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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY

Paul Rodriguez,

Plaintiff,

v.

**US Bank National Association, Jane
Lawrie, and Robert Loffink,**

Defendants.

Case No.

COMPLAINT

Whistleblower Retaliation

Wrongful Discharge in Violation of
Public Policy

Aiding and Abetting

Amount in Controversy: \$600,000
Fee Authority: ORS 21.160(1)(c)
Filing Fee: \$531

Jury Trial Requested

Not Subject to Mandatory Arbitration

1.

JURISDICTION AND THE PARTIES

Paul Rodriguez (plaintiff) is a natural person and a resident of Multnomah
County in Portland, Oregon.

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2.

US Bank National Association (US Bank) is a national association bank and a citizen of Minnesota. US Bank was plaintiff's employer and conducted regular and sustained business in Multnomah County. Plaintiff was supervised by US Bank employee agents and plaintiff relied on the actual or apparent authority of US Bank's employee agents, supervisors and management.

3.

Jane Lawrie and Robert Loffink are natural persons that acted as supervisors of plaintiff in the course of plaintiff's employment with US Bank. Ms. Lawrie and Mr. Loffink were authorized employee agents of US Bank and were in substantial part acting within the course and scope of such agency and employment. Ms. Lawrie and Mr. Loffink were motivated, at least in part, by a purpose to serve US Bank.

4.

Plaintiff filed timely claims with Oregon's Bureau of Labor and Industries (BOLI) and plaintiff received a right to sue from BOLI.

5.

This complaint's allegations are based on personal knowledge as to plaintiff's own conduct and are made on information and belief as to the acts of others.

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3 **FACTUAL ALLEGATIONS**

4 In or around February 2008, plaintiff was hired as a portfolio manager in
5 government banking with US Bank in Portland, Oregon. By 2012, plaintiff's banking
6 portfolio had grown to approximately \$1.2 billion.
7

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9 On or around May 1, 2012, plaintiff was assigned to review a \$74.5 million
10 loan for the Victor Valley Union High School District (the district) in California. The
11 credit rating assigned to the district was a level 1, the highest rating available at US
12 Bank. Plaintiff knew US Bank had internal guidelines for assigning credit ratings,
13 and he also knew state law and federal law and bank regulations prohibited
14 improper credit ratings. After carefully reviewing the district's file, plaintiff realized
15 that a level 1 rating was entirely unwarranted, and that the rating needed to be
16 downgraded. Plaintiff reported his findings to his manager, Ms. Lawrie, but she
17 ignored plaintiff's recommendation, and she insisted that plaintiff approve the level
18 1 rating. Believing that Ms. Lawrie's instructions were incorrect and potentially
19 unlawful, plaintiff complained about the issue to US Bank's divisional chief credit
20 officer, Peter Specca. Despite plaintiff's complaining, US Bank refused to downgrade
21 the district's level 1 rating.
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2 8.

3 In or around December 2012, the district defaulted on its US Bank loan, as
4 plaintiff had warned it might. Ms. Lawrie told plaintiff not to say anything about the
5 district's credit rating and loan approval if asked by the governmental Office of
6 Comptroller Currency (OCC) and asked plaintiff to "keep [OCC] away from that
7 credit."
8

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10 9.

11 To send plaintiff a message to keep quiet in the future, US Bank filed a false
12 "90 Day Action Plan" (action plan) against him for "unsatisfactory performance" in
13 January 2013. Plaintiff had never received an action plan before.
14

15 10.

16 US Bank's action plan falsely accused plaintiff of rating the district
17 improperly. The action plan was drafted by Ms. Lawrie, the supervisor that plaintiff
18 had previously addressed his concerns to. In addition to being placed on the action
19 plan, US Bank reassigned plaintiff's job duties. US Bank told plaintiff that the
20 reassignment was positive but it quickly became clear that the reassignment was a
21 demotion. Plaintiff went from managing a \$1.2 billion loan portfolio to reviewing
22 operational exposures of no more than \$5 million. Following plaintiff's completion of
23 the action plan, his former job duties were not reassigned to him and he no longer
24 received the same \$6,000 to \$7,000 annual bonuses that he had been awarded in
25 years past.
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2 11.

3 On or around February 27, 2013, plaintiff complained to US Bank about its
4 illegal behavior related to the district credit rating incident. But US Bank failed to
5 properly investigate the complaint, and plaintiff was never reinstated to his original
6 position.
7

8 12.

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10 In or around January 2014, plaintiff informed his new supervisor, the
11 divisional chief credit officer, Mr. Loffink, about the district credit rating incident
12 and the demotion he experienced for complaining about it.
13

14 13.

15 In or around December 17, 2014, plaintiff reported the district credit rating
16 incident to the US Department of Treasury, Office of the Comptroller of the
17 Currency, and US Attorney General.
18

19 14.

