



THE U.S DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT



TITLE VIII CONCILIATION AGREEMENT

BETWEEN

Assistant Secretary for Fair Housing and Equal Opportunity
United States Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410
(Complainant)

And

Mountain America Credit Union
c/o: Cathy Smoyer
SVP / Chief Risk Officer, Risk Management
7181 South Campus View Drive
West Jordan, Utah 84084
(Respondent)

Approved by the Office of Fair Housing and Equal Opportunity, Region VIII Director on behalf
of the U. S. Department of Housing and Urban Development

FHEO TITLE VIII CASE NUMBER: 08-13-0010-8

A. PARTIES

- Complainant is the Assistant Secretary for Fair Housing and Equal Opportunity, U. S. Department of Housing and Urban Development.
- Respondent is Mountain America Credit Union (Respondent MACU), a federally-chartered credit union which is member-owned, not-for-profit, and provides full-service financial services in Utah, Idaho, New Mexico, Nevada, and Arizona.

COMPLAINANT'S POSITION

A complaint was filed on October 18, 2012, with the U.S. Department of Housing and Urban Development (the Department) alleging a married couple was injured by discriminatory acts of the Respondent MACU. The complaint stated that when applying for a home mortgage loan, the couple was subject to denial or delay because the wife informed the Respondent that she was on maternity, pregnancy, or parental leave at the time of the application. The complaint further alleged Respondent provided notice to the couple that they could reapply for the home mortgage loan only when the wife returned to work and received a paycheck.

During investigation of the couple's complaint against Respondent MACU, evidence was discovered that suggests Respondent's policies and procedures regarding borrowers on maternity, paternity, or pregnancy constitute alleged discriminatory practices that may have been pervasive or institutional in nature. The Assistant Secretary for Fair Housing and Equal Opportunity filed this complaint under the provisions of Section 810(a)(1)(A)(i) of the Fair Housing Act, as amended in 1988, 42 U.S.C. 3601 *et seq.* (the Act). Complainant alleges the Respondent violated Sections 804(b), 804(c), and 805 of the Act, on the basis of sex and familial status, by engaging in discrimination in denying or suspending mortgage loan applications submitted by women in maternity leave status, offering different terms, conditions, and privileges of sale of a dwelling to such persons, and making or publishing discriminatory statements.

RESPONDENT'S POSITION

Respondent MACU generally denies that it discriminates against borrowers on maternity leave. Respondent asserts that any offending policies against borrowers on maternity leave are the policies of CMG Mortgage Insurance Company, a mortgage insurance company for which MACU holds delegated underwriting authority. Respondent states that if a borrower applies for a home mortgage loan while on maternity leave with Respondent, Respondent would ensure that fair lending requirements are met when underwriting and processing the home mortgage loan application.

CONCILIATION

HUD has not reached a final determination regarding the complaint pursuant to 42 U.S.C. § 3610(g). Although the parties have differing views of the operative facts, they have been able to reach an agreement that meets the interest of each party and thus enter this Conciliation Agreement (Agreement).

B. TERM OF AGREEMENT

1. This Agreement shall govern the conduct of the respective parties for a period of one (1) year from the effective date of the Agreement.

C. EFFECTIVE DATE

2. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the Director, Office of Fair Housing and Equal Opportunity, Region VIII (FHEO Director), or his or her designee.
3. This Agreement shall become effective on the date on which it is approved by the FHEO Director, or his or her designee.

D. GENERAL PROVISIONS

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way been forced to become a party to this Agreement.
5. It is understood that the Respondent denies any violation of law and that this Agreement does not constitute an admission by the Respondent or evidence of a determination by the Department of any violation of the Act.
6. The Respondent acknowledges that it has an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against the Complainant or any person because that person has made a complaint, testified, assisted, or participated in any manner in this proceeding under the Act. Respondent further acknowledges that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act.
7. This Agreement, after it has been approved by the FHEO Director, or his or her designee, is binding upon the Respondent, its employees, heirs, successors and assigns, and all others in active concert with Respondent in the ownership and operation of the Respondent's business.
8. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the FHEO Director or his or her designee, it is a public document.
9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving the Respondent made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

