IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIDGETTE R. LATHERN AC
3707 Halloway North
Upper Marlboro, Maryland 20772,

RONALD C. LATHERN AC
3707 Halloway North
Upper Marlboro, Maryland 20772,

ROBERT E. WHALEY, Jr. ACORN
10248 Prince Place
Largo, Maryland 20772,

43 CHERYL R. JENKINS AC
6837 Forest Terrace
Landover, Maryland 20785,

WILLIAM L. POWERS NO Reformed
5915 8th Street, N.E.
Washington, D.C. 20011,

RUTH B. POWERS NO Reformed
5915 8th Street, N.E.
Washington, D.C. 20011,

BEVERLY A. DICKERSON Reformed
10800 Waco Drive
Upper Marlboro, Maryland 20722,

LARRY BARNES, Jr. ACORN
518 48th Place, N.E.
Washington, D.C. 10019,

LINDA WADE ALLEN
9809 Justine Court
Lanham, Maryland 20706,

WILBERT G. ALLEN
9809 Justine Court
Lanham, Maryland 20706,

CLIFTON O. NEAL, Jr. ACORN
5000 Luci Lane
Suitland, Maryland 20746

On behalf of themselves
and as Representatives of a Class
of all others Similarly Situated,

Plaintiffs,

C.A. No. _____

v.

NATIONSBANK CORPORATION

Serve: James Kaiser
NationsBank Corporation
NationsBank Corporate Center
NC 1007-56
Charlotte, North Carolina
28255

NATIONSBANK, N.A.

Serve: Jacqueline Jones
Legal Support
Mailing Code MD 4-325-03-63
Third Floor
100 South Charles Street
Baltimore, Maryland 21201

NATIONSBANC MORTGAGE COMPANY,

Serve: Gary Sommerfelt
General Counsel
NationsBanc Mortgage Company
P.O. Box 630005
Dallas, Texas 75263-0005

Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT, PERMANENT INJUNCTIVE RELIEF, AND DAMAGES

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I. NATURE OF ACTION

1. This Complaint arises out of a pattern or practice of racial discrimination by defendants NationsBank Corporation, NationsBank, N.A., and NationsBanc Mortgage Company in the processing, reviewing, and underwriting of home mortgages. Plaintiffs seek a declaratory judgment, permanent injunctive relief and damages for the defendants' unlawful behavior. This action is brought under the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, et seq., the Equal Credit Opportunity Act of 1974, as amended, 15 U.S.C. § 1691 et seq., and the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982.

2. Plaintiffs Bridgette R. and Ronald C. Lathern, Robert E. Whaley, Cheryl R. Jenkins, William L. and Ruth B. Powers, Beverly A. Dickerson, Larry Barnes, Jr., and Linda Wade Allen are African-American citizens of the United States and residents of the Washington, D.C. metropolitan area who sought and were denied home mortgage loans by the defendants because of their race or color. Plaintiff Wilbert G. Allen is a lawful permanent resident of the United States and a resident of the Washington, D.C. metropolitan area who sought and was denied a home mortgage loan by the defendants because of his race or color. Plaintiff Clifton O. Neal, Jr. is an African-American citizen of the United States and a resident of the Washington, D.C. metropolitan area who was granted a home mortgage loan by defendants under discriminatory terms and conditions based on his race or color. Plaintiffs bring this Complaint on behalf of themselves and a

class of similarly situated African-Americans in the Washington, D.C. metropolitan area who sought, or may in the future seek, home mortgage loans from defendants to redress injuries they, and those they represent, have suffered, continue to suffer, and will suffer in the future as a result of defendants' racially discriminatory actions.

3. Between 1990 and the present, defendants have intentionally discriminated on the basis of race in processing, reviewing, and underwriting applications by both plaintiffs and other African-American loan applicants for mortgage loans. Defendants' unlawful practices include, but are not limited to: (a) applying discriminatory standards in determining and evaluating the incomes, debt ratios, and credit histories of African-American loan applicants; (b) failing or refusing to consider or recognize compensating or offsetting qualifications for mortgage loans possessed by African-American applicants, such as large liquid assets that should compensate for deficiencies in debt ratios or credit histories; (c) failing or refusing to offer advice to African-American loan applicants about how to lower monthly debt in order to reduce overall debt ratios, and refusing to accept offers made by African-American loan applicants to pay off outstanding debt to lower their debt ratios; (d) refusing to permit African-American loan applicants to explain payment delinquencies and refusing to accept or fairly evaluate explanations given by African-American loan applicants for payment delinquencies appearing on credit reports; (e) refusing

to recognize or accept efforts by African-American applicants to re-establish good credit; (f) requiring African-American applicants to meet higher standards than are required by the secondary market to qualify for loans; (g) requiring African-American applicants to submit unreasonable and excessive documentation of credit qualifications, with the consequence of delaying settlement dates and forcing payment of a higher interest rate or additional fees to obtain loans; (h) failing or refusing to provide African-American applicants with written explanations of the reasons for declining to make a loan; and (i) failing or refusing to consider or counsel African-American loan applicants for or about the availability of alternative loan programs, such as Federal Housing Administration (FHA) loans.

4. On information and belief, the defendants' loan processors and underwriters have intentionally engaged in a pattern or practice of favoring white loan applicants over African-American loan applicants in the quality of assistance provided as part of the loan application process and in the decisions made as part of the process of underwriting mortgage applications. These actions, and defendants' illegal policies and practices generally, are based on an invidious and racially and/or color-based discriminatory animus directed against African-Americans. Defendants' policies and practices are intentionally calculated to deny African-Americans equal treatment guaranteed by federal law.

5. The illegal actions alleged herein are representative

of a pattern or practice of racial discrimination against African-American loan applicants in the Washington, D.C. metropolitan area. These policies and practices have had both the purpose and effect of denying African-American applicants an equal opportunity to contract and obtain home mortgage loans because of race or color.

6. By their actions, defendants have: (1) denied plaintiffs and members of the class they represent the right to make and enforce contracts on the same basis as white citizens, in violation of 42 U.S.C. § 1981; (2) denied plaintiffs and similarly situated class members the right to hold and purchase property on the same basis as white citizens, in violation of 42 U.S.C. § 1982; (3) made housing unavailable to plaintiffs and similarly situated class members on the basis of race, in violation of 42 U.S.C. § 3604(a); (4) discriminated against plaintiffs and similarly situated class members in the terms, conditions, or privileges of the provision of services or facilities in connection with the sale or rental of dwellings, in violation of 42 U.S.C. § 3604(b); (5) discriminated against plaintiffs and similarly situated class members in the making of real estate-related transactions in violation of 42 U.S.C. § 3605; and (6) discriminated against plaintiffs and similarly situated class members in the availability and terms and conditions of credit, in violation of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691(a) and (d).

7. On the basis of the violations asserted herein,

plaintiffs, on their own behalf and on behalf of each class member, seek punitive and compensatory damages, a declaratory judgment, and a permanent injunction directing the defendants to desist from and remedy their illegal conduct.

II. PARTIES

8. Plaintiffs Bridgette and Ronald Lathern are African-American citizens of the United States who reside in Upper Marlboro, Maryland. Ronald Lathern is employed full-time with the Federal Trade Commission as the supervisor of the mail room. Bridgette Lathern is employed full-time with the U.S. Naval Criminal Investigative Service as a secretary.

9. Plaintiff Robert Whaley is an African-American citizen of the United States who resides in Capitol Heights, Maryland. Mr. Whaley is employed as an electrician.

10. Plaintiff Cheryl Jenkins is an African-American citizen of the United States who resides in Landover, Maryland. She is employed as a secretary at the National Institutes of Health.

11. Plaintiffs William and Ruth Powers are African-American citizens of the United States who reside in Northeast Washington, D.C. Mr. Powers is self-employed as a consultant and tax accountant. Ruth Powers worked for thirty years as a head nurse at Howard University Hospital, and currently operates a health care business.

12. Plaintiff Beverly Dickerson is an African-American citizen of the United States who resides in Upper Marlboro, Maryland. Ms. Dickerson is employed full-time by the Department

of the Navy as a budget analyst at the Naval Air System Command.

13. Plaintiff Larry Barnes, Jr. is an African-American citizen of the United States who resides in the District of Columbia. Mr. Barnes is employed as an employment counselor with the District of Columbia Department of Employment Services.

14. Plaintiff Linda Wade Allen is an African-American citizen of the United States. Plaintiff Wilbert Allen was born in Jamaica and currently resides with his wife, Linda Wade Allen, in Lanham, Maryland. Mr. Allen is a lawful permanent resident of the United States. Ms. Wade Allen is employed as a medical assistant. Mr. Allen is employed at Hechingers.

15. Plaintiff Clifton O. Neal, Jr. is an African-American citizen of the United States who resides in Suitland, Maryland. Mr. Neal is employed as a custodian by the Prince George's County Schools.

16. On information and belief, defendant NationsBank Corporation (hereinafter NationsBank Corp.) is a bank holding company with its headquarters in Charlotte, North Carolina. NationsBank Corp. is the fourth largest banking company in the United States, with assets of approximately $170 billion. It is the eighth largest originator of home mortgages in the United States and the largest originator of home mortgages in the Washington, D.C. metropolitan statisticial area (MSA). Most of NationsBank Corp.'s home mortgages are underwritten through its mortgage company, defendant NationsBanc Mortgage Company. NationsBank Corp. operates approximately seven retail banking

subsidiaries with over 1,900 offices in eleven states and the District of Columbia.

17. On information and belief, defendant NationsBank, N.A. is a subsidiary of NationsBank Corp. and operates as a retail banking institution in Maryland, Virginia, and the District of Columbia. NationsBank, N.A. has its headquarters in Richmond, Virginia. With total assets of approximately $11.5 billion and over $19 billion in deposits, NationsBank, N.A. is the largest bank in the Washington, D.C. metropolitan area.

18. On information and belief, defendant NationsBank, N.A. has approximately 205 offices and branches in the Washington, D.C. metropolitan area called "banking centers," including 33 in the District of Columbia and 44 in Prince George's County, Maryland. Many of its offices and branches in the District of Columbia and Prince George's County were acquired through recent mergers with C & S Sovran Corporation, American Security Bank, and Maryland National Bank.

19. On information and belief, defendant NationsBank, N.A. accepts and processes some mortgage loan applications at its banking centers, and then either underwrites these applications directly or forwards the applications for final review and decision-making to underwriters and other employees of defendant NationsBanc Mortgage Company in Charlotte, North Carolina.

20. Defendant NationsBanc Mortgage Company (hereinafter NationsBanc Mortgage) is an affiliate of NationsBank of Texas, N.A. NationsBanc Mortgage has its headquarters in Charlotte,

North Carolina. It provides mortgage processing and underwriting services for all of the subsidiary banks of defendant NationsBank Corporation. On information and belief, NationsBanc Mortgage has two main offices in the Washington, D.C. metropolitan area. These offices are located at 844 Governor Ritchie Highway in Saverna Park, Maryland, and 730 15th Street, N.W. in the District of Columbia.

21. Defendant NationsBanc Mortgage operates at least seven other offices in the Washington, D.C. metropolitan area. Four of these offices are located in Maryland, and three are located in Northern Virginia.

III. JURISDICTION AND VENUE

22. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 3613. Venue is proper in the District of Columbia pursuant to 28 U.S.C. § 1391(a) because defendants conduct business and reside in the District of Columbia and a substantial part of the events giving rise to this action occurred in the District of Columbia.

IV. FACTUAL BACKGROUND

A. Demographics

23. According to the 1990 U.S. Census, African-Americans constitute approximately 26.18 percent of the total population of the Washington, D.C. MSA. Most (approximately 74.2 percent) of the African-American residents of the Washington, D.C. MSA reside in the District of Columbia and Prince George's County, Maryland.

African-Americans constitute 65.3 percent of the total population of the District of Columbia, and 50.2 percent of the total population of Prince George's County, Maryland.

24. Residential housing patterns in the District of Columbia are highly segregated on the basis of race. Approximately 90.3 percent of the 395,213 African-American residents of the District of Columbia reside in majority black census tracts, most of which are located in the Northeast, Southeast, and Southwest quadrants of the District. Approximately 85.9 percent of the District of Columbia's white residents live in the Northwest quadrant of the District.

25. Residential housing is also highly segregated in Prince George's County, Maryland. Approximately 76.7% of the African-American residents of Prince George's County live in majority black census tracts.

26. For purposes of this Complaint, a "predominately black" census tract is one in which African-Americans constitute more than 75 percent of the total population reported in that tract. A "predominately white" census tract is one in which African-Americans constitute less than 25 percent of the total population reported in the tract. A "majority black" census tract is one in which African-Americans constitute more than 50 percent of the total population in the tract, and a "majority white" tract is one in which African-Americans constitute less than 50 percent of the total population in the tract.

B. Lending by Defendants in the Washington, D.C. Metropolitan Area

1. Market Share

27. Collectively, the defendants constitute the largest provider of home mortgages in the Washington, D.C. metropolitan area. From 1990 to 1993, defendants processed approximately 20,840 applications for home purchase and refinance loans. Over 88 percent of these applications were processed and underwritten by defendant NationsBanc Mortgage. Approximately 87 percent of the applications received by defendants during this time period were submitted by white individuals. Only 10 percent were submitted by African-American applicants.

28. Prior to 1992, NationsBanc Mortgage originated a relatively small number of loans in majority or predominately black census tracts in the District of Columbia and Prince George's County, Maryland. See Exhibit A (containing maps showing loan origination by census tract and racial composition of tract).

29. Data submitted by defendants pursuant to the Home Mortgage Disclosure Act, 12 U.S.C. § 2801 et seq., (HMDA), show that from 1990 to 1993 NationsBanc Mortgage originated 1,769 conventional, FHA, and Veterans Administration (VA) loans in the District of Columbia. Of that total, 1,338 or 75.6 percent, were originated in majority white census tracts, while only 430, or 24.3 percent, were in majority black census tracts.

30. During this same time period (1990 to 1993), NationsBanc Mortgage originated 5.81 percent of all HMDA reported

purchase and refinance loans made by lending institutions in majority white census tracts in the District of Columbia, but originated only 3.09 percent of all HMDA reported purchase and refinance loans made in majority black census tracts in the District of Columbia. This disparity between defendant's market share in majority black and majority white census tracts was the fourth highest disparity reported by any of the 53 lenders which received at least 200 mortgage applications in the District of Columbia from 1990 to 1993.

31. During this time period (1990 to 1993), NationsBanc Mortgage originated 6.24 percent of all HMDA reported purchase and refinance loans made by lending institutions in predominately white census tracts in the District of Columbia. This percentage represented the largest single market share of home mortgage loans made in predominately white census tracts in the District of Columbia by any lending insitution required to report under HMDA.

