

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,
Plaintiff,

v.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY,
Defendant.

NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE, [NAACP], et al.,
Plaintiffs,

v.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY,
Defendant.

CONSENT DECREE

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I. INTRODUCTION AND SUMMARY

The United States, together with the National Association for the Advancement of Colored People, [NAACP] and African American homeowners in Milwaukee (collectively "the private plaintiffs"), have alleged that American Family Mutual Insurance Company [American Family] has violated the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988), 42 U.S.C. 3601, *et seq.*, by failing to offer homeowners insurance in the predominantly African American community in the City of Milwaukee¹ to the same extent and on the same terms that it has offered homeowners insurance in the majority white areas of the city and its surrounding suburbs. In addition, the private plaintiffs have asserted violations of the Civil Rights Acts of 1870 and 1866, 42 U.S.C. 1981 and 1982, and the Wisconsin Open Housing Law, Wis. Stats. §101.22. In 1992, the United States Court of Appeals for the Seventh Circuit ruled that the claims asserted in this case are covered by the Fair Housing

Act, and in the same year, this Court certified the private plaintiffs' case as a class action. The parties agree that this Court has jurisdiction to consider and resolve these claims pursuant to 42 U.S.C. 3614(a) and 28 U.S.C. 1331 and 1343, and has supplemental jurisdiction of the claims based on Wis. Stat. §101.22.

There has been no factual finding or adjudication with respect to any matter alleged in or arising out of either complaint. By agreeing to this consent decree, American Family neither admits nor denies the claims of the United States or the private plaintiffs. Nevertheless, the parties to these actions, having consulted with counsel, freely and voluntarily enter into this consent decree to resolve the claims raised in this litigation. All parties agree that the terms of this consent decree, which include provisions for flexibility and appropriate adjustments, provide the best overall means of resolving this case. The parties further agree that such terms are consistent with American Family's own plans and efforts to expand its business in the predominantly African American community.

American Family recognizes that it can and will expand its business in the predominantly African American community, and that the terms of the consent decree provide a reasonable means of doing so and for resolving the claims presented in these cases. This consent decree is the product of negotiations among the parties designed to achieve several remedial objectives shared by the parties, including: (1) compensating for past disparities in the availability of American Family insurance in the predominantly African American community in Milwaukee; (2) enhancing the availability of American Family homeowners insurance in that area in the years to come; (3) offering such insurance to qualified applicants in all segments of the Milwaukee metropolitan area; and (4) investing in the future of that community through these steps.

The parties have agreed to work cooperatively to resolve issues that might arise as implementation proceeds, and to petition this Court for relief only if the issues cannot be resolved through good-faith negotiations. The decree is organized as follows: Part II sets forth American Family's homeowners insurance initiatives, which include the specific steps the company is taking and will take in connection with its homeowners insurance business to meet the objectives of this decree. Part III sets forth the procedures to be used to measure American Family's progress and to make appropriate adjustments under this decree. Part IV provides a means for insuring that American Family's standards, practices, or procedures taken as part of this decree do not create unnecessary barriers to insureds in the predominantly African American community. Part V describes the testing procedure that American Family will establish to review the future performance of its agents and employees. Part VI creates a class committee, Part VII describes the provisions for monetary relief, and Part VIII describes the record-keeping and reporting procedures. Parts IX through XII establish the general enforcement provisions, the resolution of claims of the United States, the release by the private plaintiffs and the plaintiff class, and the length of the decree, respectively.

Now, therefore, the United States, the private plaintiffs and American Family agree to judgment in this case in accordance with the following terms:

II. AMERICAN FAMILY'S HOMEOWNERS INSURANCE INITIATIVES

a. Injunctive Relief

American Family, its officials, employees, sales agents, and through them, their employees, and successors are enjoined from engaging in any act or practice that unlawfully discriminates by intent or effect on the basis of race or color in the provision of homeowners insurance, imposing on the basis of race different terms or conditions for the availability of homeowners insurance, or making any statement that indicates any

preference, limitation, or discrimination based on race or color.

b. Statement of Nondiscrimination

Within thirty (30) days following the entry of this Order, American Family will reissue its corporate policy statement of nondiscrimination, reaffirming that it does not tolerate any form of racial discrimination. The reissuance of this policy statement will include the following points:

- American Family welcomes insurance business equally from all portions of the areas in which it does business.
- American Family does not discriminate against any insured on the basis of race or color and the race or color of an insured shall not be a factor in any decision made with respect to the insured or the prospective insured.
- the race or ethnicity of the area in which a home is located shall not be a factor in any decision made with respect to a homeowners insurance policy.
- the statement will direct American Family's employees, sales agents, and sales agent's employees to disregard any previous instructions, if any were received, that implied or stated that the racial or ethnic characteristics of the insured or the geographic area was a legitimate consideration or that the company did not desire business from certain areas of Milwaukee.

Further, American Family will incorporate this statement into all manuals provided to all employees and sales agents concerning homeowners insurance or personnel issues. American Family also will continue its current efforts to ensure that equal opportunity principles are carried out in all aspects of its insurance operations.

c. Marketing

1. Advertising

- a. American Family will mail a notice to non- condominium, owner-occupied single-family residences² in the predominantly African American community of Milwaukee informing them of the availability of American Family homeowners insurance in the area, the desire of the company to sell policies in the community, and the name and telephone number of a person they may contact for further information.
- b. American Family will continue to contract with an established market research firm or institution to determine and implement effective advertising strategies in African American communities.
- c. All advertising undertaken pursuant to the terms of this decree will be at the expense of American Family and at no cost to its agents.
- d. During the term of this decree, American Family will continue to place a one-half page advertisement each year in the Milwaukee Black Pages or a comparable publication. The advertisement will highlight the availability of homeowners insurance and will instruct readers how and where to contact an American Family agent.

- e. During the term of this decree, American Family will place advertisements in the Milwaukee Community Journal, Inc., the Milwaukee Courier, Inc., the Milwaukee Star, the Milwaukee Times Weekly, or comparable African American publications. American Family has determined that to be effective such advertisements should be approximately a quarter-page in size per week. The company may vary the size and frequency of the advertisements, and the choice of publications for its advertising campaigns, as long as an average of one-quarter page per week is met for each one- year period. These advertisements will be for homeowners insurance, and the majority will consist of display advertisements with human models in conformity with paragraph 1 (i), below.
- f. American Family will create special point-of-sale materials, in addition to its current more broadly-directed materials, specifically to promote homeowners insurance to minority home buyers and place the materials in offices serving the predominantly African American community. These materials may include, but need not be limited to, posters, brochures, and counter cards.
- g. American Family will develop a brochure describing its various homeowners insurance programs and policy types. The company will distribute the brochure through such channels as real estate and housing professionals serving the African American community, church and community groups, and retail outlets in the African American community. American Family will distribute at least 2,500 of these brochures per year and will annually distribute copies of such brochures to each real estate agency that is known to serve the predominantly African American community.
- h. All of American Family's advertising for homeowners insurance products and promotional materials, including advertising undertaken pursuant to the Co-operative Advertising Agreement or the Metropolitan Marketing Plan, will contain an equal housing opportunity logotype, statement, or slogan as described in the Fair Housing Advertising regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Part 109. American Family will continue to follow the guidance of Tables I and II of Appendix I to 24 C.F.R. Part 109 in selecting appropriate type size as well as a slogan, statement, logotype, and other standards for advertising.
- i. American Family's advertising in Milwaukee County, including advertising undertaken pursuant to the Co- operative Advertising Agreement or the Metropolitan Marketing Plan, that uses human models in videos, photographs, drawings, or other graphic techniques will reasonably represent African American as well as white residents of the Milwaukee area. Models, if used, will portray persons in an equal social setting and indicate to the general public that the insurer's products are available on a racially nondiscriminatory basis.
- j. American Family has determined it will place two thirty-second spots each weekday and one thirty-second spot each weekend during each year of this decree on radio stations WKKV, WMCS, WNOV, or comparable stations oriented to the African American community. All of this advertising will emphasize homeowners insurance products. American Family may vary the frequency of the spots and choice of stations for its advertising campaigns, as long as the above overall total is met for each one-year period.

