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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

TAMMY MARANGOPOULOS,

Plaintiff,

v.

BANK OF AMERICA, N.A., and DOES
1-10, inclusive,

Defendants.

Case No.

COMPLAINT
By Fax

CLASS ACTION

DEMAND FOR JURY TRIAL

FILED BY FAX

ALAMEDA COUNTY

April 27, 2021

CLERK OF
THE SUPERIOR COURT
By Nicole Hall, Deputy

CASE NUMBER:

RG21097293

1 Plaintiff Tammy Marangopoulos, individually and on behalf of all others similarly
2 situated, alleges as follows:

3 **Introduction**

4 1. Plaintiff brings this class action against Defendant Bank of America, National
5 Association (“BANA” or “Defendant”) for violating the Equal Credit Opportunity Act (the
6 “ECOA”), 15 U.S.C. § 1691 *et seq.* The ECOA entitles each credit applicant against whom
7 adverse action is taken to a statement of reasons for such action from the creditor. 15 U.S.C. §
8 1691(d). To satisfy this obligation, a creditor must provide a written notice that includes the
9 specific reasons for the adverse action or discloses that the applicant has the right to a statement
10 of reasons. 15 U.S.C. § 1691(d)(2) and (3).

11 2. BANA failed to provide Plaintiff and class members with the requisite notice after
12 denying their credit applications. Instead, BANA sent Plaintiff and class members letters
13 substantially in the form of Exhibit A hereto stating: “we’ve determined that we’re unable to
14 approve your request because your risk profile does not align with the bank’s risk tolerance” or
15 words to that effect. This explanation is insufficient because it does not provide the specific
16 reasons for the adverse action taken. BANA’s letters also omit any mention of the applicant’s
17 right to a statement of specific reasons.

18 3. Plaintiff and the class seek statutory punitive damages of up to \$500,000, a halt to
19 Defendant’s unlawful practices, and attorneys’ fees and costs.

20 4. The allegations herein that relate to Plaintiff’s personal actions are made based on
21 Plaintiff’s personal knowledge. The balance is made on information and belief based on the
22 investigation of counsel.

23 **Parties**

24 5. Plaintiff Tammy Marangopoulos is, and at all relevant times was, a resident of
25 California.

26 6. Defendant BANA is a national banking association with its headquarters in
27 Charlotte, North Carolina. Defendant provides banking services to consumers throughout
28 California and the United States.

1 (2) Each applicant against whom adverse action is taken shall be
entitled to a statement of reasons for such action from the creditor.
2 A creditor satisfies this obligation by—

3 (A) providing statements of reasons in writing as a matter of
course to applicants against whom adverse action is taken;
4 or

5 (B) giving written notification of adverse action which
discloses (i) the applicant’s right to a statement of reasons
6 within thirty days after receipt by the creditor of a request
made within sixty days after such notification, and (ii) the
7 identity of the person or office from which such statement
may be obtained. Such statement may be given orally if the
8 written notification advises the applicant of his right to have
the statement of reasons confirmed in writing on written
9 request.

10 (3) A statement of reasons meets the requirements of this section
only if it contains the specific reasons for the adverse action taken.

11 ...

12 (6) For purposes of this subsection, the term “adverse action” means
13 a denial or revocation of credit, a change in the terms of an existing
credit arrangement, or a refusal to grant credit in substantially the
14 amount or on substantially the terms requested. Such term does not
include a refusal to extend additional credit under an existing credit
15 arrangement where the applicant is delinquent or otherwise in
default, or where such additional credit would exceed a previously
16 established credit limit.

17 12. The ECOA authorizes the Consumer Financial Protection Bureau (“CFPB”) to
18 issue regulations “to carry out the [ECOA’s] purposes.” 15 U.S.C. § 1691b(a). Under this
19 authority, the CFPB issued regulations to carry out the ECOA’s purposes, which are set forth at
20 12 C.F.R. Part 1002 and collectively known as Regulation B. 12 C.F.R. § 1002.1(a).

21 13. Plaintiff and each class member is an “applicant” under the ECOA because they
22 each applied to BANA directly for an extension of credit. *See* 15 U.S.C. § 1691a(b) (“The term
23 “applicant” means any person who applies to a creditor directly for an extension, renewal, or
24 continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an
25 amount exceeding a previously established credit limit.”); 12 C.F.R. § 1002.2(e) (“Applicant
26 means any person who requests or who has received an extension of credit from a creditor ...”).

27 14. BANA is a “creditor” under the ECOA because it regularly extends, renews, or
28 continues credit and regularly participates in credit decisions in the ordinary course of business.

1 See 15 U.S.C. § 1691a(e) (“The term “creditor” means any person who regularly extends, renews,
2 or continues credit ...”); 12 C.F.R. § 1002.2(l) (“Creditor means a person who, in the ordinary
3 course of business, regularly participates in a credit decision, including setting the terms of the
4 credit.”).