32. In contrast, from 1990 to 1993 NationsBanc Mortgage originated only 3.16 percent of all loans made in predominately black census tracts in the District of Columbia by lending institutions required to report under HMDA. This disparity between defendant's market share in predominately black and predominately white census tracts was the fourth highest disparity reported by any of the 53 lenders which received at least 200 mortgage applications in the District of Columbia from 1990 to 1993.

2. Performance Studies of Defendants' Lending in the Washington, D.C. Area

33. A number of studies have severely criticized defendants' loan performance in African-American areas of the Washington, D.C. MSA during the 1990 to 1993 time period, focusing in particular on the defendants' poor performance in 1990, 1991, and 1992.

a. A study of racial redlining in urban markets, published in 1993 by Essential Information, Inc., identified defendant NationsBanc Mortgage as one of the three worst lenders in minority neighborhoods in the Washington, D.C. area. Based on 1990 and 1991 HMDA data, the study found that NationsBanc Mortgage had a de minimis share of the mortgage loan market in minority census tracts and a large market share in white census tracts.

b. A nationwide study published by the National Community Reinvestment Coalition (NCRC) gave defendant NationsBanc Mortgage poor grades for fair lending in the Washington, D.C. metropolitan area: F- in 1991, F+ in 1992, and C- in 1993 (the last year for which HMDA data was publicly available at the time NCRC released its study). The NCRC grades averaged scores for each lender based on the lender's efforts to market loans to minorities, minority denial ratios, and efforts to market and lend to low and moderate-income loan applicants.

c. A study published in October, 1994 by Community First, Inc., an organization based in Washington, D.C., found defendant NationsBanc Mortgage in "substantial non-compliance" with the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. §§ 2901 et seq., because of its market share of loans in low and moderate-income census tracts in the District of Columbia. The study was based on 1992 HMDA data.

3. Loan Commitments Required by the Government of the District of Columbia

34. Concerned about NationsBanc Mortgage's poor lending performance in the Washington, D.C. area during 1990 and 1991, the District of Columbia required defendants, pursuant to the District of Columbia Regional Interstate Banking Act of 1985, D.C. Law 6-63, D.C. Code Title 26, Ch. 8, (RIBA), to increase their level of lending in "underserved" and low and moderate-income census tracts in the District of Columbia as a condition for acquiring C & S Sovran Bank. Under this agreement, census tracts defined as "underserved" and low and moderate-income included most of the majority black census tracts in the District of Columbia.

35. Accordingly, in December, 1991, defendants entered into a binding commitment with the District of Columbia to originate a total of $140 million in loans over ten years in underserved and low and moderate-income census tracts. In 1993, the District of Columbia required the defendants to increase this commitment as a

condition for acquiring American Security Bank and Maryland National Bank. That commitment requires the defendants to lend a total of $600 million over ten years in underserved and low and moderate-income census tracts in the District of Columbia.

4. Continued Poor Performance Despite Loan Commitments Made to the District of Columbia

36. A closer examination of the statistical data reveals that despite these loan commitments, defendants have persisted in rejecting African-American applicants for mortgage loans at significantly higher rates than white applicants.

a. From 1990 to 1993, defendant NationsBanc Mortgage rejected African-American applicants for conventional purchase and refinance loans at more than five times the rate at which it rejected white applicants. This constituted the highest racial disparity in rejection rates reported during this period by lenders in the Washington, D.C. MSA that received at least 400 mortgage applications and rejected 100 or more minority applicants.

b. HMDA data show that during this period NationsBanc Mortgage received a total of 16,218 applications for conventional purchase and refinance loans. Of these applications, 14,314, or 88.2 percent, were received from white applicants, while 1,495, or 9.2 percent, were received from African-American applicants. The mortgage company

rejected 17.5 percent (261) of the African-American applicants, but only 3.3 percent (467) of the white applicants. Calculated in terms of likelihood of rejection, African-Americans were 6.27 times more likely to be rejected for these loans than whites.

c. The rejection rate disparities remained significant even after controlling for differences in income. African-Americans, regardless of their income levels, were more than five times more likely to be rejected for mortgage loans than whites.

d. HMDA statistics for conventional purchase and refinance loans show that African-American applicants at NationsBanc Mortgage were more than twelve times more likely than white applicants to be rejected for reasons of allegedly poor credit, even after controlling for differences in income. While 10.2 percent of all African-American applicants were rejected because of allegedly poor credit, less than one percent (0.66%) of all white applicants were rejected for this reason. This disparity was the highest reported during this period by any lender in the Washington, D.C. MSA that received at least 400 mortgage applications and rejected at least 100 African-American applicants. The lending institution with the second highest disparity had a ratio of 4.66.

e. HMDA statistics for conventional purchase and refinance loans also show that African-American applicants at NationsBanc Mortgage were more than eight times more likely than white applicants to be rejected for reasons of allegedly poor credit and/or high debt ratios, even after controlling for differences in income. While 12.9 percent of all African-American applicants were rejected because of allegedly poor credit and/or high debt ratios, less than two percent (1.35%) of all white applicants were rejected for these reasons. This disparity was the highest reported during this period by any lender in the Washington, D.C. MSA that received at least 400 mortgage applications and rejected at least 100 African-American applicants. The lending institution with the second highest disparity had a ratio of 4.84.

f. Recently available 1994 HMDA statistics for conventional purchase and refinance loans show that during 1994 African-American applicants were still more than five times more likely to be rejected for loans than white applicants. Controlling for differences in income, African-American applicants were 3.85 times more likely to be rejected than white applicants. These rejection rate disparities remained particularly high among those applicants rejected for reasons of allegedly poor credit or high debt ratios. Controlling for income, African-Americans

were more than seven times more likely than white applicants to be rejected during this time period for reasons of poor credit, and more than five times more likely to be rejected for reasons of poor credit and/or high debt ratios.

g. Similarly high rejection disparities occurred among applicants who sought government-insured FHA and VA loans from NationsBanc Mortgage. From 1990 to 1993, NationsBanc Mortgage rejected 17.77 percent (51 of 287) of the African-Americans who applied for these loans, but only 3.25 percent (58 of 1784) of the white applicants who applied for these same loans. African-Americans were more than six times more likely to be rejected for FHA and VA loans than white applicants. Controlling for differences in income, African-Americans were more than seven times more likely to be rejected than white applicants.

h. HMDA statistics for FHA and VA purchase and re-finance loans show that African-American applicants at NationsBanc Mortgage for these government-insured loans were more than ten times more likely than white applicants to be rejected for reasons of allegedly poor credit.

i. Recently available 1994 HMDA statistics for FHA and VA purchase and re-finance loans show that during 1994 African-American applicants at NationsBanc Mortgage were still more

than 5.38 times more likely to be rejected for loans than white applicants. Controlling for differences in income, African-American applicants were 4.62 times more likely to be rejected than white applicants. These rejection rate disparities remained high among those applicants rejected for reasons of allegedly poor credit. Controlling for income, African-Americans were more than eight times more likely than white applicants to be rejected during this time period for reasons of poor credit.

37. In August, 1995, a study commissioned by the International Brotherhood of Teamsters on behalf of its members and the Teamsters National Black Caucus examined rejection rates of African-American mortgage loan applicants in Washington, D.C.; Atlanta, Georgia; Baltimore, Maryland; and Dallas, Texas. Consistent with the rejection rate data discussed above, the study found that in the Washington, D.C. area NationsBanc Mortgage rejected African-Americans at more than five times the rate of white applicants, placing it near the bottom (53rd out of 55) among lenders in the Washington, D.C. MSA. The study found equally high rejection rate disparities for African-American loan applicants in the other three cities reviewed in the study.

5. Operation of the ACORN Program

38. On information and belief, in February, 1993 defendants entered into an agreement with the Association For Community Reform Now (ACORN) under which ACORN agreed to pre-screen

applicants for several subsidized conventional mortgage loan programs offered by defendants to attract borrowers from underserved and low and moderate-income census tracts in the District of Columbia and Prince George's County, Maryland. Defendants provided ACORN employees with copies of underwriting standards and instructions on underwriting and authorized the employees to pre-qualify applicants for the program. The understanding with ACORN was that these loans were to be underwritten to meet secondary market and private mortgage insurance guidelines, principally those of the Federal National Home Mortgage Association ("Fannie Mae").

39. On information and belief, all processing work by ACORN under this agreement is, and was at all times relevant to this Complaint, conducted at its office at 739 8th Street, Southeast in the District of Columbia. This work includes calculating the applicants' debt-to-income ratios; reviewing credit histories; and recommending ways for applicants to improve their qualifications, such as paying off outstanding consumer debt to lower their debt ratios and explaining derogatory items in their credit reports. All participants in the ACORN program are required to attend and successfully complete approximately four and 1/2 hours of credit counselling given by ACORN.

40. The files of applicants deemed qualified for loans by ACORN are reviewed and processed by defendants' loan officers in the District of Columbia or Prince George's County, Maryland. The files are then sent to Charlotte, North Carolina for final

processing and review by underwriters and staff of NationsBanc Mortgage.

41. On information and belief, defendants have used the ACORN program as the principal means of attempting to meet their obligation to the District of Columbia to increase their mortgage lending in underserved and low and moderate-income areas as a condition of continuing to do business in the District of Columbia. Defendants have relied on the ACORN program in lieu of soliciting mortgage loan business on a consistent and sustained basis directly from real estate agents and builders that operate in African-American neighborhoods in the Washington, D.C. metropolitan area.

6. Continued Poor Performance Despite Operation of ACORN Program

42. Despite the operation of the ACORN program, which provides defendants with pre-screened applicants who have been counselled to ensure their creditworthiness, a closer look at the HMDA data reported by NationsBanc Mortgage shows that the racial disparity in rejection rates actually increased from 4.93 in 1992 to 5.63 in 1993.

a. In 1992, NationsBanc Mortgage received a total of 5,574 applications for conventional purchase and refinance loans. Of these applications, 5065, or 91 percent, were from white loan applicants, and 362, or 6.0 percent, were from African-American applicants. NationsBanc Mortgage rejected 15.47 percent (56) of the African-American applicants, but only

3.14 percent (159) of the white applicants.

b. In 1993, NationsBanc Mortgage received a total of 7,585 applications for conventional purchase and re-finance loans. Of these applications, 6,353, or 84 percent, were from white loan applicants, and 1046, or 14 percent, were from African-American applicants. NationsBanc Mortgage rejected 18.26 percent (191) of the African-American applicants, but only 3.24 percent (206) of the white applicants. In 1994, NationsBanc Mortgage received 4,849 applications for conventional purchase and re-finance loans. Seventy-two percent, or 3,515, of these applications were from white applicants, and 1166, or 24 percent, were from African-American applicants.

c. In 1992, African-American applicants were 5.65 times more likely to be rejected by NationsBanc Mortgage for conventional loans than whites. In 1993, despite the ACORN program, African-American applicants were 6.67 times more likely to be rejected than whites. In 1994, the disparity remained high at 5.38.

d. These disparities remained high even after controlling for differences in income. In 1992, African-Americans, regardless of their income levels, were 4.93 times more likely to be rejected by NationsBanc Mortgage for

conventional loans than white applicants. In 1993, African-Americans were 5.7 times more likely to be rejected than whites. In 1994, the disparity dropped somewhat, but still remained high at 3.85.

43. On information and belief, NationsBanc Mortgage does not include in its HMDA reports applicants that ACORN determined were unqualified for loans. NationsBanc does, however, report under HMDA those applicants from the ACORN program who succeed in obtaining loans. Were all applicants prescreened by ACORN included in NationsBanc Mortgage's HMDA reports, the rejection rate disparities discussed above would be even more unfavorable to defendants.

V. ALLEGATIONS OF NAMED PLAINTIFFS

A. Defendants' Lending Standards and Application of Standards to Named Plaintiffs Generally

44. On information and belief, defendants rely on a subjective or judgmental underwriting system. Under such a system, underwriters apply general guidelines to determine whether the applicant is an acceptable credit risk, but have considerable discretion in applying those guidelines to specific cases, such as: (a) whether to count bonus or overtime income and part-time employment in calculating the applicant's debt ratios; (b) evaluating explanations for late credit card payments, bankruptcies, and collections that appear on the

applicant's credit reports; and (c) determining whether there are compensating or offsetting factors that might allow for the approval of a loan, notwithstanding debt ratios that exceed the guidelines or unexplained credit blemishes. These flexible underwriting standards are encouraged by most secondary market purchasers and investors, including Fannie Mae and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), and many private mortgage insurers.

45. Defendants have applied these standards in a racially discriminatory manner by treating African-American applicants differently and less favorably than similarly situated white applicants. This disparate treatment, as more fully alleged in paragraph 3 above and paragraphs 49-242 below, has occurred in the following general ways: (a) outright refusals to even consider explanations from African-Americans for delinquent credit; (b) refusing to accept credible and justifiable explanations from African-Americans for delinquent credit; (c) arbitrarily refusing to count bonus, overtime, or part-time income from African-Americans; (d) failing or refusing to consider compensating or offsetting factors that would justify loans to African-Americans with credit blemishes or high debt ratios; (e) refusing to recognize and apply to African-Americans accepted secondary market guidelines, such as making loans to persons with prior bankruptcies that were discharged more than two years prior to the loan application and who had re-established good credit; and (f) requiring African-Americans to

provide excessive and unnecessary documentation to qualify for their loans or pay off excessive amounts of consumer debt to lower their debt ratios.

46. The experiences of the eleven named plaintiffs described in Part V(B)-(I) below are representative of the racially discriminatory manner in which defendants have processed, reviewed, and evaluated the applications of African-American loan applicants in the Washington, D.C. MSA. These experiences are both typical of, and consistent with, the discriminatory practices set forth in paragraphs 3 and 45 above.

B. Discriminatory Failure or Refusal to Apply Traditionally Accepted Underwriting Guidelines to African-American Applicants, Including Refusal to Permit Opportunity to Explain Derogatory Information on Credit Report: Ronald C. and Bridgette R. Lathern

47. Ronald and Bridgette Lathern were rejected by defendant NationsBanc Mortgage in March, 1994 for a loan to purchase a home at 12200 Deka Road in Clinton, Maryland. The home they sought to purchase was located in an integrated, middle class area of Prince George's County, Maryland.

48. The Latherns were rejected allegedly because of late payments listed in Mrs. Lathern's credit report. As set forth in paragraphs 49-71 below, although the Latherns had proper explanations for the late payments, defendant NationsBanc Mortgage never provided the Latherns with an opportunity to explain the derogatory statements in their credit report.

