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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP), on Behalf of Itself and All Others Similarly Situated, as well as on Behalf of the General Public and Acting in the Public Interest,

Plaintiff,

vs.

HSBC Mortgage Corporation (USA), a corporation, and HSBC Bank USA, N.A.,

Defendants.

CASE NO. SACV 07-0794

ORIGINAL CLASS ACTION COMPLAINT FOR:

1. **VIOLATIONS OF THE FAIR HOUSING ACT;**
2. **VIOLATION OF THE EQUAL CREDIT OPPORTUNITY ACT;**
3. **VIOLATIONS OF THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1981, 1982**

JURY TRIAL DEMANDED

Plaintiff, on behalf of itself and a Class consisting of all its members and based upon information and belief, states as follows:

INTRODUCTION

1. The National Association for the Advancement of Colored People (the "NAACP") brings this action in its representative capacity and as a class action seeking injunctive and other relief against numerous mortgage lenders who are engaged in institutionalized, systematic racism in connection with its members' purchase of residential mortgage loans. The pervasiveness of this discrimination has been documented in numerous empirical studies that all confirm that African-Americans are substantially more likely to receive higher-rate residential mortgage loans than Caucasian borrowers *with the same qualifications*.

2. Defendants HSBC Mortgage Corporation (USA) and HSBC Bank USA, N.A. have engaged in disparate treatment of African Americans, and have adopted facially neutral policies and practices that have a disparate discriminatory impact on African Americans in residential mortgage lending.

3. With respect to the Defendant lenders, the Class is comprised of African Americans: (a) who received subprime mortgage loans even though they qualified for more favorable conventional mortgage loans in the prime market or (b) whose loans were approved based upon the low initial interest rate but who would not qualify based upon the interest rate that would be charged when the rate was scheduled to adjust upward within the first four years of the loan.

4. It is beyond dispute that the African American community has long been the victim of discriminatory banking practices. Generations of African Americans have been deprived the opportunity to participate in the American dream by banks that refused to give them mortgage loans simply because of the color of their skin, or placed them in unfavorable loans that decimate them financially.

5. HSBC Mortgage Corporation (USA) and HSBC Bank USA, N.A. target the African American community by capitalizing on their relative lack of experience in dealing with banking institutions and mortgage loans. Upon information and belief, HSBC Mortgage Corporation (USA) and HSBC Bank USA, N.A. are aware of the African American community's susceptibility to predatory lending practices, but nonetheless engage in policies and procedures that they know will result in African Americans being steered toward less favorable loans.

6. Indeed, in 2006, the Center for Responsible Lending, a non-profit research organization, found that even when income and credit risk were accounted for, African Americans were *still* 31% to 34% more likely to receive higher rate subprime loans, and that the disparities between them and Caucasians with the same risk factors were "large and statistically significant."

7. In another study, the National Community Reinvestment Coalition determined that lending institutions in six major metropolitan areas engaged in "pervasive discriminatory and predatory practices", including making high cost subprime loans to higher-qualified African-Americans 54% of the time, compared to 23% of the time for Caucasians, even when Caucasian applicants were similarly, and often *less*, qualified.

8. Similarly, the Federal Reserve Board concluded that African Americans were more likely to pay higher prices for mortgages than their Caucasian counterparts. The United States Inspector General cited that report as showing "significant" differences, making it "clear" that African Americans were "much more likely to get higher-priced loans" than Caucasians. For example, a 2006 study by ACORN showed that African Americans were 3.6 times more likely than whites to be put into a subprime purchase loan and 6.1 times more likely to be refinanced into such a loan.

9. These statistical disparities are not mere happenstance, but instead result from the systematic and predatory targeting of African Americans, as well as facially

neutral lending policies and practices that have a disparate adverse impact on African Americans.

10. As described below, HSBC Mortgage Corporation (USA) and HSBC Bank USA, N.A. have engaged in disparate treatment by issuing the Class mortgage loans under less favorable terms than equally situated Caucasians. In addition, Defendants have instituted specific, identifiable policies and practices that have a disparate adverse impact on African Americans.