5 15. BANA took an “adverse action” against Plaintiff and each class member when it
6 denied their respective credit applications. See 15 U.S.C. § 1691(d)(6) (“[T]he term “adverse
7 action” means a denial or revocation of credit, a change in the terms of an existing credit
8 arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms
9 requested.”); 12 C.F.R. § 1002.2(c)(1) (defining “adverse action” to include “[a] refusal to grant
10 credit in substantially the amount or on substantially the terms requested in an application unless
11 the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the
12 applicant uses or expressly accepts the credit offered ...”). Defendant’s conduct is not excluded
13 from the definition of “adverse action” under 15 U.S.C. § 1691(d)(6) or 12 C.F.R. § 1002.2(c)(2).

14 16. Upon taking an adverse action against Plaintiff and each class member, BANA
15 was obligated to provide the applicant with either: (a) a written statement of reasons containing
16 the specific reason(s) for the adverse action taken, or (b) a written disclosure of the applicant’s
17 right to a statement of reasons. See 15 U.S.C. § 1691(d)(2). BANA was required to provide such
18 notice within 30 days of receipt of the applicant’s credit application. See 15 U.S.C. § 1691(d)(1);
19 12 C.F.R. § 1002.9(a)(1).

20 17. BANA failed to fulfill these obligations. On December 16, 2020, Defendant sent
21 Plaintiff an adverse action notice, a copy of which is attached hereto as Exhibit A, stating in
22 relevant part:

23 After our review, we’ve determined that we’re unable to approve
24 your request because your risk profile does not align with the
bank’s risk tolerance.

25 BANA sent each class member an adverse action notice, substantially in the form of Exhibit A,
26 giving the same reason for the adverse action taken.

27 18. BANA’s statement of reasons does not meet the requirements of 15 U.S.C. §
28 1691(d) because it does not contain the “specific reasons for the adverse action taken.” 15 U.S.C.

1 § 1691(d)(3). Regulation B requires that the statement of reasons “be specific and indicate the
2 principal reason(s) for the adverse action. Statements that the adverse action was based on the
3 creditor's internal standards or policies or that the applicant, joint applicant, or similar party failed
4 to achieve a qualifying score on the creditor's credit scoring system are insufficient.” 12 C.F.R. §
5 1002.9(b)(2). The CFPB’s official interpretation of Regulation B provides that: “[t]he specific
6 reasons disclosed under §§ 1002.9(a)(2) and (b)(2) must relate to and accurately describe the
7 factors actually considered or scored by a creditor.” 12 C.F.R. Pt. 1002, Supp. I, ¶ 9(b)(2)-2.

8 19. BANA’s explanation for the adverse action taken is not specific and does not
9 accurately describe the factor(s) BANA considered in denying the application. BANA’s
10 explanation is comparable to attributing the adverse action to “the creditor's internal standards or
11 policies,” which is expressly insufficient under the regulations. 12 CFR § 1002.9(b)(2).

12 20. The adverse action notices BANA sent Plaintiff and class members do not disclose
13 the applicant’s right to a statement of reasons. 15 U.S.C. § 1691(d)(2)(B).

14 21. Defendant did not send Plaintiff or class members a compliant adverse action
15 notice within 30 days of receiving their at-issue credit applications, or at any time thereafter.

16 22. Defendant’s violation of the ECOA denied Plaintiff and class members the
17 “valuable educational benefit” that Congress found would come from knowing the reasons for an
18 adverse action.

19 23. Defendant acted in reckless disregard of the ECOA because the adverse action
20 notices it sent to Plaintiff and class members were unambiguously deficient under the law.

21 Class Action Allegations

22 24. Pursuant to Code of Civil Procedure § 382, Plaintiff brings this action on behalf of
23 the following class:

24 All natural persons to whom Defendant sent a notice giving “your
25 risk profile does not align with the bank’s risk tolerance” as the
26 only reason a credit application was denied, to an address in
California, in the period beginning 5 years before the filing of this
action and ending on the day of class certification.

27 25. The following individuals are excluded from the class:

28 a. officers and directors of Defendant and its parents, subsidiaries, affiliates,

1 and any entity in which Defendant has a controlling interest;
2 b. all judges assigned to hear any aspect of this litigation, as well as their
3 immediate family members.

4 26. Plaintiff reserves the right to modify or amend the definition of the proposed class
5 before the Court determines whether certification is appropriate.

6 27. Class certification is appropriate because this action satisfies the applicable
7 numerosity, commonality, typicality, adequacy, predominance, and superiority requirements.

8 28. Numerosity: The potential members of the class are so numerous that joinder of all
9 the members of the class is impracticable. Plaintiff is informed and believes that there are at least
10 hundreds of class members.

11 29. Commonality: There are questions of law and fact common to the class that
12 predominate over any individualized questions, including but not limited to:

- 13 a. Whether class members are “applicants” under the ECOA;
- 14 b. Whether Defendant is a “creditor” under the ECOA;
- 15 c. Whether Defendant’s denial of class members’ credit application(s)
16 constitute “adverse actions” under the ECOA;
- 17 d. Whether Defendant provided class members with an adverse action notice
18 containing the information required by the ECOA;
- 19 e. Whether the class is entitled to an award of punitive damages under the
20 ECOA; and
- 21 f. Whether the class is entitled to injunctive relief halting Defendant’s
22 unlawful practices under the ECOA.

