

ORIGINAL

Receipt Number

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EX 1-3

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAT, INC., NEW GALILEE MISSIONARY)
BAPTIST CHURCH, PLEASANT HILL)
BAPTIST CHURCH, AND PHILLIP)
PEAKE)

Plaintiffs,)

v.)

NATIONAL CITY BANK OF THE)
MIDWEST and NATIONAL CITY)
CORPORATION.)

Defendants.)

Case: 2:06-cv-11937
Assigned To: Edmunds, Nancy G
Referral Judge: Majzoub, Mona K
Filed: 04-25-2006 At 02:05 PM
CMP JAT INC, ET AL V NATIONAL CITY
BANK OF THE MIDWEST (EW)

CIVIL ACTION NO.
HON.

SACHS WALDMAN, Professional Corporation
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Poor Quality
Original

COMPLAINT OF RACIALLY DISCRIMINATORY LENDING PRACTICES

1. The Plaintiffs bring this action to enforce Title VIII of the Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619, the Civil Rights Acts of 1866 and 1870, 42 U.S.C. § 1981 and § 1982, and the Equal Credit Opportunity

Act ("EOA"), 15 U.S.C. §§ 1691-1691f.

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. §1343, 42 U.S.C. § 3613 and 15 U.S.C. § 1691(e).

3. Plaintiff JAT, Inc., also known as Turner Tours & Charters, ("JAT") is a travel and tourism business, providing charter motor coach service throughout the United States and Canada. It is owned and operated by John and Yvonne Turner. The Turners are both African-American. The majority of JAT's clientele is African-American. In 2005, JAT applied for a business loan from Defendant. Defendant rejected their application. JAT subsequently obtained a \$950,000 loan from Bank One at a higher rate of interest.

4. Plaintiff New Galilee Missionary Baptist Church ("New Galilee") is located at 11241 Gunston, Detroit, Michigan 48213 in Wayne County. The majority of parishioners at New Galilee are African-American. New Galilee applied for an \$80,000 loan from National City Bank of Michigan. The loan was not granted. New Galilee subsequently was approved for such a loan by Bank One.

5. Plaintiff Pleasant Hill Baptist Church ("Pleasant Hill") is located at 5207 Lovett Street, Detroit, Michigan 48210 in Wayne County. The majority of parishioners at Pleasant Hill are African-American. Pleasant Hill applied for a loan from National City Bank in the amount of approximately \$734,000. Defendant Bank did not grant the loan, and as a practical matter rejected it. Pleasant Hill subsequently obtained a loan from Bank One in the amount of \$734,472.00 for additions and improvements to its building.

6. Plaintiff Phillip Peake ("Peake") is an African American ("black") man. He was born and raised in Detroit, Michigan. He resides in Detroit in zip code 48235, and owns the house he lives in.

7. The Defendant National City Bank of the Midwest, like its predecessor, the National City Bank of Michigan, is a wholly owned subsidiary of the National City Corporation.

8. National City Corporation ("NCC") is one of the nation's largest financial holding companies. NCC operates through a banking network primarily in Ohio, Illinois, Indiana, Kentucky, Michigan, Missouri and Pennsylvania. Its core businesses include commercial and retail banking, mortgage financing and servicing, consumer finance and asset management.

Its corporate headquarters are located at 1900 East Ninth Street, Cleveland, Ohio 44114-3484.

9. On May 5, 2003, Plaintiff Peake was hired by the National City Bank of Michigan as a Small Business Banking Officer ("SBBO").

10. While Plaintiff Peake was an employee, the Defendant National City Bank of Michigan took the name of National City Bank of the Midwest. Plaintiff's employment by the Bank ended in April 2005.

11. As a Small Business Banking Officer, Plaintiff Peake's primary duties were to attract applications from small businesses and other institutions for loans that were covered by real estate or other securities and to close the loan applications that were approved by the Bank.

12. The Small Business Administration, an executive agency of the United States (15 U.S.C. § 633), insures loans to small businesses. Most of the loan applications that Plaintiff Peake solicited were for amounts less than \$1,000,000 and were SBA eligible loans.

