

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
THOMASVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	Civil No.
)	
v.)	
)	
THE MONEY TREE, INC.,)	
a corporation,)	
)	
and)	
)	
VANCE R. MARTIN,)	
individually and as an)	
officer of the corporation,)	
)	
Defendants.)	
)	

CONSENT DECREE

WHEREAS: Plaintiff, the United States of America, has commenced this action by filing the Complaint herein; defendants have waived service of the Summons and Complaint; the parties have been represented by attorneys whose names appear hereafter; and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without defendants admitting liability for any of the matters alleged in the complaint;

THEREFORE, on the joint motion of plaintiff and defendants, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. This court has jurisdiction of the subject matter herein and of the parties hereto.
2. The complaint states a claim upon which relief may be granted against defendants under Sections 5(a)(1), 5(m)(1), 9, 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 49, 53(b), and 56(a), and under the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C §§ 1691-1691f.

DEFINITIONS

3. As used in this Consent Decree:
 - (a) "Regulation B" refers to the Federal Reserve Board Regulation B, 12 C.F.R. Part 202, in effect on or after March 1977;
 - (b) the terms "age," "applicant," "application," "credit," "consumer credit," "discriminate against an applicant," and "elderly" are defined as provided in Regulation B, 12 C.F.R. § 202.2;

- (c) the term "public assistance program" means any federal, state, or local governmental assistance program that provides a continuing, periodic income supplement, whether premised on entitlement or need. The term includes, but is not limited to, Aid to Families with Dependent Children, food stamps, rent and mortgage supplemental assistance programs, Social Security and Supplemental Security Income, and unemployment compensation.

- (d) the term "credit-related insurance" is defined as credit-life, accident and health, or accidental death and dismemberment insurance.

- (e) unless otherwise specified, the term "defendants" shall mean The Money Tree, Inc. ("Money Tree"), a corporation that has done business under the name "Money Tree" and "Money To Lend," its successors, assigns, subsidiaries, or divisions thereof, or any company in which a majority or controlling ownership interest is held by Money Tree, that engages in the business of consumer credit, and its officers; Vance R. Martin, individually and as an officer of the corporation; and each of the above's agents, representatives and employees, and all persons in active concert or participation with any one or more of them who receive actual notice of this Consent Decree by personal service or otherwise.

- (f) The Federal Trade Commission Act refers to 15 U.S.C. §§ 41-58, as originally enacted and subsequently amended.

CIVIL PENALTY

4. Defendants shall pay to plaintiff, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), a civil penalty in the total amount of Seventy-Five Thousand Dollars (\$75,000). Defendants are jointly and severally responsible for paying the penalty.

5. Defendants shall make the payment required by Paragraph 4 within ten days of the entry of this Consent Decree. The payment shall be made by electronic fund transfer in accordance with procedures specified by the Office of Consumer Litigation, Civil Division, United States Department of Justice, Washington, D.C. 20530.

6. In the event of any default in payment, which default continues for ten days beyond the due date for payment, the entire unpaid penalty, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

INJUNCTIONS

7. Defendants, directly or through any corporation, subsidiary, division or other device, in evaluating the creditworthiness of applicants, are hereby enjoined from:

(a) discriminating against applicants who derive all or part of their income from a public assistance program with respect to any aspect of a credit transaction, in violation of the ECOA, 15 U.S.C§ 1691(a), and Regulation B, 12 C.F.R.

§ 202.4, including but not limited to the following:

- (i) refusing to extend credit or extending credit on less favorable terms because an applicant derives all or part of his or her income from a public assistance program, in violation of the ECOA, 15 U.S.C. § 1691(a), and Regulation B, 12 C.F.R. §§ 202.4 and 202.6(b)(2) and (5);
- (ii) requiring applicants who derive all or part of their income from a public assistance program to execute forms authorizing any state or federal agency to deposit or transfer their income payments to a financial institution designated by defendant as a condition of an extension of credit; or

CONSENT DECREE

Page 5 of 13

(iii) requiring applicants who derive all or part of their income from a public assistance program to make their loan payments prior to their loan note due date;

(b) discriminating against an applicant on the basis of age with respect to any aspect of a credit transaction, in violation of the ECOA, 15 U.S. § 1691(a), and Regulation B, 12 C.F.R. § 202.4, including but not limited to refusing to extend credit, extending credit on less favorable terms, or terminating an account, because credit-related insurance is not available on the basis of the applicant's age, in violation of the ECOA, 15 U.S. § 1691(a), and Regulation B, 12 C.F.R. §§ 202.4 and 202.7(e); and

(c) failing to comply in any other respect with the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, as amended, or its implementing regulation, Regulation B, 12 C.F.R. Part 202, as amended.

8. In the event the ECOA, 15 U.S.C § 1691(a), and Regulation B, 12 C.F.R § 202, are hereafter amended or modified, defendants' compliance with the law and regulation as so amended or modified shall not be deemed a violation of this injunction.