- k. In all television and radio advertisements and promotions for homeowners insurance, the statement "Equal Housing Opportunity" will be stated audibly. In the alternative, if a television advertisement or promotion for homeowners insurance includes a written statement appearing on the screen, the nondiscrimination statement may so appear; the nondiscrimination statement must continue to meet the requirements set forth in Appendix I to 24 C.F.R. Part 109 and must appear on the screen as long as any other written statement appears.
- l. During the term of this decree American Family representatives will use their best efforts to appear on radio and/or television programs that are expected to reach, among others, predominantly African American audiences, at least three to four times per year to discuss homeowners insurance issues.
- m. American Family will advertise job openings, particularly those for sales agent, underwriter, and claims representative, on an ongoing basis in the Milwaukee area during the term of this consent decree in a manner that will reach potential African American applicants, including advertisements in African American-oriented publications such as the Milwaukee Community Journal, the Milwaukee Courier, the Milwaukee Star, and the Milwaukee Times Weekly. American Family will also communicate the existence of such openings to the Wisconsin Job Services and to organizations dedicated to the interests of African Americans and other minorities, such as the Milwaukee branch of the NAACP, Project Equality of Wisconsin, Inc., Northcott Neighborhood Housing, Inc., East Side Housing Action Coalition, OIC, Career Youth Development, and the Milwaukee Urban League. The company will also solicit referrals from its African American employees and agents.

2. Sales agents

- a. American Family has determined and will continue not to distinguish on the basis of the types of homeowners insurance in paying sales agents' commissions in Milwaukee County.
- b. American Family will devise sales strategies to assist agents in originating more policies in the predominantly African American community.
- c. American Family will make its best efforts to hire or designate, within six (6) months following the entry of this Order, at least four (4) additional sales agent positions who will maintain their offices in the predominantly African American community. American Family will take steps to provide adequate support to promote the success of these agent positions.
- d. Each American Family sales agent in Milwaukee County will maintain a log containing the name and address of all persons inquiring about homeowners insurance, and a brief description of the information and services provided. These logs will be maintained during the term of the decree and will be subject to inspection pursuant to the provisions of Section 1(h) of Part B in Attachment A, *infra*.
- e. American Family will direct, in writing, each of its agents that the agent shall not discriminate on the basis of the applicant's race or color, or the racial or ethnic characteristics of the neighborhood in which the house is located. The

directive also will notify the agent that this is a requirement of the agent's contract with American Family and that noncompliance with this requirement shall result in termination of the agent's contract or other appropriate disciplinary action.

3. Policy offerings

American Family will make the following policy offerings in Milwaukee County:

- a. American Family has introduced and will maintain a new homeowners insurance product known as a Custom Value replacement cost homeowners policy and will make modifications to the eligibility guidelines for several existing insurance products, as described below.
 - I. A homeowner can obtain a Custom Value replacement cost homeowners policy if the market value of the home is ten (10) percent or greater and less than eighty (80) percent of the replacement cost and the amount of insurance purchased is less than eighty (80) percent of the replacement cost of the dwelling. Under this policy American Family will not prorate the payment of any claims up to the policy limits. These Custom Value policies will be identical to American Family's HO-1 and HO-3 policies in coverages, terms, and conditions, except as to the differences in coverage amounts described above.
 - II. A homeowner can obtain a Custom Value homeowners insurance policy in any coverage amount from ten (10) to seventy-nine (79) percent of the home's estimated replacement cost if the market value of the home to be insured is between forty (40) and seventy-nine (79) percent of its estimated replacement cost. A homeowner can obtain a Custom Value policy in any coverage amount up to one and a half times the market value of the home if the market value of the home to be insured is less than forty percent of the home's estimated replacement cost.
 - III. A homeowner can obtain a standard replacement Form 1, 2, or 3 homeowners policy if the market value of the home is at least forty (40) percent of the replacement cost and the amount of insurance purchased is at least eighty (80) percent of the replacement cost.
 - IV. A homeowner can obtain a Gold Star replacement cost homeowners policy if the market value of the home is at least fifty (50) percent of the replacement cost and the amount of insurance purchased is at least one hundred (100) percent of the replacement cost. American Family will also require that homes covered by a Gold Star policy meet those specified objective standards directly related to a reduction in the risk of loss or damage to the home.
- b. American Family has decided to and will eliminate its requirement that the market value of a home must be eighty (80) percent or more of the estimated replacement cost to obtain a homeowners insurance policy which provides replacement cost coverage.
 - I. A homeowner can obtain a Custom Value replacement cost homeowners policy if the market value of the home is ten (10) percent or greater and less than eighty (80) percent of the replacement cost and the amount of insurance purchased is less than eighty (80) percent of the replacement cost of the dwelling. Under this policy American Family will not prorate the payment of any claims up to the policy limits. These Custom Value policies will be identical to American Family's HO-1 and HO-3 policies in coverages, terms, and conditions, except as to the differences in coverage amounts described above.
 - II. A homeowner can obtain a Custom Value homeowners insurance policy in any coverage amount from ten (10) to seventy-nine (79) percent of the home's estimated replacement cost if the market value of the home to be insured is between forty (40) and seventy-nine (79) percent of its estimated replacement cost. A homeowner can obtain a Custom Value policy in any coverage amount up to one and a half times the market value of the home if the market value of the home to be insured is less than forty percent of the home's estimated replacement cost.
 - III. A homeowner can obtain a standard replacement Form 1, 2, or 3 homeowners policy if the market value of the home is at least forty (40) percent of the replacement cost and the amount of insurance purchased is at least eighty (80) percent of the replacement cost.
 - IV. A homeowner can obtain a Gold Star replacement cost homeowners policy if the market value of the home is at least fifty (50) percent of the replacement cost and the amount of insurance purchased is at least one hundred (100) percent of the replacement cost. American Family will also require that homes covered by a Gold Star policy meet those specified objective standards directly related to a reduction in the risk of loss or damage to the home.
- c. American Family has decided to and will eliminate the requirement that a property must be of a certain minimum value and that a potential insured must

purchase a minimum amount of homeowners insurance. A minimum basic premium of eighty-eight (\$88.00) dollars for a home in the City of Milwaukee with masonry construction and ninety-five (\$95.00) dollars for a home with frame construction will be charged to cover administrative, loss, and processing costs. For the year ending March 31, 1996, the minimum basic premium amount will provide a maximum of twenty thousand dollars (\$20,000) of insurance coverage, with a two hundred and fifty dollar (\$250.00) deductible. American Family may adjust the minimum premium by the same percentage as the percentage of adjustment approved by the Wisconsin Office of the Commissioner for Insurance for American Family Form 3 replacement cost homeowners insurance policy.

- d. American Family has decided that the premium for the Custom Value coverage will be calculated by multiplying a factor for the percentage the requested amount of coverage is of the home's estimated replacement cost by the premium American Family charges for Form 3 coverage at the full replacement cost. A minimum basic premium of eighty-eight (\$88.00) dollars for a home in the City of Milwaukee with masonry construction and ninety-five (\$95.00) dollars for a home with frame construction will be charged to cover administrative, loss, and processing costs. American Family may adjust the minimum premium by the same percentage as the percentage of adjustment approved by the Wisconsin Office of the Commissioner for Insurance for American Family Custom Value Form 3 replacement cost homeowners insurance policy.

4. Activities within the predominantly African American community

- a. American Family will continue and expand its relationship with those persons and organizations active in real estate-related occupations in the predominantly African American community as one means of implementing its decision to increase the availability of American Family's homeowners insurance in that area.
 - I. American Family will compile a list of such persons and organizations by contacting representatives from such organizations as the Milwaukee branch of the NAACP and the Urban League, scanning real estate advertisements in African American publications, driving through the African American residential community, seeking input from real estate professionals, and contacting representatives from financial institutions primarily serving the African American community of Milwaukee. American Family also will present, within ninety (90) days following the entry of this Order, a copy of the list to the United States and counsel for the private plaintiffs who may provide American Family with the names of additional individuals and/or organizations.
 - II. American Family will invite those persons and organizations to a meeting, to be held in the predominantly African American community within thirty (30) days after the list identified above has been presented to the United States and to counsel for the private plaintiffs at which American Family will present its plans for increasing the availability of its homeowners insurance in the community, and request the assistance of those in attendance for obtaining referrals for homeowners insurance policies.