Defendant NationsBanc Mortgage's decision to reject the Latherns in this manner was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On information and belief, NationsBanc Mortgage's treatment of the Latherns was less favorable than that accorded similarly situated white loan applicants.

i. The Latherns' Efforts to Obtain a Loan From NationsBanc Mortgage

49. Ronald and Bridgette Lathern are natives of Southeast Washington, D.C. Friends for many years, they both graduated from District of Columbia high schools under a "Stay in School" program that allowed them to work while earning their diplomas. The Latherns were married in 1993.

50. At the time of their application to NationsBanc Mortgage, Mr. Lathern had worked for more than eight years at the the Federal Trade Commission in Washington, D.C., the last four years of which had been spent as the supervisor of the mail room. Mrs. Lathern had ten years of continuous job experience with the U.S. Department of the Navy, most recently as a secretary with the Naval Criminal Investigative Service at the Washington Navy Yard in the District of Columbia. The Latherns' combined annual gross income in 1994 was $54,000. At that time the Latherns were renting an apartment in Prince George's County, Maryland. As first-time homebuyers, they dreamed of owning their own home.

51. In February, 1994, the Latherns located a house on Deka Road in Prince George's County, Maryland that they wanted to

purchase. Shortly thereafter, they contracted to buy the property for $136,250.

52. On or about the time that they signed the contract, the Latherns' real estate agent told them about the loan program that defendants operated through ACORN. The agent explained that below-market financing was available through the ACORN program, and that the Latherns should have no difficulty qualifying for this special program loan given their incomes and credit histories.

53. On February 26, 1994, the Latherns went to an office of defendant NationsBanc Mortgage located at 6301 Ivy Lane in Greenbelt, Maryland to apply for a home mortgage loan. They spoke with Ms. Virginia Rubin who, on information and belief, was at that time a loan officer employed by NationsBanc Mortgage. After speaking with Ms. Rubin, the Latherns submitted a written application for a 30-year conventional loan of $129,430 at a 6.75 percent fixed rate of interest. On information and belief, the terms of the loan required the Latherns to make a downpayment equal to five percent of the purchase price (approximately $6,820). The terms of the loan, however, also permitted the Latherns to pay part of the downpayment and closing costs through a five-year unsecured loan from NationsBanc Mortgage at an interest rate of 10.75 percent. This last term was a feature of one of the NationsBanc Mortgage loan programs administered through ACORN.

54. At the time of their application, Ms. Rubin asked the

Latherns if they had previously enrolled in ACORN's credit processing and counselling program. Upon learning that the Latherns had not participated in the program, Ms. Rubin advised them that it would help their chances of qualifying for the loan if they did so.

55. Ms. Rubin also informed the Latherns that, based on their joint income and outstanding debts, they qualified for a loan of at least $140,000, an amount that exceeded the sales price of the property. Both the Latherns' monthly "housing debt-to-income" ratio, and their "total monthly debt-to-income" ratio, were within established underwriting guidelines at approximately 23.5 and 38 percent respectively.

56. For purposes of this Complaint, a "monthly housing debt-to-income" ratio is defined as the borrower's projected housing expenses under the terms of the loan, divided by gross monthly income. Housing expenses include principal, interest, taxes, insurance, and any related expenses, such as condominium and association fees. For purposes of this Complaint, the "total monthly debt-to-income" ratio is defined as the borrower's monthly housing expenses, plus all other monthly payment obligations, such as car loans and credit cards, divided by gross monthly income. Installment debt with ten or fewer remaining monthly payments is not counted.

57. These guidelines for computing monthly housing and total debt ratios are commonly accepted in the lending industry. Industry guidelines for conventional loans routinely establish,

as benchmarks, a monthly housing debt-to-income ratio of 28 percent, and a total monthly debt-to-income ratio of 36 percent. Under the loan programs offered by NationsBanc Mortgage pursuant to the ACORN program, monthly housing and total debt-to-income ratios may go as high as 33 and 38 percent, respectively. Fannie Mae guidelines, however, permit both these special loan program guidelines and the conventional guidelines to be exceeded at the discretion of the lender, or where there are compensating factors that show the borrower's ability to service a higher level of debt.

58. Pursuant to Ms. Rubin's suggestions, on or about February 28, 1994 the Latherns went to ACORN's loan processing office in Southeast Washington, D.C. There, the Latherns were interviewed by an ACORN employee working under the NationsBanc Mortgage loan program. This employee reviewed their employment history, debt ratios, and credit report. Upon completion of the review, the Latherns were advised that they were "pre-qualified" for the loan, subject to completion of credit counselling classes required of all applicants and final review of their file by NationsBanc Mortgage underwriters.

59. On information and belief, shortly after the Latherns completed their loan application at defendants' Greenbelt office, the application was sent to Charlotte, North Carolina for further review by NationsBanc Mortgage's loan processors and underwriters. While their application was under review in Charlotte, Ms. Rubin called the Latherns and informed them they

would have to pay off a bill for $319 that was reported as a collection on Mrs. Lathern's credit report. She also stated that there were some late payments that appeared on Mrs. Lathern's report that should not be a problem if they were explained in writing.

60. In response to the call from Ms. Rubin, Mrs. Lathern prepared a letter to NationsBanc Mortgage explaining the collection and late payments that appeared on her credit report. While she was preparing that letter, she received a telephone call from Monica Daniels, who on information and belief was at the time employed by defendants as a loan officer in Greenbelt, Maryland. Ms. Daniels informed Mrs. Lathern that their loan application had been rejected because of her credit report. She stated that the principal problem concerned a small revolving account Mrs. Lathern had maintained with a large retailer since 1988, on which her payment obligations were only $23 per month.

61. Mrs. Lathern advised Ms. Daniels that she was in the process of preparing a letter explaining these late payments. Ms. Daniels then told Mrs. Lathern that an explanation would not make any difference in the defendant's decision. When Mrs. Lathern reminded Ms. Daniels that Ms. Rubin had advised her to prepare such a letter and pay off the collection account, Ms. Daniels told Mrs. Lathern that she had "misunderstood" what Ms. Rubin had said and that a letter would not result in the approval of the loan. Ms. Daniels did not ask, nor was Mrs. Lathern permitted the opportunity, to explain the reasons for the late

57. These guidelines for computing monthly housing and total debt ratios are commonly accepted in the lending industry. Industry guidelines for conventional loans routinely establish,

payments.

62. That same day, Mrs. Lathern informed both her husband and their real estate agent that they had been rejected by NationsBanc Mortgage. The agent then placed a conference call to Ms. Daniels with Mrs. Lathern on the line. During that call, the agent informed Ms. Daniels that Mrs. Lathern had an explanation for the late payments. Permitting no opportunity for discussion, Ms. Daniels advised the agent, just as she had told Mrs. Lathern, that an explanation would not be accepted. Mrs. Lathern then stated that there was a reason for the late payments and that they had experienced a "family problem." Ms. Daniels said "I'm sorry, we (NationsBanc Mortgage) can't do the loan."

63. Later that day, Mr. Lathern called Ms. Daniels. During their conversation, Mr. Lathern reminded Ms. Daniels that they had a good payment record on most of their accounts and an explanation for Mrs. Lathern's late payments. Ms. Daniels said there was "no way" an explanation would reverse the defendants' decision. Mr. Lathern then proposed that the loan be made only in his name since his credit report had no late payments. This proposal was summarily rejected by Ms. Daniels. At no time during this or any other discussion did Ms. Daniels suggest that the Latherns pay off the $23 revolving account in its entirety, a step that the Latherns were willing to take.

64. As a result of defendant NationsBanc Mortgage's refusal to approve the Latherns' loan application, Mr. and Mrs. Lathern lost their opportunity to purchase the house they wanted on Deka

Road in Clinton, Maryland. Shortly thereafter, and while searching for another house, the Latherns attended a loan fair at the Washington Convention Center sponsored by Fannie Mae. Representatives of several Washington, D.C. area lenders who attended the fair reviewed the Latherns' financial situation and encouraged them to apply for mortgage loans at their respective institutions. Approximately six or seven of these lenders subsequently called the Latherns to solicit a mortgage application from them.

65. In the Summer of 1994, Mr. and Mrs. Lathern found another home they wanted to purchase in Upper Marlboro, Maryland and applied for a loan at one of the lenders that contacted them after the loan fair. The Latherns were approved for this loan in less than thirty days from the date they submitted their application.

2. Discriminatory Application of FNMA Underwriting Guidelines to the Latherns

66. Fannie Mae mortgage underwriting guidelines emphasize the need for a balanced assessment of loan applications from individuals with credit reports that contain derogatory items such as late payments. The guidelines make clear that the number and size of accounts the borrower maintains in good standing should be considered, along with the age and size of any accounts with late payments, and the frequency and severity of the late payments. The guidelines state that favorable consideration should be given to borrowers who correct accounts with late

payments and re-establish acceptable payment histories. Unpaid collections or judgments, for example, are not necessarily disqualifying provided they are satisfied prior to settlement.

67. Fannie Mae guidelines and publications also recognize that collection problems related to payments owing for medical treatment may result from the borrower's lack of understanding of medical insurance coverage. The guidelines provide that borrowers with late payments and other derogatory references on their credit reports, whether recent or not, should be given the opportunity to explain in writing the reasons for the derogatory items.

68. These principles and guidelines were not fairly applied to the Latherns. Mr. Lathern's credit report was spotless; he had no late payments on any accounts in his name. These accounts included monthly rental payments in the amount of $633, a $16,000 car loan the Latherns jointly held with the Navy Credit Union, and an earlier joint loan for $7,500 from the same credit union that had been paid back in full.

69. Mrs. Lathern's credit report showed six accounts with no late payments, five of which were also with the Navy Credit Union. The only late payments listed on her credit report involved: (1) a small revolving account she had maintained with a nationwide retailer since 1988 which was current at the time of her application with defendant NationsBanc Mortgage and on which her payment obligations were only $23 per month; and (2) several thirty-day late payments on three other small revolving retail

accounts with monthly payments ranging from $25 to $40. Each of these accounts was current at the time the Latherns applied for a loan with defendants. Mrs. Lathern's credit report also showed a collection for a disputed $319 medical bill that was incurred in 1989 but had been paid off for purposes of the NationsBanc Mortgage loan application.

70. Had she been permitted the opportunity to explain the reasons for these late payments to defendants, Mrs. Lathern would have advised the defendants, at a minimum, of the following explanations for the derogatory items on her credit report:

a. The $319 collection was based on the failure of the Latherns' insurance carrier to cover certain surgical costs incurred in November, 1988 during the birth of their child. The Latherns presented the bill to the insurance company in 1989, were told by the insurance company it would be covered, and received no notice that the company had declined coverage.

b. Some of the late payments were the result of errors by creditors in posting payments. While the Latherns' application was being processed by NationsBanc Mortgage, Mrs. Lathern obtained a written acknowledgement from one of the creditors of errors that had resulted in the erroneous reporting of two thirty-day late payments in December, 1993 and January, 1994.

c. Other late payments, most notably those on the $23 retail account, stemmed from a series of unforeseen and extenuating circumstances that adversely affected the Latherns' family budget. In 1990, Mrs. Lathern suffered family tragedies involving the deaths of her aunt and grandmother within a four-month period. Funeral expenses, coupled with added expenses resulting from the unforeseen need to care for her mother, placed an unexpected strain on the family budget. At or about the same time, the Latherns were victims of two burglaries which resulted in the loss of valuable household appliances not covered by insurance. The cumulative effects of these unforseen events caused Mrs. Lathern temporarily to fall behind in her payments on several accounts.

d. Notwithstanding these unexpected financial burdens, all of which had abated by the time of their loan application with defendants, the Latherns continued to make timely payments on their rent and other major credit obligations.

71. Applying Fannie Mae guidelines, Ronald and Bridgette Lathern were qualified for the loan they sought from NationsBanc Mortgage. On information and belief, the Latherns were as qualified as similarly situated whites who received mortgage loans from defendants. In processing the Latherns' loan application, defendants applied their underwriting standards with

racially discriminatory animus for the purpose of denying the Latherns equal treatment on the basis of race.

C. Discriminatory Failure or Refusal to Consider Qualifying Part-Time Income of African-American Applicants, or Otherwise Assist African-American Applicants in Lowering Debt-to-Income Ratios to Permit Approval of Home Mortgage Loans: Robert E. Whaley, Jr.

72. Robert Whaley was rejected by defendant NationsBanc Mortgage for a $58,700 home mortgage loan to purchase a house at 6511 Valley Park Road in Capitol Heights, Maryland. The house is located in a predominately black, middle class area of Prince George's County, Maryland.

73. Mr. Whaley was rejected allegedly because his debt-to-income ratios were too high. As set forth in paragraphs 74-97 below, in rejecting Mr. Whaley, defendants refused to consider qualifying wage raises and part-time income that would have brought his ratios within an acceptable range, and refused to permit or otherwise failed to advise Mr. Whaley about the use of commonly accepted alternative means available to reduce his ratios, such as paying off existing consumer debt. Defendant NationBanc Mortgage's decision to deny Mr. Whaley a loan in this manner was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On information and belief, NationsBanc Mortgage's treatment of Mr. Whaley was less favorable than that accorded similarly situated white loan applicants.

1. Mr. Whaley's Efforts to Obtain a Loan From NationsBanc Mortgage

74. Robert Whaley is a native of Southeast Washington, D.C. Mr. Whaley attended Phelps High School in the District of Columbia, and in 1986 graduated from the University of Maryland with a B.S. in accounting and computer science.

75. At the time he applied for a loan with NationsBanc Mortgage in May, 1994, Mr. Whaley was in the third year of a five-year electrician apprenticeship program offered by the International Brotherhood of Electrical Workers (IBEW). Mr. Whaley began the apprenticeship program in 1992 after working for C & P Telephone as a service representative. Mr. Whaley enrolled in the apprenticeship program in part because of the high wages and job stability the position offered. The program provided guaranteed pay for 40 hours of work per week and the opportunity for journeyman pay at the completion of the program.

76. On or about January, 1994, Mr. Whaley located a house on Valley Park Road in Capitol Heights, Maryland that he wanted to purchase. At that time, Mr. Whaley was renting an apartment on Minnesota Avenue in the District of Columbia. In early May, 1994, Mr. Whaley contracted to purchase the Valley Park Road property for $61,800.

77. After signing the contract, Mr. Whaley carefully reviewed the home mortgage market to determine which lender to apply to for a loan. Mr. Whaley decided to apply to NationsBanc Mortgage, in part because he hoped to take advantage of the low down payment required under the ACORN program.

78. On or about May 2, 1994, Mr. Whaley went to the ACORN office in Southeast Washington, D.C. and met with Vicky Sifrit, an ACORN loan counselor. Ms. Sifrit reviewed Mr. Whaley's credit history and calculated his debt-to-income ratios. She found both acceptable, and told Mr. Whaley he should have no problem obtaining approval for a loan from NationsBanc Mortgage.

