

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ASSOCIATES NATIONAL BANK,

Defendant.

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**COMPLAINT**

The United States of America alleges:

1. The United States brings this action to enforce provisions of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f ("ECOA").
2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345 and 15 U.S.C. § 1691(h), and venue is appropriate pursuant to 28 U.S.C. § 1391(c).
3. Defendant, Associates National Bank (hereinafter "ANB"), is a National Bank incorporated under the laws of the State of Delaware, with its principal place of business in Wilmington, Delaware. As a National Bank, ANB is subject to the regulatory supervision of the Office of the Comptroller of the Currency ("OCC").
4. ANB is a wholly-owned subsidiary of Associates First Capital, which became a 100% publicly-owned entity on April 7, 1998.
5. ANB is a consumer credit card bank engaged in extending consumer credit to persons through its credit card portfolios. ANB approves and originates all credit card accounts at its Wilmington, Delaware, headquarters. ANB is a creditor as that term is defined by section 702(e) of the ECOA, 15 U.S.C. §1691a(e).
6. Beginning in April 1997, the OCC conducted an examination of the lending practices of ANB to evaluate its compliance with the Equal Credit Opportunity Act. Based on information gathered in its examination, the OCC determined that it had reason to believe that ANB had engaged in a pattern or practice of discrimination on the basis of national origin by treating applicants using Spanish-language applications for its UNOCAL 76 MasterCard (hereinafter "UNOCAL") differently than applicants using English-language UNOCAL applications and by excluding customers in Spanish-language credit card portfolios from promotional programs.
7. Pursuant to 15 U.S.C. § 1691e(g), the OCC referred the matter to the Attorney General on June 19, 1998, for appropriate enforcement action, following the OCC's determination described in Paragraph 6.

8. Beginning in 1993, ANB entered into an arrangement with UNOCAL, a California-based company that operates gasoline stations, to offer UNOCAL customers an ANB/UNOCAL co-brand MasterCard. The card is marketed through direct mailings to customers in California in the areas where UNOCAL stations are located and through applications that are available at UNOCAL gas stations located in California. All credit card applications are received by ANB and ANB makes decisions whether to approve or deny an application.

9. In or around November 1994, ANB began to use Spanish-language, as well as English-language applications, in UNOCAL gas stations. ANB coded these applications "Hispanic," and data regarding these applications were retained in computerized form in a subfile, the only subfile, in the UNOCAL portfolio.

10. ANB processes all UNOCAL applications through a combination of automated and judgmental underwriting steps. These steps include a computerized credit scoring system. The ostensible purpose of a credit scoring system is to provide a lender with an objective estimate of the probability that the loan will be repaid as agreed by the applicant. Credit scoring systems are generally designed with the expectation that loan applicants who attain a score that is equal to or greater than the level indicating a probability of repayment that is acceptable to the lender will be approved, while those who do not will be denied the loan.

11. ANB assigns each UNOCAL credit card applicant to one of five risk levels, based on the scope and duration of the applicant's credit history. Applicants with the most favorable credit history are placed in the lowest risk level. To obtain a credit card, an applicant must obtain a minimum credit score which differs by risk level (higher scores being required for those assigned to higher risk levels). Applicants who meet the minimum credit score are given a credit card with a maximum credit line amount that varies based on risk level and the individual applicant's income.

12. Beginning in January 1996, ANB implemented different underwriting standards for its English-language applicants than for its Spanish-language applicants. Credit score cutoffs were lowered and credit line amounts were increased for English-language applicants processed through the English-language UNOCAL portfolio ("SUNOM" -- Standard UNOCAL file). The credit score cutoffs and credit line caps were not similarly changed for the Spanish-language applicants processed through the Spanish-language UNOCAL portfolio ("HUNOM" -- Hispanic UNOCAL subfile). The change resulted in more stringent underwriting standards and lower credit limits for applicants using the Spanish-language UNOCAL application.

13. ANB continued applying disparate underwriting standards to English-language and Spanish-language UNOCAL applicants until at least April 1997.

14. As a result of ANB's discriminatory policies implemented in January 1996, some Spanish-language applicants were denied credit cards while similarly situated English-language applicants received credit cards. Further, some Spanish-language applicants were granted lower credit line assignments than similarly situated English-language applicants received.

15. ANB maintained other "Hispanic"-designated files for some of its other credit card accounts. ANB discriminated against "Hispanic"-designated cardholders in these accounts by excluding them from certain promotional programs commonly offered to English-language cardholders.

16. In carrying out the practices described in paragraphs 8 through 15 above, ANB has subjected Spanish-language applicants and cardholders to discriminatory treatment on the basis of national origin by intentionally subjecting them to stricter underwriting standards and less favorable terms and conditions than those applied to non-Hispanic applicants and cardholders.

17. ANB's policies and practices, as set forth above, constitute discrimination against applicants with respect to credit transactions, on the basis of national origin, in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1).

18. ANB's policies and practices, as set forth above, constitute a pattern or practice of resistance to the full enjoyment of rights secured by the Equal Credit Opportunity Act, as amended, 15 U.S.C. §§ 1691-1691f.

19. Persons who have been victims of ANB's discriminatory policies and practices are aggrieved persons under the Equal Credit Opportunity Act. As a consequence of ANB's policies and practices, these persons have been denied their rights to equal opportunity in credit and have suffered injury and damages.

20. The discriminatory policies and practices of ANB as described herein were intentional and willful, and have been implemented with reckless disregard for the rights of Hispanic persons.

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

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

(2) Enjoins ANB, its agents, employees and successors, and all other persons in active concert or participation with ANB, from discriminating on account of national origin in its consumer credit card operations and in any other aspect of ANB's lending practices;

(3) Requires ANB to develop and submit to the Court for its approval a detailed plan that: (a) remedies the vestiges of ANB's discriminatory policies and practices; and (b) ensures that future applicants for credit are treated in a nondiscriminatory manner;

(4) Awards such damages as would fully compensate the victims of ANB's discriminatory policies and practices for the injuries caused by ANB; and

(5) Awards punitive damages to the victims of ANB's discriminatory policies and practices.

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

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