- b. American Family has designated an individual with extensive underwriting expertise in homeowners insurance programs in the predominantly African American community to serve in the position of Urban Underwriter, and will maintain that position during this decree.
- c. American Family has hired and will continue to employ an Urban Marketing Director and a Regional Urban Marketing Manager. Their duties include determining product needs and effective advertising strategies in the African American community of Milwaukee. The Urban Marketing Director and the Regional Urban Marketing Manager have been charged with the development of a comprehensive Urban Marketing Program. American Family will undertake the market research necessary for the Urban Marketing Program to be most effective in meeting the insurance needs of the predominantly African American community in Milwaukee. Among the Manager's and the Director's responsibilities will be the collection of referrals of prospective insureds pursuant to this decree and the dissemination of this information to sales agents. Every six (6) months American Family will prepare a report indicating the number of referrals, by source, the number of referrals by agent, and the number of referrals who obtained American Family Insurance. This report will be included in the company's semi-annual reports submitted under the procedures set forth in Part B of Attachment A to this decree.
- d. Representatives from American Family, including, but not limited to the Great Lakes Regional Vice-President, the Wisconsin East sales state director, the Regional Urban Marketing Manager, the Urban Marketing Director, the Urban Underwriter, and the Vice-President of Marketing, will meet each year during the term of this decree with representatives from the Milwaukee branch of the NAACP, the Urban League, and at least two other community or civic groups active in the predominantly African American community who are recommended by the NAACP, to discuss ideas for improvements, if such improvements are necessary, in American Family's homeowners insurance practices covered by this decree as well as its marketing activity in the predominantly African American community. Counsel for the private plaintiffs will notify the United States of the time and place of the meeting and invite the United States to send one or more representatives.

5. Training

- a. Within sixty (60) days following the entry of this Order, American Family will send each of its officers, employees, sales agents, and through the sales agents, their employees a letter informing them of the entry of this decree and advising them that a copy of this decree will be provided, at American Family's expense, to any such person who desires one. The letter will be accompanied by a summary of this decree and a copy of a notice explaining the employee's and/or agent's duties and obligations under this decree as well as those imposed by Title VIII of the Civil Rights Act of 1968. American Family will send a copy of the summary and notice to the United States and to counsel for the private plaintiffs. American Family also will inform its officers, employees, sales agents, and, through the sales agents, their employees that any breach of, or failure to comply with, the terms and conditions of this decree shall subject them to dismissal, contract termination, or other appropriate disciplinary action.

Further, American Family will inform each current officer, employee, sales

agent and, through the sales agents, their employees that American Family cannot lawfully and will not reprimand, penalize, or otherwise retaliate in any way against any such person who provides information regarding American Family's compliance with Title VIII and/or this decree or who opposes any non-compliance. Each person receiving the summary and notice will execute a statement acknowledging that he or she has received, read, and will act in accordance with their terms and conditions. American Family will provide a copy of the form of the statement to the United States and to counsel for the private plaintiffs. The company will retain copies of the signed statements at a central location.

- b. American Family has developed and is implementing a comprehensive training program for all employees, sales agents, and the sales agent's employees. Such training may include, but is not limited to, training sessions, staff meetings, compliance updates in newsletters, videotapes, and seminars. American Family contracts with outside consultants to provide some of this training. At a minimum:
 - I. All American Family employees, sales agents, and the sales agent's employees have received or will receive training on marketing, sales, and service to a racially and/or culturally diverse market.
 - II. All American Family employees with any responsibility for the underwriting of homeowners insurance policies in Milwaukee County including, but not limited to, Regional Personal Lines Underwriters, Supervisors, Property Staff Analysts, Area Underwriting Managers, and the Regional Underwriting Manager and all American Family sales agents in Milwaukee County also will receive specialized courses in the underwriting of homes in urban areas. At its option, American Family may propose that the courses for the agents be conducted separately from the courses for those employed in an underwriting capacity with the company.
- c. American Family will complete the training identified above for Milwaukee area employees, sales agents, and sales agent's employees within six (6) months following the entry of this Order and will supplement this training as the company deems appropriate.
- d. American Family will ensure that each new employee or agent receives a copy of the letter described in paragraph 5(a), above, shortly after the commencement of his or her employment or agency relationship with American Family. Within one hundred-eighty (180) days after the beginning of his or her employment or agency relationship with the company, American Family will provide such persons with the appropriate training pursuant to this Section.
- e. To promote an understanding of the initiatives American Family is taking to promote homeowners insurance in this community, American Family will include an article on this topic in the American Family newsletter and/or magazine.

6. Marketing to persons insured through the Wisconsin Insurance Plan

American Family has developed and will continue the program it currently is operating in conjunction with the Wisconsin Insurance Plan [WIP] to recruit those homeowners in the predominantly African American community who currently obtain their homeowners insurance from WIP to become American Family homeowners insurance policy holders. It is the parties' objective that the insurance products described in this decree result in an increase in the number of persons currently insured through WIP who will be eligible for American Family Insurance.

- a. On a quarterly basis, American Family will request WIP to supply the files for those properties in the predominantly African American community that might qualify for American Family insurance.
- b. If, after a review of the property, American Family determines the home does not qualify for American Family insurance, the underwriter will determine what repairs, if any, can be made to make the home insurable by American Family. American Family will inform the WIP insured, by letter, that the home will be eligible if the specified repairs are made within a reasonable period of time. The letter also will inform the WIP insured that American Family rates will likely be lower than the rates the insured is paying under the WIP program. The letter also will encourage the insured to contact the assigned underwriter, whose name and telephone number will be indicated on the letter, if they need more time to complete the repairs, disagree with the extent of the repairs necessary, or have any questions.
- c. If American Family determines it can not insure the property, it agrees to inform the WIP insured, by letter, of the basis of the decision and to contact the property owner within one year to determine if the property may be insured through American Family at that time.

d. Underwriting

1. American Family has reviewed its underwriting practices and decided to revise its underwriting standards to ensure that each underwriting decision is based on the individual characteristics of the home. (Determinations regarding the applicant's credit are addressed separately in paragraph 4(f) below.)
2. American Family will institute, within ninety (90) days following the entry of this Order, a procedure to ensure that its underwriting standards are applied uniformly in Milwaukee County.
3. If American Family determines, in reviewing an application, that a home in the predominantly African American community does not qualify for American Family homeowners insurance or that an existing homeowners insurance policy must be cancelled or not renewed, it will determine what repairs, if any, can be made to render the property insurable. American Family will inform the applicants or insureds by letter that they will be eligible for insurance by American Family (or that the insurance can be continued without interruption) if the specified repairs are made within a reasonable period of time. The letter also will include the name and telephone number of the agent and of the underwriter and shall encourage the applicants or the insured to contact American Family if they need more time to make the necessary repairs, disagree with the extent of the repairs, or have any questions.
4. American Family will disseminate these revised underwriting guidelines to its sales

agents, underwriters, and other appropriate employees within ninety (90) days following the entry of this Order. The revised underwriting guidelines will provide that:

- a. American Family's revised underwriting guidelines shall be based on objective standards that are directly related to the risk of loss or damage and that can be applied uniformly, such as the condition of a roof, heating, wiring, or plumbing. No determination with respect to the provision of American Family homeowners insurance shall be made on the basis of factors which do not meet these standards, including but not limited to such factors as the age of the dwelling or the racial composition of the area where the home is located.
- b. The decision on the eligibility of a home for insurance, and the decision as to the type of policy that will be issued, will be based on the individual characteristics of the home. American Family agrees not to take into consideration the condition or other characteristics of the homes in the surrounding neighborhood and may take into consideration the condition of an adjacent home only if it presents an identifiable risk to the home for which insurance is sought. For example, American Family agrees the mere fact that an adjacent home is not itself in insurable condition may not be a basis for declining insurance.
- c. The decision to inspect a home will also not be based on the racial composition of the area where the home is located, or on the age of the home. Further, American Family's revised underwriting guidelines will identify those items which it will consider during interior and exterior inspections which could lead to an identifiable risk of loss. The guidelines will further establish objective standards and the forms to be used for determining whether those items examined during an inspection are in acceptable condition.
- d. All underwriting decisions made to reject, cancel, or non-renew insurance on properties located in the predominantly African American Area, or to condition insurance on repairs being made on such properties shall require the concurrence of the designated Urban Underwriter, identified in paragraph 4(b) of Section C in Part II of this decree.
- e. Copies of the revised guidelines and any forms will be provided to the United States and to counsel for the private plaintiffs within ninety (90) days following the entry of this Order.
- f. American Family has determined that the continued use of information obtained from credit bureau reports is helpful as part of its underwriting process for homeowners insurance. At the same time the company has decided to insure that its standards regarding the use of credit information are objective and the company will train underwriters on how to evaluate credit information and reports. To this end, American Family will limit the consideration of a person's financial and credit status to objectively defined circumstances where financing and credit circumstances demonstrate a likelihood that the person will take action to cause losses covered by his or her insurance policy and/or present false or inflated insurance claims. American Family will for the purposes of making homeowners insurance underwriting decisions:
 - I. Insure that the standards for identifying those instances where a credit

bureau report is required, and for evaluating and making decisions based on credit information, are objective, and within ninety (90) days following the entry of this Order, provide copies to the United States and to counsel for the private plaintiffs.