10. No amendment to, or modification or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification, or waiver; (b) the amendment, modification, or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the FHEO Director or his or her designee.
11. The parties agree that the execution of this Agreement may be accomplished by separate execution of signatures consenting to this Agreement, and that the original executed signature pages attached to the body of the Agreement constitutes one document.
12. Complainant forever waives, releases, and covenants not to sue the Respondent, its heirs, executors, assigns, agents, employees, or attorneys with regard to any and all claims, damages, and injuries of whatever nature, arising before execution of this Agreement, whether presently known or unknown, arising out of the subject matter of FHEO Title VIII Case Number 08-13-0010-8 or which could have been filed in any action or suit arising from said subject matter.
13. Respondent hereby forever waives, releases, and covenants not to sue the Department or the Complainant, their successors, assigns, agents, officers, board members, employees, or attorneys with regard to any and all claims, damages, and injuries of whatever nature, arising before execution of this Agreement, whether presently known or unknown, arising out of the subject matter of FHEO Title VIII Case Number 08-13-0010-8 or which could have been filed in any action or suit arising from said subject matter.
14. This Agreement memorializes and constitutes the entire agreement and understanding between the parties, and supersedes and replaces all prior negotiations, proposed agreements, and agreements between the parties, whether written or unwritten. The parties acknowledge that no person or entity, nor an agent or attorney of any person or entity, has made any promises, representations, or warranties whatsoever, express or implied, which are not expressly contained in this Agreement, and the parties further acknowledge that they have not executed this Agreement in reliance upon any collateral promise, representation, warranty, or in reliance upon any belief as to any fact or matter not expressly recited in this Agreement.
15. The individual(s) signing on behalf of Respondent hereby represents that he or she has the authority to sign for Respondent and that his or her signature will bind Respondent.

E. CLAIMANT RELIEF

16. Respondent MACU identified and evaluated all applicants who applied for a home mortgage loan with Respondent MACU who were at any point during the processing or pendency of their loan application on maternity, paternity, pregnancy, and/or short-term disability leave, from June 15, 2010 to January 14, 2014. Respondent MACU's review of those mortgage application files confirms one home mortgage loan application (Claimant) involving a borrower that was either delayed or denied a home mortgage loan

because of maternity, paternity, pregnancy, or parental leave situation of the borrower. The Department reviewed and confirmed Respondent MACU's efforts, including review of all loan application files for applicants who applied for a home mortgage loan with Respondent MACU whose application was denied by Respondent MACU on the basis of either "insufficient income" or "extended gap in employment," or any similarly construed bases.

17. Respondent MACU agrees to pay the Claimant a total award of ten thousand dollars and no cents (\$10,000.00):
- a. For the purposes of this Agreement only, and without any admission of any fault, guilt, or liability by Respondent MACU, the "Claimant" shall be defined as the borrower for Mountain America Credit Union Home Mortgage Loan Number [REDACTED]. The Claimant is further defined as a home mortgage loan applicant who applied for a home mortgage loan with Respondent MACU and during the processing or pendency of their loan application was on maternity, paternity, pregnancy, and/or short-term disability leave.
 - b. Within thirty (30) days of the Effective Date of this Agreement, Respondent MACU shall notify the Claimant of their entitlement to compensation by U.S. Mail (Notice) and provide the Claimant a release form to complete, sign, and return (Release). Respondent MACU agrees to compensate the Claimant in the amount specified in the Notice only for the purpose of resolving the Complaint, and neither this Agreement nor the Notice shall constitute an admission of liability by Respondent MACU or evidence that the Claimant has been injured. The Notice and Release shall be substantively in the forms attached hereto as Appendices A and B, respectively.
 - c. Within ten days (10) days of mailing of the Notice and Release, Respondent MACU will certify to the Department that it has provided the Notice to the Claimant pursuant to Paragraph 17.b, above.
 - d. Claimant shall have sixty (60) days from receipt of the Notice and Release to properly complete, execute, and return the Release to Respondent MACU (Return Date).
 - e. Within ten (10) days of receipt of a properly completed and executed Release, Respondent MACU shall (1) verify that the person who completed the Release is the Claimant by confirming in its records that the person who completed the Release submitted the application for a residential home mortgage loan during the applicable time period; and (2) upon such verification, transmit to the Claimant a check in the amount of compensation due as set forth below (Settlement Check).
 - f. Within ten (10) days of transmittal of the Settlement Check to the Claimant, Respondent MACU will certify to the Department that it has issued the Settlement Check to the Claimant pursuant to Paragraphs 17.e above.

F. PUBLIC INTEREST

18. Policies

Respondent MACU agrees that within thirty (30) days of the effective date of this Agreement, it will draft and forward to HUD for approval policies, procedures, and/or guidelines that are consistent with the Fair Housing Act, 42 U.S.C. § 3601, et seq., with regard to calculation and treatment of maternity, paternity, and pregnancy leave income and identifying when the regular employment income of a borrower or co-borrower on leave may be considered. A Model Policy (Appendix C) has been provided by HUD. Within thirty (30) days of receiving HUD's approval, the Respondent shall adopt and implement those policies, procedures, and/or guidelines.

