

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 COMMITTEE FOR FULL EMPLOYMENT)
5603 Greene Street)
4 Philadelphia, Pennsylvania,)
5)
5 NORTHSIDE COMMUNITY DESIGN CENTER)
2140 North Third Street,)
6 Milwaukee, Wisconsin)
7)
7 LATIN AMERICAN UNION FOR CIVIL RIGHTS, INC)
805 South Fifth Street)
8 Milwaukee, Wisconsin)
9)
9 OPERATION PUSH, Memphis, Inc.)
704 South Parkway East)
10 Memphis, Tennessee 38106)
11)
11 EL PUEBLO UNIDO)
524 North Dejoy Street)
12 Santa Maria, California 93454)
13)
13 CASA JUSTICIA)
1837 Highland Avenue)
14 National City, California 92050)
15)
15 CHICANO TAXPAYER'S ASSOCIATION)
819 Wisconsin)
16 Oceanside, California 92054)
17)
17 EUGENE ELVETT FIELDS)
1912 Buchanan Street)
18 Marysville, California 95901)
19)
19 J. MAGDALENO BOTELLO)
344 Percy Avenue)
20 Yuba City, California 95901)
21)
21 NATIONAL ASSOCIATION FOR THE ADVANCEMENT)
OF COLORED PEOPLE)
22 Yuba-Sutter Chapter)
Box 384)
23 Marysville, California 95901)
24)
24 SACRAMENTO CONCILIO FARMWORKERS PROGRAM)
344 Percy Avenue)
25 Yuba City, California 95901)
26)
26 CONCERNED CITIZENS FOR EQUAL EMPLOYMENT)
Box 1077)
27 Oceano, California 93445)
28)
28 TULARE COUNTY TENANTS' UNION)
1012 North Court Street)
29 Visalia, California 93277)
30)
30 HUELGA SCHOOL, INC.)
105 Asti)
31 Delano, California 93215)
32)
32 on behalf of themselves and all others)
similarly situated,)

COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF
TO REDRESS VIOLATION
OF CIVIL RIGHTS

CIVIL ACTION
NO. _____

Plaintiffs

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vs.

WILLIAM SIMON, Secretary of the
Treasury, 15th Street and Pennsylvania
Avenue, N.W., Washington, D.C.;

JEANA TULLEY, Director of the Office of
Revenue Sharing, Department of the Treasury,
1900 Pennsylvania Avenue, N.W., Washington,
D.C.;

MALAKU J. STEEN, Chief of the Civil Rights
Branch, Office of Revenue Sharing, Department
of the Treasury, 1900 Pennsylvania Avenue,
N.W., Washington, D.C.,

Defendants.

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in controversy exceeds \$10,000, exclusive of costs and interest;

(b) 28 U.S.C. §1337: This is a civil action arising under an Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies;

(c) 28 U.S.C. §1343(3) and (4): This is a civil action seeking to redress the deprivation, under color of State law, statute, ordinance, regulation, custom or usage, of the rights of plaintiffs and their class, secured by the Constitution of the United States, as well as by various Acts of Congress, to end racial and sexual discrimination by recipients of revenue sharing funds;

(d) 28 U.S.C. §1361: This is a civil action seeking, by virtue of mandamus, to compel officers and employees of the United States to perform a duty owed to plaintiffs and their class;

(e) 5 U.S.C. §§701-703: This is a civil action for judicial review of legal wrongs suffered by plaintiffs and their class as the result of agency actions;

(f) 42 U.S.C. §2000d-2: This is a civil action for judicial review of agency action pursuant to 42 U.S.C. §2000d-1;

This court is authorized to grant declaratory judgments by 28 U.S.C. §§2201 and 2202.

PARTIES

5. Plaintiff, COMMITTEE FOR FULL EMPLOYMENT ("CFE") is an unincorporated association with principal offices at 5603 Greene Street, Philadelphia, Pennsylvania. Its members, approxi-

1 mately 100 persons, primarily are Black, and the vast majority
2 are unemployed and receiving unemployment compensation benefits.
3 CFE bylaws state its main purpose is "to protect the rights of
4 unemployed [workers] to unemployment compensation and other
5 benefits." CFE provides job referrals and employment direction
6 to its members. Its purposes are thwarted and its functions are
7 obstructed by defendants' policies as set forth herein.