- II. Limit the authority to request a credit bureau report to members of the underwriting department.
 - III. Institute a training procedure for all underwriters in the elements of ordering credit bureau reports and evaluating credit bureau reports and information.
 - IV. Require, for all policies in the predominantly African American community, the concurrence of the Urban Underwriter, as identified in paragraph 4(b) of Section C in Part II of this decree, and the Area Underwriting Manager, with any decision not to approve an application for homeowners insurance, whether bound or unbound, or any decision to cancel or not to renew an existing homeowners insurance policy which is based, at least in part, on credit information or information obtained from a credit bureau report.
 - V. Identify and record, pursuant to paragraph 1(e) of Section B of Attachment A, all instances in Milwaukee County where it requests a credit bureau report (a) during the consideration of an application, whether bound or unbound, for homeowners insurance, or (b) in connection with a decision to cancel or not renew an existing homeowners insurance policy.
 - VI. Identify and record, pursuant to paragraph 1(f) of Section B of Attachment A, the results of a semi-annual audit of a statistically valid sample of Milwaukee County homeowners policies particularly recording all instances found in that audit where a credit bureau report was not requested, even though the company standards required a credit bureau report.
5. If American Family takes any adverse action with respect to a homeowners policy or an application, whether bound or unbound, for homeowners insurance in the predominantly African American community, it agrees to notify, according to state requirements, the insured by letter which fully explains the reason(s) for such action. The letter will include the name and telephone number of the underwriter as well as that of the insured's sales agent and will encourage the applicant or insured to call the underwriter and/or agent if the person has any questions or has any additional information that might affect the basis for the action taken.

III. INCREASED POLICY EFFORTS AND ADJUSTMENTS

a. Increased policy efforts

American Family is committed to increasing substantially the availability of all of its homeowners insurance products in the predominantly African American community and will make its best efforts to do so. The company recognizes however, and the other parties acknowledge, that it will take some time for American Family to achieve this goal fully.

It is American Family's objective that as a result of the steps it is taking in connection with this Order, after this Order has been in effect for one year, American Family will be able to report significant additional growth in homeowners insurance policies within the affected community.³ After the end of the first year of this Order, taking into account the first year's experience, American Family and the parties will be able to specify the expected further growth in the area at the end of the second and each of the following two years.

b. Adjustments to remedial plan

If American Family can demonstrate that a standard, practice, or procedure required by this decree is causing, contrary to the company's objectives, significant problems for the company and that it is reasonable to change the practice, it may notify the United States and counsel for the private plaintiffs and request consent for a modification.

1. The submission will specify the change(s) the company proposes to make to this decree and describe fully why such a change is necessary.
2. If the United States or the private plaintiffs do not object to the modification(s) proposed by the company within forty-five (45) days after their receipt of American Family's submission and proposal, the company may implement the proposed modifications. Should the United States or counsel for the private plaintiffs inform the company within the forty-five day period that the company's proposal is contrary to the remedial objectives of this decree, the parties agree to meet and confer regarding the company's proposed modifications; in such instances, the forty-five day period for the company to implement the change(s) is tolled. During these meetings the United States and/or the private plaintiffs agree to evaluate thoroughly the company's arguments in support of the proposed modification and the company agrees to give full and careful consideration to the United States' and/or the private plaintiffs' proposals. In addition, the parties agree to allocate a period of not more than sixty (60) days after receipt of the company's notification in which to conclude these discussions.
3. Within ten (10) days after the close of the negotiations, the United States and/or counsel for the private plaintiffs will inform American Family whether they object to the implementation of the modifications proposed by the company. If the United States or the plaintiff objects, American Family may petition the Court for an order allowing the proposed change(s), but in no event shall a modification be allowed that would result in racially discriminatory barriers to the availability of homeowners insurance, unless it is supported by a legal justification for which no less discriminatory alternative exists.

IV. RACIALLY NON-DISCRIMINATORY STANDARDS⁴

1. American Family is committed to using racially non-discriminatory standards in its insurance practices. Should the United States or the private plaintiffs determine, as the result of their review of any of the semi-annual reports, prepared pursuant to Attachment A of this decree, or from any other source, that a standard, practice, or procedure affecting American Family's homeowners insurance operations is racially discriminatory in violation of the Fair Housing Act or the terms of the injunction in this decree, the United States or the private plaintiffs will so notify the company of the basis for their conclusion. In this regard, American Family will be alert to any practices of the company that could be creating barriers that discriminate on the basis of race and it will pay particular attention to (1) the effect of the revised underwriting guidelines it is instituting pursuant to this Order, and (2)

the effect of the usage of credit bureau reports. American Family will notify the United States and the private plaintiffs if it determines that any of its standards, practices, or procedures could be operating to discriminate on the basis of race.

- I. American Family will review its use of any standard, practice, or procedure identified by the United States or by the private plaintiffs and, within thirty (30) days after such notification, will propose an alternative standard, practice, or procedure which remedies the problem, unless American Family believes there is no violation or that there is a legal justification for this standard, practice, or procedure.
- II. If, within forty-five (45) days after receipt of American Family's evaluation and any proposed modifications, the United States and the private plaintiffs do not object to the company's position, the company may deem its standard, practice, or procedure justified or the modifications accepted, whichever is applicable. Should the United States or counsel for the private plaintiffs inform the company within the forty-five (45) day period that it may be necessary to take additional steps to remedy the problem or if there is disagreement on the issue of legal justification, the parties agree to meet and confer; in such instances, the forty-five day period for the company to implement the changes is tolled. During these meetings the United States and the private plaintiffs agree to consider all options which will address the company's business needs but which do not result in the use of unlawfully discriminatory standards, and the company agrees to give full and careful consideration to the United States' and the private plaintiffs' proposals. In addition, the parties also agree to allocate a period of not more than sixty (60) days after receipt of American Family's evaluation and/or proposal in which to conclude these discussions.
- III. If after the conclusion of the sixty-day period, the parties have not reached an agreement on the steps necessary to eliminate the discriminatory practice, on the issue of the existence of a violation, or of a legal justification, any party may request the Court to resolve the matter.

V. TESTING

American Family will enter into a contract, at its expense, with an independent civil rights organization with demonstrated experience and qualifications in discrimination testing in Milwaukee County, to develop and implement a program to test for racial discrimination in American Family's provision of homeowners insurance in Milwaukee County. The testing organization will first submit a proposal to American Family outlining the methodology, cost, and approach to be used. The proposal will have a minimum of fifty (50) paired tests per year. Once the proposal is finalized and accepted by American Family, the company will submit the proposal to the United States and to counsel for the private plaintiffs who shall have the right to approve the proposal and the organization and such approval may not be unreasonably withheld. American Family will review the testing results with the relevant individual employees and sales agents and will use the results to determine how to address any concerns with them and whether changes in training are necessary. American Family will provide, in its semi-annual reports referred to in Attachment A, copies of all tests to the United States and to counsel for the private plaintiffs and will make the tests available at other times upon reasonable notice. American Family also will summarize and report the results of these tests pursuant to the provisions of paragraph 1(k) of Section B in Attachment A. The United States and/or the private plaintiffs may conduct independent testing.

VI. CREATION OF CLASS COMMITTEE

No later than ten (10) days following the entry of this Order, the plaintiff class shall select seven (7) members of the class to serve as a Class Committee to consult with their counsel with regard to any decisions necessary to be made by private plaintiffs under this decree, and to make other decisions regarding the implementation of this decree. The Class Committee and class counsel, acting jointly with the United States, shall have the authority to take such steps as are necessary to implement efficiently those matters delegated to them in Section VII of this decree.

MONETARY RELIEF

American Family agrees to compensate those persons the United States and the private plaintiffs believe have been injured as a result of the company's practices challenged in this litigation. The compensation provisions are designed to alleviate the impact of the lack of quality homeowners insurance in the predominantly African American community. The availability of such insurance is one factor that helps combat neighborhood deterioration; conversely, the lack of such insurance is one factor which contributes to such conditions. The components of this compensation are \$9.5 million (\$9,500,000) in community-based programs to address the effects described above and \$5 million (\$5,000,000) in monetary compensation for aggrieved persons. American Family, as set forth in a separate document, also agrees to pay the costs and attorneys' fees incurred by the private plaintiffs. The specific components of the monetary relief summarized above are as follows:

a. Community-based relief

1. Interest rate subsidies

American Family, through the Wisconsin Housing and Economic Development Authority [WHEDA] and the City of Milwaukee's [City] special lending programs, and in partnership with the commercial lending institutions in the City of Milwaukee, will make available interest rate subsidies for loans to purchase and repair homes in the predominantly African American community in Milwaukee that are in need of rehabilitation or repair. These loan subsidies will be made available to low- and moderate-income households in owner-occupied, single-family homes in the predominantly African American community.