11. The NAACP brings this class action seeking declaratory, monetary and injunctive relief based upon the Fair Housing Act, the Equal Credit Opportunity Act and the Civil Rights Act.

THE PARTIES

12. Plaintiff National Association for the Advancement of Colored People ("NAACP") is the nation's oldest civil rights organization. Its history and accomplishments are well known. Its mission includes ensuring economic equality and eliminating racial hatred and discrimination, including racial discrimination in housing. The NAACP is a non-profit and non-partisan organization, headquartered in Baltimore, Maryland.

13. The NAACP, individually and on behalf of its members, has been injured by the Defendants complained of herein. The NAACP has representational standing to pursue this claim as a class action on behalf of its members. Its request for injunctive and declaratory relief does not require participation of the members, even though the members have standing to seek this same relief in their own right. In fact, the members, or any one of them, are in real and imminent danger of suffering immediate or threatened injury as a result of these predatory lending policies, which said members could directly pursue. Also, the interests the NAACP seeks to protect are germane to its stated purpose of ensuring economic equality and eliminating racial hatred and discrimination, including racial discrimination in housing. Finally, although seeking injunctive and

declaratory relief for a class of its members, the NAACP also has standing to sue in its own right because Defendants' discriminatory mortgage lending policies and practices tend to frustrate the association's mission, reduce contributions and divert its resources, including through investigation, advocacy and counseling, and litigation costs.

14. Members of the NAACP have been injured in fact by Defendant as complained herein.

15. Defendant HSBC Mortgage Corporation (USA) is organized under the laws of the State of Delaware, with its principal place of business in DePew, New York. It originates mortgages in the forty-eight contiguous United States. HSBC Mortgage Corporation (USA), is a wholly owned subsidiary of HSBC Bank USA, N.A., which is organized under the laws of the State of New York, with its principal place of business in Buffalo, New York. HSBC Mortgage Corporation (USA) and HSBC Bank USA, N.A., which do business throughout California and the United States, are herein referred to as "HSBC" or "Defendants".

JURISDICTION AND VENUE

16. This is an action for violation of 42 U.S.C. § 3601 *et seq*. (Fair Housing Act), 15 U.S.C. § 1691 *et seq*. (Equal Credit Opportunity Act) and 42 U.S.C. § 1981 *et seq*. (Civil Rights Act). This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question).

17. Venue is proper in the Central District of California pursuant to 28 U.S.C. § 1391(b) and (c) because Defendants are corporations subject to personal jurisdiction in this district.

CLASS ACTION ALLEGATIONS

18. The NAACP brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2) on behalf of the NAACP, its members and the members of the Class described below.

19. Excluded from the Class are Defendants, their officers, directors and employees, members of their immediate families and each of their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or have had a controlling interest; members of the Plaintiff organization who are not African-American; and any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

20. This class action is comprised of the following: African Americans who were sold subprime mortgage loans from HSBC even though they qualified for more favorable conventional mortgage loans from HSBC, and African Americans who would not qualify under HSBC's loan guidelines if HSBC had evaluated the loan under the anticipated adjusted rates during the first four years of the loan, rather than the low initial or "teaser" interest rate.

21. This action is properly maintainable as a class action as to each Class member because:

22. Numerosity: The members of the Class for whose benefit this action is brought are dispersed throughout the state and nationwide, and are so numerous that joinder of each members of the Class is impracticable.

23. Typicality: The NAACP has representative standing to bring the class action for the relief requested, its interests do not conflict with the interests of any members of the Class, and was subject to the same discriminatory treatment and policies and procedures that resulted in a disparate and discriminatory impact on the members of the Class.