13. Plaintiff Peake successfully performed the duties of his position each year. He received awards and high evaluations for his success in attracting and closing on loan applications from small business owners and other persons and organizations.

14. The City of Detroit is located in Wayne County. Detroit has a population of 951,270 residents, of whom 777,235 (81.6%) are African American ("black"), according to the census of

2000. Michigan has a population of 9,938,444, of whom 1,411,259, or 14.1%, are African American. Approximately 55% of the African Americans in Michigan reside in the City of Detroit.

15. Wayne County, Michigan has a population of 2,061,162, of whom 869,910, or 14%, are African American. Of those 869,910 African American residents of Wayne County, about 777,235, or 89%, reside in the City of Detroit.

16. In 2004, Defendant National City Bank was named Michigan Lender of the Year by the United States Small Business Administration ("SBA") (See Exhibit 1).

17. In 2004, Defendant National City Bank originated 339 small business guaranteed loans in the State of Michigan. Of those SBA guaranteed loans 13, or 3.8%, were originated for businesses in the City of Detroit. In 2003, Defendant National City Bank originated 384 loans in the State of Michigan. Of those loans 12, or 3.1%, were originated for businesses in the City of Detroit. (See Exhibit 1).

18. In 2003 and 2004, Defendant National City Bank originated \$57,056,500 in SBA guaranteed loans in the State of Michigan, of which \$2,911,200, or 5%, were originated for businesses in the City of Detroit.

19. In 2004, National City Corporation, a lending institution with ownership the same or similar to that of the Defendant National City Bank, originated 350 SBA loans totaling about \$27,743,000 in the State of Michigan (including all of the loans of the Defendant National City Bank), but it originated only 24 SBA loans, or approximately 7%, for African Americans. Of the total of \$27,743,000 amount loaned, a total of about \$1,700,000, or 6%, were loaned to African Americans in the State of Michigan. (See Exhibit 2).

20. Of the 227 branch offices the Defendant National City Bank has located in the State

of Michigan, only eight (8), or less than 3%, are located within the City of Detroit. Two of the Defendant Bank's branch offices are located in Hamtramck, which is surrounded by the City of Detroit. Of those eight branches in the City of Detroit, one is located on the western border street of Detroit, and one is located on the northern border, and three are located very close to the eastern border of Detroit. Not one of the branches is located in a predominantly black census tract or zip code. (See Exhibit 3).

21. The Defendant National City Bank has 36 branches located in Wayne County in areas of primarily white residents outside of Detroit. In addition, the Defendant National City Bank has about 43 branches located in Oakland County, whose residents are 82% white and only 10% African American. It has sixteen branches in Macomb County, whose residents are 93% white and only 2.7% African American.

22. The Defendant National City Bank has "red-lined" the majority black areas of Detroit and its immediate suburbs. It does not seek to make loans in the red-lined areas, nor does it make loans secured by property in the red-lined areas. Plaintiffs New Galilee and Pleasant Hill are located in a red-lined area.

23. Defendant's policy and practice of not making loans in red-lined areas, or securing loans by property in red-lined areas, is not written. Defendant adopted the policy before its employment of Plaintiff Peake, and continued that policy throughout the period of Plaintiff's employment. Upon information and belief that policy and practice continues.

24. In 2004 and 2005, Plaintiff Peake processed loan applications based upon real property located in census tracts and zip code areas where the residents were predominantly African American. In 2004 and early 2005, he processed twelve loan applications from applicants who resided or sought loans upon property located in heavily African-American

residential areas. These loans totaled \$7,714, 472.12. He recommended approval of these twelve loan applications based upon real estate values in these predominantly black areas.

25. The defendant National City Bank declined the loan applications of each of the twelve loan applicants recommended by Plaintiff Peake. The policy and practice of the Defendant Bank is to not seek or accept applications from churches, non-profit organizations, or other entities located in predominantly African American residential areas; rather, its policy and practice is to reject such loans as "not desirable based upon National City criteria."