The WHEDA program will be implemented by commercial lenders pursuant to underwriting standards established by WHEDA. The existing WHEDA underwriting standards will be applicable to these special loan programs. In underwriting loans under the City's program the participating financial institutions shall utilize their respective, established underwriting guidelines for low- and moderate-income borrowers.

a. Home mortgage and repair loans

- I. These loans are for the purchase and repair of homes in the predominantly African American community that have experienced deterioration or are otherwise in need of rehabilitation or repair.
- II. The loans offered through WHEDA will be at interest rates that are no more than four (4) percentage points below the rate then in use by WHEDA. Payment will be made by American Family to WHEDA for the amount of the subsidy.
- III. The loans offered through the City's special programs will be at interest

rates that are no more than four (4) percentage points below the prevailing market rate for home mortgages. Payment will be made by American Family to the City for distribution to the participating lenders on a per-loan basis.

- IV. Should the United States and the private plaintiffs decide to establish geographic areas within the predominantly African American community to assure an equitable distribution of interest rate subsidies throughout the community, WHEDA and the City will coordinate efforts to assure such a result. The allocation of funds among these areas may be further adjusted by the United States and the private plaintiffs.
- V. The total amount of the interest rate subsidies paid by American Family under this home mortgage and repair loan program will be four million dollars (\$4,000,000). Seventy-five (75) percent of the total amount of interest rate subsidies shall be offered in connection with loans made through WHEDA with the remaining twenty-five (25) percent offered through the City's special programs. Approximately equal amounts in interest rate subsidies will be made available annually through the term of this decree, as adjusted by demand. The subsidy amount for any specific year shall be available on a first-come, first-serve basis.

b. Home improvement loans

- I. These loans are designed for the improvement and rehabilitation of homes in the predominantly African American community which are already owned by the borrower.
- II. The loans offered through WHEDA will be at interest rates that are no more than four (4) percentage points below the rate then in use by WHEDA. Payment will be made by American Family to WHEDA for the amount of the subsidy.
- III. The loans offered through the City's special programs will be at interest rates that are no more than four (4) percentage points below the prevailing market rate for home improvement loans. Payment will be made by American Family to the City for distribution to the participating lenders on a per loan basis.
- IV. Should the United States and the private plaintiffs decide to establish geographic areas within the predominantly African American community to assure an equitable distribution of interest rate subsidies throughout the community, WHEDA and the City will coordinate efforts to assure such a result. The allocation of funds among these areas may be further adjusted by the United States and the private plaintiffs.
- V. Consistent with WHEDA and the city's current programs, the parties anticipate that the loans offered will provide fixed-rates for a term of fifteen years and will have no equity requirements.
- VI. The total amount of the interest rate subsidies paid by American Family under this home improvement loan program will be one and a half million dollars (\$1,500,000). Seventy-five (75) percent of the total

amount of interest rate subsidies shall be offered in connection with loans made through WHEDA loan with the remaining twenty-five (25) percent offered through the City's special programs. Approximately equal amounts in interest rate subsidies will be made available annually through the term of this decree, as adjusted by demand. The subsidy amount for any specific year shall be available on a first-come, first-serve basis.

2. Financing cost assistance

- a. American Family, through the City of Milwaukee, will make available to low- and moderate-income borrowers financing cost assistance for home mortgage and repair loans or home improvement loans for single-family, owner-occupied homes in need of repair or rehabilitation in the predominantly African American community.
- b. To satisfy this obligation, American Family will deposit one and one-half million dollars (\$1,500,000) in an interest-bearing account designated by the United States and the private plaintiffs within ten (10) days following the entry of this Order.
- c. These funds will be used by the City of Milwaukee through its Department of City Development [DCD] to supplement its existing programs as applied in the predominantly African American community in order to provide grants for financing cost assistance, including down payments, closing costs, mortgage insurance premiums, and appraisal fees. A portion of these funds will be disbursed through non-profit community groups which provide housing services in the predominantly African American community.
- d. Grants for financing cost assistance will be provided by the DCD and/or non-profit community groups which provide housing services in the predominantly African American community in accordance with the qualifying criteria and program requirements established for the homebuyer assistance programs currently administered by the DCD.
- e. DCD will coordinate this program with WHEDA and participating lending institutions so that financing cost assistance may be made available for persons obtaining the loans provided under the interest subsidy program established in paragraph 1 of this Section.
- f. Consistent with the requirements of the homebuyer assistance programs currently administered by DCD, the total amount of the financing cost assistance provided per loan transaction under this program shall be no more than the amount permitted by the underwriting standards of the organization or institution providing the financing funds and in no event shall be more than three thousand dollars (\$3,000).

3. Homeownership counseling

- a. American Family, through the City of Milwaukee, will help provide homeownership counseling for low- and moderate-income, first-time home buyers seeking to purchase single family owner-occupied homes in need of repair or rehabilitation in the predominantly African American community.

- b. To satisfy this obligation, American Family will deposit five hundred thousand dollars (\$500,000) in an interest-bearing account designated by the United States and the private plaintiffs within ten (10) days following the entry of this Order.
- c. These funds will be used to supplement existing homeownership counseling support programs operated by or through DCD. DCD will distribute funds to qualified participating non-profit groups serving the predominantly African American community, which shall provide the counseling. Such funds will be limited to the funding of homeownership counseling provided in connection with the prospective purchase and repair of homes in the predominantly African American community.
- d. Subject to the approval of the United States and the private plaintiffs, counseling will be provided in accordance with the qualifying criteria and program requirements that are established by DCD's homeownership counseling support programs or community-based organizations offering such programs by or through DCD, and/or are consistent with any applicable requirements of the lender.

4. Emergency home repair program

- a. American Family will make available funds, as described below, to help cover a portion of the costs needed to make emergency repairs in homes in the predominantly African American community that have experienced deterioration or are otherwise in need of rehabilitation or repair. American Family will do this by providing funds to supplement programs that are currently being administered by DCD. Consistent with the requirements of these programs, DCD will make grants and loans for the repair and improvement of homes in the predominantly African American community. The loans will have below-market interest rates and favorable repayment terms.
- b. Currently, DCD is also considering a new form of assistance for home repair, similar to the Maintenance Reserve Program currently operating in the City of Kansas City, Missouri. If DCD determines that such a program is feasible and appropriate, then, with the approval of the United States and the private plaintiffs, a portion of the funds allocated for home maintenance and repair shall be allocated for the establishment and operation of such a program. Persons with low or moderate incomes who own single-family, owner-occupied homes in the predominantly African American community would be eligible to participate in this program.
- c. Within ten (10) days following the entry of this Order, American Family will deposit two million dollars (\$2,000,000) for the programs provided for in paragraphs 4(a) and 4(b), above, in an interest-bearing account designated by the United States and the private plaintiffs.
- d. Loans issued pursuant to this program will be provided in accordance with the qualifying criteria and program requirements established for the DCD home repair loan programs or with other criteria and requirements that may be approved by the United States and the private plaintiffs.

5. Administration and reporting requirements

- a. American Family will obtain from WHEDA and the City a report which lists, on an annual basis, the interest rate subsidies made under their respective loan subsidy programs established in paragraph 1 of this Section. The report shall include, at least, the following items:
 - I. A listing of each loan made pursuant to the interest rate subsidy programs, including the address of the property secured by the mortgage, the loan amount, the subsidy amount, the lender, and the loan type;
 - II. A calculation of the total interest subsidies paid by American Family pursuant to each such program for that year.

American Family will provide a copy of these reports to the United States and to the plaintiffs.

