

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

JAT, INC., BODY OF CHRIST  
CHRISTIAN CENTER, GOOD FIGHT  
OF FAITH MINISTRY, PLEASANT  
HILL BAPTIST CHURCH,  
SAMARITAN BAPTIST CHURCH,  
3M CONTRACTING, INC. and PHILLIP  
PEAKE, and Others Similarly Situated

Plaintiffs,

v.

NATIONAL CITY BANK OF THE  
MIDWEST and NATIONAL CITY  
CORPORATION.

Defendants.

Civil Action No. 2:06-cv-11937

Demand for Trial By Jury

Class Action

**AMENDED CLASS ACTION 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 (“ECOA”), 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 Body of Christ Christian Center (“Christ Christian Center”) is located at 11780 Ohio St., Detroit, Michigan 28204. The majority of parishioners at Christ Christian Center are African American. Christ Christian Center applied for a loan from National City Bank in the amount of \$600,000. Defendant did not approve the loan. Christ Christian Center subsequently obtained the loan from Bank One.

5. Plaintiff Good Fight of Faith Ministry is a predominantly African-American congregation with an African-American Pastor. Although it has been and is currently holding its services in a building located in Wayne County, Michigan, outside the City of Detroit, it sought to purchase real estate within the City of Detroit to use as a church. It submitted and filed an application in early 2006 to the Defendant National City Bank for a loan of \$350,000 to be secured by a mortgage on that property. That property was located at 8590 Esper, Detroit, MI 48204. The Defendant National City Bank did not promptly act upon the loan, but sought additional information from the Good Fight of Faith Ministry. After that congregation submitted additional information, the Defendant Bank still did not approve the loan. Shortly after the Good Fight of Faith Ministry determined that the Defendant Bank did not intend to grant the loan, it obtained a loan in the amount of \$350,000 from another major bank to be secured by a mortgage on the same property. However, because of the delay caused by the Defendant Bank, another bidder obtained the property, to the harm of the Good Fight of Faith Ministry.

6. 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 for additions and improvements to its building.

7. Plaintiff Samaritan Baptist Church (“Samaritan Baptist”) is located at 8806 Mack Avenue, Detroit, Michigan 28214. The majority of parishioners at Samaritan Baptist Church are African-American. Samaritan Baptist applied for a loan from National City Bank in the amount of approximately \$600,000. Defendant Bank did not grant the loan, and as a practical matter rejected it. Samaritan Baptist subsequently obtained a loan from Bank One in the amount of \$785,000.

8. Plaintiff 3M Contracting, Inc. is a small business located at 11000 W. McNichols Rd., Detroit, Michigan 48221. 3M Contracting, Inc. is a black owned business. 3M Contracting applied for a \$50,000 loan from National City Bank under the Capital Assistance Program of Michigan law in which the State would guaranty 80% of the loan, and it offered purchase orders as collateral. Defendant Bank did not grant the loan and as a practical matter rejected it. Instead, the National City Bank required the owner of 3M Contracting, Inc. to place a lien upon the residence owned by him and his wife to obtain a smaller loan from National City Bank that was not so guaranteed. In addition the Defendant provided that its loan be renewed frequently so that the rate of interest 3M Contracting, Inc. is obliged to pay has been sharply increased.

9. Plaintiff Phillip Peake (“Peake”) is an African American (“black”) man. He was born and raised in Detroit, Michigan. He resides in Detroit in a zip code that has a predominantly African-American (black) population.

10. 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.

11. 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.

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

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. Wayne County, Michigan has a population of 2,061,162, of whom 869,910, or 42%, are African American. Of those 869,910 African American residents of Wayne County, about 777,235, or 89%, reside in the City of Detroit.

19. 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 twelve (12), or 3.1%, were originated for businesses in the City of Detroit.

20. In 2003 and 2004, Defendant National City Bank originated \$57,056,500 in SBA guaranteed loans in the State of Michigan, of which no more than \$2,911,200, or 5%, were originated for businesses in the City of Detroit.

21. 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 no more than \$1,700,000, or 6%, were loaned to African Americans in the State of Michigan.

22. Of the 277 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 but does not have a predominantly African-American population. 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 that is inhabited predominantly by African Americans.

23. 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.