79. On the recommendation of Ms. Sifrit, Mr. Whaley enrolled in the ACORN program and signed up for the required credit counseling classes. On or about May 18, 1994, Mr. Whaley successfully completed the credit counseling classes.

80. Shortly after his first visit to the ACORN office, Mr. Whaley went to defendants' Greenbelt, Maryland office to apply for the loan. There, Mr. Whaley spoke with Jean Marice who, on information and belief, was at the time a loan officer employed by defendant NationsBanc Mortgage. Mr. Whaley completed an application for a 30-year fixed rate conventional loan in the amount of $58,700 at an interest rate of 7.625 percent. The terms of the loan required Mr. Whaley to make a down payment of 5 percent of the purchase price of the house. At the time, Mr. Whaley had more than $10,000 in liquid assets, which would have been more than sufficient to pay both the down payment and the anticipated closing costs.

81. During the meeting with Ms. Marice, Mr. Whaley produced copies of his W-2 forms. Mr. Whaley explained to Ms. Marice both the amount of income he earned under the apprenticeship program, and the amount of additional income he had regularly earned since

1992 from a part-time job as a bus driver. At no point did Ms. Marice indicate that Mr. Whaley's debt-to-income ratios would be a problem.

82. At that same meeting, Ms. Marice carefully reviewed Mr. Whaley's credit report. Ms. Marice questioned Mr. Whaley closely about late payments reported on several accounts in 1992. Mr. Whaley explained that these delinquencies occurred shortly after job layoffs had left him temporarily unemployed. This was before Mr. Whaley was accepted into the IBEW apprenticeship program. Mr. Whaley pointed out that since enrolling in the IBEW program he had an exemplary record of timely payments on his credit accounts. At the conclusion of the meeting, Ms. Marice appeared fully satisfied with this explanation.

83. On information and belief, shortly after the meeting with Ms. Marice, Mr. Whaley's application was sent to defendants' office in Charlotte, North Carolina for review by NationsBanc Mortgage underwriters.

84. Upon receipt of the application in Charlotte, NationsBanc Mortgage officials called Mr. Whaley repeatedly to request various documents. Included in these requests was a demand for written confirmation of a wage increase Mr. Whaley had been scheduled to receive under the apprenticeship program in May, 1994, and a demand for verification of his bank account balance. Mr. Whaley promptly complied with both of these requests. Despite the requests for additional documentation, NationsBanc Mortgage officials continued to assure Mr. Whaley

throughout this time period that they expected his application to be approved.

85. Having heard nothing from NationsBanc Mortgage about his loan for several weeks, and with his scheduled settlement date only a few days away, Mr. Whaley called defendants' office in Charlotte, North Carolina to inquire about the status of his application. During that telephone call, Mr. Whaley was told that his loan request had been denied because his total debt-to-income ratio was too high. Mr. Whaley was further told that in calculating his ratios the bank had decided not to include the income from his part-time job as a bus driver.

86. Stunned at this turn of events, Mr. Whaley offered both to provide further verification of his part-time income and to pay off up to $3,000 of his consumer debts if that would help to lower his debt ratios so that he could qualify for the loan. NationsBanc Mortgage officials responded by telling Mr. Whaley that his part-time income would not be counted regardless of the verification provided, and that reduction of consumer debt would not help him to qualify because "revolving debt" could be "run-up" again.

87. Following this conversation, Mr. Whaley received no further communication from defendants, oral or otherwise, until December, 1994, when he received a letter from defendants post-marked December 15, 1994, advising him that he had been rejected for the loan as of June 22, 1994. The letter did not state any specific reasons for the rejection.

88. As a result of NationsBanc Mortgage's refusal to approve Mr. Whaley's loan application, Mr. Whaley lost his opportunity to purchase the house he wanted on Valley Park Road.

2. Discriminatory Application of FNMA Underwriting Guidelines to Robert Whaley

89. Fannie Mae underwriting guidelines provide that part-time or second job income may be used to qualify applicants for conventional loans if that income can be verified for the past two years and is likely to continue. For purposes of calculating debt-to-income ratios, Fannie Mae underwriting guidelines also permit the conversion of hourly rates to gross monthly income by multiplying the hourly income by the number of hours worked per week, and then multipling that number times the number of weeks in a year (52). The final sum is then divided by 12 to arrive at the gross monthly income.

90. Applying these standards, Mr. Whaley easily qualified for the loan requested. Proper calculation of his debt ratios under these guidelines reveals that his ratios were within established federal underwriting guidelines for the loan he sought with NationsBanc Mortgage.

91. At the time he submitted his application, Mr. Whaley's hourly wage under the apprentice program was $11.10. As of May 1994, Mr. Whaley was scheduled to receive a guaranteed raise that would increase his hourly wage to $13.32 per hour. The raise was scheduled to take effect before the scheduled closing date. As expected, Mr. Whaley received the raise.

92. Using a wage rate of $13.32 per hour, and factoring in the 40 hour work week guaranteed under the apprentice program, Mr. Whaley's monthly housing expense and total debt-to-income ratios would have been within established federal underwriting guidelines for both conventional and ACORN program loans at 24 and 36.9 percent, respectively.

93. Mr. Whaley had proper documentation for income from his part-time job for two years prior to his application, and there was more than sufficient indication that this part-time employment was likely to continue. Under Fannie Mae guidelines this income should have been counted by NationsBanc Mortgage in qualifying Mr. Whaley for the loan. If that income, which amounted to $4,241 per year, had been used to calculate Mr. Whaley's debt-to-income ratios, his monthly housing expense and total debt-to-income ratios would have fallen even lower to approximately 20.8 and 32 percent, respectively.

94. The calculation described in paragraphs 92 and 93 above assumes an hourly wage that includes the expected May, 1994 raise. Even if, however, one uses the hourly wage without the raise, the addition of Mr. Whaley's part-time income results in debt ratios that are within established federal underwriting guidelines at 24.3 and 37.5 percent, respectively, for the loan he sought at NationsBanc Mortgage.

95. None of the above calculations reflects the fact that Mr. Whaley offered and was refused an opportunity to pay off as much as $3,000 of his outstanding debts. Had he been permitted

to use his liquid assets to make such payments, his debt ratios would have been even lower.

96. Applying FNMA guidelines, Mr. Whaley was qualified for the loan he sought from NationsBanc Mortgage. On information and belief, Mr. Whaley was as qualified as similarly situated whites who received mortgage loans from the defendants. By refusing to include qualifying wage raises and part-time income in the calculation of Mr. Whaley's debt ratios, and in refusing to consider legitimate alternatives designed to reduce the ratios, defendants acted with racially discriminatory animus for the purpose of denying Mr. Whaley equal treatment on the basis of race.

97. By failing or refusing to provide Mr. Whaley with timely written notification of defendant's loan decision and with an opportunity to request a timely written statement of the reasons for the rejection, defendants acted in violation of the Equal Credit Opportunity Act.

D. Discriminatory Failure or Refusal to Apply Traditionally Accepted Underwriting Guidelines to African-American Applicants, Including Those Dealing with Evaluation of Credit History, Explanations for Late Payments, Evaluation of Debt Ratios, and Consideration of Alternative Types of Loans: Cheryl R. Jenkins

98. Cheryl Jenkins was rejected by defendant NationsBanc Mortgage for an $80,750 home mortgage loan to purchase a house at 6837 Forest Terrace in Landover, Maryland. The house is located in a majority black, middle class area of Prince George's County, Maryland.

99. Ms. Jenkins was rejected allegedly because of late rent payments, high debt-to-income ratios, and a lack of funds to "close the loan." As set forth in paragraphs 100-116 below, in rejecting Ms. Jenkins, defendants refused to consider a variety of compensating factors, including substantial liquid assets, credible explanations for late payments, and the willingness and ability of Ms. Jenkins to pay off existing debts to reduce her ratios, that would have qualified her for the loan she sought. In addition, defendants refused to permit or otherwise failed to advise Ms. Jenkins about the use of commonly accepted alternative loan products that would have allowed her to purchase the house she wanted. Defendant NationBanc Mortgage's decision to deny Ms. Jenkins a loan in this manner was neither mandated by, nor consistent with, federal underwriting guidelines or defendants' own practice. On information and belief, NationsBanc Mortgage's treatment of Ms. Jenkins was less favorable than that accorded similarly situated white loan applicants.

1. Ms. Jenkins' Efforts to Obtain a Loan From NationsBanc Mortgage

100. Cheryl Jenkins is a native of the District of Columbia. Ms. Jenkins graduated from Roosevelt High School in Northwest Washington, D.C. After finishing high school, Ms. Jenkins completed one and one-half years of undergraduate courses at the University of the District of Columbia and Strayer College.

101. At the time she applied for a loan with NationsBanc

Mortgage in October, 1993, Ms. Jenkins was employed as a secretary at the National Institutes of Health (NIH) in Rockville, Maryland. Ms. Jenkins had held this position for five years. Prior to working at NIH, Ms. Jenkins was employed for four years as a secretary at Walter Reed Medical Center in the District of Columbia. As of October 1993, Ms. Jenkins' gross annual income, including child support, was approximately $27,528.

102. In the Summer of 1993, Ms. Jenkins concluded that it was an appropriate time for her to purchase a house. Interest rates were sufficiently low to make owning a house affordable for her, and Ms. Jenkins wanted to enjoy the benefits and tax advantages of home ownership. At the time, Ms. Jenkins lived in a rental apartment in Greenbelt, Maryland.

103. On or about this same time, Ms. Jenkins learned about the ACORN program. To prepare herself for the responsibilities of home ownership and to improve her chances of qualifying for a home mortgage loan, Ms. Jenkins enrolled in the ACORN program. In September, 1993, Ms. Jenkins was "pre-qualified" by ACORN for a loan of up to $89,715. In October, 1993, Ms. Jenkins successfully completed the ACORN credit counseling classes.

104. While enrolled in the ACORN program, Ms. Jenkins identified a house on Forest Terrace in Landover, Maryland that she wanted to purchase. On October 24, 1993, Ms. Jenkins contracted to purchase the property for $85,000.

105. Pursuant to the terms of the ACORN program, on October

27, 1993, Ms. Jenkins went to the NationsBanc Mortgage office in Greenbelt, Maryland to apply for a loan. There, Ms. Jenkins met with Carole Miller who, on information and belief, was at the time employed by defendants as a loan processor at their Greenbelt office.

106. Ms. Miller told Ms. Jenkins that despite the fact she had been pre-qualified for a loan of up to $89,715, NationsBanc Mortgage would only permit her to apply for a 30-year fixed rate loan of $80,750 at 6.125 percent interest, with a required down payment of 5 percent. Ms. Miller stated that NationsBanc Mortgage would offer Ms. Jenkins a separate five-year unsecured loan at an interest rate of 10.75 percent to pay for part of the down payment and closing costs.

107. During the meeting, Ms. Miller stated that she foresaw no problems for Ms. Jenkins in qualifying for the loan. This assessment was supported by the fact that (1) Ms. Jenkins' credit report listed a total of eight accounts with no late payments; (2) the loan would require monthly payments, including taxes and insurance, that were approximately $118 less than Ms. Jenkins was currently paying in rent; and (3) Ms. Jenkins' monthly housing expense and total debt-to-income ratios, as calculated under the terms of both the home mortgage and unsecured loan, fell within accepted federal underwriting guidelines at approximately 28 and 37 percent, respectively.

108. On information and belief, shortly after Ms. Jenkins met with Ms. Miller, Ms. Jenkins' loan application was sent for

review to underwriters at NationsBanc Mortgage in Charlotte, North Carolina.

109. In early November, 1993, Ms. Jenkins received a telephone call from Deborah Fields-Pittman, a NationsBanc Mortgage loan processor in Charlotte, North Carolina. Notwithstanding the fact that credit reports typically list all instances where a rental payment is more than 30 days late, Ms. Fields-Pittman told Ms. Jenkins that the bank had not been able to verify her rental payment history and that Ms. Jenkins would have to submit a record of her rental payments for the past two years.

110. Ms. Jenkins complied immediately with this request. The rental payment record that she promptly submitted to Ms. Fields-Pittman showed that every rental payment had been made within 30 days after it was due, but that she had been charged a late fee by her landlord on certain occasions for rental payments that had ranged from two to twelve days late. Only one rental payment was more than twelve days late, and that was paid 22 days after it was due.

111. Shortly thereafter, Ms. Fields-Pittman telephoned Ms. Jenkins to ask her about the late rental charges. Ms. Jenkins explained they were due to an unforeseen medical leave that she had been forced to take from work after losing her child at birth. Because she did not have enough sick leave to cover the entire time that she was unable to work, Ms. Jenkins suffered a temporary loss of income that made it impossible for her to pay

her rent precisely on the first of each month. Notwithstanding her medical situation, Ms. Jenkins continued to make timely payments on all of her other accounts.

112. Upon hearing this explanation, Ms. Fields-Pittman told Ms. Jenkins she would have to submit it in writing. She also suggested that Ms. Jenkins agree to have her monthly mortgage payments automatically deducted from her government salary checks in order to satisfy concerns NationsBanc Mortgage might have about the possible risk of late mortgage payments. Ms. Jenkins immediately agreed to this suggestion. Accordingly, on or about November 22, 1993, Ms. Jenkins faxed to Ms. Fields-Pittman letters explaining the reasons for the late charges on her rent payments and authorizing automatic withdrawal of her future monthly mortgage payments from her pay check.

113. At or about this same time, Ms. Fields-Pittman advised Ms. Jenkins that NationsBanc Mortgage had erred in calculating the monthly payments on her unsecured loan when Ms. Jenkins had intially met with Ms. Miller. Ms. Fields-Pittman stated that the monthly payments on the unsecured loan would be approximately $100 higher than had first been thought. At no time did Ms. Fields-Pittman state that this additional payment would leave Ms. Jenkins unqualified for the loan. In fact, as Ms. Fields-Pittman was well aware, Ms. Jenkins had more than enough liquid assets to reduce her monthly debt by a minimum of $100 to compensate for any rise in her debt ratios caused by the miscalculation. Notwithstanding all of this, Ms. Fields-Pittman

told Ms. Jenkins that the matter "would be taken care of," leading Ms. Jenkins to conclude that NationsBanc Mortgage intended to honor its original cost calculation.

114. In December, 1993, Sarah Haymond, a NationsBanc Mortgage employee in Charlotte, North Carolina, telephoned Ms. Jenkins and informed her that the bank had rejected her loan application because she lacked sufficient funds to pay closing costs. Ms. Jenkins was shocked and perplexed. At the time she had liquid assets of approximately $8,000 and closing costs had been estimated by defendants to be only $2,211. No one from NationsBanc Mortgage had previously indicated any concerns about her ability to pay these costs.