24. Common Questions of Law and Fact Predominate: The questions of law and fact common to the members of the Class predominate over any questions affecting individual members of the Class. Among the questions of law and fact common to the Class are:

a. The nature and scope of Defendants' policies and procedures relating to the marketing of subprime residential mortgage products to consumers;

b. Whether Defendants have subjected their African American consumers and members of the NAACP to disparate adverse treatment by imposing terms and conditions for residential mortgage loans that resulted in their paying more for their loans than similarly situated Caucasian customers;

c. Whether Defendants marketed and/or determined the type of loan, interest rate, duration or other terms of a loan based in whole or in part on the race of the applicants;

d. Whether Defendants unlawfully steered applicants to less favorable credit products than they qualified for on the basis of race;

e. Whether Defendants' policies and practices of providing financial incentives to mortgage brokers to steer consumers to subprime residential mortgage products in lieu of prime residential mortgage products, while at the same time having a policy and practice of not providing a meaningful review of residential mortgage loan applications to determine if the applicant qualifies for prime residential mortgage products, constitutes facially neutral policies that create a disparate discriminatory impact against African Americans;

f. Whether Defendants discriminated against the Class by providing them with subprime residential mortgage loans when they qualify for prime residential mortgage loans offered by the Defendants or one of their related entities;

g. Whether Defendants have a statutory obligation to evaluate the ability of each applicant to repay the loan based on the interest rate during the life of the loan and not only on the initial or "teaser" rate;

h. Whether Defendants' policies and practices of evaluating each applicant's ability to repay a loan based *only* on the initial rate and not the rate that will be adjusted upward constitutes facially neutral policies that create a disparate discriminatory impact against African Americans;

i. Whether Defendants have any legitimate business reason for the aforementioned policies and practices that can be achieved by alternative means that have a less discriminatory impact against African Americans;

j. Whether Defendants' intent in their discriminatory policies and procedures was racially motivated; and

k. Whether Defendants' policies and practices have proximately caused damages and injury to Plaintiff and the Classes entitling them to injunctive and declaratory relief, and the measure of that relief.

25. Adequacy of Representation: The NAACP will fairly and adequately protect the interests of the Class and have retained counsel competent and experienced in class action litigation, including class actions within the Central District of California. The NAACP has no interests antagonistic to, or in conflict with, the Class that the NAACP seeks to represent.

26. Injunctive/Declaratory Class: Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief proper with respect to the Class. Fed. R. Civ. P. 23(b)(2).

27. HSBC has engaged, and continues to engage, in disparate treatment by issuing residential mortgage loans to African Americans under less favorable terms than equally situated Caucasians. In addition, HSBC has instituted specific, identifiable policies and practices that have a disparate adverse impact on African Americans. The statistical evidence identified herein is sufficiently supportive of both claims.

28. The majority of African-Americans who took out purchase mortgages in 2005 were put into higher-cost subprime loans, compared with about 17% of Caucasians, according to Federal Reserve data. As just two examples, the South Side of Chicago, with a large concentration of minority borrowers, has a high concentration of subprime loans and the state's highest foreclosure rate. And in Boston, where defaults are rising primarily in minority neighborhoods, 73% of high-income African-Americans (those making $92,000 to $152,000) received subprime loans in 2005, compared with 17% of Caucasians.

29. This is consistent with the Association of Community Organizations for Reform Now (ACORN) finding in 2001 that among upper-income African-Americans nationally, 18.05 percent of conventional refinance loans received were from subprime lenders, whereas for upper-income Caucasian homeowners it was only 4.81 percent. In fact, *upper*-income African-American homeowners are more likely to receive a subprime loan while refinancing even when compared to *lower*-income Caucasian homeowners.

30. While some borrowers in the subprime market are genuine credit risks, African-American borrowers have been targeted and illegally steered into subprime residential mortgage loans. HSBC is reluctant or refuses to offer these borrowers the prime loans that are offered to Caucasian borrowers with the same qualifications. Instead, HSBC engages in predatory subprime lending, knowingly making loans with high loan-to-value ratios, in this case to borrowers who qualify for lower-cost or prime loans, in what amounts to a kind of “reverse redlining”. Studies by Freddie Mac and Standard & Poor’s have found that 20% to 30% of borrowers who receive subprime

mortgages could have qualified for traditional mortgages at the lower rates offered by banks to prime borrowers. This effectively dilutes the equity from the property, places the borrower in jeopardy of default, and puts the borrower in the position of spending years paying off additional loan balances without developing any equity.

