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28 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN HONDA FINANCE
CORPORATION,

Defendant.

CIVIL ACTION NO. CV 15-05264

COMPLAINT

1 Plaintiff, United States of America, alleges:

2 1. The United States of America brings this action against American Honda
3 Finance Corporation (“Honda” or “Defendant”) for discriminating against thousands of
4 African-American, Hispanic, and Asian and/or Pacific Islander borrowers across the
5 United States who obtained loans from Honda to finance automobiles. The
6 discrimination is caused by Honda’s policy and practice that allows dealers to include
7 markups in the interest rates on automobile loans in a hidden manner not based on the
8 borrower’s creditworthiness or other objective criteria related to borrower risk. The
9 United States brings this action to enforce provisions of the Equal Credit Opportunity
10 Act (ECOA), 15 U.S.C. §§ 1691-1691f, and its implementing regulation, Regulation B,
11 12 C.F.R. Part 1002.

12 2. Between at least January 1, 2011 and July 14, 2015 (“the Relevant Period”),
13 Honda did not provide adequate constraints or monitoring across its portfolio of loans to
14 prevent discrimination. Honda knew or had reason to know that its policy and practice
15 of allowing dealers to mark up consumers’ interest rates created a substantial risk of
16 discrimination. During this time, Honda did not monitor markup disparities.

17 3. As a result of Honda’s dealer markup and compensation policy and practice
18 and its lack of compliance monitoring, African-American, Hispanic, and Asian and/or
19 Pacific Islander borrowers paid higher interest rates for their automobile loans than white
20 borrowers, not based on creditworthiness or other objective criteria related to borrower
21 risk, but because of their race and national origin. Between January 1, 2011 and
22 December 31, 2013, the average African-American victim was obligated to pay over
23 \$250 more during the term of the loan because of discrimination, the average Hispanic
24 victim was obligated to pay over \$200 more during the term of the loan, and the average
25 Asian and/or Pacific Islander victim was obligated to pay over \$150 more during the
26 term of the loan because of discrimination.

1 that submitted the application to Honda. Honda's buy rate reflects the minimum interest
2 rate, absent additional discounts or reductions, at which Honda will finance or purchase a
3 retail installment contract from a dealer.

4 10. With respect to non-subservented retail installment contracts, Honda maintains
5 a specific policy and practice that provides dealers discretion to mark up a consumer's
6 interest rate above Honda's established risk-based buy rate. The difference between the
7 buy rate and the consumer's interest rate on the retail installment contract (contract rate)
8 is known as the "dealer markup." Honda compensates dealers from the increased
9 interest revenue to be derived from the dealer markup. Honda does not allow dealers to
10 mark up subservented retail installment contracts.

11 11. During the Relevant Period, Honda limited the dealer markup to 225 basis
12 points for contracts with terms of sixty (60) monthly payments or less, and to 200 basis
13 points for contracts with terms of greater than sixty (60) monthly payments.

14 12. Honda regularly participates in the decision to extend credit by taking
15 responsibility for underwriting, setting the terms of credit by establishing the risk-based
16 buy rate, and communicating those terms to automobile dealers. Honda influences the
17 credit decision by indicating to automobile dealers whether or not Honda will purchase
18 retail installment contracts on the terms specified by Honda.

19 13. Honda's agreements with automobile dealers require that all loan
20 applications they submit to Honda must comply with the policies, conditions, and
21 requirements that Honda sets for dealers.

22 14. Honda is a creditor within the meaning of ECOA, 15 U.S.C. § 1691a(e),
23 and Regulation B, 12 C.F.R. § 1002.2(l).

24 INVESTIGATION

25 15. On April 25, 2013, the United States and the Consumer Financial Protection
26 Bureau (CFPB) initiated a joint investigation under ECOA of Honda's pricing of
27 automobile loans or retail installment contracts.

1 national origin probabilities obtained through the BISG method were then used directly
2 in the United States's and the CFPB's models to estimate any disparities in dealer
3 markup on the basis of race or national origin.