115. Ms. Jenkins immediately called Ms. Fields-Pittman in Charlotte to corroborate what she had been told. Ms. Fields-Pittman stated that the bank had rejected Ms. Jenkins because of the late rental payments and because she had insufficient funds to pay closing costs. On or about December 9, 1993, approximately eight days before she was scheduled to close on her house, Ms. Jenkins received a form notice from defendants stating that her loan request had been denied because of an "unacceptable payment record on a previous mortgage," "excessive obligations in relation to income," and "insufficient funds to close the loan."

116. Less than two months after defendants rejected Ms. Jenkins' loan application, Ms. Jenkins obtained a 30-year fixed rate loan from another lender to purchase the house she wanted in Landover, Maryland. For this loan, Ms. Jenkins paid $2,768 in

closing costs, approximately $557 more than she would have paid with the NationsBanc Mortgage loan. Since receiving this loan, Ms. Jenkins has maintained an exemplary record of timely mortgage payments.

2. Discriminatory Application of FNMA Underwriting Guidelines to Cheryl Jenkins

117. Fannie Mae underwriting guidelines and publications recognize that late payments, even those that result in foreclosure, should not disqualify a borrower if they are the result of extenuating circumstances that were beyond the control of the borrower. The guidelines include an illness or medical condition, like that which struck Ms. Jenkins, as an example of an extenuating circumstance that can cause a temporary loss of income.

118. Fannie Mae underwriting guidelines and publications also state that payment histories on prior mortgages or rental agreements should be reviewed to determine whether any payments are late by 30 or more days. There is no requirement that late fees of the type charged by Ms. Jenkins' landlord be held against a mortgage loan applicant.

119. These principles and guidelines were not fairly applied to Ms. Jenkins. Ms. Jenkins was charged late fees for rent payments that in all but one case were no more than twelve days late, and in no case were more than 30 days late. Notwithstanding this fact, Ms. Jenkins satisfied federal underwriting guidelines by explaining to defendants in writing that the late payments were the product of a non-recurring

medical condition that resulted in a temporary loss of income. Even if concerns remained after having received this explanation, disqualification of Ms. Jenkins on this basis makes no sense in light of the fact that she had also agreed, in writing and at the defendants' request, to an automatic direct withdrawal of all mortgage payments for the loan from her federal government paycheck.

120. With respect to Ms. Jenkins' alleged "excessive obligations in relation to income," it is clear that even after incorporating the error made by defendants in calculating Ms. Jenkins' monthly payments under the terms of the unsecured loan, her total debt-to-income ratio was still within an acceptable range, given the existence of compensating factors.

121. Fannie Mae underwriting guidelines permit the approval of applications for mortgage loans by borrowers with total debt-to-income ratios that exceed the 36 to 38 percent standard for conventional and special program loans where there exists a demonstrated ability to accumulate savings, the credit history is acceptable, and the applicant has liquid assets after deducting closing costs that equal two months of housing payments.

122. Ms. Jenkins met these standards. Since at least 1991, Ms. Jenkins has arranged for approximately $200 to be deducted from her salary each month for direct deposit into her savings accounts. At the time of her application to NationsBanc Mortgage, she had purchased United States Savings Bonds valued at approximately $2,115, and had invested an additional $2,152 in a

tax-exempt municipal bond fund. Throughout this time, defendants' own credit report indicates that Ms. Jenkins maintained timely payments on all of her credit accounts. Ms. Jenkins had sufficient liquid assets to pay the estimated closing costs and two months of housing payments.

123. Even if these compensating factors were not sufficient to qualify Ms. Jenkins, she had more than sufficient liquid assets to pay off enough outstanding consumer debt to lower her monthly payment obligations by at least $100 per month, thereby lowering her total debt-to-income ratio back to the original 37 percent. At no point prior to denying her loan request did defendants suggest that she use a portion of her liquid assets for this purpose.

124. With respect to defendants' concerns about Ms. Jenkins' alleged lack of funds to pay closing costs, Ms. Jenkins in fact had more than sufficient funds to pay for all of the costs NationsBanc Mortgage estimated would be required for settlement. Yet even assuming Ms. Jenkins lacked funds, which she did not, at no point during the loan application process did defendants raise the possibility of pursuing other types of loans offered by NationsBanc Mortgage that would have eliminated any possible concerns about her ability to pay closing costs. Ms. Jenkins was qualified for an FHA loan, for example, that would have permitted up to 57 percent of closing costs to be financed as part of the loan.

125. Applying FNMA guidelines, Ms. Jenkins was qualified

for the loan she sought from NationsBanc Mortgage. On information and belief, Ms. Jenkins was as qualified as similarly situated whites who received mortgage loans from defendants. By refusing to consider a variety of compensating factors, including a proper explanation for marginally late rent payments, a willingness to arrange for direct deposit of her mortgage payments, and substantial liquid assets, defendants acted with racially discriminatory animus for the purpose of denying Ms. Jenkins equal treatment on the basis of race.

E. Discriminatory Failure or Refusal to Apply Traditionally Accepted Underwriting Guidelines to African-American Applicants, Including Refusal or Failure to Consider Explanation for Late or Delinquent Payments on Credit Report: William L. and Ruth B. Powers

126. William and Ruth Powers were rejected by defendants in December, 1994 for a re-finance loan on their house at 5915 8th Street in Northeast Washington, D.C. The Powers' house is located in a predominately black area of the District of Columbia.

127. The Powers were rejected allegedly because of late mortgage and credit card payments listed on their credit report. As set forth in paragraphs 128-141 below, the Powers had a proper explanation for these late payments, but the defendants did not allow them to give this explanation before rejecting their application. Defendants' decision to deny the Powers a loan in this manner was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On

information and belief, defendants' treatment of the Powers was less favorable than that accorded similarly situated white loan applicants.

128. William Powers has lived in the District of Columbia for more than 30 years. Mr. Powers received a B.S. and an M.B.A. from Boston University. He completed his education at Boston University in 1955. Mr. Powers has worked as a tax accountant for more than 20 years. For the last twelve years, he has operated his own consulting business. One important component of this business is tax accounting.

129. Ruth Powers is married to William Powers. In 1987, Mrs. Powers retired from her position as a head nurse at Howard University Hospital. At the time of her retirement, Mrs. Powers had worked as a nurse at Howard University for thirty years. Since 1988, Mrs. Powers has run a health care business in Kannapolis, North Carolina which she owns jointly with Mr. Powers.

130. In December, 1994, the Powers decided to apply to defendants for a 15-year term $63,800 re-finance loan offered by defendants at 8 percent interest. The Powers selected defendants because it was the institution that serviced their existing mortgage, and because they had a checking account with NationsBank. The Powers' existing mortgage was originally obtained through Suburban Trust, a predecessor bank that was ultimately acquired by defendants in 1991. For approximately 10 years the Powers had made payments on this mortgage, reducing the

principal over that time from $42,000 in 1984 to $34,000 in 1994. The primary purpose of seeking the loan in December of 1994 was to take advantage of lower interest rates. It was the Powers' intention to use the loan to re-finance the remaining principal of their existing mortgage, and to obtain an additional $29,800 in the form of a home equity line of credit.

131. The Powers submitted their application on or about December 1, 1994 at the NationsBank branch in Hyattsville, Maryland where they had their checking account. Mr. Powers spoke with Pat Gregg, who on information and belief was at that time an employee of NationsBank at the Hyattsville branch. Ms. Gregg reviewed the Powers' application and told Mr. Powers to provide the bank with documentation of the assessed value of their house, their existing mortgage, and homeowners' insurance. During this meeting, Ms. Gregg did not advise Mr. Powers of any problems she anticipated in obtaining approval for his loan request.

132. At the time of their application, the Powers' house on 8th Street had an estimated tax-assessed value of $115,759, and their combined gross income exceeded $85,000. The Powers' income included over $40,000 in earnings from Mr. Powers' accounting business, Mrs. Powers' retirement income, and income from the family health care business. The Powers' net worth exceeded $200,000.

133. On their loan application form, the Powers reported a monthly gross income of approximately $5,530. While this amount underestimated Mr. Powers' total 1994 gross income from his

accounting business, it adjusted for a reduced income in 1992 and 1993 that had been caused by illnesses which kept him from working full-time. Even with this conservatively estimated statement of income reported on their application, the Powers' housing and total debt-to-income ratios were both unusually low and well within Fannie Mae guidelines at approximately 13 and 30 percent, respectively.

134. Approximately two weeks after submitting their application to Ms. Gregg, and while still in the process of collecting the documentation that she had requested, the Powers received a letter from defendants stating that their application had been rejected because of information contained in their credit report. The letter did not specify precisely what credit information had caused the defendants to reject the loan.

135. At the time of their application, the Powers' credit report showed that in a concentrated six-month span in 1992 they were thirty days late on their mortgage payments five times, and sixty days late one time. The report also showed that during the same approximate time period in 1992 the Powers had a handful of late payments on one revolving account with a Washington, D.C. area retailer.

136. All of these late payments, however, were due to unforeseen and unexpected medical illnesses that struck Mr. Powers during an approximate six-month period in 1992. Mr. Powers suffered a heart attack that limited his ability to work in 1992 and early 1993. During this same time he was also

immobilized for over two months by rheumatoid arthritis, and underwent hip replacement surgery. For this procedure he was hospitalized and then subjected to ten weeks of painful recovery at home.

137. These unexpected illnesses substantially reduced the income that Mr. Powers was able to earn from his accounting business in 1992 and early 1993. This shortfall in income caused the Powers temporarily to fall behind on their mortgage payments and some credit accounts. By the time of their application to NationsBank, however, Mr. Powers had fully recovered from his illnesses and resumed full-time work.

138. Since the time of these illnesses, the Powers' credit report reflects an exemplary record of timely mortgage payments. Indeed, other than the late payments discussed above, the only other derogatory items on the Powers' credit report concern several late payments on a credit card account in 1988 that resulted from bills incurred by a third party without his permission.

139. Fannie Mae underwriting guidelines and publications recognize that late mortgage payments, even those that result in foreclosure, should not disqualify a borrower if they are the result of extenuating circumstances that were beyond the control of the borrower and the borrower has recovered and re-established good credit. The guidelines include an illness, like that suffered by Mr. Powers, as an example of an extenuating circumstance that can cause a temporary loss of income.

140. Despite these clear guidelines, defendants refused or failed to provide the Powers with an opportunity to explain the late payments on their credit report. Had they been given a proper opportunity to discuss the matter with the bank, the Powers would have explained, at a minimum, that the late payments stemmed from unforeseen medical circumstances that caused them temporarily to fall behind on their payments and not from a lack of care, concern, or respect for their financial obligations.

141. William and Ruth Powers were qualified for the loan they sought from NationsBank. On information and belief, the Powers were as qualified as similarly situated whites who received loans from defendants. In processing and evaluating the Powers' loan application, and in failing to provide the Powers' with an opportunity to explain derogatory items on their credit report, defendants acted with racially discriminatory animus for the purpose of denying the Powers equal treatment on the basis of race.

F. Discriminatory Failure or Refusal to Apply Traditionally Accepted Underwriting Guidelines, Including Those Dealing with Personal Bankruptcy, to African-American Applicants: Beverly A. Dickerson

142. Beverly Dickerson was rejected twice by defendants for a home equity re-finance loan on a house at 10800 Waco Drive in Upper Marlboro, Maryland. The rejections occurred in 1992 and again in 1994. The house that was to serve as the collateral for the loan is located in an integrated, middle class area of Prince George's County, Maryland.

143. On both occasions, Ms. Dickerson was rejected allegedly because of a personal bankruptcy that occurred in 1986. As set forth in paragraphs 144-166 below, in each case Ms. Dickerson was rejected without any opportunity to explain the circumstances that led to the bankruptcy, and without regard for information in her credit reports showing that she had fully recovered from the bankruptcy, re-established excellent credit, and was able to obtain loans from other lenders. Defendants' decision to deny Ms. Dickerson a loan in this manner was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On information and belief, defendants' treatment of Ms. Dickerson was less favorable than that accorded similarly situated white loan applicants.

144. Ms. Dickerson is a native of the District of Columbia. She received a high school equivalency degree through Armstrong High School in the District of Columbia. In 1980, Ms. Dickerson received a degree in accounting from Prince George's County Community College, and in 1990 Ms. Dickerson was graduated from the National-Louis University with a degree in business management.

145. At both times when Ms. Dickerson applied for a loan with defendants she was employed as a GS-13 budget analyst by the U.S. Department of the Navy at the Naval Supply Systems Command in Arlington, Virginia. Ms. Dickerson began her career as a clerk typist at the Internal Revenue Service in 1974 and has worked continuously for the federal government since that time.

Following the completion of her decree in accounting, Ms. Dickerson took a new position as an accountant at the Department of Education. In 1985, Ms. Dickerson transferred to her current job as a budget analyst with the Department of the Navy. Her annual gross income in 1992 was approximately $55,450, and in 1994 approximately $63,256. Ms. Dickerson has consistently received outstanding ratings for her work at the Naval Supply Systems Command; these commendations have included numerous cash awards and a special award for outstanding service.

146. Until 1985, Ms. Dickerson had an exemplary record of timely credit payments. In the Spring of 1985, however, a series of unforeseen events disrupted her life. First, in April, 1985 she underwent surgery and was hospitalized for two weeks. The surgery resulted in six weeks of recovery at home. Pre-occupied with her medical condition, Ms. Dickerson was unaware that at this time a series of unauthorized withdrawals from her checking account and unauthorized charges on her credit card were made by both her son and boyfriend. The withdrawals by the boyfriend were the result of a need to satisfy a compulsive gambling habit. The charges and withdrawals by the son were made to satisfy an incipient drug problem. These charges and withdrawals caused Ms. Dickerson, through no fault of her own, to fall far behind in her credit payments.

147. Upon realizing the financial predicament that she faced, Ms. Dickerson decided to consult with a lawyer. Her attorney advised her that she had no option but to declare

bankruptcy. Accordingly, Ms. Dickerson filed for bankruptcy on or about March, 1986.

148. The bankruptcy was discharged in August, 1986. That same year, her son successfully completed a six-month drug treatment program. He has since completed college, and started on a career as a civilian draftsman for the United States Army. Thus, the period of time during which her son was the source of financial disruption was limited to 1985; he has long since ceased to be a cause of financial concern for Ms. Dickerson.

149. After realizing the financial danger posed by her boyfriend's gambling habit, Ms. Dickerson promptly blocked further access by him to her charge and checking accounts. Her relationship with this individual was terminated long ago, and he has long since ceased to be a cause of financial concern for Ms. Dickerson.