23 30. Typicality: Plaintiff’s claims are typical of the claims of the class in that Plaintiff
24 and the other class members each: (a) applied for a credit account with Defendant, (b) had that
25 application denied by Defendant, and (c) were sent adverse action notices containing the same
26 alleged deficiencies. Defendant’s conduct is common to all class members and represents a
27 common thread of conduct resulting in injury to all members of the class. Plaintiff has suffered
28 the harm alleged and has no interests antagonistic to any other class member.

1 31. Adequacy: Plaintiff is a member of the class and will fairly and adequately
2 represent and protect the interests of the class. Plaintiff’s interests do not conflict with the
3 interests of other class members. Furthermore, counsel for Plaintiff and the class are competent
4 and experienced in class action litigation and consumer protection litigation. Plaintiff’s counsel
5 will fairly and adequately protect and represent the interests of the class.

6 32. Superiority: A class action is superior to other available means for the fair and
7 efficient adjudication of this controversy. Individual joinder of all class members is impracticable,
8 and questions of law and fact common to the class predominate over any questions affecting only
9 individual members of the class. Class treatment will allow those similarly situated persons to
10 litigate their claims in the manner that is most efficient and economical for the parties and the
11 judicial system.

12 **First Claim for Violation of the ECOA’s Notice Requirement (15 U.S.C. § 1691(d))**

13 33. Plaintiff incorporates the foregoing paragraphs as though repeated here.

14 34. Defendant took an “adverse action” against Plaintiff and each class member when
15 it denied their credit applications.

16 35. Plaintiff and each class member was therefore entitled to: (a) a statement of
17 reasons for Defendant’s denial of their credit application, or (b) a disclosure of their right to a
18 statement of reasons. Defendant violated the ECOA’s notice provision, 15 U.S.C. § 1691(d), by
19 failing to provide Plaintiff and each class member with an adverse action notice that satisfied
20 these requirements.

21 36. Plaintiff and class members, having each been denied a statement of reasons
22 containing the specific reasons why their credit application was denied in violation of the ECOA,
23 have each been deprived of the valuable educational benefits Congress intended ECOA’s notice
24 requirement to confer, and are each “aggrieved applicants” under 15 U.S.C. § 1691e.

25 37. In committing the ECOA violations alleged herein, Defendant acted in reckless
26 disregard of the ECOA, warranting imposition of punitive damages against Defendant under 15
27 U.S.C. § 1691e(b).

28 38. Defendant is continuing to engage in all of the unlawful conduct alleged herein so

1 Plaintiff, class members, and the general public face continuing likelihood of future injury from
2 Defendant's conduct.

3 **Prayer for Relief**

4 WHEREFORE, Plaintiff, individually and on behalf of the class, prays for judgment as
5 follows:

- 6 1. For punitive damages of up to \$500,000 pursuant to 15 U.S.C. § 1691e(b) in an
7 amount to be proven at trial;
- 8 2. For injunctive relief halting Defendant's unlawful practices pursuant to 15 U.S.C.
9 § 1691e(c);
- 10 3. For attorneys' fees pursuant to applicable law including, without limitation, 15
11 U.S.C. § 1691e(d) and California Code of Civil Procedure § 1021.5;
- 12 4. For costs of suit pursuant to applicable law, including without limitation, 15
13 U.S.C. § 1691e(d) and Code of Civil Procedure § 1032; and
- 14 5. For such other and further relief as the Court deems just and proper.

15
16 RESPECTFULLY SUBMITTED,

17 VALERIAN LAW, P.C.
18 DARR LAW LLC

19 DATED: April 26, 2021

20 By: *Dominic Valerian*
21 Dominic Valerian
22 Alexander Darr
23 Attorneys for Plaintiff Tammy
24 Marangopoulos
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial of all issues, claims, and causes of action so triable.


RESPECTFULLY SUBMITTED,

VALERIAN LAW, P.C.
DARR LAW LLC

DATED: April 26, 2021

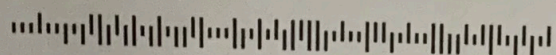
By: *Dominic Valerian*
Dominic Valerian
Alexander Darr
*Attorneys for Plaintiff Tammy
Marangopoulos*

Exhibit A

BANK OF AMERICA 

www.bankofamerica.com

LL 1219 754 419 00175 #@01 AB 0.419
TAMMY MARANGOPOULOS
9166 GREGORY ST
CYPRESS CA 90630-2614



December 16, 2020

Regarding reference number: 4115405326

Tammy Marangopoulos:

Your application for the Alaska Airlines Visa Signature card was received. After our review, we've determined that we're unable to approve your request because your risk profile does not align with the bank's risk tolerance.

Have questions?

For questions, please call our dedicated team at 855.241.4049 Monday through Friday from 9 a.m. to 5 p.m. Eastern. Please leave a message with your name and best number to reach you, and we'll call you back. If you prefer, you may write to Bank of America, PO Box 650520 Dallas, TX 75265-0520.

EQUAL CREDIT OPPORTUNITY ACT NOTICE

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning Bank of America, N.A., 100 N. Tryon Street, Charlotte, NC 28255, is the Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20006.