31. In September 2005, the Federal Reserve Board concluded that African-Americans were more likely to pay higher prices for these mortgages. The United States Inspector General then cited that report as showing "significant" differences that made it "clear" that African-Americans were "much more likely to get higher-priced loans" than Caucasians, and the FDIC has stated that it does not believe that these significant disparities can be explained away by risk-based pricing, as the lending industry has repeatedly tried to do.

32. Further, the U.S. Department of Housing and Urban Development found that in neighborhoods where at least 80 percent of the population is African-American, borrowers were 2.2 times more likely than borrowers in the nation as a whole to refinance with a subprime lender. In fact, *upper-income* borrowers living in predominately African-American neighborhoods are twice as likely as *lower-income* Caucasian borrowers to have subprime loans.

33. HSBC has subjected its African American consumers and members of the NAACP to disparate adverse treatment by imposing terms and conditions for residential mortgage loans that resulted in their paying more for their loans than similarly situated Caucasian customers.

34. HSBC unlawfully steered applicants to less favorable credit products than they qualified for on the basis of race.

35. HSBC had engaged in a policy and practice of actively marketing subprime residential mortgage loan products directly to consumers, without providing them with sufficient information on how to purchase prime residential mortgage products from HSBC or one of its related entities.

36. HSBC has engaged in policies and practices that provide greater financial compensation for mortgage brokers to steer consumers to subprime residential mortgage products in lieu of prime residential mortgage products from the defendants or one of its related entities. In fact, for 2006, 71 percent of all subprime loans were originated through brokers.

37. The adverse impact of these policies and practices is felt disproportionately by African American consumers and members of the NAACP, compared to similarly situated Caucasians, as reflected in the substantially higher relative rate at which African Americans receive subprime residential mortgage loans despite the fact that they qualify for prime or "A" paper residential mortgage loans.

38. Based upon the foregoing, HSBC was aware or should have been aware that applications for subprime residential mortgage loans include those made by individuals who would qualify for prime or "A" paper residential mortgage loans.

39. Nonetheless, HSBC had the policy and practice of not providing meaningful review of loan applications to determine whether the applicant qualifies for a prime residential mortgage product offered by the defendant or one of its affiliated entities. While HSBC might review loan applications to determine whether they qualify for the subprime residential mortgage product, HSBC had policies and practices of not reviewing the application to determine if the applicant would qualify for a prime residential mortgage product offered by Ameriquest or one of its affiliated entities. The adverse effect of this policy was felt disproportionately by African American consumers and members of the NAACP, compared to similarly situated Caucasians, as reflected in their subprime rates.

40. HSBC subjects its individual African American borrowers to terms and conditions for home mortgage loans that resulted in those borrowers paying more for their loans than similarly situated Caucasian borrowers.

41. The foregoing policies and practices are facially neutral in that HSBC applies the same policies and practices to all residential mortgage loans.

42. The foregoing policies and practices have a disproportionately adverse effect on African Americans compared with similarly situated Caucasian applicants because African Americans are subject to a significantly higher likelihood of receiving a subprime residential mortgage loan than Caucasian borrowers when they nonetheless qualify for a prime residential mortgage loan. Statistical analysis confirms that African Americans are more likely to be placed in subprime loans when they qualify for prime loans, than similarly situated Caucasians.

43. This statistical analysis goes beyond the data recently required under the Home Mortgage Disclosure Act, and demonstrates a clear pattern of discrimination unexplainable on grounds other than race.

44. The 2004 HMDA reporting requirements first directed lenders to identify higher-rate loans. That year, staff to the Board of Governors of the Federal Reserve System analyzed the distribution of these higher-rate loans. They reported pricing disparities between different racial and ethnic groups even after controlling for a borrower's income, gender, property location, and the loan amount. For example, after accounting for these differences, African-Americans who took a loan to purchase a home were 3.1 times more likely than Caucasian borrowers to receive a higher-rate home loan. While this Federal Reserve analysis confirmed that African-American borrowers were more likely to receive higher-rate loans than white borrowers, the researchers were unable to broadly explore how these disparities were affected by risk factors such as borrowers' credit score, down payment, or ability to document income. Then last year, the Center for Responsible Lending produced the first full research report that addresses this limitation.