150. By the Summer of 1985, Ms. Dickerson had fully recovered from her surgery and resumed her distinguished career with the Navy. With her return to health and with the filing of the bankruptcy, Ms. Dickerson diligently set about to repair her credit rating.

151. Fannie Mae underwriting guidelines specifically provide that mortgage loans may be made to persons with prior bankruptcies provided that: (1) the bankruptcy is fully discharged; (2) at least two years have elapsed between the discharge and the mortgage application; and (3) the borrower re-establishes good credit and demonstrates an ability to manage her

financial affairs. The guidelines also provide that applicants, such as Ms. Dickerson, should be given an opportunity to explain in writing the circumstances that caused the bankruptcy.

152. From the Fall of 1986 to 1991, Ms. Dickerson re-established her credit, making appropriate payments on her existing charge accounts and opening new ones.

153. In November, 1987, her hard work began to pay off. Ms. Dickerson was approved for a car loan in the amount of $13,050. In October, 1991, she applied and was approved for a $129,000 mortgage loan with Margaretten & Company. This loan enabled her to purchase a house at 10800 Waco Drive in Upper Marlboro, Maryland.

154. On or about October, 1992, Ms. Dickerson decided to re-finance her mortgage loan to take advantage of lower interest rates. Ms. Dickerson also wanted to obtain an additional $10,000 to re-model her kitchen. Because she had a checking account with defendants, Ms. Dickerson decided to apply for the re-finance loan with defendants.

155. At the time she applied for the loan with defendants in 1992, Ms. Dickerson was paying interest at a rate of 9 percent on her existing mortgage. Had defendants approved her loan request, her interest rate would have been signficantly lower. Both her monthly housing and total debt-to-income ratios were well within industry guidelines at approximately 25 and 28 percent, respectively.

156. To apply for the loan with defendants, Ms. Dickerson

completed an application form and submitted it, along with supporting documentation, to defendants' office in Rockville, Maryland. Shortly thereafter, Ms. Dickerson received written notice from defendants stating that her application had been rejected.

157. Concerned about the rejection, Ms. Dickerson called defendants to inquire why her loan had been denied. A NationsBank official told her that it was the bank's policy not to make loans to individuals who had filed for bankruptcy. At no time during this call, or during the entire application process with NationsBank in 1992, was Ms. Dickerson asked or given an opportunity to explain the reasons for her bankruptcy.

158. In June, 1994, Ms. Dickerson attended a loan fair sponsored by defendants to discuss the bank's loan products. At the fair Ms. Dickerson inquired whether a bankruptcy filing eight years in the past would disqualify her for a re-finance loan. Officials of NationsBank assured her it would not.

159. Encouraged by this information, on or about June 18, 1994, Ms. Dickerson applied with defendants for a re-finance loan similar to that which she had been denied in 1992. Specifically, Ms. Dickerson requested a 15-year fixed rate loan of $137,222 at 8.2 percent interest. At the time of her application, the appraised value of her property on Waco Drive was approximately $165,000, and her monthly housing and total debt-to-income ratios were approximately 31 and 43 percent, respectively. The net worth reported on her application form amounted to $227,750.

That sum included over $12,000 in liquid assets invested in a federal thrift savings plan.

160. By letter dated June 30, 1994, NationsBanc Mortgage rejected her application. The letter gave no specific reason for the rejection, stating only that the decision was based "in whole or in part" on information in her credit report.

161. Stunned by this response, Ms. Dickerson promptly called defendants' office in Hyattsville to find out why the bank had not approved the loan. During that telephone call Ms. Dickerson was told by a NationsBank official that the bank could not provide her with an explanation at that time, but that a full written explanation would be mailed to her within one week.

162. The promised explanation letter from defendants never arrived. After waiting several weeks, Ms. Dickerson called the Hyattsville office for a second time, and was again told only to wait for a letter of explanation. Ms. Dickerson waited again, this time for approximately two weeks, without receiving a letter from the defendants. Finally, on August 26, 1994, she wrote a letter to the Hyattsville office to make a third request for an explanation for the loan decision. Ms. Dickerson never received a response to this letter. To this date, defendants have never informed Ms. Dickerson precisely why she was rejected for the loan.

163. Shortly after her second rejection by NationsBanc Mortgage, Ms. Dickerson applied and was approved for a $147,000 re-finance loan with an established lending institution. Ms.

Dickerson has maintained an exemplary record of timely mortgage payments on this loan.

164. Beverly Dickerson was qualified for the loan that she sought from defendants both in 1992 and 1994. Although her debt-to-income ratios in 1994 were slightly above recommended industry guidelines, NationsBanc Mortgage did not consider a variety of federally recognized compensating factors that Ms. Dickerson easily satisfied. Specifically, Ms. Dickerson had amply demonstrated an ability to accumulate savings, possessed a net worth of $227,750, had maintained a good credit history following the discharge of her bankruptcy, and possessed liquid assets equivalent to at least two months of housing payments after deducting for closing costs.

165. On information and belief, Ms. Dickerson was as qualified as similarly situated whites who received loans from defendants. By failing either to inquire about or permit an opportunity for Ms. Dickerson to explain the circumstances of her bankruptcy and her credit delinquencies, defendants acted with racially discriminatory animus for the purpose of denying Ms. Dickerson equal treatment on the basis of race.

166. By failing or refusing to provide Ms. Dickerson with a written explanation of the reasons for rejecting her loan after a request for such information was made, defendants acted in violation of the Equal Credit Opportunity Act.

G. Discriminatory Failure or Refusal to Apply Traditionally Accepted Underwriting Guidelines to African-American Applicants, Including Refusal to Recognize or Use Compensating Factors to Overcome Derogatory Items on Credit Report: Larry Barnes, Jr.

167. Larry Barnes was rejected by defendant Nationsbanc Mortgage on or about April, 1994 for a loan to purchase a house at 2506 Fort Davis Road in Suitland, Maryland. The house he sought to purchase was located in an integrated, middle class area of Prince George's County, Maryland.

168. Mr. Barnes was rejected allegedly because of late payments on his revolving credit card accounts. As set forth in paragraphs 169-187 below, defendant NationsBanc Mortgage refused to approve Mr. Barnes' application for a $123,500 loan despite the fact that at the time of his application Mr. Barnes had liquid assets of over $100,000 that could and should have been used by the defendants to offset any concerns about his credit history. At no point in assessing Mr. Barnes' application did defendants use or recognize the availability of these assets to assist Mr. Barnes in qualifying for a loan. Defendant NationBanc Mortgage's failure to recognize or use Mr. Barnes' liquid assets as a compensating or offsetting factor was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On information and belief, NationsBanc Mortgage's treatment of Mr. Barnes was less favorable than that accorded similarly situated white loan applicants.

1. Mr. Barnes' Efforts to Obtain a Loan From NationsBanc Mortgage

169. Larry Barnes is a native of the District of Columbia. He is a graduate of Spingarn High School in Northeast Washington, D.C., and Grambling College. Mr. Barnes holds a masters degree in employment counseling from Trinity College in the District of Columbia, and in 1977 completed one year of study toward a doctorate in educational psychology at George Washington University.

170. At the time he applied for a loan with NationsBanc Mortgage, Mr. Barnes had worked for over eighteen years as a social worker and law enforcement officer. During that time, Mr. Barnes served with the District of Columbia Police Force and the Federal Bureau of Investigation. For the last nine years, Mr. Barnes has been employed as an employment counselor with the District of Columbia Department of Employment Services.

171. At the time he applied for a loan with NationsBanc Mortgage, Mr. Barnes had a gross annual income of $42,189. This sum included a salary of approximately $40,000 from the government of the District of Columbia, and approximately $2,189 in savings income. The savings income derived from over $100,000 in investments that Mr. Barnes had amassed over the previous fifteen years while living at home with his parents and investing his salary in stocks and money market funds.

172. In March, 1994, Mr. Barnes located a house in Suitland, Maryland that he wanted to purchase. Mr. Barnes signed

a contract to purchase the property on or about March, 1994 for a sale price of $130,000.

173. At the suggestion of his real estate agent, Mr. Barnes decided to inquire about a loan with NationsBanc Mortgage under the ACORN program. In mid-March, 1994, Mr. Barnes went to the ACORN office located on 8th Street in Southeast Washington, D.C. There he completed an application form and met with Jackie Harvey, who on information and belief is employed by NationsBanc Mortgage as a loan officer at defendants' office in Greenbelt, Maryland.

174. Ms. Harvey assisted Mr. Barnes in filling out a loan application for a 30-year fixed rate loan in the amount of $123,500 at 6.75 percent interest. After reviewing Mr. Barnes' qualifications, Ms. Harvey asserted that he would be a "shoo-in" for a loan with NationsBanc Mortgage because of his steady employment and his substantial liquid assets.

175. To be safe, however, Ms. Harvey suggested that Mr. Barnes take certain steps to ensure that the loan would be approved. Although Mr. Barnes had already paid off two credit union accounts with balances of approximately $5,388 in order to lower his debt-to-income ratios before applying at NationsBanc Mortgage, Ms. Harvey now advised Mr. Barnes to lower his debt-to-income ratios even further by paying off the outstanding balance on a car loan ($3,953) and a revolving account with an area retailer. Mr. Barnes promptly took this step, thereby further lowering his monthly housing and total debt-to-income ratios.

176. At the time of his application, Mr. Barnes' monthly housing and total debt-to-income ratios, calculated solely on salary income, were within established underwriting guidelines at approximately 31 and 36 percent, respectively. Calculated using salary and investment income, these debt-to-income ratios at the time of application were in fact even lower: approximately 30 and 34 percent, respectively.

177. After meeting with Ms. Harvey, Mr. Barnes was interviewed by ACORN employees. ACORN officials carefully reviewed and discussed Mr. Barnes' credit history and late payments. At the conclusion of the meeting, ACORN representatives advised Mr. Barnes that he was qualified for a loan from NationsBanc Mortgage because of his steady work history, and because most of the accounts where late payments had been reported were now closed.

178. During either the meeting with ACORN officials or the meeting with Ms. Harvey, Mr. Barnes was asked to provide defendants with a written explanation for some of the late payments that appeared on his credit report during the previous twelve months. Mr. Barnes promptly complied with this request, explaining that several recent late payments stemmed from temporary work furloughs imposed by the District of Columbia that had resulted in an unexpected temporary loss of pay.

179. On or about March 21, 1994, Mr. Barnes successfully completed ACORN's credit counselling classes. At that time his application was forwarded by ACORN to defendant NationsBanc

Mortgage for further processing.

180. On or about April, 1994, defendant NationsBanc Mortgage notified Mr. Barnes in writing that his application had been rejected because of derogatory items contained in his credit report.

181. As a result of NationsBanc Mortgage's refusal to approve Mr. Barnes' loan application, Mr. Barnes lost the opportunity to purchase the house he wanted in Suitland, Maryland.

2. Discriminatory Application of FNMA Underwriting Guidelines to Larry Barnes

182. Fannie Mae underwriting guidelines specifically provide that strong offsetting factors can compensate for indications of "derogatory credit." Those guidelines also require lenders to investigate each major indication of derogatory payment where there exists an alleged "consistent pattern of slow payments." In such cases the guidelines recommend that the lender, at a minimum, seek a written explanation for the slow or late payments.

183. These guidelines were not fairly applied to Mr. Barnes. Mr. Barnes' credit report showed a total of fourteen accounts with no delinquent payment histories and a flawless history of rent payments to his parents. Included in these accounts were his three largest: a $6,792 car loan, a credit union loan of $10,000, and a second credit union loan of $19,000. The credit report also showed no late payments on two other large

installment loans totaling $12,000 that were paid off in 1991.

184. Of the accounts on which he had previously made late payments, all but two were closed at the time he applied for the loan. Of the late payments made on these two accounts, all but two of these payments occurred more than twelve months prior to the NationsBanc Mortgage application. At no time was Mr. Barnes asked by the defendants to explain the late payments on his other accounts.

185. Had he been asked to provide an explanation, Mr. Barnes would have explained that all but one of these accounts were credit cards on which he customarily made timely monthly payments but not the full amounts required by the terms of the credit card agreements. Because his credit cards remained active with no threat of cancellation, he believed his payments were acceptable to the credit companies.

186. Notwithstanding these explanations, the existence of late payments in Mr. Barnes' credit report need not have disqualified him for a loan where, as here, there were strong compensating factors. Yet no effort was made by NationsBanc Mortgage to use or recognize Mr. Barnes' substantial liquid assets as an offsetting factor. Mr. Barnes' savings of over $100,000 reduced the risk that he would allow his loan to lapse into delinquency or default. Any such perceived risk could have been mitigated simply by requiring Mr. Barnes to use these assets to increase his downpayment. Defendants, however, never proposed this alternative to Mr. Barnes.

187. Applying Fannie Mae guidelines, Larry Barnes was qualified for the mortgage loan he sought from NationsBanc Mortgage. On information and belief, Mr. Barnes was as qualified as similarly situated whites who received mortgage loans from defendant NationsBanc Mortgage. In processing Mr. Barnes' loan application defendants applied their underwriting standards with racially discriminatory animus for the purpose of denying Mr. Barnes equal treatment on the basis of race.

K. Discriminatory Treatment of African-American Loan Applicants in Evaluating Employment and Credit Histories, and Discriminatory Refusal to Accept Explanation for Late Payments on Credit Report: Linda Wade Allen and Wilbert G. Allen

188. Wilbert and Linda Wade Allen were rejected by defendant NationsBanc Mortgage on or about July, 1992 for a loan to purchase a house at 5509 K Street in Fairmount Heights, Maryland. The house was located in a predominately black area of Prince George's County, Maryland near the Northeast boundary of the District of Columbia.

189. The Allens were rejected because of Mr. Allen's allegedly unstable work history and two collection accounts on Mrs. Allen's credit report that stemmed from the use of her credit cards by her brother. As set forth in paragraphs 190-212 below, in rejecting the Allens' application defendant NationsBanc Mortgage inexplicably ignored proper explanations the Allens provided for both the collections and for Mr. Allen's job history, and refused to consider alternative means of qualifying

the Allens for the loan. Defendant NationsBanc Mortgage's decision to deny the Allens a loan in this manner was neither mandated by, nor consistent with, federal underwriting standards and defendants' own practice. On information and belief, NationsBanc Mortgage's treatment of the Allens was less favorable than that accorded similarly situated white loan applicants.

1. The Allens' Efforts to Obtain a Loan From NationsBanc Mortgage

190. Linda Wade Allen is a native of the District of Columbia. She graduated from Cardozo High School in the District of Columbia, and in 1980 received a degree in medical assistance and a registration certificate as a phlebotomist from the Temple School of Silver Spring, Maryland.