26. Plaintiff Peake's manager advised him that:

[I]t is an SBBO's responsibility to target opportunities that have the highest chance of success Targeting doctor's offices, professional firms, all-star customers with high deposit dollars are all examples of ways Phil could target better opportunities. As indicated from the list of declined loans, Phil has three churches and a non-profit organization. . . . These types of businesses are not desirable based on National City criteria Phil and I have had several conversations regarding targeting the right types of businesses"

27. In residential areas of the City of Detroit and nearby municipalities with predominantly African American populations, churches and other non-profit organizations are likely to have more valuable property than most of the individual residents or resident families.

28. Under the revised Community Reinvestment Act regulations of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of Thrift Supervision, loans by banks to churches located in low and moderate income areas, and churches with predominantly minority congregations and memberships for church premises, and Community Development Corporations affiliated with such religious organizations, are favored by the four agencies, and receive favorable consideration from the four bank regulating agencies. Interpretive Letter # 765, dated January 1997. That Letter has represented and continues to represent the position of the four Federal

agencies since it was issued.

29. Rather than favoring applications from qualified churches and not for profit organizations in heavily African American residential areas, the policy and practice of the Defendant National City Bank is to treat such applications as "not desirable" and not to make loans even if the applications are received.

30. Other lenders, including banks in Detroit and other parts of Michigan, seek and accept loan applications and offer loans to persons, organizations and businesses residing in the City of Detroit, including such persons, organizations and businesses residing in predominantly African American areas of the City of Detroit.

31. Each of the twelve loan applications recommended by Plaintiff Peake described above in paragraphs 24 and 25 that were declined by the Defendant National City Bank were accepted by another bank that is located in or does business in the Detroit Metropolitan Statistical Area and in the City of Detroit.

33. The Defendant National City Bank has engaged in a pattern or practice of red-lining African American residential neighborhoods of the Detroit Metropolitan Statistical Area. The Defendant Bank's policies and practices deny residents of African American neighborhoods, on account of the racial compositions of those neighborhoods, an equal opportunity to obtain credit. Those policies and practices harm residents and businesses in such areas and are not justified by business necessity or by other legitimate, non-discriminatory reasons. The Defendant Bank's actions as alleged herein constitute:

a. Discrimination on the basis of race and/or color in making available real estate-related transactions in violation of the Fair Housing Act, 42 U.S.C. § 3605(a); and

b. Discrimination against applicants with respect to loan and other credit transactions on

the basis of race and/or color in violation of the Equal Credit Opportunity Act, 15 U. S. C. § 1691(a)(1).

34. The policies and practices of the Defendant National City Bank as alleged herein constitute a pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, 42 U. S. C. §§ 3601 *et seq.*

35. The policies and practices of the Defendant National City Bank as alleged herein constitute a pattern and practice of activity in violation of the Equal Credit Opportunity Act, 15 U. S.C. § 1691e(h).

36. Residents of the predominantly African-American residential areas of the City of Detroit and businesses and other organizations located in such areas of the City of Detroit have been harmed by and are victims of the Defendant National City Bank's racially discriminatory policies and practice. They are aggrieved persons as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of the conduct of the Defendant National City Bank as described herein. Plaintiffs JAT, Inc., Plaintiff New Galilee, and Plaintiff Pleasant Hill Baptist Church are each an aggrieved victim of that conduct, because the Defendant Bank denied their application for a loan, although each of them was credit worthy. Plaintiff Peake is also an aggrieved victim of that conduct because many of his prospective clients resided in, had businesses in, or owned property in predominantly African American residential areas, and the Defendant National City Bank declined to authorize such loans and thus denied him the opportunity to have those loan applications considered when the Bank considered his income from the Bank.

37. Plaintiffs and other residents of and property owners located in the predominantly African-American residential areas of the City of Detroit and businesses and other organizations located in such areas of the City of Detroit have been victims of the Defendant National City

Bank's racially discriminatory policies and practices. They are aggrieved applicants, as defined in 15 U.S.C. §§ 1691a and 1691e, and Regulation B, 12 C.F.R. §§ 202 *et seq.* and have suffered damages as a result of the Defendant National City Bank's conduct. Plaintiff Peake is such a resident and is an owner of property in a predominantly African American residential area, and the value of his property has been and is lower than it would otherwise be because of the racially discriminatory practices of the Defendant National City Bank.