8 6. Plaintiff NORTHSIDE COMMUNITY DESIGN CENTER, 2140
9 North Third Street, Milwaukee, Wisconsin is an unincorporated
10 association primarily of minority residents of the City of
11 Milwaukee. Its principal activity consists of urban planning
12 with a strong emphasis on the employment of member and other
13 minority persons, minority contractors and subcontractors on all
14 construction and neighborhood improvement projects of the City
15 of Milwaukee. Plaintiff LATIN AMERICAN UNION FOR CIVIL RIGHTS,
16 INC., 805 South Fifth Street, Milwaukee, Wisconsin is a non-
17 profit corporation organized under the laws of Wisconsin. It
18 was formed to improve the social, political and economic conditions
19 of the Spanish-speaking community in the City of Milwaukee and
20 is presently engaged in an analysis of minority employment by the
21 City and County of Milwaukee for the purpose of increasing the
22 number of Spanish-surnamed persons hired by said governmental
23 units.

24 7. Plaintiff OPERATION PUSH, Memphis, Inc., 704 South
25 Parkway East, Memphis, Tennessee 38106 is a non-profit corporation
26 organized and incorporated under the laws of the State of
27 Tennessee consisting of more than 3500 Black residents of the City
28 of Memphis. Its objectives are to achieve economic, political
29 and cultural independence for minority persons in the City with
30 an emphasis on increasing job opportunity for such persons.
31 Several members of OPERATION PUSH currently are employed by the
32 City of Memphis. Other members have sought and will continue to

1 seek employment by the City of Memphis.

2 8. Plaintiff EL PUEBLO UNIDO, 524 North Dejoy Street,
3 Santa Maria, California 93454 is an unincorporated association of
4 Mexican-American residents of that City. Its purpose is to
5 advance the economic, political and cultural welfare of Mexican-
6 American and other underfranchised residents of that area.

7 9. Plaintiff CASA JUSTICIA, 1837 Highland Avenue,
8 National City, California 92050, is a non-profit association
9 of Mexican-American individuals residing in the City and County
10 of San Diego, California. Its primary purpose for the past four
11 years has been the eradication of racial discrimination in public
12 employment and the provision of effective and meaningful public
13 services to the Spanish-speaking community in that area.

14 10. Plaintiff CHICANO TAXPAYER'S ASSOCIATION, 819
15 Wisconsin, Oceanside, California 92054, is an association of
16 minority residents of the City of Oceanside, California. Its
17 purpose is the economic, political and cultural welfare of
18 Mexican-American and other underfranchised residents of the area.

19 11. Plaintiff EUGENE ELVETT FIELDS is a 36 year old
20 Black person residing at 1912 Buchanan Street, Marysville,
21 California 95901. Having a 10 year excellent experience record
22 as a maintenance man, plaintiff FIELDS applied to Sutter County
23 for an advertised position as maintenance man and, although fully
24 qualified, was not hired and a less qualified white applicant was
25 hired in his place. Plaintiff J. MAGDALENO BOTELLO is a 41 year
26 old Chicano resident of Sutter County at 344 Percy Avenue, Yuba
27 City, California 95991. Having an excellent work record of 20
28 years, Plaintiff BOTELLO nonetheless was denied employment with
29 Sutter County due to ethnically discriminatory employment criteria.
30 Plaintiff NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
31 344 Percy Avenue, Yuba City, California 95901, and Plaintiff
32 SACRAMENTO CONCILIO FARMWORKERS PROGRAM, 344 Percy Avenue, Yuba City
California 95901, both are unincorporated associations seeking to
meet the special employment needs of minority and

1 farmworker communities in obtaining social services and employment
2 in Sutter County.

3 12. Plaintiff CONCERNED CITIZENS FOR EQUAL EMPLOYMENT
4 is an unincorporated association representing more than
5 1200 Spanish-surnamed residents of the County of San Luis Obispo,
6 State of California, Box 1077, Oceano, California 93445.
7 Members of CONCERNED CITIZENS FOR EQUAL EMPLOYMENT consist in
8 part of individuals who are eligible for, and available for,
9 positions of employment with the County of San Luis Obispo, or
10 for advancement in job positions with that County but who are
11 denied further job opportunities because of ethnic, racial
12 and sexual discrimination by that County.

13 13. Plaintiff TULARE COUNTY TENANTS' UNION, 1012 North
14 Court Street, Visalia, California 93277 is an organization of
15 farmworker residents of Tulare County, California whose two
16 primary concerns are securing adequate housing and adequate
17 employment opportunities for its Mexican-American farmworker
18 members.

19 14. Plaintiff HUELGA SCHOOL, INC., 105 Asti, Delano,
20 California 93215 is a non-profit corporation organized and
21 incorporated under the laws of California. It provides tutorial
22 and vocational training to underfranchised minority students in
23 the area and has a direct interest in securing employment for
24 its students leaving the school with major employers in
25 the area, such as the City of Delano.

26 15. Plaintiffs bring this action on their own behalf
27 and on behalf of all others similarly situated pursuant to Rules
28 23(a) and 23 (b) (2) of the Federal Rules of Civil Procedure.
29 This class is composed of all minority and female persons who
30 have been denied, who may seek, and who (but for discriminatory
31 practices) would have sought services or employment, promotion,
32 pay increases and freedom from discrimination as employees of

1 state, county or municipal agencies which are past, current or
2 potential recipients of revenue sharing funds.

