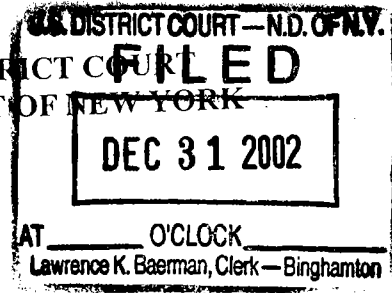


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



Tonya R. Powell,
Plaintiff

Civil Action No:

v.

3:02-CV-1605 TJM GLS

American General
Beneficial
BSB Bank
Charter One Bank
Citifinancial
HSBC Bank
M & T Bank
NBT Bank,
Defendants

COMPLAINT

- (1) Violation of State and Federal Banking Laws and Statutes 912CFR202 & 226 (Reg B & Z) (Fair Lending Laws and Credit Discrimination)
- (2) Violation of the United States Constitution (1791) 7th, 9th, 10th, 14th, 15th Amendments (denial)
- (3) Violation of the Civil Rights Act of 1968
- (4) Violation of Equal Credit Opportunity Act (15 U.S.C. 1691-1691(f))
- (5) Violation of 7th Amendment (Right of trial by jury) Demand For Jury Trial
- (6) Violations of the Community Reinvestment Act of 1977 (12 U.S.C. 2901-2906)

Comes now the Plaintiff in the named case as alleges as follows: This action is brought by the Plaintiff "Powell" to enforce the Provisions of the Title VIII of the Civil Rights Act of 1968, Equal Credit Opportunity Act ,15 U.S.C. 1691-1691(f) Community Reinvestment Act of 1977 (12 U.S.C. 2901-2906), United States Constitution (1791) Violations of the 7th, 9th, ,14th,15th Amendments. Violations to Comply with State and Federal Banking Laws Regulations (B & Z) .

This court has jurisdiction pursuant to 42 U.S.C. 3614,and 15 U.S.C. 1691 (h).

1. At all times herein, Plaintiff "Powell" was a resident of the County of Broome, State of New York, and resided at 60 Court Street,. City of Binghamton.
2. At all times herein , American General, Beneficial,BSB Bank, Charter One, Citifinancial, M & T Bank, NBT Bank Defendants is a federally insured bank doing business in the State of New York . Their business includes regularly extending credit, including personal and commercial loans. The bank also extends credit for home improvement, purchase for mobile home loans which are residential real-estate related transactions as defined in the Fair Housing Act, 42 U.S.C. 3605 (b) (1). As a federally insured lending institution (Banks) is subject to federal laws governing Fair Lending, including the Equal Credit Opportunity Act, the Fair Housing Act, and the Community Reinvestment Act of 1977 (12 U.S.C. 2901-2906). The Community Reinvestment Act ,12 U.S.C. 2901 et seq., and its implementing regulations,12 C.F.R 354 seq., require Defendants to meet the credit needs of the entire community in which it operates, including the credit needs of low-to-moderate income areas in the community.
3. The Defendant(s) American General branch in Vestal headquarters Indiana,

- (2) Beneficial branch in Vestal headquarters in Chicago, BSB Bank branch in Binghamton, NY headquarters in Binghamton, NY. 3. Charter One Bank branch in Binghamton, 4. Citifinancial, branch in Johnson City and Endicott, Headquarters in Baltimore, MD, (5) HSBC Bank locations in Binghamton, headquarters in Buffalo, NY (6) M & T Bank branches in Binghamton and Endicott headquarters located in Buffalo. (7) NBT branches in Port Dick and Maine , NY headquarters in Norwich.
4. Plaintiff had applied to all of the above named defendants for credit business, personal and a home mortgage loan all were denied no second review. Explanation given No credit, No collateral, Co-signer.
5. The Plaintiff 'Powell' does believe the above banks did not want to work with her is because of her gender and skin color. Upon the Plaintiff 'Powell' asking for another review the decision did not change.
6. Banks for years have been getting away with "unfair business practices". The practice is a continuance from the illegal business practice they used in the early 1900's to keep negroes from obtaining home loans and from voting. If whites did allow negroes to buy home they were the shabbiest homes and paid outrageous prices (higher interest rates). The insurance coverage on the homes was twice that of whites.
7. The defendants continue to deny access of life, liberty , and property to individuals and families of African descent. Denying them expectancy of "economic advantage or benefit.