38. The discriminatory policies and practices of the Defendant National City Bank described above were and are intentional, willful and they were and are implemented with reckless disregard for the rights of African-American business owners and home owners and other business owners and home owners in majority African American areas throughout the City of Detroit and other areas in the Detroit Metropolitan Statistical Area.

WHEREFORE, Plaintiffs pray for entry of an Injunction or other Order that:

(1) Declares that the policies and practices of the National City Bank constitute violations of the Fair Housing Act, 42 U. S. C. §§ 3601-3619, the Civil Rights Act of 1866, the Civil Rights Act of 1870, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

(2) Enjoins the Defendant National City Bank, their agents, employees and successors, and its prior employees, and to all other persons acting in active concert with them, from

(a) discriminating on the basis of race or color in any aspect of their business practices or the Defendant Agency from further discriminatory and retaliatory conduct or transactions;

(b) failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of National City Bank's unlawful practices to the position in which they would have been but for the discriminatory

conduct;

(c) failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any racially discriminatory conduct in the future, and to eliminate to the extent practical the effects of the National City Bank's unlawful practices to expressly include in its Community Redevelopment Act assessment area the predominantly African American areas of the City of Detroit, and to service those areas at least as well as the predominantly white areas it has served in the past;

(3) Awards such actual and compensatory damages that fully compensate all of the victims of the National City Bank's unlawfully discriminatory policies and practices for the injuries it has caused, pursuant to 42 U. S. C. § 3613(d)(1) (B) and/or 15 U.S.C. § 1691e(h); and

(4) Awards such punitive damages to the extent authorized by law to all victims of the Defendants' unlawful discriminatory policies and practices;

(5) Awards the plaintiffs the costs of litigation including reasonably incurred expenses and reasonable attorneys' fees pursuant to 42 U.S.C. § 3613 and 15 U.S.C. § 1691e(d);

(6) Assesses a civil penalty against the Defendant National City Bank in an amount authorized by 42 U.S.C. § 3613(10)(C) and 15 U.S.C. § 1691e(b); and

(7) Such other relief as may be just.

SACHS WALDMAN, Professional Corporation

By: 