4 20. The United States's and the CFPB's markup analyses focused on the
5 interest rate difference between each borrower's contract rate and each borrower's buy
6 rate set by Honda. Honda considers individual borrowers' creditworthiness and other
7 objective criteria related to borrower risk in setting the buy rate as explained in
8 Paragraph 10. The dealer markups charged by Honda to consumers are based on dealer
9 discretion and are separate from, and not controlled by, the adjustments for
10 creditworthiness and other objective criteria related to borrower risk that are already
11 reflected in the buy rate. Honda's markup policy did not include consideration of these
12 factors. Because the analysis focused on only the difference between each borrower's
13 contract rate and buy rate, it did not make additional adjustments for creditworthiness or
14 other objective criteria related to borrower risk.

15 21. During the time period covered by the analyses, on average, African-
16 American borrowers were charged approximately thirty-six (36) basis points more in
17 dealer markup than similarly-situated non-Hispanic whites for non-subvented retail
18 installment contracts. These disparities are statistically significant, and these differences
19 are based on race and not based on creditworthiness or other objective criteria related to
20 borrower risk. These disparities mean that thousands of African-American borrowers
21 paid higher markups than the average non-Hispanic white markup and were obligated to
22 pay, on average, over \$250 more each in interest than similarly-situated non-Hispanic
23 white borrowers assuming they held their loans for the full term of the contract.

24 22. During the time period covered by the analyses, on average, Hispanic
25 borrowers were charged approximately twenty-eight (28) basis points more in dealer
26 markup than similarly-situated non-Hispanic whites for non-subvented retail installment
27 contracts. These disparities are statistically significant, and these differences are based
28

1 on national origin and not based on creditworthiness or other objective criteria related to
2 borrower risk. These disparities mean that thousands of Hispanic borrowers paid higher
3 markups than the average non-Hispanic white markup and were obligated to pay, on
4 average, approximately \$200 more each in interest than similarly-situated non-Hispanic
5 white borrowers assuming they held their loans for the full term of the contract.

6 23. During the time period covered by the analyses, on average, Asian and/or
7 Pacific Islander borrowers were charged approximately twenty-five (25) basis points
8 more in dealer markup than similarly-situated non-Hispanic whites for non-subvented
9 retail installment contracts. These disparities are statistically significant, and these
10 differences are based on race and/or national origin and not based on creditworthiness or
11 other objective criteria related to borrower risk. These disparities mean that thousands of
12 Asian and/or Pacific Islander borrowers paid higher markups than the average non-
13 Hispanic white markup and were obligated to pay, on average, over \$150 more each in
14 interest than similarly-situated non-Hispanic white borrowers assuming they held their
15 loans for the full term of the contract.

16 24. The higher markups that Honda charged to African-American, Hispanic,
17 and Asian and/or Pacific Islander borrowers are a result of Honda's policy and practice
18 of allowing dealers to mark up a consumer's interest rate above Honda's established buy
19 rate and then compensating dealers from that increased interest revenue.

20 25. Honda's policy and practice of allowing dealers to mark up a consumer's
21 interest rate above Honda's established buy rate and then compensating dealers from that
22 increased interest revenue continued throughout the entire Relevant Period.

23 26. During the Relevant Period, Honda has not required dealers to document
24 reasons for charging markups, has not monitored whether discrimination occurred
25 across its portfolio of loans through charging markups, and has not at all times provided
26 detailed fair lending training to its dealers.

1 27. Honda's policy and practice of allowing dealers to mark up a consumer's
2 contract rate above Honda's established buy rate and then compensating dealers from
3 that increased interest revenue without adequate controls and monitoring is not justified
4 by legitimate business need that cannot reasonably be achieved as well by means that
5 are less disparate in their impact on African-American, Hispanic, and Asian and/or
6 Pacific Islander borrowers. This policy and practice has been in effect during the
7 Relevant Period.

8 28. Honda knew or had reason to know that its policy and practice of allowing
9 dealers to mark up consumers' interest rates created a substantial risk of discrimination.