8. The right for the Plaintiff "Powell" to pursue a lawful business, property, or anything else she is entitled to enjoy the fruits and advantages of one's industry and efforts are rights which the law protects against unjustified and wrongful interference by another person.

10. The constitution of the United States is the 'Supreme " law of the land" and is itself a law for which it is the duty of all the courts " high and low" , both state and national to sustain and enforce as they do all other laws. Even if wording of law or ruling is constitutionally correct, if it is not applied equally it is unconstitutional.

11. The First Amendment , including specifically the right to petition the court, is incorporated against the states by virtue of the Fourteenth Amendment.

12. The judiciary Act of 1789 provides that: In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as by the rules of such courts, respectively, are permitted to manage and conduct cases therein, 28 U.S.C.1654 this ancient protection is rooted in the fundamental principles of our jurisprudence. The right to proceed pro se is a fundamental statutory right that is afforded the highest degree of protection in which Plaintiff 'Powell" brings this civil action.

13. The business practices of the defendant(s) are and always have been illegal for many years.

14. Defendants counsel may argue that these laws do not apply to the banking system.

15. The Nineth Amendment states; "Rule of Construction" of the constitution.

That no natural rights are abridged merely because they were not enumerated in the preceding eight amendments of the 'Bill of Rights" by the people.

16. The banking system has artfully ,dexterous in doing business secretly or cunning in evading detection by denying African-Americans access to credit and the economic up climb for many years. Their actions are very selective.

17. It was not until the ratification of the 14th Amendment that Federal Courts were granted a weapon to enforce many of the guarantees stated in the first ten amendments upon state jurisdictions.

18. Opening the book on lending discrimination is nothing new. Many years explicit discrimination in mortgage, business, auto lending was and always have been a broader pattern of racial discrimination. The early 1900 in segregation banks would not loan money to blacks for home , auto , personal loans. Even insurance coverage the interest rates were outrageous.

19. Discrimination against people of color by lenders has been a long-standing civil rights concern as well as a constitutional concern in the United States. Both Title VIII of the Civil Rights Act of 1968 and the Equal Credit Opportunity Act of 1977, commonly called the 'Fair Lending Laws" prohibit discrimination against applicants who apply for credit if their race is not white.

20. These statutory prohibitions have been the law of the land for many years, there has been scant administrative or judicial action to challenge lending practices that suggest discriminatory behavior by lenders . While the Fair Lending Laws have for the most part eliminated explicit forms of discrimination by lenders the evidence available suggest that people of color are still subject to subtle forms of discrimination in obtaining access to credit i.e. Mortgage, Business, Auto, and Personal Loans. Lending rates are dramatically lower in African-American and Latino neighborhoods in which this is what the 'Plaintiff 'Powell" will show at the trial.

21. Discrimination does enter the loan process. Studies have found both black and white applicants can have the same imperfections in loan applications , it has been found lenders seem more willing to overlook flaws for white applicants than for applicants of color. HMDA reveals more and more that many individual lenders in many different cities exhibit disparities in approval and denial rates that are far greater than the average rates for their metropolitan area.

22. Discrimination denies a substantial segment of black neighborhoods a basic form of wealth accumulation and investment through home ownership and business.

23. When lawyers examined loan files under the Home Mortgage Disclosure Act (HMDA) they uncovered disturbing evidence that bank employees were providing assistance to white applicants that they were not providing to African-Americans.

24. Loan officers often did not help people of color applicants explain negative information on their credit reports and document all of their income, similiar loan officer behavior was responsible for the inordinately high denial rate of African-American applicants.

25. Lenders are now using 'Automated Credit Scoring Systems" for underwriting more and more credit products. These systems have been used for many years for credit card underwriting, are also now being used by lenders making home mortgage, home improvement, and even business loan underwriting decisions. These credit scoring systems hold out the promise of promoting fairer lending practices because they purport to use objective, mathematical models for identifying and measuring those factors that demonstratively predict credit performance in place of discretionary-decision -making that can be infected by bias and discrimination. Do? Those who develop and use credit scoring factors or the overall systems have a disparate adverse impact on people of color and other borrowers in protected classes? This is being challenged in courts across the United States.