20 In or around January 2015, plaintiff informed Mr. Loffink that he had made
21 disclosures to the US Department of Treasury, Office of the Comptroller of the
22 Currency, and US Attorney General regarding the district credit rating incident and
23 US Bank's subsequent behavior. Mr. Loffink learned that plaintiff had an interview
24 with an OCC investigator scheduled for January 27, 2015. After learning about the
25 interview, Mr. Loffink tried to intimidate plaintiff by telling plaintiff that Mr.
26 Loffink was friendly with the investigator plaintiff was scheduled to meet.
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3 Throughout 2015, plaintiff continued to cooperate with various government
4 agencies about the illegal behavior he experienced at US Bank. US Bank determined
5 internally that it should wait to terminate plaintiff until after January of 2016 in
6 hopes of avoiding legal liability for retaliation.
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8 16.

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10 On or around May 26, 2016, US Bank retaliated against plaintiff by
11 terminating his employment. US Bank lied and said it terminated plaintiff because
12 he made a minor administrative error. In reality, the minor administrative error was
13 just a pretext. US Bank understood that the error was actually quite common, and
14 could be fixed by filling out a simple form. Unlike coworkers who had not made
15 protected disclosures, US Bank did not give plaintiff an option to correct the error.
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17 When plaintiff's supervisor made the same error, US Bank failed to discipline or
18 terminate that supervisor.
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3 **CAUSES OF ACTION**

4 **Claim One against US Bank**

5 Whistleblower retaliation – ORS 659A.199

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7 US Bank’s behavior as alleged above violated ORS 659A.199 because US Bank
8 retaliated against plaintiff in the terms and conditions of his employment by
9 terminating him in substantial part because he opposed and reported in good faith
10 information he believed to be a violation of state law and federal law and banking
11 regulations.
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13 18.

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15 As a direct and proximate result of US Bank’s behavior, plaintiff suffered
16 economic loss of \$400,000 and non-economic loss of \$200,000.

17 19.

18
19 Under ORS 20.107 and ORS 659A.885, plaintiff is entitled to compensation
20 for his losses and reimbursement of his fees and costs.

21 20.

22 Plaintiff reserves the right for the jury to issue proportional punitive damages
23 against US Bank based on evidence that US Bank’s behavior was malicious.
24

25 21.

26 Plaintiff is also entitled to an injunction stopping US Bank from
27 discriminating against or retaliating against any other employee in a manner
28 similar to the behavior alleged in this complaint.

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3 **Claim Two against US Bank**

4 **Wrongful Discharge in Violation of Public Policy**

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6 The public policy of Oregon prohibited US Bank from retaliating and
7 discriminating against plaintiff in the terms and conditions of his employment for
8 making complaints of discrimination and retaliation and for reporting information
9 plaintiff believed was evidence of a violation of state law and federal law and banking
10 regulations. The public policy referenced above is embodied in the common law,
11 statutes, and regulations of the State of Oregon and the United States including, but
12 not limited to ORS 659A.030, ORS 659A.199, ORS 659A.230, OAR 839-005-0000 et
13 seq., and OAR 839-010-0000 et seq.
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16 23.

17 US Bank, acting through its employee agents, violated the public policies
18 above by discriminating and retaliating against plaintiff for opposing and making
19 good faith complaints about US Bank's unlawful behavior. US Bank's choice to
20 terminate plaintiff's employment was in retaliation for plaintiff's pursuit and
21 exercise of his rights, which are of important public interest.
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24 24.

25 Under ORS 20.107 and ORS 659A.885, plaintiff is entitled to compensation
26 for his losses and reimbursement of his fees and costs.
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3 **Claim Three against Ms. Lawrie and Mr. Loffink**

4 Aiding and Abetting – ORS 659A.030(1)(g)

5 Ms. Lawrie and Mr. Loffink violated ORS 659A.030(1)(g) by aiding, abetting,
6 inciting, compelling and coercing one another in engaging in unlawful discrimination
7 and retaliation against plaintiff, as alleged above.
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10 26.

11 As a direct and proximate result of Ms. Lawrie and Mr. Loffink’s behavior,
12 plaintiff suffered economic loss of \$400,000 and non-economic loss of \$200,000.
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14 27.

15 As a result of Ms. Lawrie and Mr. Loffink’s aiding and abetting, plaintiff is
16 entitled to compensation for his losses and reimbursement of his fees and costs.
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2 **PRAYER FOR RELIEF**

3 Plaintiff respectfully requests:

- 4 **A.** An order as requested in paragraph 21,
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6 **B.** A judgment with interest for fair compensation and reimbursed fees and costs,
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8 **C.** For any other equitable relief this Court deems appropriate.

9
10 **REQUEST FOR JURY TRIAL**

11 Plaintiff respectfully requests trial by jury.

12
13 February 23, 2017

14 **RESPECTFULLY FILED,**

15 /s/ Michael Fuller

16 **Michael Fuller, OSB No. 09357**

17 Lead Trial Attorney for Plaintiff

18 **Rex Daines, OSB No. 952442**

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