45. Specifically, the Center developed a database of 177,000 subprime loans by matching loans in HMDA to a private database of subprime mortgages. This step

enabled them to bring together detailed information on mortgage pricing, loan terms, and borrower risk characteristics into a single dataset. As a result, that study was able to account for those factors and isolate the effects of race and ethnicity in influencing whether a borrower receives a higher-rate loan in the subprime market.

46. The findings were striking, yet consistent with those of the Federal Reserve and other consumer organizations. The Center found that race and ethnicity – two factors that should play no role in pricing – were significant predictors of whether a subprime loan falls into the higher-rate portion of the market. Race and ethnicity remained significant predictors even after they accounted for the major factors that lenders list on rate sheets to determine loan pricing.

47. Even after controlling for legitimate loan risk factors, including borrowers' credit score, loan-to-value ratio, and ability to document income, race mattered, and it mattered in a discriminatory way. African American borrowers continued to face a much greater likelihood of receiving the most expensive subprime loans – even with the same loan type and the same qualifications as their white counterparts. Across a variety of different loan types, African Americans were commonly 31% to 34% more likely to receive a higher-rate loan than Caucasian borrowers.

48. This data evidences and is indicative of the treatment and impact described herein.

49. Further, HSBC had policies and practices of marketing residential mortgage loans that have initial rates during the first few years of the loan that are substantially lower than the rates that will be charged during the remaining course of the loans. These rates are often referred to as "teaser" rates or the initial interest rates for "Option ARM" loans. HSBC knew that the initial or teaser interest rate will increase substantially during the first four years of such residential mortgage loans.

50. Notwithstanding the fact that HSBC had a non-delegable, statutorily obligated duty to evaluate each applicant's ability to repay the entire loan (and not just

the initial or teaser rates), HSBC had policies and practices of evaluating each applicant's ability to pay based upon *only* the lower initial rate.

51. These policies and practices are facially neutral insofar as HSBC used the same policies and practices for all residential mortgage loan applications.

52. The foregoing policies and practices have a disproportionately adverse effect on African Americans compared with similarly situated Caucasian applicants. Statistically, African Americans are more likely to obtain residential mortgage loans that would not satisfy HSBC's loan guidelines if the loan had been evaluated under the anticipated adjusted rates during the first four years of the loan, rather than the low initial interest rate. This is because African Americans have a much lower mean household income than Caucasians. Census data indicates that in 2006 African Americans had a mean household income of $31,969 compared to $52,423 for Caucasians. A policy that evaluates the ability to repay a loan based only on an initial low rate will necessarily result in a disproportionate impact on African Americans since, due to their lower incomes, a disproportionate number will be being stuck in loans they will not be able to repay when the interest rate increases.

53. The consequences of these policies and procedures have resulted in African Americans being disproportionately given loans that they will not have an ability to repay when the higher rates kick in. In the event African American homeowners elect to refinance their mortgages (in the unlikely event that they are able to qualify for such refinancing), they must often pay huge pre-payment penalties pursuant to the terms and conditions of the original residential mortgage loan.

54. There is no legitimate business reason justifying each of the aforementioned policies and practices that could not be achieved by a policy that does not have a discriminatory impact or a greatly reduced discriminatory impact.

55. Even though, upon information and belief, HSBC is presently no longer issuing mortgage loans, the injunctive relief requested in this Original Complaint is

required because there is a great likelihood that upon the stabilization of the mortgage market, HSBC will again market and sell mortgage loans and the injunctive relief is required to ensure that the discriminatory conduct is not repeated.

FIRST CAUSE OF ACTION

(Fair Housing Act – 42 U.S.C. § 3601 *et seq.*)

56. The NAACP incorporates each and every preceding paragraph stated above, inclusive, as though the same were fully set forth herein.