26. Plaintiff 'Powell applied for business, personal and a mortgage loan. Various reasons were given. Just as the availability of credit to purchase, refinance, and improve our homes is critical to the well-being of local neighborhoods, so is the availability of credit for small businesses. Lack of access to capital has been one of the formation and development of African-Americans businesses. Lenders do not keep records for business it is time they do. Discrimination prevails in the business lending as well.

27. African-American applicants are put in positions of humiliating circumstances. Explanations would be given if they had blemish credit that could justify the reason, no consideration was considered and the loans were denied.
28. Studies and Reports are now finding or have found that African-Americans are twice as likely as whites to have loan applications rejected in all aspect of lending.
29. Racial and Credit Discrimination is immoral and illegal. Discrimination is also costly. There is a far greater chance that African-Americans will face outright denial of financing or denial of financing at competitive rates than will white applicants with virtually identical qualifications (good or bad).
30. Federal banking regulators are supposed to evaluate lending records every other year. Banks are rated on 12 factors. Only three have anything to do with where loans are actually made and whether banks locate branches or lend money in poor neighborhoods. Three other factors relate only to paperwork.
31. A central tenet of U.S. Civil Rights law is that practices which do not intentionally or directly discriminate against people of African descent may nonetheless be unlawful under certain circumstances if they have discriminatory effects.

32. The majority of courts take a position that, despite the presence of valid justification for rejecting an applicant, if race is a factor in the decision making process, the rejection is discriminatory.
33. The concept of equal treatment contained in 1982, like title VIII, suggest a greater concern for results and not just equal opportunity, which pervades the history of the "Fourteenth Amendment". In which it should not be applied just for "Equal Laws" it should be applied as equal results.
34. The Plaintiff 'Powell' is of a protected class.
35. Those who impact their power (whites) should not be in positions whereas they can impact one's life or lifestyle. Life, Liberty, Property.
36. Covert discrimination is becoming more and more apparent. African-Americans are charged higher interest rates than whites, charged higher insurance premiums, denied loans at a higher rate than whites, Denied employment due to race or a name. These covert deceptive practices cannot continue. Covert discrimination continues to plague our nation.
37. Banks have only been concerned about passing the next exam. The 70's regulators expected banks to appoint Compliance Officers, maintain compliance management machinery, and follow the rules with accuracy, meeting regulators expectations and achieving a "clean exam" have been 90% of the focus of compliance.

38. Times are a changing, Exams account for a shrinking share of the risks banks face in connection with consumers laws and regulations. Litigation from government players other than the primary regulator, which harms reputation and brand name value, presents a growing threat.

39. Plaintiff "Powell" is not asking the banking system to issue bad loans, nor are people of African descent looking for a hand-out. We want the same respect and equal treatment as any other race.

40. Covert discrimination is being challenged more and more i.e. testers, federal and state agencies, activist news reporters, Internet traffic, and the like . The triggering practice or action is increasingly something that was not explicitly prohibited.

41. Plaintiff 'Powell ' considers bank practices services quite simply, leaves many people of color confused and feel abused. Some customers or applicants actually will be abused by unscrupulous players. This growth of abuse by lenders and its employees is going to lead, inevitably, to a political and legal response as consumers, customers, applicants turn to lawyers, themselves, elected representatives, and regulators for redress. They will also turn to other players that influence those entities such as consumers and community groups and the media. In this instance it is the Plaintiff "Powell" who has initiate this action.

42. Bankers must stop relying on the examiners. They must take responsibility for monitoring and managing. If so, a look at the greater risk is in order.