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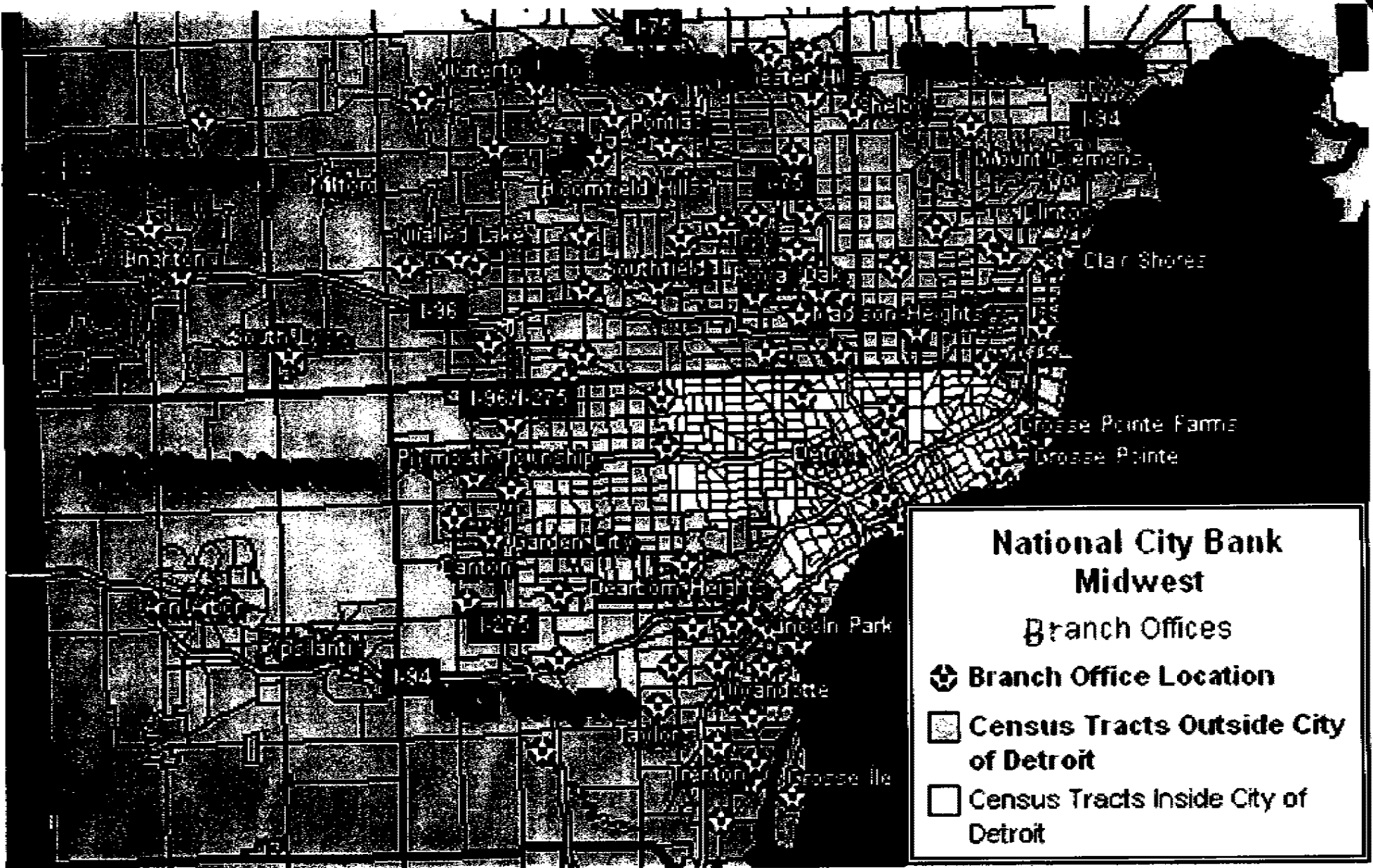
ROSE & ROSE, P.C.