- b. One year after the entry of this Order, and on an annual basis thereafter, WHEDA and the City will review the operation of their respective interest subsidy programs with the parties to this decree. Based upon that review, and after full consideration of the views of American Family, the United States and the private plaintiffs will determine whether any changes in these programs should be made.
- c. Any monies not paid from the interest rate subsidy programs established above shall be deposited in one of the programs established in paragraphs 2 through 4 of this Section, or shall be paid to one or more charitable or community organization(s) who will use such money for the physical improvement and rehabilitation of housing in the predominantly African American community. After consulting with American Family and seriously considering its views, the United States and the private plaintiffs will determine how the funds will be disbursed.
- d. Within ninety (90) days following the entry of this Order, the United States and the private plaintiffs shall disburse to the DCD at least \$300,000 for the financing cost assistance program; at least \$100,000 for the home ownership counseling program; and at least \$400,000 for the emergency home repair program.
- e. Thereafter, on an annual basis, the United States and the private plaintiffs will disburse to DCD such amounts from the respective interest-bearing accounts as are necessary to fund each program for the next year. At any time, DCD may petition the United States and the private plaintiffs for an additional allocation of funds for the programs it is administering in accordance with this decree pursuant to paragraphs 2 through 4 of this Section. The United States and the private plaintiffs may grant any such request it deems reasonable and appropriate.
- f. American Family will have the opportunity to sell homeowners insurance to those persons obtaining financial assistance from WHEDA or the City under the terms of this decree. Upon receipt of a completed application for financial assistance under this decree, WHEDA and the City will advise the company of the name and address of the applicant and the type of assistance provided.
- g. Except as set forth below in this paragraph, the funds which form the principal

of the interest-bearing accounts established in paragraphs 2 through 4 of this Section shall be used exclusively to fund the programs in each respective paragraph. The United States and the private plaintiffs have determined that the interest earned on such funds may be used for the attorneys' fees, costs, and expenses of the private plaintiffs for the administration and processing of claims and for performing the private plaintiffs' duties under this decree, provided that the Class Committee agrees that any fees, costs, and expenses of counsel for the private plaintiffs are reasonably incurred, and further provided that the United States and the Class Committee agree that any other fees, costs, or expenses incurred by the private plaintiffs are reasonably incurred and are consistent with the purposes of this decree. Once all such fees, costs and expenses are paid, the United States and the private plaintiffs will invest any interest remaining in any of the interest-bearing accounts in one or more of the community-based relief programs established in paragraphs 2 through 4 of this Section.

- h. It is the parties' expectation that to the maximum extent possible the programs administered by WHEDA and the City will take advantage of their existing personnel and programs and not use funds from this decree to pay for operational expenses.
- i. Within ten (10) days following the entry of this Order, the United States and the private plaintiffs shall jointly select a trustee to administer the funds in the interest-bearing accounts established in paragraphs 2 through 4 of this Section. The trustee shall be responsible for the administration of the fund, including the payment of any applicable taxes.
- j. The DCD will provide a semi-annual report regarding the expenditures from the programs established in paragraphs 1 through 4 of this Section to American Family, the United States and counsel for the private plaintiffs.
- k. At any time during the term of this decree, WHEDA or the DCD may recommend changes to the amounts allocated to the programs established in paragraphs 1 through 4 of this Section. The DCD may implement any changes in allocation that are approved by counsel for the United States and for the private plaintiffs.
- l. Subject to the approval of the United States and the private plaintiffs, the DCD may issue additional guidelines governing the internal operation and administration of the programs established in paragraphs 1 through 4 of this Section. The DCD will provide counsel for the United States and for the private plaintiffs with any such guidelines.
- m. If the United States and the private plaintiffs determine that WHEDA or the DCD is not administering the programs established in paragraphs 1 through 4 of this Section in accordance with the terms of this decree, they shall notify the applicable entity of their concerns and shall afford it a reasonable opportunity to correct any deficiencies. If the United States and the private plaintiffs determine that such concerns have not been addressed, they may direct that any remaining funds for these programs be administered by another appropriate entity or be allocated amongst the other programs established pursuant to this decree. The United States and the private plaintiffs may take such action only if both parties agree that such action is the only appropriate alternative.

b. Individual compensation

The United States and the private plaintiffs have determined that four categories of persons will be eligible to file claims for compensation and the amount of compensation to be paid in each category is based on the type of injury associated with the covered conduct.

1. Named plaintiffs

Within thirty (30) days following the entry of this Order, each of the named plaintiffs and the Milwaukee Branch of the NAACP shall receive ten thousand dollars (\$10,000) from the claim fund. The named individuals will be eligible to file claims pursuant to the provisions set forth below.

2. Persons denied insurance

a. Persons denied insurance are eligible to share in the claim fund. To be eligible in this category, a claimant must establish that he or she owned and resided in an owner-occupied, single-family home in the predominantly African American community at any time during the period between July 27, 1984, and the date that all parties have signed this decree, and that at some point during that time the claimant:

- I. applied for American Family homeowners insurance but were denied insurance because American Family rejected the application or cancelled the insurance within sixty days of issuance; or
- II. inquired of an American Family agent about obtaining homeowners insurance but did not obtain insurance from American Family because the agent told the claimant that he or she could not obtain such insurance with American Family or the agent referred the claimant to another company or to the Wisconsin Insurance Plan; or
- III. inquired of an American Family agent about obtaining homeowners insurance but did not complete an application because of action or inaction on the part of the agent or employee; or
- IV. obtained American Family homeowners insurance but were later denied such insurance because American Family cancelled or non-renewed the policy.

b. African Americans who did not reside in the predominantly African American community during the relevant period are also entitled to share in the claim fund as persons denied insurance if they establish that they owned and resided in an owner-occupied single-family home in the City of Milwaukee at any time during the period between July 27, 1984, and the date that all parties have signed this decree and that during that time:

- I. they met the requirements of paragraphs (a)(i) or (a)(iv) of this category; and
- II. they were denied homeowners insurance because of race or color.

c. All claimants who seek compensation as persons denied insurance must submit

any reasonably available information regarding the condition of their home which indicates that the home was insurable during the approximate time period that they were denied insurance by American Family. No person shall be entitled to share in the claim fund if it is determined that the person was denied insurance because the home posed a significant hazard which clearly justified the denial of insurance.

- d. Three million dollars (\$3,000,000) will be allocated to compensate those persons denied insurance. An equal share will be allocated for each claim in this category but in no event shall the amount paid per claim exceed \$15,000 nor, in the case a person submitting multiple claims, shall any person receive a total of more than \$15,000 for all claims under this category.

3. Persons receiving repair cost policies

- a. Persons who received repair cost policies are eligible to share in the claim fund. To be eligible in this category, claimants must establish that they owned and resided in an owner-occupied, single-family home in the predominantly African American community any time during the period between July 27, 1984, and the date that all parties have signed this decree, and during that time:
 - I. they received an homeowners insurance policy from American Family which did not provide insurance on a replacement cost basis; and
 - II. they would have purchased a replacement cost policy if it had been offered.
- b. One million five hundred thousand dollars (\$1,500,000) will be allocated to compensate those persons in this category. Any person who, as a holder of an American Family policy, suffered a loss which exceeded a policy limit that was less than the policy limits for a standard replacement cost homeowners policy (HO-3) shall be compensated for the difference between the amount of the loss that would have been covered under a standard replacement cost homeowners policy and the amount the insured received from American Family in settlement of the claim. Once all of these claims have been paid, an equal share will be allocated for each claim in this category but in no event shall the amount paid per claim exceed \$2,000 nor, in the case of a person submitting multiple claims, shall any person receive a total of more than \$2,000 for all claims under this category. However, any compensation for actual loss shall not be included in computing that amount.

4. Persons deterred from seeking insurance

- a. Persons deterred from seeking American Family insurance are eligible to share in the claim fund. To be eligible in this category, claimants must establish that they owned and resided in an owner-occupied, single family home in the predominantly African American community at any time during the period between July 27, 1984, and the date that all parties have signed this decree, and during that time:
 - I. they had an interest in applying for insurance from American Family; and

- II. they were deterred from applying because they reasonably concluded (based on objective facts) that it was futile to apply for American Family homeowners insurance because the company would not offer them a policy because of their race or color or because of the location of their home; and
 - III. they otherwise would have applied for insurance with American Family.
- b. A claim that the person was deterred from applying shall not be sufficient if it is based merely on publicity concerning this litigation or a general assertion that American Family discriminated on the basis of race or color.
 - c. All claimants who seek compensation as persons deterred from applying for insurance from American Family must submit any reasonably available information regarding the condition of their home which indicates that the home was insurable during the relevant time period. No person shall be entitled to share in this portion of the claim fund if it is determined that the home posed a significant hazard which clearly would have justified the denial of insurance.
 - d. A total of four hundred, twenty thousand dollars (\$420,000) will be allocated to compensate persons in this category. An equal share will be allocated for each claim in this category but in no event shall the amount paid per claim exceed \$1,000 nor, in the case a person submitting multiple claims, shall any person receive a total of more than \$1,000 for all claims under this category.

c. Claims processing

1. Claims administrator

- a. The United States and the private plaintiffs will jointly select a claims administrator.
- b. The duties of the claims administrator will include the following:
 - I. Preparing, printing, publishing, and mailing of all notices, claims forms, and monetary distribution documents;
 - II. Tracking the return of claims forms;
 - III. Arranging for the authentication, review, and distribution of claims;
 - IV. Initial resolution of disputes regarding claims;
 - V. Verification of fund balances and all record-keeping activities concerning the administration of the fund;
 - VI. Reporting, on a quarterly basis, to the Court and all parties on the status of the fund, including the name and address and the amount received by each claimant; and
 - VII. Any other duties which may be necessary to carry out the provisions of this decree.