57. The Fair Housing Act prohibits mortgage lenders from imposing different terms or conditions on a loan, such as different interest rates, points or fees, on the basis of race. The rights of the Class are protected by the Act.

58. HSBC's policies and practices have resulted in discrimination with respect to the Class, resulting in economic injury, as particularly stated herein.

59. By selling subprime residential mortgages to African Americans who qualify for prime residential mortgages at grossly unfavorable terms compared to Caucasians who continue to receive better terms than their African American counterparts, HSBC has discriminated against The Class with respect to their ability to participate in real estate transactions under terms and conditions that violate 42 U.S.C. §3605.

60. HSBC engaged in the following facially neutral policies and practices that have an adverse disparate impact on African Americans:

a. actively marketing subprime residential loan products directly to consumers, without providing applicants with sufficient information on how to purchase prime residential mortgage products from HSBC or one of its related entities;

b. providing financial incentives for mortgage brokers to steer consumers to subprime residential mortgage products in lieu of prime residential mortgage products from HSBC or one of its related entities;

c. not providing meaningful review of loan applications to determine whether the applicant qualifies for a prime residential mortgage product offered by HSBC or one of its affiliated entities.

61. The foregoing facially neutral policies and practices have a disproportionately adverse effect on African Americans compared with similarly situated Caucasian applicants because African Americans are subject to a significantly higher likelihood of receiving a subprime residential mortgage loan than Caucasian borrowers when they nonetheless qualify for a prime residential mortgage loan. Statistical analysis confirms that African Americans are more likely to be placed in subprime loans when they qualify for prime loans, than comparable situated Caucasians, thus constituting a violation of the Fair Housing Act.

62. HSBC engaged in the following additional facially neutral policies and practices that have an adverse disparate impact on African Americans:

a. marketing residential mortgage loans that have “teaser” rates or the initial interest rates for “Option ARM” loans; and

b. evaluating each applicant’s ability to pay based upon *only* the lower initial rate, and not the subsequent adjusted higher rate that will be due under the loan.

63. The foregoing policies and practices have a disproportionately adverse effect on African Americans compared with similarly situated Caucasian applicants. Statistically, African Americans are more likely than Caucasians to obtain residential mortgage loans that would not satisfy HSBC’s loan guidelines if the loan had been evaluated under the anticipated adjusted rates during the first four years of the loan, rather than the low initial interest rate.

64. There is no legitimate business reason justifying each of the aforementioned policies and practices that could not be achieved by a policy that does not have a discriminatory impact or a greatly reduced discriminatory impact.

65. As a proximate result of HSBC's violation of this statute, the NAACP and the Class A have been actually damaged.

66. This cause of action arises from continuing violations of this Act.

67. The NAACP and the Class are entitled to injunctive and declaratory relief.

SECOND CAUSE OF ACTION

(Equal Credit Opportunity Act – 15 U.S.C. § 1691 *et seq.*)

68. The NAACP incorporates each and every preceding paragraph stated above, inclusive, as though the same were fully set forth herein.

69. The Equal Credit Opportunity Act was first enacted in 1974 as a consumer protection statute prohibiting discrimination in the issuing of credit. The Act has been broadly construed by the courts in order to make effective its provisions to protect consumers.

70. HSBC is a creditor within the meaning of 15 U.S.C. § 1691(e). The mortgage loans offered to NAACP members are credit transactions. The Act provides that "[i]t shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction . . . on the basis of race." 15 U.S.C. § 1691(a)(1). Class members are systematically and continuously extended mortgage credit by Defendants on a discriminatory basis. The rights of the Class are protected by the Act. HSBC discriminated against the Class and they were economically injured, as particularly stated herein.

71. HSBC engaged in a pattern and practice of discrimination on the basis of race in the terms and interest rates charged to African American consumers and members of the NAACP. By selling subprime residential mortgages to African Americans who qualify for prime residential mortgages at a far greater rate than Caucasians, HSBC

discriminated against the Class with respect to their ability to participate in real estate transactions under terms and conditions that violate 42 U.S.C. §3605.