Respondent MACU agrees to communicate these underwriting policies and requirements to its home mortgage loan officers, home mortgage loan underwriters, home mortgage loan risk managers, loan processors, and any other individual employed by Respondent involved in the creation, application, or implementation of underwriting guidelines for home mortgage loans or risk analysis for home mortgage loans, within thirty (30) days of adoption.

19. Training

Respondent MACU shall conduct training related to the requirements of the Fair Housing Act for all employees with significant involvement in underwriting home mortgage loan applications, including all of its home mortgage loan officers, home mortgage loan underwriters, home mortgage loan risk managers, loan processors, and any other individual employed by Respondent involved in the creation, application, or implementation of underwriting guidelines for home mortgage loans or risk analysis for home mortgage loans.

Respondent shall ensure that training related to the requirements of the Fair Housing Act is offered to all new employees with relevant underwriting responsibilities.

Written approval of a print copy of the training materials must be solicited and obtained from the FHEO Regional Director within one hundred twenty days of the effective date of this Agreement. After receiving HUD's approval of the training materials, Respondent shall report on training completion as follows: 1) within six months of the effective date and 2) on the one-year anniversary of the effective date of the agreement.

a. Monetary Relief in the Public Interest

Within one-hundred and twenty (120) days of the effective date of this Agreement, MACU shall pay \$15,000 to a qualified organization(s) that provides training, education, and outreach services including fair lending education, credit and housing counseling (including assistance in obtaining home mortgage loan modification and preventing foreclosure), financial literacy, and other related programs targeted at first-time homebuyers. Written approval of the qualified organization to receive this payment must be solicited and obtained

from the FHEO Director prior to this payment. This payment shall be used to educate the general public in Utah, Idaho, New Mexico, Nevada, and Arizona about fair lending requirements and obligations, including the rights of borrowers on maternity, pregnancy, or parental leave at the time of application for a home mortgage loan.

b. Monitoring

The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, the Department may review compliance with this Agreement by examining witnesses and copying pertinent records. Monitoring this Agreement may also include, but is not limited to, conducting fair housing tests by the Department or other entity. The Respondent agrees to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with the Agreement.

G. REPORTING AND RECORDKEEPING

20. All Reports and correspondence pursuant to this Agreement shall include FHEO Title VIII Case Number 08-13-0010-8. All required certifications and documentation of compliance must be submitted to:

Amy M. Frisk, Region VIII Director
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
1670 Broadway
Denver, CO 80202-4801

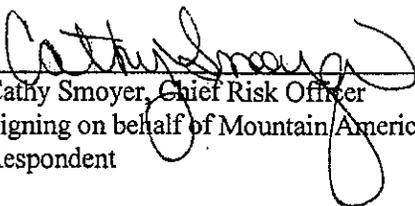
H. CONSEQUENCES OF BREACH

21. Whenever the Department has reasonable cause to believe that the Respondent have breached this Agreement, the matter may be referred to the Attorney General of the United States, to commence a civil action in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act.

I. SIGNATURES

Bryan Greene
Acting Assistant Secretary for Fair Housing
and Equal Opportunity
Complainant

Date



Cathy Smoyer, Chief Risk Officer
Signing on behalf of Mountain America Credit Union
Respondent

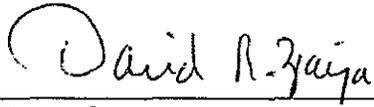
5/19/2014
Date

J. APPROVAL

Amy M. Frisk
Region VIII Director
Office of Fair Housing and Equal Opportunity

Date

I. SIGNATURES



Bryan Greene
Acting Assistant Secretary for Fair Housing
and Equal Opportunity
Complainant

5/23/2014
Date

Cathy Smoyer, Chief Risk Officer
Signing on behalf of Mountain America Credit Union
Respondent

Date

J. APPROVAL

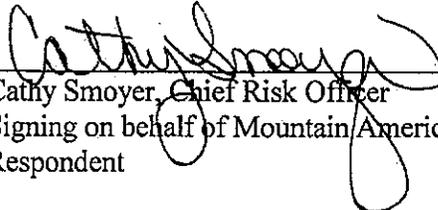
Amy M. Frisk
Region VIII Director
Office of Fair Housing and Equal Opportunity

Date

I. SIGNATURES

Bryan Greene
Acting Assistant Secretary for Fair Housing
and Equal Opportunity
Complainant

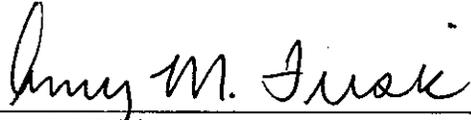
Date



Cathy Smoyer, Chief Risk Officer
Signing on behalf of Mountain America Credit Union
Respondent

5/19/2014
Date

J. APPROVAL



Amy M. Frisk
Region VIII Director
Office of Fair Housing and Equal Opportunity

29 May 2014
Date