10 EQUAL CREDIT OPPORTUNITY ACT VIOLATIONS

11 29. Honda's policies and practices as alleged herein, coupled with the
12 disparities described above, constitute discrimination against applicants with respect to
13 credit transactions on the basis of race and national origin in violation of the Equal
14 Credit Opportunity Act, 15 U.S.C. § 1691(a)(1) and Regulation B, 12 C.F.R.
15 §§ 1002.4(a), 1002.6(a), 1002.6(b)(9).

16 30. Honda's policies and practices, as alleged herein, constitute a pattern or
17 practice of resistance to the full enjoyment of rights secured by the Equal Credit
18 Opportunity Act, 15 U.S.C. §§ 1691-1691f and Regulation B, 12 C.F.R. §§ 1002.1 –
19 1002.16.

20 31. During the time period covered by the analyses, Honda has charged
21 minority borrowers nationwide discriminatory interest charges for automobile loans as a
22 result of its pattern or practice of discrimination and denial of rights as alleged herein.
23 There is reason to believe that these discriminatory interest charges continued
24 throughout the Relevant Period. In addition to higher direct economic costs, some of
25 the victims of discrimination suffered additional consequential economic damages
26 resulting from having an excessively costly loan, including possible increased risk of
27 credit problems, default, and repossession, and other damages, including emotional
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1 distress. They are aggrieved applicants as defined in the Equal Credit Opportunity Act,
2 15 U.S.C. § 1691e, and have suffered injury and damages as a result of Honda's
3 conduct.

4 32. Honda's policies and practices, as alleged herein, were intentional, willful,
5 or implemented with reckless disregard for the rights of African-American, Hispanic,
6 and Asian and/or Pacific Islander borrowers.

7 33. ECOA empowers this Court to grant such relief as may be appropriate,
8 including actual and punitive damages and injunctive relief. 15 U.S.C. § 1691e(h).

9 PRAYER FOR RELIEF

10 WHEREFORE, the United States prays that the Court enter an ORDER that:

11 (1) Declares that the policies and practices of the Defendant constitute
12 violations of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

13 (2) Enjoins the Defendant and its agents, employees, and successors, and all
14 other persons in active concert or participation with it, from:

15 a) Discriminating on the basis of race or national origin against any
16 person with respect to any aspect of their credit transactions;

17 b) Failing or refusing to take such affirmative steps as may be necessary
18 to restore, as nearly as practicable, the victims of the Defendant's unlawful conduct to
19 the position they would have been in but for the discriminatory conduct; and

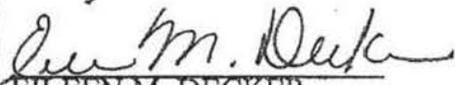
20 c) Failing or refusing to take such affirmative steps as may be necessary
21 to prevent the recurrence of any such discriminatory conduct in the future; to eliminate,
22 to the extent practicable, the effect of Honda's unlawful practices; and to implement
23 policies and procedures to ensure that all borrowers have an equal opportunity to seek
24 and obtain loans on a non-discriminatory basis and with non-discriminatory terms and
25 conditions; and

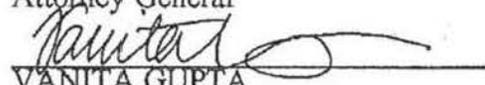
26 (3) Awards equitable relief and monetary damages to all the victims of the
27 Defendant's discriminatory policies and practices for the injuries caused by the
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1 Defendant, including direct economic costs, consequential damages, and other damages,
2 pursuant to 15 U.S.C. § 1691e(h).

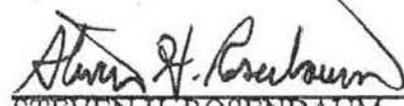
3 The United States pray for such additional relief as the interests of justice may
4 require.

5 Dated: July 14, 2015

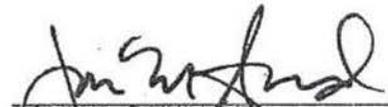
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