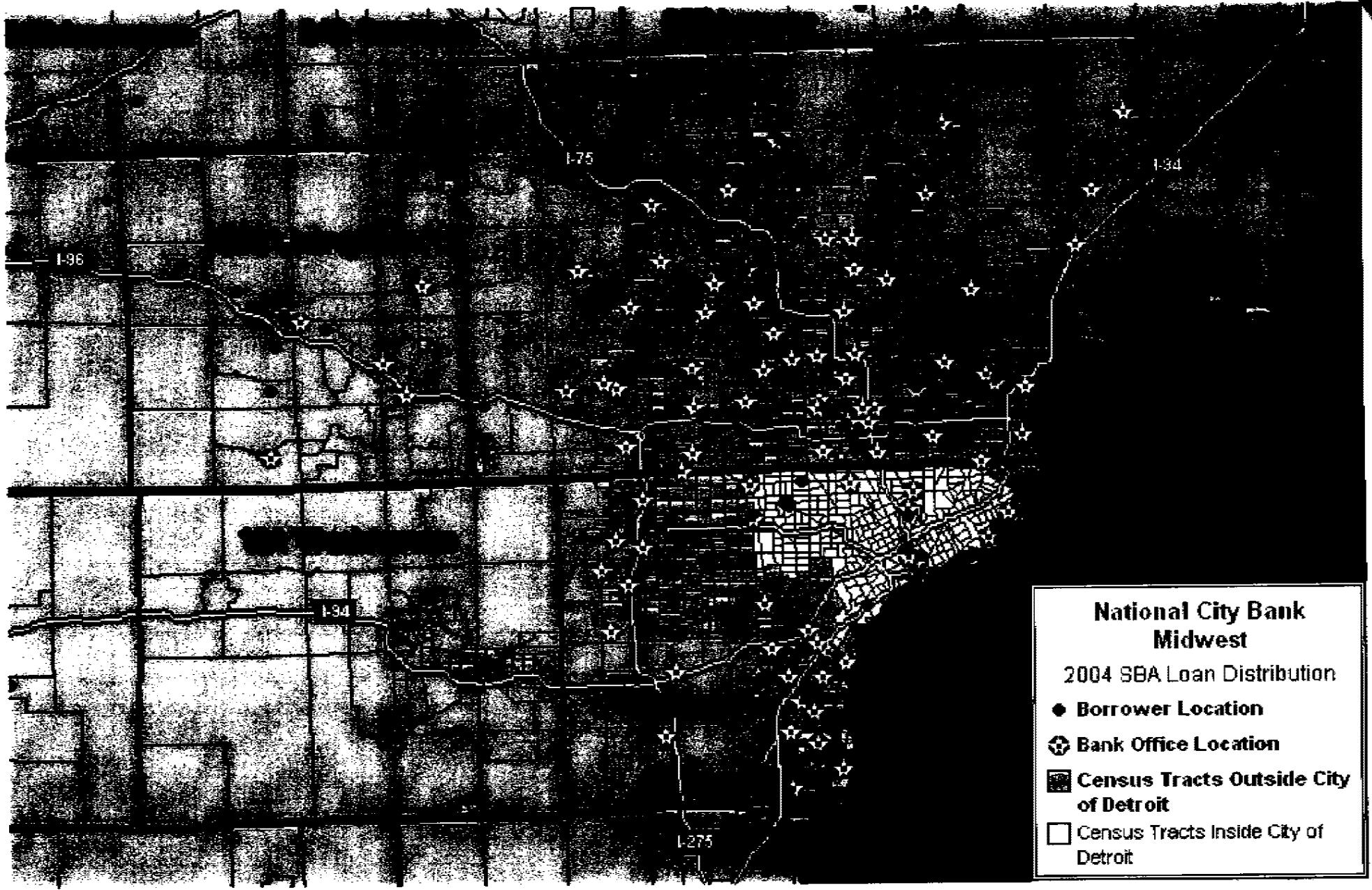
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Dated: April 25, 2006