191. At the time the Allens applied for a home mortgage loan with NationsBanc Mortgage in July, 1992, Linda Wade Allen was employed as a phlebotomist by the Group Health Association at its facility in Hyattsville, Maryland. As of that time, Ms. Allen had worked for more than twelve years as a medical assistant, and was taking classes at Prince George's County Community College to enable her to become a registered nurse.

192. In July, 1992, Ms. Allen's annual gross income was approximately $27,884. This sum included her salary of $23,062, approximately $207 per month in Supplemental Security Income (SSI) for one of her children, and $200 per month in child support payments. In addition to this income, Ms. Allen also had approximately $5,500 in liquid assets in savings and investment

accounts.

193. Wilbert Allen was born in Jamaica and emigrated to the United States in 1987. Shortly after he arrived in the United States, Mr. Allen came to the Washington, D.C. area. For the first several months, Mr. Allen worked as an office cleaner and on various construction jobs. Soon thereafter, he obtained steady employment as a sales and delivery worker for Jefferson Liquor in Northwest Washington, D.C. Mr. Allen worked continuously in that job for approximately two years before moving to New York City in August 1989. There he found a better paying full-time sales and delivery job at an herbal products store.

194. Mr. Allen worked at the herbal products store continuously until August 1991 when he returned to the District of Columbia to marry Ms. Allen. After a brief period of unemployment caused by his relocation to Washington, D.C., Mr. Allen found employment at Burke's, a liquor store located in Landover, Maryland. Mr. Allen held this job, which also involved sales and delivery work, continuously from February, 1992 until December, 1992. Mr. Allen was employed in this job at the time the Allens applied for the loan from defendant. At that time Mr. Allen's hourly wage was approximately $5.25.

195. On or about February, 1992, the Allens identified a newly constructed townhouse in Fairmont Heights, Maryland that they wanted to purchase. The Allens were particularly anxious to move out of their apartment because they considered it unsafe.

On or about February 17, 1992, the Allens contracted to purchase the Fairmont Heights property for $104,995.

196. In March, 1992, the Allens applied to NationsBanc Mortgage for a loan in the amount of $80,636. The terms of the loan and purchase agreement required the Allens to make a downpayment of $4,000, with approximately $20,000 of financing to be provided under a Prince George's County Home Purchase Assistance program. The Nationsbank portion of the financing for which the Allens applied provided for a 30-year fixed rate term at 7.5 percent interest.

197. On or about March, 1992, the Allens met with Diane Legnard at a NationsBanc Mortgage office in Lanham, Maryland to discuss their application. On information and belief, Ms. Legnard was employed at the time as a loan officer at NationsBanc Mortgage. After reviewing their application, Ms. Legnard advised the Allens that they should have no problem obtaining the loan. This assessment was based in part on the fact that the Prince George's County portion of the financing was interest-free and would be entirely forgiven if the borrowers remained in the property for five years.

198. On information and belief, Ms. Legnard's favorable assessment was also based on the fact that the Allens' combined incomes provided them with monthly housing and total debt-to-income ratios that were well within industry underwriting guidelines at approximately 23 and 29 percent, respectively.

199. After submitting their application and meeting with

Ms. Legnard, the Allens received numerous requests for information and documents. In addition to sending standard employment verification notices directly to the Allens' employers, NationsBanc Mortgage asked Mr. Allen to submit copies of his pay stubs to verify his income; a copy of his immigration card; and weekly invoices of his earnings from the liquor store; as well as write a letter explaining that the departure from the herbal products store had been necessitated by the move to Washington, D.C. to marry Ms. Allen. Mr. Allen promptly complied with all of these requests, producing documents which proved that he was a lawful permanent resident of the United States and had continuous and regular income from his job, as well as overtime pay.

200. Ms. Allen was also required to provide copies of her pay stubs to verify her income. In addition, NationsBanc Mortgage insisted that she provide letters verifying her social security and child support income, and pay off and explain two collections from a credit card company amounting to $2,405 that appeared on her credit report.

201. Ms. Legnard advised Ms. Allen that NationsBanc Mortgage was most concerned about the two collections and that Ms. Allen would have to pay off both collections for the loan to be approved. Mr. Allen promptly complied with this request. As proof of compliance, Ms. Allen submitted to defendants a signed release of the obligations from the creditor.

202. After receiving confirmation that the collection

accounts had been paid off, Ms. Legnard demanded a written explanation for the collection accounts and other late payments on her credit report.

203. Ms. Allen complied with these requests as well. With respect to derogatory items on her credit report, Ms. Allen submitted a letter explaining that the accounts had become delinquent because of unauthorized purchases by her brother. She also explained that at least one thirty-day late payment on her car loan was due to a billing error, and that several late payments on one other account were not her fault.

204. All of these requests for documents and information required several postponements of the Allens' settlement date. Finally, on or about July, 1992 Ms. Legnard advised the Allens and their real estate agent that their loan had been approved. In reliance on this assertion, the Allens proceeded to purchase carpeting and other furnishings for the townhouse in expectation of an imminent move into their new home.

205. Later in July, just days days before the scheduled closing, the Allens received a voice mail message from a NationsBanc Mortgage official informing them that their application had been rejected. When the Allens called this official to find out why they had been rejected, they were told that the loan application had been turned down because of Mr. Allen's "job hopping" and the collections on Mrs. Allen's credit report. This same official told the Allens that they would receive a written explanation for their rejection in the mail.

The letter never came.

206. Shortly after their rejection by defendants, the Allens identified another house that they wanted to purchase and were promptly approved for a $122,000 loan by another lender. The Allens have lived in that house for over three years and have maintained an exemplary record of timely mortgage payments.

2. Discriminatory Application of Underwriting Guidelines to the Allens

207. Fannie Mae underwriting guidelines and publications emphasize that lenders must be "especially sensitive" when evaluating the employment histories of low and moderate-income borrowers because "many . . . change jobs frequently because that is the nature of the employment that is available." These guidelines and publications further caution that "[a] borrower should not be unduly penalized for a frequent change in jobs if he or she has maintanied income continuity despite the changes."

208. Applying these guidelines, Mr. Allen's alleged "job-hopping" was not a legitimate basis for denying the Allens' loan application. Since his arrival from Jamaica, Mr. Allen's employment record amply demonstrated a strong work ethic and continuity of income that made him creditworthy. The only temporary gap in his otherwise continuous employment record was fully explained by the relocation to Washington, D.C. necessitated by his marriage to Ms. Allen.

209. Notwithstanding defendants' alleged concerns about Mr. Allen's employment record, the requested loan should and could

still have been made, consistent with conventional underwriting guidelines, based solely on Ms. Allen's income. Ms. Allen's monthly gross income of approximately $2,323 (including social security and child support) was more than sufficient to carry the loan. Although her monthly housing and total debt-to-income ratios would have been higher as the sole borrower at 32 and 40 percent respectively, both ratios would have been only slightly above accepted guidelines for conventional loans. On information and belief, white applicants have been accepted for loans by defendants with debt ratios as high or higher than Ms. Allen's.

210. Other compensating factors that could have been used to assist defendants in approving the loan based solely on Ms. Allen's income included Ms. Allen's relatively debt free position and her demonstrated ability to accumulate savings. None of these factors was recognized by defendants in evaluating the Allens' loan application.

211. Like the alleged concern about "job-hopping," Ms. Allen's credit history was also not a legitimate basis for denying the application. Ms. Allen paid off the collections as requested and fully explained the circumstances to defendants. NationsBanc Mortgage was fully aware that the collections were isolated events for which she was not at fault, and did not demonstrate a lack of care, concern, or respect by Ms. Allen for her financial obligations. In all other respects Ms. Allen's credit report reflected an exemplary payment history.

212. Linda Wade Allen and Wilbert Allen were qualified for

the loan they sought from NationsBanc Mortgage. On information and belief, the Allens were as qualified as similarly situated whites who received loans from defendants. In processing the Allens' loan application, defendants acted with racially discriminatory animus for the purpose of denying the Allens equal treatment on the basis of race.

I. Application of Unnecessary, Unreasonable, and Burdensome Loan Application Requirements on African-American Applicants: Clifton O. Neal, Jr.

213. Clifton O. Neal, Jr., applied for an $80,750 home mortgage loan with defendant NationsBanc Mortgage to purchase a house in a predominately African-American area of Prince George's County, Maryland under terms for which he was qualified. Defendant NationsBanc Mortgage ultimately approved that loan request, but only after a lengthy and humiliating loan approval process that, through no fault of Mr. Neal's, ultimately became so unreasonably and unnecessarily delayed that Mr. Neal lost his locked-in interest rate. As a result, Mr. Neal was forced to pay, and is continuing to pay, additional costs to maintain the loan.

214. Mr. Neal was subjected to an unreasonably and unnecessarily onerous loan approval process allegedly because defendants needed additional documentation to supplement his loan application. As set forth in paragraphs 215-242 below, Mr. Neal responded promptly and fully to each and every request for documentation made by defendants. On information and belief, in

subjecting Mr. Neal to this unnecessary, over-zealous, unreasonable, and burdensome loan review process, and in subjecting Mr. Neal to unreasonable delays in the processing of the loan and in the requests for additional documentation, defendants treated Mr. Neal less favorably than similarly situated white loan applicants.

215. Clifton Neal, Jr. is a native of the District of Columbia. Mr. Neal graduated from Suitland High School in Suitland, Maryland in 1982. Since 1988, Mr. Neal has been employed continuously by the Prince George's County Schools as a night custodian. Prior to that time, Mr. Neal worked as a plumber and a tree trimmer. At the time of his application for a loan with NationsBanc Mortgage, Mr. Neal's gross annual income was approximately $22,463.

216. Upon graduation from high school, Mr. Neal decided to continue to live with his parents, both to save money and to prepare for the day when he would be able to buy his own home. From 1984 to 1994, Mr. Neal paid $300 in monthly rent to his parents.

217. At all times relevant to this Complaint, Mr. Neal's mother, Elaine Neal, was a licensed real estate agent. At Mrs. Neal's suggestion, in the Spring of 1993 Mr. Neal enrolled in the ACORN program. It was Mrs. Neal's hope that successful completion of the ACORN credit counseling classes would help her son qualify in the future for a home mortgage loan.

218. Mr. Neal successfully completed the ACORN credit

counseling classes in the Summer of 1993. At that time ACORN pre-qualified Mr. Neal for a loan.

219. At the beginning of March, 1994, Mr. Neal identified a house at 5020 Suitland Road in Suitland, Maryland that he wanted to purchase. Mr. Neal had been looking for a large house with a yard that would allow him to be close to work. The Suitland Road property was perfect because it had a yard, was large, and was located less than one-quarter mile from his place of work.

220. On March 16, 1994, Mr. Neal signed a back-up contract to purchase the house on Suitland Road for $85,000. The contract was ratified as the primary contract on March 27, 1994. Settlement was scheduled to take place on or before May 25, 1994.

221. On March 30, 1994, Mr. Neal returned to the ACORN office in Southeast Washington, D.C. to begin the process of applying for a home mortgage loan under the ACORN program with NationsBanc Mortgage. Mr. Neal met with ACORN loan counselor Vicki Sifrit, who reviewed his qualifications. At the end of the meeting, Ms. Sifrit concluded that Mr. Neal was qualified for a 30-year fixed rate loan of $80,750 at an interest rate of 7.125 percent.

222. At the suggestion of Ms. Sifrit, on April 1, 1994, Mr. Neal, accompanied by his mother, went to defendants' office in Greenbelt, Maryland to complete and submit a loan application form. There the Neals met with Monica Daniels, who on information and belief at the time was employed by defendants in their Greenbelt office as a loan officer.

223. In preparation for the meeting, Ms. Daniels asked Mr. Neal to bring with him savings account statements for the past two months, W-2 forms for 1993, paycheck stubs for the past 30 days, a picture identification, and copies of current credit card statements. The savings accounts were with NationsBank. Mr. Neal complied with the request.

224. During the April 1 meeting, Ms. Daniels reviewed Mr. Neal's income, outstanding debts, and liquid assets. At the time, Mr. Neal had an exemplary record of timely rent and credit payments and possessed approximately $9,875 in liquid assets. Ms. Daniels told Mr. Neal that he would have to pay off one of his credit card accounts. At the conclusion of the meeting, Ms. Daniels told Mr. Neal that he appeared qualified for a 30-year conventional fixed rate loan of $80,750 at an interest rate of 7 percent.

225. That same day, Mr. Neal completed and submitted an application for a loan with NationsBanc Mortgage based on the terms agreed to in the meeting with Ms. Daniels.

226. Several days later, by letter of April 4, 1994, Mr. Neal received confirmation from NationsBanc Mortgage that his interest rate would be 7 percent. Mr. Neal signed the letter to acknowledge the understanding about the interest rate and returned the letter to the bank.

227. Beginning shortly after the April 1 meeting with Ms. Daniels, the Neals received what appeared to be an unending series of requests for additional information and documentation

by NationsBanc Mortgage that was unreasonable, unnecessary for a proper evaluation of Mr. Neal's qualifications, and in many instances, redundant. Despite Mr. Neal's prompt compliance, these requests substantially delayed the processing of the loan application.

228. The requests began in early April when a loan processor in defendants' Greenbelt office, Andrea Williams, insisted that the Neals provide the bank with the blue book value of a truck Mr. Neal intended to sell, the certificate of title for the truck, and a lien release for the truck.

229. On or about the same time, Melanie Whitter, a loan processor in defendants' Charlotte, North Carolina office, demanded copies of the same documents requested by Ms. Williams, and insisted that the Neals provide her in addition with copies of recent bank statements and W-2 forms. The bank statements and W-2 forms had already been provided to Ms. Daniels on April 1.

230. Ms. Whitter also demanded that Mr. Neal provide an explanation for a $271 judgment entered in 1989 in New Bedford, Massachusetts in the name of "Clifton Neal." Mrs. Neal promptly advised Ms. Whittier that this judgment had been entered against Mr. Neal's father, Clifton O. Neal, Sr., who worked as a long-distance truck driver, for a traffic violation. Ms. Whitter refused to accept this explanation and demanded that Mr. Neal provide documentary proof as a condition for approval of the loan.

231. Pursuant to this discussion with Ms. Whitter about the

judgment, on April 12, 1994 Mr. Neal submitted a letter to the bank from the New Bedford, Massachusetts Police Department confirming that the judgment had been satisfied. Because the letter did not state whether the judgment was against Clifton Neal, Sr., or Clifton Neal, Jr., Mr. Neal was forced to locate one of his father's old credit reports (which showed the judgment in his father's name) and an old credit report for himself (which did not show the judgment) and submit both to defendants.