24. The Defendant National City Bank has "red-lined" the majority black census tracts

of Detroit and its immediate suburbs. It does not seek to make loans in the red-lined areas, nor does it seek to make or approve loans secured or to be secured by property located in those areas. Plaintiffs JAT, Christ Christian Center, Good Fight Pleasant Hill, Samaritan Baptist, and 3M Contracting are located in red-lined areas as described above. The property that the Good Fight of Faith Ministry attempted to purchase was also located in an area of Detroit that the Defendants had red-lined.

25. Defendant Bank'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 Bank adopted the policy before its employment of Plaintiff Peake, continued that policy throughout Plaintiff Peake's employment and continues to follow this policy.

26. In the latter part of 2003, and in 2004 and until April , 2005, Plaintiff Peake processed loan applications based upon real property located areas where the residents were predominantly African American, as well as loans in other places. In 2004 and early 2005, he processed twelve loan applications from churches whose members were predominantly African American and other organizations that were owned or operated by African Americans. 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.

27. 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 African American 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."

28. By an internal memorandum of October 19, 2004, Plaintiff Peake's manager, Scott Wolffis, 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 . . . ."

29. 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 for church premises to churches located in low and moderate income areas and/or churches with predominantly minority congregations and memberships and to 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.

30. 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 and the applicant is credit worthy.

31. 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.

32. Each of the twelve loan applications recommended by Plaintiff Peake and declined by the Defendant National City Bank as described in paragraphs 26 and 27 was later accepted by another bank that is located in or does business in the Detroit Metropolitan Statistical Area and in the City of Detroit.

33. In 2002, 2003 and 2004, the Defendant Bank accepted approximately 981 loan applications for loans to be guaranteed by the Small Business Administration of the United States for a total of approximately \$90,000,000, of which only twenty-four (24) applications were from businesses located within the City of Detroit.

34. Of the \$4,219,000 in SBA loans the Defendant Bank granted to businesses located within the City of Detroit, only \$430,000 or approximately 10%, were awarded to nineteen (19) African-American owned businesses located in the City of Detroit. Such businesses received less than one half of one per cent (0.5%) of the amount of SBA insured loans by the Defendant Bank in those three years.

35. In 2002, 2003, 2004, 2005 and in 2006, the Defendant National City Bank has engaged in a pattern or practice of discriminating against African American churches, businesses and other institutions for loans on the basis of race that has harmed Plaintiffs and members of the class described below.

36. 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 African-Americans and other 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.

37. The Defendant National City Bank has adopted and uses procedures and practices which are intended to exclude African American institutions from equal credit opportunities. The Defendant National City Bank has adopted and uses procedures and practices which disproportionately exclude African American churches and small businesses and non-profit organizations from an equal opportunity to obtain its loans. One such procedure used by the



Defendant Bank is a special credit scoring matrix for churches which tends to exclude African American churches disproportionately from loans by the Defendant Bank. That credit scoring matrix has not been validated as showing credit worthiness.

### CLASS ALLEGATIONS

38. *Numerosity.* The class is comprised of more than 500 churches with predominantly African American congregations, and other African-American not-for-profit organizations and business owned or operated by African Americans (blacks) located in or desiring to purchase property in the predominantly African American census tracts of Detroit as well as individuals owning real estate such census tracts. They are too numerous to be joined as parties to this action.

39. *Commonality.* The questions of fact and law of Plaintiffs JAT, Inc. and 3M Contracting Inc. are common to members of the class who operate businesses in those predominantly African American census tracts of Detroit; and the claims of the Plaintiffs Body of Christ Christian Church, Good Fight of Faith Ministry, Pleasant Hills Baptist Church and the Good Samaritan Baptist Church are typical of the claims of other churches and non-profit organizations located in those census tracts or desiring to purchase property in those census tracts. Similarly, the claims of Plaintiff Peake to loss of value of real estate in such census tracts is similar to the claims of discriminatory treatment by the other members of the class. The following allegations of fact are common to the class (Fed. R. Civ. P. Rule 23(c)(2) and (3)):

(a) The congregations and staff of the churches and the members and staffs of the other not-for-profit organizations and the owners and operators of the businesses are predominantly African American owning real estate or desiring to purchase real estate in the predominantly African American census tracts located in the City of Detroit;

(b) The Plaintiffs and members of the class sought to obtain loans from the Defendant Bank, and were worthy of credit but were denied applications for loans or would have been

denied such loans under the policies and practices of the Defendant Bank challenged by this suit;  
or

(c) The Plaintiffs and members of the class own or sought to own property in the African American census tracts and the value of such property has been diminished by the failure and refusal of the Defendant Bank to make loans to them.

