

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,
Plaintiff,

v.

CV 96 2279

FLEET MORTGAGE CORP.
Defendant.

COMPLAINT

The United States of America alleges:

1. The United States brings this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968 ("Fair Housing Act"), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619, and of 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. § 1345, 42 U.S.C. § 3614, and 15 U.S.C. § 1691(h) and venue is appropriate pursuant to 28 U.S.C. § 1391(c) and 1392(a).
3. Defendant, Fleet Mortgage Corp., is incorporated under the laws of the State of South Carolina, with its principal place of business in Columbia, South Carolina. Fleet Mortgage Corp. (hereinafter "Fleet" or "the lender") is the successor to Fleet Real Estate Funding Corporation, the name under which the defendant did business during the occurrence of the events described in this Complaint. Fleet is a subsidiary of Fleet Mortgage Group, Inc., which is in turn a subsidiary of Fleet Financial Group, Inc., with its principal place of business in Providence, Rhode Island. Fleet Financial Group, Inc., is a bank holding company, making it and all of its subsidiaries subject to the regulatory supervision of the Federal Reserve Board.
4. Fleet's business includes engaging in residential real estate-related transactions and regularly extending credit to persons. Fleet is a creditor as that term is defined by section 702(e) of the ECOA, 15 U.S.C. § 1692a(e), and is, therefore, subject to the requirements of the ECOA and its implementing Regulation B, as amended, 12 C.F.R. Part 202, in effect on or after March 23, 1977.
5. Fleet is organized on a regional basis. Its Mid-Atlantic Region includes branch offices in Westbury, New York, and in Woodbridge, New Jersey. During the time period that is the subject of this Complaint, these two branch offices had a higher volume of African-American and Hispanic mortgage loan applicants and borrowers than other offices in the lender's Mid-Atlantic region.
6. Fleet solicits applications for residential mortgage loans primarily through its employees (loan officers and managers) who work in the lender's branch offices. In conducting its home mortgage loan operations, Fleet provides daily rate sheets to its loan officers. Fleet uses the price sheets and related information to inform its loan officers of both the lender's minimum loan price that day for each loan product and the extent to which the loan officers can earn incentive commissions by persuading the borrower to agree to an above minimum loan price (hereinafter referred to as "overages") The policy and practice of allowing overages was instituted no later than January 1, 1993, and remained in effect until suspended by the lender in mid-1994.
7. During the time period described in the preceding paragraph, loan officers at Fleet's Westbury and Woodbridge offices also were given the discretion (usually with the branch manager's

permission) to charge borrowers an amount that was less than the daily minimum price on the lender's rate sheet. This practice is referred to herein as granting "underages."

8. In 1994, the Federal Reserve Bank of Boston conducted an investigation of the lending practices of Fleet to evaluate its compliance with, among other laws, the Fair Housing Act and the Equal Credit Opportunity Act. Based on information gathered in its investigation, the Federal Reserve determined that in its Westbury and Woodbridge branches, Fleet may have engaged in a pattern or practice of discrimination on the basis of race and national origin in the loan prices charged to minority borrowers for residential mortgage loans. On September 7, 1995, Federal Reserve officials provided a summary of the agency's findings concerning Fleet's lending practices to the United States Department of Justice and thereafter supplied the Department with the underlying data supporting those summary findings.
9. The defendant and its employees in the Westbury and Woodbridge branches failed to implement the overages and underages pricing policies without regard to race or national origin. Beginning at the latest on January 1, 1993, and continuing until at least June 30, 1994, Fleet imposed overages on home mortgage loans more frequently (and granted underages less frequently) for African-American and Hispanic borrowers than it did for similarly situated white Anglo borrowers. By means of these differences in frequency of overages and underages, the lender charged African-American and Hispanic borrowers higher prices for home mortgage loans than it charged similarly situated white Anglo borrowers.
10. The difference in overage and underage frequency and the difference in price between the loans made to African-American and Hispanic borrowers and those made to similarly situated white Anglo borrowers could not have occurred by chance and cannot be explained by differences in the borrowers' loan qualifications or other factors unrelated to race or national origin.
11. Fleet has subjected African-American and Hispanic customers of its Westbury and Woodbridge branches to discriminatory treatment by intentionally subjecting them to terms and conditions for home mortgage loans that resulted in those customers paying more for their loans than similarly situated white Anglo Customers.
12. The defendant's policies and practices, as described in paragraphs 9 through 11, constituted:
 - a. A pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f; and
 - b. A denial to a group of persons of rights granted by the Fair Housing Act, as amended, that raises an issue of general public importance.

This pattern or practice and denial of rights occurred between January 1, 1993, at the latest, and June 30, 1994, at the earliest.

13. Specifically, the pattern or practice, as alleged herein, constituted:
 - . discrimination on the basis of race or national origin in making available residential real estate-related transactions in violation of Section 805 of the Fair Housing Act, 42 U.S.C. § 3605(a);
 - a. discrimination on the basis of race or national origin in the terms, conditions, or privileges of the provision of services or facilities in connection with the sale or rental of dwellings, in violation of Section 804(b) of the Fair Housing Act, 42 U.S.C. § 3604(b); and
 - b. discrimination against applicants with respect to credit transactions, on the basis of race or national origin, in violation of the Equal Credit opportunity Act, 15 U.S.C. § 1691(a)(1).
14. Persons who have been victims of Fleet's discriminatory policies and practices are aggrieved persons as defined in 42 U.S.C. § 3602(i) and the ECOA, and have suffered damages as a result of the defendant's conduct as described herein.
15. The discriminatory policies and practices of the defendant were intentional and willful, and were implemented with deliberate disregard for the rights of African Americans or Hispanics.

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

1. Declares that the policies and practices of the defendant between 1993 and 1994 constitute a violation of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;
2. Enjoins defendant, its agents, employees, successors, and all other persons in active concert or participation with them, from discriminating on account of race or national origin in any aspect of their home equity or mortgage lending activities;
3. Requires defendant to develop and submit to the Court for its approval a detailed plan that: (a) remedies the vestiges of defendant's discriminatory policies and practices; and (b) ensures that future African-American or Hispanic applicants will be treated in a nondiscriminatory manner that does not differ materially from the treatment afforded to white applicants;
4. Awards such damages as would fully compensate the victims of defendant's discriminatory policies and practices for the injuries caused by the defendant;
5. Awards punitive damages to the victims of defendant's discriminatory policies and practices; and
6. Assesses a civil penalty against the defendant, in order to vindicate the public interest.

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

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