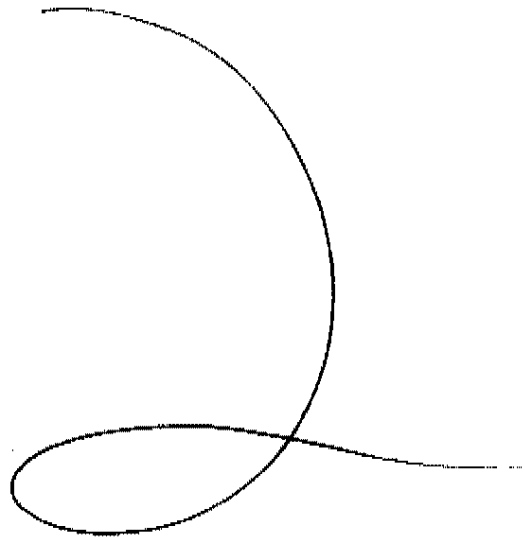




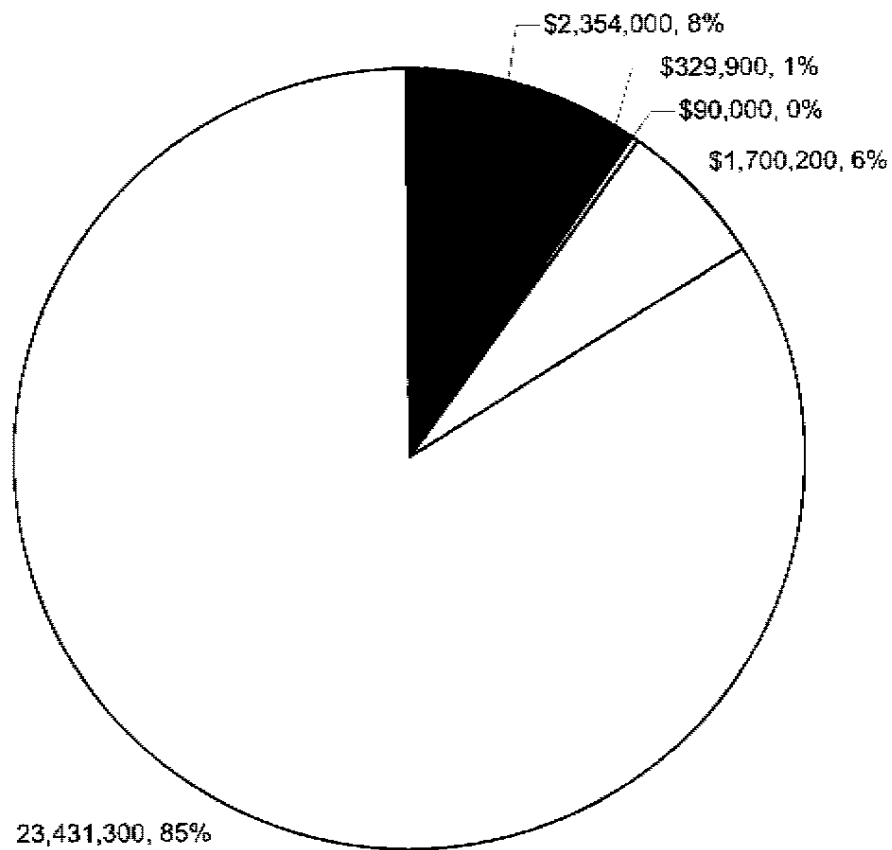
**National City Bank
Midwest**

2004 SBA Loan Distribution

- Borrower Location
- ★ Bank Office Location
- Census Tracts Outside City of Detroit
- Census Tracts Inside City of Detroit