40. *Typicality*. Plaintiffs have claims of discrimination in lending that are typical of the members of the class.

41. *Adequacy*. The Plaintiffs will adequately represent the interests of the class. The plaintiffs have no interests that conflict with the interests of the class. Their legal representative, Rose & Rose, P.C., will adequately represent the class. The firm has litigated cases in the federal courts under Title VII since 1989 and has represented and is representing plaintiffs in pattern or practice cases and collective actions and class actions under Rule 23.

42. 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 42 U.S.C. 1981 and 1982.

b. Discrimination against applicants or candidates for loan applications 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. § 1691a(1) and 42 U.S.C. 1981, as amended.

c. Discrimination against African American businesses, churches and other not for profit organizations because of the race and color of their owners, their members, and their officials and high ranking employees, in violation of 42 U.S.C. 1981, as amended.

43. 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.*, and in violation of 42 U.S.C. 1981.

44. 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), and in violation of 42 U. S. C. 1981 and 1982.

45. Business entities owned by African-Americans and 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 practices. Those entities are aggrieved persons and have suffered damages as a result of the conduct of the Defendant National City Bank as described herein. Plaintiffs JAT, Body of Christ Christian Center, Good Fight of Faith Ministry, Pleasant Hill Baptist Church, Samaritan Baptist Church and 3M Contracting, Inc. 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 an aggrieved victim of that conduct because the value of his real estate is reduced by the unwillingness of the Defendant Bank to make loans in the predominantly African American areas of Detroit.

46. 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 determined the adequacy of his performance and his income from the Bank. If those loans had been approved, Plaintiff Peake would have exceeded or met the goals for loans set for him by the Defendant Bank. The denial of those loans by the Defendant resulted in a lower performance appraisal than that he would have received if many of the loans to such potential customers had been authorized by the Bank.

47. On April 22, 2005 Plaintiff Peake had brought in an application for a loan in the amount of \$1,050,000. The Defendant Bank approved that loan. That loan together with loans

he secured for the Defendant Bank earlier in 2005 had resulted in his achieving in April 2005 more than half of the goal for him set by the Bank of approximately \$4,000,000 for the calendar year 2005. The Defendant Bank terminated Plaintiff Peake's employment on April 22, 2005, without giving him a stated reason.

48. Plaintiffs allege that the Defendant Bank terminated Plaintiff Peake's employment by the Bank in substantial part because many of the loans he brought to the Defendant Bank were from African American churches or businesses or African American applicants for a loan, and the Defendant Bank terminated his employment with it in substantial part because it was unwilling to make loans to those prospective African American customers and in retaliation for his complaints about the Bank's discriminatory lending practices. Such retaliation is unlawful under federal laws.

49. The discriminatory policies and practices of the Defendant National City Bank described above were and are intentional, willful and were and are implemented with reckless disregard for the rights of the members of African-American churches and African-American business owners.

50. Even if the discriminatory policies and practices of the Defendant Bank were deemed to be unintentional, they violate the Fair Housing Act as amended, and the Equal Credit Opportunity Act.

WHEREFORE, Plaintiffs pray for entry of an Injunction and 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, 42 U. S.C. 1981 and 1982, 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 conduct by the Defendant Bank which has the purpose or effect of discriminating on the grounds of race in the future, and to eliminate to the extent practical the effects of 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 actual and compensatory damages that fully compensate Plaintiffs and the members of the class who are 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 42 U. S.C. 1981.

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

(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) and other provisions of federal law;

(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).

(7) Such other relief as may be just.

/s/ John R. Runyan, Jr.  
John R. Runyan, Jr.  
Sachs Waldman, PC  
1000 Farmer Street  
Detroit, MI 48226  
  
(313) 965-3464

/s/ David L. Rose  
David L. Rose  
Henry P. Gassner  
Rose & Rose P. C.  
1320 19<sup>th</sup> St. N.W., Suite 601  
Washington, D. C. 20036  
(202) 331-8555

Attorneys for the Plaintiffs

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand the right to a trial by jury.

/s/ John R. Runyan, Jr.  
John R. Runyan, Jr.  
Sachs Waldman, PC  
1000 Farmer Street  
Detroit, MI 48226  
  
(313) 965-3464

/s/ David L. Rose  
David L. Rose  
Henry P. Gassner  
Rose & Rose P. C.  
1320 19<sup>th</sup> St. N.W., Suite 601  
Washington, D. C. 20036  
(202) 331-8555

Attorneys for the Plaintiffs

July 31, 2006