- c. The costs necessary to retain a claims administrator and to identify and compensate victims will be paid from the claim fund.

2. Processing claims

- a. The period for filing claims shall begin forty- five (45) days following the entry of this Order and shall run for a period of six months. Claims received prior to the claims period shall be accepted. The process of determining each claimant's eligibility as well as the payment of all valid claims shall be completed within one (1) year of the date for filing a claim. The deadline for requesting a claims form will be ten (10) days prior to the end of the period for filing claims.
- b. Within six (6) months of the deadline for submitting claims, the claims administrator shall make an initial determination of whether each claimant is entitled to relief, and, if so, the amount to which each claimant is entitled. The claims administrator shall forward each such determination to the United States and to private plaintiffs within thirty (30) days after the determination. The United States and the private plaintiffs shall review this determination and shall make a final decision with respect to each such claim. If the United States and the private plaintiffs do not reach an agreement on whether the claims administrator's determination should be changed within sixty (60) days, the initial determination shall be final.
- c. Shares of the claim fund will be distributed based upon ownership and occupancy of a single-family home in the predominantly African American community ["eligible property"]. Claims may be submitted by the household that owns or owned each eligible property. Persons who are or were owners of more than one eligible property may submit claims for each eligible property (provided that categories limits set forth above are not exceeded), and successive property owners may each submit claims for the same property provided each such household meets the eligibility requirements of the appropriate category and are not related by blood or marriage. If the property was owned by one or more persons who no longer reside in the same household for reasons such as divorce or legal separation, each person will be paid in proportion to that person's share in the ownership of the share of each.
- d. Upon reasonable notice to American Family, the company will make reasonable efforts to make documents or records available for inspection to the claims administrator which will aid the claims administrator in determining whether a claimant is entitled to relief, and/or the amount to which the person is entitled.
- e. The United States and the private plaintiffs, in consultation with the claims administrator may amend the guidelines set forth above and/or may develop additional guidelines on the amounts to be distributed to persons in each of the categories identified above, and additional procedures and guidelines for determining whether a person is entitled to relief and the amount to which each claimant shall be entitled. The United States and the private plaintiffs will timely inform American Family of such procedures and guidelines and any changes in the limit on the amount paid per claim or to a person shall be approved by American Family. Any such changes will not affect American Family's total monetary obligation under this decree.

- f. At the beginning of each month, the claims administrator shall provide American Family with the names, addresses, and telephone numbers of each claimant so that the company can discuss with that person his/her future interest in purchasing American Family homeowners insurance. Counsel for the private plaintiffs will make their best efforts to encourage claimants to pursue the purchase of American Family insurance policies to help fulfill the objectives of this Order.

d. Administration and operation of the claim fund

1. No amount shall be paid to any claimant from the claim fund unless and until the claimant:
 - a. executes a declaration setting forth the claim unless the claimant previously testified under oath to the circumstances surrounding the claim; class counsel will provide any assistance necessary for the completion of these declarations; and
 - b. if the claimant is entitled to relief under this decree but is not a member of the certified class, the claimant executes a general release releasing American Family from any claims that the claimant may have against the company as of the date of entry of this Order. The United States and counsel for the private plaintiffs shall prepare this release and submit it to American Family for its approval.
2. Any person who receives compensation from this fund is not precluded from participating in the initiatives described in Section A of this Part.
3. Within ten (10) days following the entry of this Order, American Family will deposit five million dollars (\$5,000,000) for individual compensation in an interest-bearing account designated by the United States and the private plaintiffs. The United States and the private plaintiffs have determined that the interest earned on this fund may be used for attorneys' fees, costs and expenses of the private plaintiffs and their counsel for the administration and processing of claims and for performing the private plaintiffs' duties under this decree, provided that the Class Committee agrees that any fees, costs, and expenses of counsel for the private plaintiffs are reasonably incurred, and further provided that the United States and the Class Committee agree that any other fees, costs, or expenses incurred by the private plaintiffs are reasonably incurred and are consistent with the purposes of this decree. Once all such fees, costs, and expenses are paid, the United States and the private plaintiffs will invest any interest remaining in one or more of the community-based relief programs identified in Section A of this Part of the decree.
4. Within ten (10) days following the entry of this Order, the United States and the private plaintiffs shall jointly select a trustee to administer the fund in the interest-bearing account established in paragraph 3, above. The trustee shall be responsible for the administration of the fund, including the payment of any applicable taxes.
5. If a balance remains after the payment to all persons in one of the described categories, the United States and the private plaintiffs will allocate the remaining amount to the other categories, so long as no person in any category receives more than the maximum allowed for each category.

6. Once all claims, fees, costs, and expenses are paid pursuant to this Part of the decree, the United States and the private plaintiffs will apply the remaining funds to the programs established in Section A of this Part of this decree.
7. American Family Mutual Insurance Inc., and its respective parents, subsidiaries, directors, officers, agents, insurers, attorneys, and employees shall have no duty, obligation, or liability with respect to any determination of a person's eligibility for any form of relief under Section B of this Part of this decree or for decisions as to the amounts awarded or for any aspect of the relief provided in this Part of this decree.

VII. RECORD-KEEPING AND REPORTING REQUIREMENTS

In order to fully and effectively implement the terms of this decree American Family will maintain records and provide reports, on a semi-annual basis, as provided in Attachment A to this Order.

VIII. GENERAL ENFORCEMENT PROVISIONS

The parties have agreed to work cooperatively to resolve any issues that might arise as implementation proceeds, and to petition this Court for relief only if those issues cannot be resolved through good-faith negotiations. Unless the resolution of the matter is governed by a more specific procedure set forth in this decree, any party may identify the issue(s) it believes are in question and give notice to the other parties. Within forty-five (45) days after receipt of such notice, the parties agree to meet and confer regarding the issues raised. During these meetings the parties agree to evaluate thoroughly and give full and careful consideration to the matters in dispute. The parties further agree to allocate a period of not less than thirty (30) days following the initial meeting in which to conclude these discussions.

If, after the conclusion of this thirty-day period, the parties have not resolved the dispute(s), any party may request the Court to resolve the matter.

IX. CLAIMS OF THE UNITED STATES

The entry of this consent decree resolves the claims raised by the United States in its complaint.

X. RELEASE OF CLAIMS BY PRIVATE PLAINTIFFS AND PLAINTIFF CLASS

Upon entry of this Order, the defendant, American Family Mutual Insurance Inc., and its respective parents, subsidiaries, directors, officers, agents, insurers, attorneys, and employees shall be, and hereby are, fully released and forever discharged from any and all claims, demands, charges, complaints, rights, and causes of action of any kind, known and unknown, by the private plaintiffs, the plaintiff class, and each of its members who do not timely request exclusion from the class, that arise out of or are related to the incidents of discrimination alleged in the complaint, which occurred at any time until the date the Court has approved this decree. The entry of this Order fully settles the allegations that have been, could have been, or in the future might be claimed or asserted against the defendants or the defendants' agents in this case by the private plaintiffs, the plaintiff class and/or members of the plaintiffs class based on the allegations which were or could have been raised in the plaintiffs' complaint. This release shall survive the termination of this decree. This release shall not release any claims by an American Family insured based on his or her contractual rights as a policy holder.

XI. RETENTION OF JURISDICTION

The Court will retain jurisdiction for a period of five (5) years following the date of entry of this Order. At the conclusion of this five-year period, the consent decree will expire without any action by any party thereto. The United States or the private plaintiffs may petition the Court to extend the Court's jurisdiction, and the Court shall extend its jurisdiction, if it has a reasonable basis for concluding that the remedial objectives of this decree have not been achieved and that American Family has not taken all reasonable steps under the decree to achieve the remedial objectives.

DONE this ____ day of _____, 1995.