72. HSBC engaged in the following facially neutral policies and practices that have a disproportionately adverse impact on African Americans when compared with Caucasians:

a. actively marketing subprime residential loan products directly to consumers, without providing applicants with sufficient information on how to purchase prime residential mortgage products from HSBC or one of its related entities;

b. providing financial incentives for mortgage brokers to steer consumers to subprime residential mortgage products in lieu of prime residential mortgage products from HSBC or one of its related entities; and

c. not providing meaningful review of loan applications to determine whether the applicant qualifies for a prime residential mortgage product offered by HSBC or one of its affiliated entities.

73. HSBC engaged in the following additional facially neutral policies and practices that have a disproportionately adverse impact on African Americans when compared with:

a. marketing residential mortgage loans that have “teaser” rates or the initial interest rates for “Option ARM” loans; and

b. evaluating each applicant’s ability to pay based upon *only* the lower initial rate, and not the subsequent adjusted higher rate that will be due under the loan.

74. There is no legitimate business reason justifying each of the aforementioned policies and practices that could not be achieved by a policy that does not have a discriminatory impact or a greatly reduced discriminatory impact.

75. As a proximate result of HSBC's violation of this statute, the Class has been actually damaged.

76. This cause of action arises from continuing violations of this Act.

77. The NAACP and the Class are entitled to injunctive and declaratory relief.

THIRD CAUSE OF ACTION

(Civil Rights Act: Racial Discrimination 42 U.S.C. §§ 1981, 1982 *et seq.*)

78. The NAACP incorporates each and every preceding paragraph stated above, inclusive, as though the same were fully set forth herein.

79. The Civil Rights Act of 1866 and 1870, and later expanded upon in 1991, prohibits racial discrimination in the formation and issuance of contracts, and intentional interference in the purchase and holding of real property.

80. HSBC intentionally discriminated against the Class by charging them higher interest rates than those charged to similarly-situated Caucasian mortgagees.

81. By charging higher rates to the Class, HSBC unlawfully discriminated against the Class in (i) formation of contracts, (ii) making, performance, modification, and termination of contracts, and/or (iii) the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship, and in their right to purchase and hold real property.

82. HSBC's actions violate 42 U.S.C. §§ 1981 and 1982. As a proximate result of HSBC's systematic violation of this statute, the NAACP and the Class are entitled to the requested relief provided under the Act.

JURY DEMAND

The NAACP, individually and in a representative capacity on behalf of the Class, hereby demands a trial by jury on all claims and issues which it has a right for a jury to render judgment.

PRAYER

WHEREFORE, the NAACP, individually and in a representative capacity on behalf of the putative Class comprised of African Americans and/or members of the NAACP, prays for entry of judgment as follows:

A. Certifying the putative Class and appointing the NAACP and its counsel to represent the Class;

B. A judgment in favor of the NAACP and the putative Class against Defendants;

C. Declaring that HSBC's practices, as described herein, violate the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil Rights Act;

D. A judgment awarding the NAACP and Class Members costs and disbursements incurred in connection with this action, including reasonable attorneys' fees, expert witness fees and other costs;

E. A judgment granting extraordinary equitable and/or injunctive relief as permitted by law or equity;

F. A judgment granting declaratory and injunctive relief and all relief that flows from such injunctive and declaratory relief;

G. A judgment or other order granting such other and further relief as the Court deems just and proper; and

H. Enjoining the complained of conduct and Ordering HSBC to modify its lending practices to comport with the law. The NAACP and the Class request that the Court exercise its equitable jurisdiction and order HSBC, its agents, subsidiaries, and affiliated companies to cease and desist from the unlawful conduct described above, and hereafter modify their lending practices to conform with statutory requirements. The NAACP and the Class further request that the Court order HSBC, its agents, subsidiaries, and affiliated companies to establish and publish informative materials and programs to fully inform African Americans about their rights to equal treatment with respect to home loans and subprime loans. The NAACP further requests that the Court retain jurisdiction on an ongoing basis in order to ensure and, where necessary, enforce compliance.

Dated: March ___, 2009

Respectfully submitted,

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