training sessions, as it has done in the past. This will include appropriate training in the use of race/sex data, as it becomes available. The Board will consult with the Plaintiffs periodically on the subject of examiner training, as set forth in Section 10 of this Agreement.

Section 5.

The Board agrees that it will provide extensive training in civil rights matters to one person in each of its 12 districts who will spend approximately 50 percent of his/her time on civil rights enforcement matters; each such person will serve on a level which will enable him/her to have direct access to the District Director. Such person will have a general responsibility to review the nondiscrimination aspects of examination reports in order to make them more effective, including review of individual examination reports and discussions with examiners; to make recommendations for improvements in examination methods; and to consult with Supervisory Agents through the District Directors on enforcement recommendations. It is understood that the workload of such specialists is expected to vary from district to district, and that such specialists may

devote more or less than 50% of their time to nondiscrimination matters, depending upon their actual workloads; it is further understood that the time spent on such matters by such specialists will be adequate to carry out their responsibilities, as described herein.

In addition to the foregoing, the Board agrees that it will do one of the following: (a) the Board will hire a full time civil rights specialist who will have the title of Special Assistant to the Director of the Board's Office of Examinations and Supervision (OES) and who will report directly to the said Director of OES, or (b) if hiring said person would be burdensome, in light of personnel or budgetary restraints, the Board, as an alternative, will hire, on a contract basis for a one-year period, a civil rights specialist (who will have an extensive civil rights background). Said specialist will assist in the training and guidance of the civil rights specialists in the field and the Washington and field staffs generally, and will recommend improvements in examination and enforcement methods and training.

Within one year following implementation of this program, the Board will review its effectiveness with Plaintiffs, pursuant to Section 10 of this Agreement.

Section 6.

The Board is now in the process of developing nondiscrimination complaint processing procedures, which will be implemented within 90 days following the effective date of this Agreement. The Board agrees that these procedures will include time limits for actions thereunder, with exceptions for special circumstances. The Board further agrees that, not later than thirty days following the date of the execution of this Agreement, it will provide Plaintiffs with an outline of said proposed procedures, will allow Plaintiffs the opportunity to comment thereon, and will consider any comments Plaintiffs may submit.

Section 7.

The Board agrees that, as a general rule, it will apply the same procedures concerning special examinations, supervisory letters, cease and desist orders, etc. in cases of suspected or observed nondiscrimination violations as in cases of other kinds of violations.

Section 8.

The Board agrees that it will advise all insured institutions of its commitment to vigorous enforcement of its nondiscrimination regulations; it will also advise said institutions that the Board will use the enforcement procedures usually employed in cases of other kinds of violations in the event of noncompliance with said regulations. The Board agrees that it will make this communication public. Although the Board agrees to do the foregoing, it contends that it has, in the past, given similar advice to insured institutions.

Section 9.

The Board agrees that it will give the Plaintiffs an opportunity to make suggestions for changes in the Board's nondiscrimination regulations, and will consider seriously any suggestions made by the Plaintiffs.

Section 10.

The Board agrees that, for a period of 36 months following execution of this Agreement, it will provide Plaintiffs with the following data or their equivalent at least annually, and more often if available:

- A. Copies of race/sex data notation forms and instructions for their use.
- B. Description of the Board's system for collation and analysis of race/sex data, with copies of relevant instructions to personnel performing collation or analysis.

- C. Data and analyses produced pursuant to Section 2 of this Agreement and reports -- if available -- showing results of analyses which would indicate trends and comparisons of lending patterns showing various types of discrimination in various regions, cities, or SMSA's, and individual institutions (but only to the extent this can be done without revealing information which in the Board's judgment could reasonably permit identification of said individual institutions).
- D. Data indicating non-response rates on race/sex notation forms, including information on whether there are deviant rates at particular institutions -- specific institutions are not to be identified.
- E. Examiner training materials and examination manual sections dealing with data analysis and all other aspects of fair housing components of examinations.
- F. Reports concerning the number of possible fair housing violations identified by examiners, the number of special examinations conducted, the number of supervisory letters sent, and other enforcement actions taken with respect to fair housing violations.
- G. The number of examiners, supervisory personnel and others undergoing special fair housing training.
- H. Job descriptions of personnel having specific civil rights enforcement responsibilities (as specified in Section 5 of this Agreement), organization table showing location of such personnel within the agency, and description of special qualifications of and/or training given to such personnel concerning fair housing matters.
- I. Copies of regulations and/or instructions concerning procedures for investigating and resolving complaints.

- J. Reports concerning number of complaints received, investigated and resolved (showing separately those dismissed, those resolved by issuance of mortgage, those resolved by other means, and those resulting in enforcement action).
- K. Copies of any other instructions, regulations, guidelines, procedures or reports concerning fair housing enforcement, if any, not covered by paragraphs A-J herein.

It is understood and agreed between the parties as follows with respect to the Board's undertaking to provide the foregoing information: (a) the Board will not provide any data which identifies specific savings and loan associations, nor will it provide confidential examination programs; (b) the Board will not provide copies of: examination reports, examiners' workpapers, or excerpts therefrom; (c) the Board will not provide copies of material which deals with specific compliance matters at specific savings and loan associations or contain recommendations for specific enforcement actions; (d) the Board will not provide legal analyses, opinions and conclusions of the Board's Office of General Counsel; and (e) the Board will not provide data which is identical to that previously provided.

The Board agrees that Plaintiffs will have the opportunity to comment on the Board's mortgage lending nondiscrimination enforcement programs in order to provide the Board with suggestions for improvements therein. Specifically this means that during the 30 months following execution of this Agreement Board representatives will meet periodically (at least every six months) with representatives of Plaintiffs to discuss the Board's various programs in this area and to receive and consider suggestions from them. Plaintiffs will receive a written explanation when their recommendations are not accepted. It is understood and agreed to by all parties to this Agreement that the responsibility for the implementation of these programs is solely the Board's and not the Plaintiffs'.

Section 11.

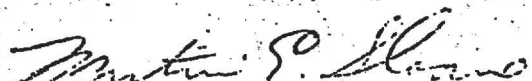
Plaintiffs agree that, in consideration for the Board's undertakings delineated heretofore in this Agreement, they will:

(a) forever give up any right to sue the Board to obtain relief for any action taken by the Board or any action not taken by the Board in the area of mortgage lending discrimination, from 1968 to the date of execution of this Agreement; and (b) give up any right to sue the Board on any matter within the scope of the lawsuit for a period of thirty (30) months from the date of this Agreement, except for violations of the Agreement.

Section 12

Upon execution of this Agreement, the Plaintiffs and the Board will file a stipulation in the United States District Court to dismiss the lawsuit without prejudice, insofar as it relates to the Board and its Members.

Dated: March 22, 1977

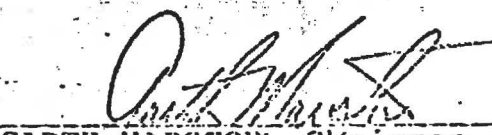

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Dated: March 22, 1977


 GARTH MARSTON, Chairman


 GRADY PERRY, JR., Member

Federal Home Loan Bank Board