UNITED STATES DISTRICT JUDGE

Approved as to form and content:

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ATTACHMENT A
RECORD-KEEPING AND REPORTING REQUIREMENTS

a. Record-keeping

1. During the term of this decree, American Family will retain, electronically, or by other means, all applications, both bound and unbound, and other materials submitted for homeowners insurance on owner-occupied homes located in Milwaukee County and all documents and notices relevant to any underwriting decisions related to those policies, particularly those work sheets used to calculate the replacement cost of the home. American Family also will retain in a central location all records relating to its obligations under this consent decree, including, but not limited to, its advertising, recruitment, and compliance activities.
2. During the term of this decree, the United States and counsel for the private plaintiffs, after reviewing the reports submitted by American Family and upon reasonable written request shall be provided access to individual homeowners insurance application files in Milwaukee County, both bound and unbound, to monitor American Family's processing and evaluation of homeowners insurance applicants. Except for related judicial proceedings, the United States and counsel for the private plaintiffs will keep all records and information relating to individual applicants or insureds confidential to protect the applicants' privacy rights and American Family's business interests.

b. Reporting

1. American Family will report to the United States and to counsel for the private plaintiffs on a semi-annual basis for the period of this decree. The first reporting period shall conclude six (6) months following the date of the entry of this Order. All reports will be submitted within thirty (30) days after the close of the semi-annual time period and will include the following information:
 - a. A report in machine-readable format (except for items xiii and xiv, which may be reported on microfilm or paper) for all homeowners insurance applications, both bound and unbound, on owner-occupied homes located in Milwaukee County received during the respective reporting period. The report shall contain the following information:

- I. The policy number of the application.
 - II. The date the application was entered.
 - III. Whether the application was bound or unbound.
 - IV. The agent selling the policy.
 - V. The address of the property for which the insurance was sought.
 - VI. Whether the application was for Gold Star, replacement cost, custom value, or other homeowners insurance policy coverage.
 - VII. The amount of coverage for the dwelling (Coverage A).
 - VIII. The market value of the dwelling.
 - IX. The estimated replacement cost of the dwelling.
 - X. The premium charged for the insurance coverage (exclusive of the premium charged for any endorsements).
 - XI. The amount of the deductible.
 - XII. Any endorsements to the policy.
 - XIII. Whether a physical inspection was made of the property and, if so, the reasons for the inspection.
 - XIV. The action American Family took on the application, including any requesting repairs to be made to the dwelling.
- b. A report in machine-readable format for all homeowners insurance policies in effect on owner-occupied homes located in Milwaukee County on the last day of the respective reporting period. The report shall contain the following:
- I. The policy number and the inception year of the policy.
 - II. The agent selling or servicing the policy.
 - III. The address of the property covered by the insurance.
 - IV. Whether the policy provides Gold Star, replacement cost, custom value, or other homeowners insurance policy coverage.
 - V. The amount of coverage for the dwelling (Coverage A).
 - VI. The premium charged for the insurance coverage (exclusive of the premium charged for any endorsements).
 - VII. The amount of the deductible.

- VIII. Any endorsements to the policy.
- c. A report in machine-readable format for all homeowners insurance policies on owner-occupied homes located in Milwaukee County which were cancelled or non-renewed during the respective reporting period. The report shall contain the following:
 - I. The policy number and the inception year of the policy.
 - II. The agent selling or servicing the policy.
 - III. The address of the property covered by the insurance.
 - IV. Whether the policy provides Gold Star, replacement cost, custom value, or other homeowners insurance policy coverage.
 - V. The amount of coverage for the dwelling (Coverage A).
 - VI. The premium charged for the insurance coverage (exclusive of the premium charged for any endorsements).
 - VII. The amount of deductible.
 - VIII. Any endorsements to the policy.
 - IX. Whether the decision to cancel or non-renew the policy was made by the insured or American Family.
 - X. Whether the action was a cancellation or a non-renewal.
 - XI. If the action was taken by American Family, the specific basis of the decision.
- d. A report in machine-readable format (except for item vii, for which the claim files will be made available for good cause) for all activity resulting from claims filed under homeowners insurance policies in Milwaukee County during the respective reporting period. The report shall contain the following:
 - I. The policy number.
 - II. The type of claim (e.g., theft, fire.)
 - III. The date of occurrence.
 - IV. The date American Family entered the claim.
 - V. The date and the latest amount of loss reserve American Family set aside for the claim.
 - VI. The date and amount paid.
 - VII. Whether American Family investigated the claim, and, if so, the reasons for conducting the investigation as well as the results of the investigation.

- e. A listing of all applications and policies in Milwaukee County, by policy number, for which credit bureau reports were requested, the reason for the request, and, if the policy was cancelled, not renewed, or not approved, the reason for such action.
 - f. A listing of a statistically valid random sample of all policies in Milwaukee County, by policy number, and whether although the company standards required a credit bureau report during the consideration of an application, whether bound or unbound, for homeowners insurance or the decision to cancel or not renew an existing policy, such a report was not requested.
 - g. A report of all advertising conducted pursuant to this consent decree, including the media names, types, and frequencies. The report will include representative copies of all advertising.
 - h. A summary report or copies of all sales agents' logs identified in paragraph 2(d) of Section C of Part II of this decree which report shall contain the address of each inquiry and indicate whether the inquiry resulted in an application for homeowners insurance and, if so, the action American Family took on the application. Upon reasonable written notice, American Family will make copies of the sales agents' logs available to the United States and the private plaintiffs for inspection.
 - i. A summary report of the dates, descriptions, and results of all market research; and the dates, groups contacted, and matters discussed in all community outreach meetings.
 - j. A report of all compliance training, the dates held, instructors, content, audience, and the number of individuals who attended.
 - k. American Family will also preserve the results of any tests of their agents or employees, conducted pursuant to Part V, and report to the United States and to counsel for the private plaintiffs a summary of the test results and any sanctions or disciplinary actions taken in response to the test findings.
 - l. A report on referrals as described in paragraph 4(c) of Section C of Part II of this decree.
2. Within thirty (30) days following the entry of this Order, American Family shall provide the United States and the private plaintiffs with the information described in paragraph 1(b) of this Section, which shall be current as of the date of entry of this Order by the Court.
 3. Copies of all notices, correspondence, reports, or documents required to be provided by one party to the other under this consent decree will be mailed to the following addresses:

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Civil Rights Division
Department of Justice
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Washington DC 20035

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Corporate Legal
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ATTACHMENT B
AREA OF INCREASED POLICY EFFORTS

The following area shall constitute the definition of the area of increased policy efforts as set forth in Section A of Part III of the decree:

All of those portions of postal zip codes 53205, 53206, 53208, 53209, 53210, 53212, and 53216 which are located in the City of Milwaukee except those areas in the postal zip codes listed below:

in 53208

- (a) The area bounded by 52nd, Vliet, and 60th Street, and North Avenue; and
- (b) The area bounded by Hawley Road, Fairview Avenue, and the Menomonee River.

in 53210

- (a) The area bounded by North Avenue, 52nd, Wright, and 60th Streets; and
- (b) The area bounded by Center Street, 76th Street, Burleigh Street, Appleton Avenue, Moltke Avenue (as extended to Appleton Avenue), 64th Street, and Avondale Avenues.

in 53216

- (a) The area bounded by Lisbon Avenue, Burleigh Street, and 76th Street.
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¹ According to the 1990 Census, the overwhelming majority (78.2%) of African Americans in Wisconsin reside in the City of Milwaukee, in a discrete, well-defined geographic area. Further, the census indicates that as of 1990, almost ninety percent of the city's African American population resided within the area bounded by the following streets: the stadium Freeway from Interstate 94 to North Avenue, North Avenue to 51st Street, 51st Street to Hampton Boulevard, Hampton Boulevard east to the Milwaukee River, and south along the Milwaukee River to Interstate 94, and west on Interstate 94 to the intersection with Stadium Freeway. For purposes of this decree, this area shall be referred to as the "predominantly African American community."

² For all purposes of this Order, the term "Single-family home" shall mean any owner-occupied one- to four-unit dwelling.

³ For the purposes of this decree, the area defined in Attachment B to this decree will be used to measure American Family's progress in achieving the remedial objective of enhancing the availability of homeowners insurance in the predominantly African American community.

⁴ This section shall not apply to standards, practices, or procedures that are not identified or implemented pursuant to Section II in this decree, if the standard, practice or procedure in question was known or reasonably could have been known to the United States or the private plaintiffs through their

investigations of the company and litigation of these cases.