232. Several weeks later, Ms. Whitter contacted Mr. Neal again, this time to complain that the NationsBank savings account statements that Mr. Neal had provided to Ms. Daniels were inadequate. Despite the fact that the statements were from defendants' own bank, Ms. Whitter insisted that Mr. Neal provide NationsBanc Mortgage with quarterly statements showing deposits and withdrawals, and a statement confirming that Mr. Neal had reimbursed his mother for two payments she had made to cover an $800 deposit on the house and a $300 property appraisal fee.

233. Mr. Neal promptly complied with this request on May 2, 1994. In a cover letter sent with the requested documentation, Mr. Neal noted that he had been forced to request a special statement from defendants' own bank in order to obtain the information requested by NationsBanc Mortgage about the savings accounts.

234. On or about this time, Mr. Neal completed the sale of his truck and provided Ms. Whitter with copies of the sale agreement and the money order showing the cash he received from

the sale.

235. Shortly thereafter, on or about May 19, 1995 and a mere six days before Mr. Neal was scheduled for settlement, Ms. Daniels informed Mr. Neal that he would need an additional $500 to close on the loan. Mrs. Neal promptly gave Mr. Neal a gift of $500, which he immediately deposited into his savings account with NationsBank. That same day, May 19, 1994, verification of the deposit was faxed from the NationsBank branch where Mr. Neal had his savings accounts directly to Ms. Daniels.

236. On May 25, 1994, the very day Mr. Neal was scheduled to go to settlement, Ms. Daniels telephoned the Neals to inform them that the settlement would have to be delayed because NationsBanc Mortgage underwriters in Charlotte wanted more information. Specifically, it would now be necessary as a condition for loan approval, for the Neals to provide NationsBanc Mortgage with copies of Mr. Neal's savings account statements for the previous twelve months to prove that Mr. Neal had made timely $300 monthly rent payments to his parents. This documentation was needed from Mr. Neal, Ms. Daniels insisted, even though savings account statements documenting the rent payments had already been provided to defendants on May 2, and notwithstanding the fact that the requested documents were already under defendants' control because Mr. Neal's savings accounts were with NationsBank itself.

237. That same day, Mr. Neal contacted the branch office where he had his savings accounts to request the documentation

demanded by NationsBanc Mortgage. Mr. Neal was told that the necessary records were in storage and would not be available until May 27. Aware that his lock-in interest rate of 7 percent was due to expire on Tuesday, May 31, Mr. Neal re-scheduled the settlement on the Suitland Road house for Friday, May 27. This would be the last business day before the expiration date, given that May 30, 1994 was a holiday.

238. On May 27, 1994, Mrs. Neal received copies of the requested bank statements and hand-delivered them to Ms. Daniels at defendants' Greenbelt office. There she met with Ms. Daniels, and told her that the settlement was scheduled for later that day. Mrs. Neal explained that settlement had to go forward immediately or Mr. Neal would lose his locked-in interest rate. Ms. Daniels then told Mrs. Neal that defendants' underwriters in Charlotte could not possibly review the bank statements by the end of the day, and refused to assure Mrs. Neal that the loan application would be approved by May 31. At that point, Mrs. Neal expressly requested an extension of the locked-in interest rate. Ms. Daniel's categorically and emphatically rejected the request.

239. On June 1, 1994, Ms. Daniels telephoned Mr. Neal to inform him that his loan application had been approved at an interest rate of 7.25 percent. Ms. Daniels explained that the increase in the interest rate from 7 to 7.25 percent was due to the fact that the lock-in agreement had expired.

240. Fearful of losing the opportunity to buy the Suitland

Road house, Mr. Neal agreed to the new loan terms proposed by NationsBanc Mortgage. On June 3, 1994, Mr. Neal closed on the property. Since that time, Mr. Neal has maintained an exemplary record of timely mortgage payments.

241. Mr. Neal was qualified for the loan he sought from NationsBanc Mortgage. Notwithstanding this fact, Mr. Neal was subjected to an unnecessary, humiliating, and unreasonably onerous loan application process that ultimately resulted in the imposition of less favorable loan terms and conditions. The defendants' actions have had the effect of requiring Mr. Neal to pay more in interest over the life of the loan than he otherwise would have had to pay had the loan been processed in an appropriate manner.

242. On information and belief, Mr. Neal was as qualified as similarly situated whites who received mortgage loans on more favorable terms and with less onerous processing requirements from NationsBanc Mortgage. By imposing less favorable terms as a condition for loan approval, defendants acted with racially discriminatory animus for the purpose of denying Mr. Neal equal treatment on the basis of race.

J. General Allegations Related to Claims of All Named Plaintiffs

243. At all times relevant to the events described above, all employees of defendants NationsBank Corp., NationsBank N.A., and NationsBanc Mortgage involved in the incidents alleged by the named plaintiffs acted within the scope of their employment as

employees, agents and/or representatives of defendants.

244. All such employees carried out the discriminatory practices described above (a) at the direction of and with the consent, encouragement, knowledge, and ratification of the defendants and/or (b) under the defendants' authority, control and supervision. The conduct engaged in by defendants and their employees, agents and/or representatives as described above denied plaintiffs the right to equal treatment without regard to race in the making or purchasing of loans and other housing-related financial assistance, and violated plaintiffs' right to make and enforce contracts on the same basis as whites.

245. Through the actions of its employees, agents and/or representatives, defendants acted negligently, intentionally, maliciously, and with willful, callous, wanton and reckless disregard for plaintiffs' federally protected rights.

246. As a proximate result of the actions of defendants described above, plaintiffs have suffered, continue to suffer, and will in the future suffer great and irreparable loss and injury, including but not limited to economic loss, humiliation, embarrassment, physical and emotional distress, mental anguish, and a deprivation of plaintiffs' rights to equal treatment in the making and purchasing of housing-related loans without regard to race. For these injuries plaintiffs seek compensatory damages.

247. Because defendants acted intentionally and maliciously, and with callous and reckless disregard for plaintiffs' federally protected rights, plaintiffs also seek

punitive damages.

VI. CLASS ACTION ALLEGATIONS

248. Defendants' racially discriminatory behavior described above is representative of a policy and practice of race-based discrimination created and maintained by defendants for the purpose and/or with the effect of prohibiting African-American loan applicants from exercising their rights to contract and obtain housing-related loans or other housing-related financial services on the same basis as whites.

249. Plaintiffs bring this action on behalf of themselves and all other persons similarly situated. The class plaintiffs seek to represent consists of all African-Americans who attempted to purchase or contract for, did purchase or contract for, or will in the future seek to purchase or contract for, mortgage loans from the defendants on properties in the Washington, D.C. MSA and who were or will be subjected to the policies and practices set forth in paragraphs 3 and 45 above.

A. Numerosity

250. The number of members of this class is unknown but is too large to make joinder practical. The number of members of the class possibly affected by defendants' illegal policies and practices of discrimination in the past is indeterminate but is larger than can be addressed by joinder. The number of members of the class who could be affected in the future is incapable of precise determination but is also extremely large.

B. Commonality and Typicality

251. This action poses questions of law or fact that are common to and affect the rights of all members of the class. The claims of the named plaintiffs are typical of the claims of class members as a whole.

252. Defendants have maintained and operated policies and practices of treating African-American mortgage loan applicants less favorably than whites. These policies and practices affect class members comprised of all past, present and future African-American mortgage loan applicants and constitute illegal race and/or color-based class-wide discrimination. Plaintiffs' claims are typical of those of members of the class affected.

C. Adequacy of Representation

253. Plaintiffs will adequately represent the class. Plaintiffs desire to represent the class and have retained counsel experienced in litigating class action discrimination claims.

254. This class action will lie under Rule 23(a) and (b)(2) and (b)(3) of the Federal Rules of Civil Procedure.

D. Illegal System-Wide Policies and Practices

255. Defendants have created and maintained, and continue to maintain, system-wide policies and practices of race and/or color-based discrimination that have the purpose and effect of prohibiting African-American loan applicants from exercising their rights to contract and obtain housing-related mortgage loans or other housing-related financial services on the same

basis as whites. Defendants' illegal policies and practices are based on an invidious and racially and/or color-based discriminatory animus directed against African-American loan applicants. Defendants' illegal policies and practices are specifically calculated to deny African-Americans equal treatment under the law. In addition, defendants' policies and practices regarding the selection, retention and training of employees have the effect of denying African-American loan applicants equal treatment under the law, even if they are not intended to have such effect.

256. Defendants have enforced their illegal policies and practices of discrimination in such a manner so as to limit or completely prohibit the ability of African-American loan applicants to contract and obtain housing-related mortgage loans or other housing-related financial services on the same basis as whites. These illegal policies and practices, all carried out on the basis of race and/or color, include, but are not limited to:

(a) applying discriminatory standards in determining and evaluating the incomes, debt ratios, and credit histories of African-American loan applicants;

(b) failing or refusing to consider or recognize in the mortgage loan application and underwriting process compensating or offsetting qualifications for mortgage loans possessed by African-American applicants;

(c) failing or refusing to offer advice to African-American loan applicants about how to lower monthly debt in order to reduce overall debt ratios, and refusing to accept offers made by African-American loan applicants to pay off outstanding debt to lower their debt ratios;

(d) refusing to permit African-American loan applicants to explain payment delinquencies and refusing to accept or fairly evaluate explanations given by African-American

loan applicants for payment delinquencies appearing on credit reports;

(e) refusing to recognize or accept efforts by African-American applicants to re-establish good credit;

(f) requiring African-American applicants to meet higher standards than are required by the secondary market to qualify for loans;

(g) requiring African-American applicants to submit unreasonable and excessive documentation of credit qualifications, with the consequence of delaying settlement dates and forcing payment of higher interest rates or additional fees to obtain loans;

(h) failing or refusing to provide African-American applicants with written explanations of the reasons for declining to make a loan; and

(i) failing or refusing to consider or counsel African-American loan applicants for or about the availability of alternative loan programs, such as Federal Housing Administration (FHA) loans.

257. The class-wide discriminatory policies and practices described above have been and are being carried out (a) at the direction of and with the consent, encouragement, knowledge, and ratification of the defendants; (b) under the defendants' authority, control and supervision; and/or (c) within the scope of defendants' employees' employment.

258. Through the actions of its employees, agents and/or representatives described above, defendants have acted negligently, intentionally, maliciously, and with willful, malicious, wanton and reckless disregard for the federally protected rights of the members of the class plaintiffs represent.

259. As a proximate result of the class-wide practices and policies of defendants described above, class members that the

named plaintiffs represent have suffered, continue to suffer, and will in the future suffer great and irreparable loss and injury, including but not limited to economic loss, humiliation, embarrassment, physical and emotional distress, mental anguish, and a deprivation of class members' rights to contract for and obtain housing-related mortgage loans or other housing-related financial services on the same basis as whites. For these injuries, class members, like plaintiffs, seek compensatory damages.

260. Because defendants acted intentionally and maliciously, and with callous and reckless disregard for the federally protected rights of the class members plaintiffs represent, plaintiffs also seek punitive damages on behalf of members of the class.

COUNT I

(Violation of 42 U.S.C. § 3601 et seq. Federal Fair Housing Act)

261. Plaintiffs reallege and incorporate by reference paragraphs 1 through 260 above, as if set forth fully herein.

262. This claim is brought on behalf of plaintiffs and all members of the class they represent.

263. By the actions described above, defendants have made housing unavailable to the plaintiffs and the class members they represent because of race and/or color in violation of 42 U.S.C. § 3604(a), and have discriminated in the provision of services in connection with the sale of dwellings because of race and/or color in violation of 42 U.S.C. § 3604(b).

264. By the actions described above, defendants have discriminated against plaintiffs and the class members they represent because of race and/or color in the making of real estate-related transactions in violation of 42 U.S.C. § 3605(a)-(b)(1).

COUNT II

(Violation of 42 U.S.C. § 1981)

265. Plaintiffs reallege and incorporate by reference paragraphs 1 through 260 above, as if set forth fully herein.

266. This claim is brought on behalf of plaintiffs and all members of the class they represent.

267. By the actions described above, defendants have denied plaintiffs and the class members they represent the same right to make and enforce contracts as is enjoyed by white citizens of the United States, in violation of 42 U.S.C. § 1981.

COUNT III

(Violation of 42 U.S.C. § 1982)

268. Plaintiffs reallege and incorporate by reference paragraphs 1 through 260 above, as if set forth fully herein.

269. This claim is brought on behalf of plaintiffs and all members of the class they represent.

270. By the actions described above, defendants have denied plaintiffs and the class members they represent the same right to hold and purchase property as is enjoyed by white citizens of the United States, in violation of 42 U.S.C. § 1982.

COUNT IV

**(Violation of 15 U.S.C. § 1691
Equal Credit Opportunity Act)**

271. Plaintiffs reallege and incorporate by reference paragraphs 1 though 260 above, as if set forth fully herein.

272. This claim is brought on behalf of plaintiffs and all members of the class they represent.

273. By the actions described above, defendants have discriminated against plaintiffs and the class they represent in the availability and terms and conditions of credit on the basis of race and/or color in violation of 15 U.S.C. § 1691(a).

274. By the actions described above, defendants have discriminated against plaintiffs and the class they represent in in violation of 15 U.S.C. § 1691(d).

VII. PRAYER FOR RELIEF

275. WHEREFORE, plaintiffs pray that the Court grant them relief as follows:

(a) certify this action as a class action maintainable under Rule 23 of the Federal Rules of Civil Procedure;

(b) enter a declaratory judgment finding that the actions of defendants alleged in this Complaint violate 42 U.S.C. §§ 3604 and 3605, 15 U.S.C. §§ 1691 (a) and (d), and 42 U.S.C. § 1981, and 42 U.S.C. § 1982;

(c) enter a permanent injunction barring defendants from continuing to engage in the illegally discriminatory conduct alleged in this Complaint;

(d) enter a permanent injunction directing that defendants take all affirmative steps necessary to remedy the effects of the illegally discriminatory conduct alleged in this Complaint and to prevent repeated occurrences in the future;

(e) award compensatory damages in an amount that would fully compensate plaintiffs and class members for the economic loss, humiliation, embarrassment, physical and emotional distress, and mental anguish caused by defendants' violations of the law alleged in this Complaint;

(f) award punitive damages to plaintiffs and class members in an amount that would punish defendants for the willful, wanton and reckless misconduct alleged in this Complaint and that would effectively deter defendants from future discriminatory behavior;

(g) award plaintiffs and class members their reasonable attorneys' fees and costs; and

(h) order all other relief deemed just and equitable by the Court.

VIII. DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable as of right.

Respectfully submitted,

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