REPORTING REQUIREMENTS

9. Within sixty (60) days following the date of entry of this Consent Decree, defendants shall submit to the Associate Director for Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, a full and complete description of how defendants have complied and are complying with the requirements of Paragraph 7 of this Consent Decree. Such report shall include, but is not limited to, a copy of each document used to instruct officers, agents, representatives or employees of Money Tree regarding the requirements of Paragraph 7, and shall include an affidavit signed by the most responsible individual that identifies the names, addresses and positions of each person upon whom the Consent Decree has been served.

10. Within thirty (30) days following the request from Federal Trade Commission staff, defendants shall submit to the Associate Director for Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, the following information regarding applications received by Money Tree during a six (6) month period specified by Federal Trade Commission staff. The information shall be supplied separately for each of Money Tree's offices, and shall provide the number of applications for consumer credit that each office approved and took adverse action upon, as well as the number of applications that were withdrawn by the applicant, in each of the following categories:

- (a) all applicants who derive all or part of their income from a public assistance program;
- (b) all elderly applicants; and
- (c) all other applicants.

11. Following defendants' submission of the information required by paragraph 10 of this Consent Decree, defendants shall submit, at the request of the Federal Trade Commission's staff, a sample of approved and rejected applications from those received by Money Tree during a twelve (12) month period specified by Federal Trade Commission staff. This sample shall be selected in a manner to be specified by Federal Trade Commission staff and shall be submitted within sixty (60) days of its request. Defendants shall include in this submission all information relating to applications that defendants are required to retain pursuant to Regulation B, 12 C.F.R. § 202.12(b).

GENERAL REQUIREMENTS

12. Defendant Money Tree and its successors and assigns shall, within ten (10) days following the date of entry of this Consent Decree, provide a copy of this Consent Decree, the ECOA and Regulation B, to the manager of each of Money Tree's offices, wherever situated, and to each employee who participates in the decision to extend credit to applicants, and secure from each such person a signed statement acknowledging receipt of a copy of the Consent Decree. For

a period of five (5) years following the date of entry of this Consent Decree, defendants shall provide a copy of the Consent Decree, the ECOA and Regulation B to each new Money Tree manager or employee who is hired after the date of entry of this Consent Decree and who participates in the decision to extend credit to applicants. Defendants shall secure from each such person a signed statement acknowledging receipt of said Consent Decree. Defendants shall maintain and make available upon reasonable request by representatives of the Federal Trade Commission copies of said signed statements.

13. For a period of five (5) years following the date of entry of this Consent Decree, defendant Money Tree, its successors and assigns, and defendant Vance R. Martin shall maintain and make available to the Federal Trade Commission, within thirty (30) days of the date of receipt of a written request, all documents demonstrating compliance with this Consent Decree, including but not limited to all credit evaluation criteria and instructions to employees relating thereto.

14. Defendant Money Tree, and its successors and assigns, shall notify the Associate Director for Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, at least thirty (30) days prior to any change in defendant's business, including, but not limited to, merger, incorporation, dissolution, assignment, or sale which results in the emergence of a successor corporation, the creation or dissolution of a subsidiary or parent, or any other change that may affect compliance obligations under this Consent Decree.

15. Defendant Vance R. Martin shall, for a period of five (5) years after the date of entry of this Consent Decree, notify the Associate Director for Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within thirty (30) days of each affiliation with a new business or employment whose activities may involve practices covered by this Consent Decree.

16. This action and the relief awarded herein are in addition to and not in lieu of such other remedies as may be provided by law, including both civil and criminal remedies.

17. The Court shall retain jurisdiction over this matter for the purpose of enabling any of the parties to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this Consent Decree, for the enforcement of compliance therewith, or for punishment of violations thereof.

JUDGMENT IS THEREFORE ENTERED in favor of plaintiff and against defendants, pursuant to all the terms and conditions recited above.

DATED this ____ day of _____ 19__.

United States District Judge

The parties, by their respective counsel, hereby consent to the terms and conditions of the Consent Decree as set forth above and hereby consent to the entry thereof. Defendants waive any rights that may arise under the Equal Access to Justice Act, 28 U.S. § 2412.

FOR THE UNITED STATES OF AMERICA:

H. RANDOLPH ADERHOLD
United States Attorney
Middle District of Georgia

By: _____
WILLIAM D. GIFFORD
Assistant United States Attorney
P.O. Box U
Macon, Georgia 31202
(912) 752-8178

PAUL F. HANCOCK
Chief
Housing and Civil Enforcement Section
Civil Rights Division

GAVIN C. DOWELL
Attorney
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

FEDERAL TRADE COMMISSION

By: _____
ROLANDO BERRELEZ

THOMAS E. KANE
Attorneys
Division of Credit Practices
Bureau of Consumer Protection

PEGGY TWOHIG
Assistant Director
for Credit Practices

DAVID MEDINE
Associate Director
for Credit Practices
Bureau of Consumer Protection
Washington, D.C. 20580

FOR THE DEFENDANTS:

THE MONEY TREE, INC.

By: _____
VANCE R. MARTIN, President
The Money Tree, Inc.

VANCE R. MARTIN, individually

SHELDON FELDMAN
Attorney for Defendants
Weil, Gotshal & Manges LLP
1615 L Street, N.W.
Washington, D.C. 20036