43. Fair Lending stop credit discrimination , redlining, higher interest rates (predatory lending), denial of business, personal and mortgage loans, no credit bad credit, co-signer, no collateral these are all covert discriminative practices to keep blacks from obtaining equal financial status.
44. Recent Justice Department litigation have involved Loan Pricing, Pricing on Mortgage, Small Business, Consumer Loans where lending personnel have authority to negotiate. Similarly, risk based pricing creates the potential for discrimination charges if the outcomes produce higher prices, higher denial for African-American women, or other protected groups. In which another Fair Lending risk : the growing use of credit scoring and how scoring or mixed scoring /judgmental systems are implemented.
45. Bankers, Lending Institutions, should not ignore a potential consumer because of race or gender. There is a fairness problem that is visible in the Banking System. It is not good ethics nor good treatment , nor equal treatment of the customer.
46. The Plaintiff 'Powell' brings this complaint to the court under her first Amendment constitutional right, The right to petition the government for a redress of grievances.
47. Plaintiff 'Powell' also petitions the court under the seventh Amendment to a 'Right of a jury trial in which the opposing parties will attempt to prevent.
48. Plaintiff 'Powell ' also knows the 13th amendment was enacted to abolish slavery, the effects still permeate our society.

49. Banks have sly disguised their covert deceptive practices. The 15th Amendment was enacted to keep states from denying negroes the right to vote. Negroes were not allowed to vote because whites would make up things (i.e. literacy, grandfather clause poll tax and even lynching)to deny blacks the right to vote. It states: The right of all United States Citizens shall not be denied or abridged by the U.S. or by any state on account of race, color, or previous condition of servitude. Today, whites use legal "But" undertones of discrimination (i.e. Bad credit, no credit, no collateral, co-signer and whatever else they can create.) for African-American today this is their denial.

50. To deny or abridge the privileges or immunities of the citizens of the United States is also inclusive of the 14th amendment to the United States Constitution.

51. The 10th Amendment preserves for the people and the states all powers not delegated to the United States by the Constitution..

52. Plaintiff 'Powell believes the practice of covert discrimination has had a long standing and it must come to an end. Discrimination in any form must be stopped from the highest position to the lowest. Discrimination hurts all not just one race. Discrimination can be bold or subtle the worst is subtle. To sit back and say or do nothing only allows the covert discriminative practices to continue.

53. The covert discrimination has been around for years and it was even in the senate and there are many more Trent Lotts who have not been found out.

54. All defendant banks have or has employed few African-Americans in their place of employment. BSB Bank has at one time employed over (5) African-Americans as tellers low paying jobs. None at upper management levels. They have a African-American woman in their bank that sits behind a desk, I am not really sure what position she holds. There was or still is another African-American woman who works on one of the top floors to date I do not know what position she holds. Out of all of the employees they employ about (300 or more) there has only been about 10-20 African-Americans. HSBC bank employs on African-American female and the position she holds is in the mortgage department. It has been stated their President of the bank is African-American. If he is, then he is just as guilty of allowing his bank to practice discriminative practices. African-Americans can be just as hateful toward one another too!

55. The other defendants NBT, Beneficial, Citifinancial, American General , have never employed African-Americans in their business. They have given few loans not many to African-Americans in which at trial the HMDA and other information will be brought out at trial.

56. Defendant Charter One Bank had employed one African-American. To date there has been no others.

57. If these entities discriminate in employment practices, it should never be assumed they would not discriminate in the loan decisions.

58. In this area (Binghamton) it is said there is a small population of People of Color. People of Color are not the minority.

59. The rate of People of Color is growing. It is just these entities (Banking) is choosing to ignore individuals and neighborhoods of color. The practice cannot continue.
60. The policies and practices described in the preceding paragraphs have achieved the intended racial impact, as demonstrated by statistics revealing the number of home mortgage applications, personal and business loans.
61. Other business practices utilized by the defendants at least until the Plaintiff "Powell" did her investigation, furthered the objective of servicing white residential areas and not servicing residential areas in which African-Americans reside.
62. The banking system continues to violate the Equal Credit Opportunity Act 15 U.S.C. 1691 (a) (1) discriminating against applicants with respect to credit transactions, on the basis of race, in violation of the ECOA 15 U.S.C. (1691) (a) (1).
63. Defendants policies or practices as alleged herein constitute:
 - A. A pattern or practice of resistance to full enjoyment of rights secured by the Equal Credit Opportunity Act 15 U.S.C. 1691 e (h) and
 - B. A denial of rights granted by the ECOA, 14th Amendment and the 15th Amendment to a group of persons that raises an issue of general public importance.
64. Persons who have been victims of defendants discriminatory policies and practices are aggrieved in this instance it is the Plaintiff "Powell". Persons as defined in 42 U.S.C. 2602(i) and have suffered damages as a result of the defendants conduct an issue of general public importance.

