

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v

Civil Action Number 93-5115

BLACKPIPE STATE BANK,
Defendant.

AMENDED COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions of the Equal Credit Opportunity Act, as amended, 15 U.S.C. §§ 1691-1691f, and Title VIII of the of 1966 Civil Rights Act (Fair Housing Act), as amended by the Fair Housing Amendments Act Of 1988, 42 U.S.C. §§ 3601-3619.
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)
3. Defendant, Blackpipe State Bank, is a federally insured bank doing business in the State of South Dakota. Its business includes regularly extending credit, including personal loans and agricultural and commercial loans. The Bank also extends credit for home improvement loans and loans to purchase mobile homes which are "residential real-estate related transactions" as defined in the Fair Housing Act, 42 U.S.C. § 3605(b)(1).
4. As a federally insured lending institution, Blackpipe State Bank 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 *et seq.*, require Defendant to meet the credit needs of the entire community in which it operates, including the credit needs of low-and moderate -income areas of the community.
5. As of December 31, 1991, Blackpipe State Bank had approximately \$18 million in assets and approximately \$9 million in outstanding loans. It is located in the city of Martin, in Bennett County, South Dakota, which is bordered on three sides by American Indian reservations. It is the only major lender in the county.
6. According to the 1950 Census, 46% of the 3206 residents of Bennett County are American Indian; 94% of the 9902 resident of adjacent Shannon County, which is entirely located within the Pine Ridge reservation, are American Indian; and 82% of the 8352 residents of adjacent Todd County, whose boarders are the same as those of the Rosebud reservation, are American Indian.
7. The Bank has adopted a policy of refusing to make any loans secured by collateral that may be subject to tribal court, rather than state or federal court, jurisdiction. This policy precludes all American Indians on the adjacent Indian reservations from obtaining secured loans for such items as motor vehicles or farm equipment from Blackpipe State Bank even if they satisfy all other lending criteria used by the Bank.
8. This policy also precludes all American Indians on the adjacent Indian reservations from obtaining secured loans for residential purposes, including to purchase mobile homes and/or to repair their residences, even if they satisfy all other lending criteria used by the Bank.
9. Both the Rosebud and the Pine Ridge tribal courts have collection provisions and procedures that are used by creditors to repossess collateral or otherwise obtain remedies in the event of a default on a loan that is subject to tribal jurisdiction. Blackpipe State Bank would also be able to utilize these provisions and procedures to obtain

appropriate remedies if it extended secured credit subject to tribal court jurisdiction.

10. More than 18,000 American Indians live in Bennett County and the three surrounding South Dakota counties and constitute more than 75% of the total population in that area. However, based upon information provided to the United States by the Bank, as of April 12, 1993, no more than 171 (33.9%), and no fewer than 114 (22.6%), of the Bank's 504 borrowers are American Indians. The majority of the American Indian borrowers received loans of less than \$1000.
11. Blackpipe State Bank has traditionally offered a variety of credit products to its customers, including agricultural, commercial, real estate and personal loans. The majority of the loans made to American Indians were personal loans, and more than four-fifths of the personal loans to American Indians were for less than \$1000.
12. The Bank has required American Indian applicants for loans, including those who do not reside on the adjacent reservations, to provide collateral or meet credit requirements which would not be required of white applicants. The Bank has also rejected American Indian applicants for loans under circumstances when white applicants would have been accepted.
13. The Bank has charged American Indian recipients of unsecured personal loans higher interest rates and finance charges than similarly situated white borrowers of such loans.
14. In addition, the Bank has engaged in other practices which contribute to its lending practices and policies towards American Indians. The Bank does not have currently any American Indian employees and has had only one American Indian employee in its history the Bank has delineated its area so it excludes all of the Pine Ridge and Rosebud reservations; the Bank does not and has not marketed its loan products to residents of the Pine Ridge and Rosebud reservations; the Bank is not an approved lender of guaranteed loans from the Farmers Home Administration and the Bureau of Indian Affairs; and the Bank has a policy of refusing to make home mortgage loans due to its reluctance to make such loans to American Indians on the Pine Ridge and Rosebud reservations.
15. Defendant's policies and practices as described above constitute discrimination on the basis of race, color, and/or national origin with respect to credit transactions in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1).
16. Defendant's policies and practices as described above relating to such activities covered by the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq., including the extension of credit for the purchase of mobile homes and for the repair of residences constitute:
 - a. Discrimination on the basis of race, color, and/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);
 - b. Discrimination on the basis of race, color, and/or national origin in the making unavailable or denial of dwellings to persons in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. 3604(a); and
 - c. Discrimination on the basis of race, color, and/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).
17. Defendant's policies and practices as described above constitute:
 - a. A pattern or practice of resistance to the full enjoyment of rights secured by the Equal Credit Opportunity Act, as amended, U.S.C. §§ 1691-1691f;
 - b. A pattern or practice of resistance to the full enjoyment of rights secured by Title VIII of the Civil Rights Act of 1966, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619; and
 - c. A denial to a group of persons of rights granted by Title VIII of the Civil Rights Act of 1966, as amended by the Fair Housing Amendments Act of 1966, 42 U.S.C. §§ 3601-3619, that raises an issue of general public importance.

18. Persons who have been victims of Defendant's discriminatory policies and practices as described above are aggrieved applicants or persons as referenced or defined under the Equal Credit Opportunity Act and the Fair Housing Act. As a consequence of Defendant's policies and practices, these persons have been denied their rights to equal opportunity in housing, credit, and residential real estate-related transactions. Some victims also may have experienced other actual, compensable injuries.
19. The discriminatory policies and practices of Defendant as described herein were, and are, intentional and willful, and have been implemented with reckless disregard for the rights of American Indians.

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

1. Declares that the policies and practices of Defendant constitute a violation of the Equal Credit opportunity Act, as amended, 15 U.S.C. §§ 1691-1691f, and 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;
2. Enjoins Defendant, its agents, employees and successors, and all other persons in active concert or participation with it, from discriminating on account of race, color, or national origin in any aspect of their lending activities;
3. Requires Defendant to develop and submit to the Court for its approval a detailed plan that: (a) remedies Defendant's discriminatory policies and practices; (b) ensures that future American Indian loan applicants are treated in a nondiscriminatory manner; and (c) ensures that, in the future, Defendant will meet the credit needs of the American Indian population in an appropriately defined Community Reinvestment Act territory;
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 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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