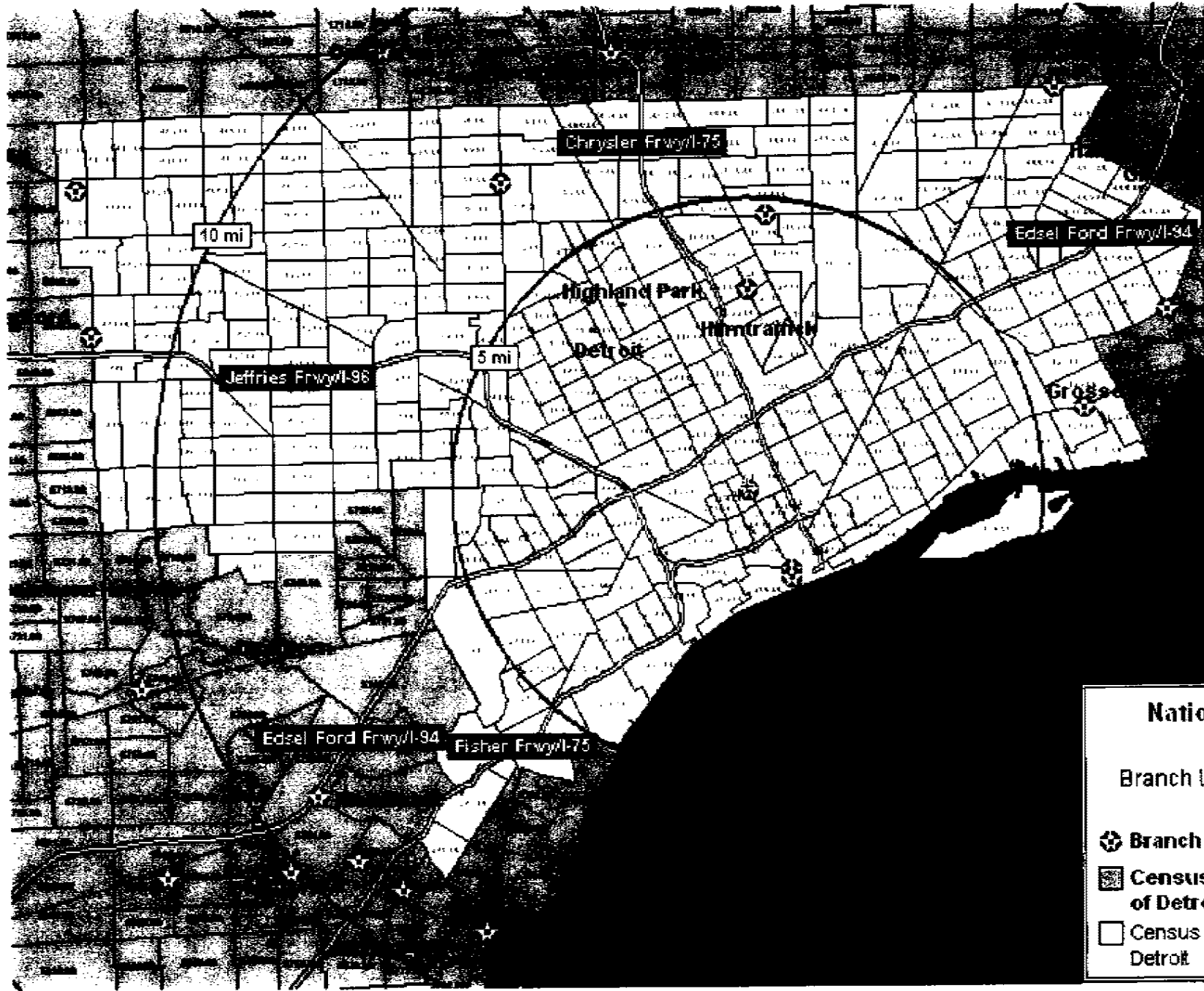


National City Bank 7A Small Business Loans 2004






- Asian
- Native America
- Hispanic
- African Am
- Non Minority

3



**National City Bank
Midwest**

Branch Locations In City Of
Detroit

-  Branch Office Location
-  Census Tracts Outside City of Detroit
-  Census Tracts Inside City of Detroit

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION**

JAT, INC., NEW GALILEE MISSIONARY)
BAPTIST CHURCH, PLEASANT HILL)
BAPTIST CHURCH, AND PHILLIP)
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v.)

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DEMAND FOR JURY TRIAL

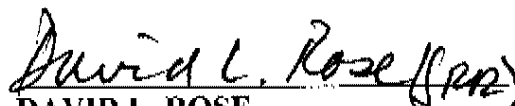
Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs JAT, INC., NEW GALILEE MISSIONARY BAPTIST CHURCH, PLEASANT HILL BAPTIST CHURCH and PHILLIP PEAKE, demand trial by jury of any and all issues triable of right by a jury.

SACHS WALDMAN, Professional Corporation

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Dated: April 25, 2006

06-11937

ORIGINAL

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: WAYNE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

JAT, Inc., New Galilee Missionary Baptist Church, Pleasant Hill Baptist Church, and Phillip Peake

DEFENDANTS NANCY G. EDMUNDS

National City Bank of the Midwest and National City Corporation

(b) County of Residence of First Listed WAYNE

County of Residence of First Listed CUYAHOGA (Cleveland, Ohio)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

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SACHS WALDMAN, P.C. By: John R. Runyan 1000 Farmer Street Detroit, Michigan 48226 (313) 965-3464

Attorneys (If Known) Steven J. Weiss (P#23174) Hertz, Schram & Saretsky, P.C. 1760 S. Telegraph Road, Suite 300 Bloomfield Hills, MI 48302 (248) 335-5000

11. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item 111)

111. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes handwritten '443' on the left and 'POSSIBLE' in the center.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multi district Litigation
7 Judge from Magistrate
8 Appeal to District

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Complaint of Discriminatory Lending Practices under 42 USC §3601-3619, 42 USC §1981 and §1982 and 15 USC §§1691-1691(f).

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23. Declaratory, Injunctive and Monetary Relief. JURY DEMAND: Yes (checked) No

VIII. RELATED CASE(S) INSTRUCTIONS: IF ANY

JUDGE Denise Page Hood DOCKET NUMBER 05-72520

DATE April 25, 2006

SIGNATURE OF ATTORNEY OF RECORD [Handwritten Signature]

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: US District Court for the Eastern District of Michigan

Case No.: 05-72520

Judge: Denise Page Hood

Notes :

**POSSIBLE
COMPANION CASE**