65. The racially discriminatory policies and practices of defendants were, and are, intentional and willful, and have been implemented with reckless disregard for the rights of residents who are African-American.
66. Plaintiff 'Powell' declares that the totality of the policies and practices of defendants constitute a violation of title VIII of the Civil Rights Act of 1968, Violates the Equal Credit Opportunity Act, 1977, 15 U.S.C. 1691-1691(f) Violates Code of Federal Regulations (Fair Credit) (Regulation B & Z) (12CFR 202 & 226) Credit Discrimination, Violates the United States Constitution of (1791) (To guarantee the citizens basic individual liberties). Violation of the 7th Amendment (Right of Trial by jury). Violation of the 9th Amendment (no natural rights abridged merely because they were not enumerated in the preceding eight amendments). Violation of the 14th Amendment (no state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States nor deprive of life ,liberty, and property). Violation of the 15th Amendment (barring states from denying the vote to blacks (i.e. literacy, poll tax, grandfather clause and lynching). Today their denial to blacks is in the form of (i.e. bad credit, no credit history, lack of collateral, co-signer). There is no second chance for African-Americans. Failure to Comply with Applicable State and Federal Laws , Violation of Banking Regulation Laws.

WHEREFORE, Pursuant to Federal Rule of Civil Procedure 38(b) Plaintiff "Powell" request that a jury decide defendants liability under the Equal Credit Opportunity Act 15U.S.C. 1691 1691(f). and Violation of Banking Regulations under the Code of Federal Rules (Fair Credit and Credit Discrimination) (12CFR 202 & 12CFR226) (Regulation B & Z). and Violation of Title VIII Civil Rights Act of 1968, Violations of the U.S. Constitution Of 1791, Violations of the 7th,9th,14th, and 15th amendment. For the pattern or practice of racial discrimination alleged herein and the amount of damages owed to the victim of defendants discrimination.

Furthermore, the Plaintiff "Powell" request that the court issue an appropriate injunctive order, including a prospective remedial plan to correct the effects of defendants past discrimination and bring the defendants into compliance with Federal Fair Lending Law, and assess appropriate civil money penalties as to each defendant.

WHEREFORE, The Plaintiff "Powell" prays the court enter an order that:

1. Declares that the totality of the policies and practices of defendants constitutes a violation of Title VIII of The Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988,42 U.S.C. 3601-3619, Equal Credit Opportunity Act 15 U.S.C.1691-1691(f) , Violation of Banking Regulations under the Code of Federal Rules (Fair Credit and Credit Discrimination) (12CFR 202 & 12CFR226) (Regulation B & Z), Violation of The U.S. Constitution of 1791, Amendments 7th,9th,14th, and 15th, Failure to Comply with Applicable State and Federal Laws.

2. Enjoins defendants, their agents , employees, and successors, and all other persons in active concert or participation with them, from discriminating on account of race, in any aspect of their business practices;
 3. Require defendants to develop and submit to the court for its approval a detailed plan that (a) defines a service area for defendants business without regard to race and provides policies and procedures to ensure all segments of the defined area are served without regard to race, and (b) remedies the vestiges of defendants' discriminatory policies and practices;
 4. Award such damages as decided by a jury that would fully compensate the victim of defendants discriminatory policies and practices; and
 5. Defendants to actively participate in hiring more African-American in their place of employment, Funding and supporting programs and to work more with non-profit grass root organizations of color to assist in implementing programs to help African-American i.e. Housing Programs, Educational Programs, Entrepreneur Programs and more. To implement loan monitoring (second or Third Review) when a African-American applys for a loan.
 6. Award punitive damages in an amount to be determined by a jury to the victims of defendants discriminatory policies and practices; and
 7. Assess a civil penalty against each defendant, in order to vindicate the public interest.
- The Plaintiff "Powell" further prays for such additional relief as the interests of justice

may require..

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DEMAND FOR TRIAL BY JURY