3 16. Defendant WILLIAM E. SIMON is Secretary of the
4 Department of the Treasury and is the official of the United
5 States ultimately responsible for the expenditure of revenue
6 sharing funds in conformity with law. Defendant JEANA TULLEY
7 is Director of the Office of Revenue Sharing and is the person
8 primarily responsible for the development and execution of
9 policies and procedures in the administration of the Revenue
10 Sharing Act. Defendant MALAKU J. STEEN is the Chief of the Civil
11 Rights Branch of the Office of Revenue Sharing and is the person
12 primarily responsible for enforcement of the non-discrimination
13 provisions of the Revenue Sharing Act. All defendants are
14 sued in their individual and official capacities. All defendants
15 directly exercise official responsibility for enforcement of the
16 Act.

17
18 THE REVENUE SHARING PROGRAM

19 17. The general revenue sharing program has been
20 administered by ORS under the Treasury Department since October
21 of 1972. The program provides new federal funding, not tied to
22 any existing program or project, directly to state and local
23 recipient governments which then may allocate the funds under
24 limited federal oversight. ORS disbursed approximately \$6 billion
25 each year to 39,000 recipient governments at state, county and
26 city levels. Funds are allocated on the basis of a statutory
27 formula containing factors of population size, tax effort, personal
28 income tax collections, per capita income, and degree of urban-
29 ization. A recipient government is required to submit to ORS
30 (a) evidence of conformity with the recipient's usual bookkeeping
31 procedures, (b) a report detailing how the recipient plans to use
32 the money and (c) a report detailing how the money was actually

1 used. One of the objectives of the revenue sharing program is
2 to provide for greater employment by recipients.

3 18. Despite the freedom in use of revenue sharing funds
4 relative to other federal grant programs, the Act specifies
5 certain limitations on the use of the funds by recipient governments

- 6 (1) Local government spending for operating expenses
7 is limited to eight broad priority areas (public
8 safety, environmental protection, transportation,
9 health, recreation, libraries, social services
10 for the poor and the elderly, and financial
11 administration);
- 12 (2) A jurisdiction must follow its regular budget
13 procedures in selecting projects to receive
14 revenue sharing funds;
- 15 (3) Reports of planned and actual use of revenue
16 sharing funds must be published and be publicly
17 available;
- 18 (4) Locally prevailing wage rates must be paid to
19 public employees or to employees of private
20 contractors receiving funds; and
- 21 (5) Funds may not be used in any fashion which subjects
22 minorities and women to discrimination. This last
23 requirement has been the subject of continual
24 disregard by ORS and provides the basis of this
25 action.

26
27 LEGAL BASIS

28 19. The Revenue Sharing Act provides that no person
29 in the United States shall on the ground of race, color, national
30 origin or sex be excluded from participation in, be denied
31 benefits of, or be subjected to discrimination under any program
32 or activity funded in whole or in part with funds made available

1 under the Act (31 U.S.C. §1242(a)).

2 20. ORS regulations implementing the non-discrimination
3 provisions of the Act provide:

4 "No person in the United States shall on the ground
5 of race, color, national origin, or sex be excluded
6 from participation in, be denied the benefits of, or
7 be subjected to discrimination under any program or
8 activity funded in whole or in part with entitlement
9 funds made available pursuant to subtitle A of title I
10 of the Act." 31 CFR §51.52(a).

11 The regulations further provide:

12 "In any program or activity funded in whole or in part
13 with entitlement funds, a recipient government may not
14 (directly or indirectly through contractual or other
15 arrangements) subject any individual to discrimination
16 on the ground of race, color, national origin or sex
17 in its employment practices. These practices include
18 recruitment, recruitment advertising, hiring, layoff,
19 termination, upgrading, demotion, transfer, rates of
20 pay or other forms of compensation, use of facilities
21 and other terms and conditions of employment." 31 CFR
22 §51.53(a).

23

24 FACTS

25 21. Despite the explicit non-discrimination provisions
26 of the Revenue Sharing Act, and despite the flow of some \$6
27 billion in revenue sharing funds each year to approximately
28 39,000 recipient governments, serious employment discrimination
29 in the recruitment, hiring, promotion and pay of minorities and
30 female employees by local governments continues:

31 (A) As of October, 1975, the United States Department
32 of Justice had obtained 14 consent decrees or other

1 judicial orders enjoining employment discrimination
2 by various state and local governments. Each such
3 government received and continues to receive
4 revenue sharing funds, and ORS has made no effort
5 to withhold or defer such funds pending a deter-
6 mination of civil rights compliance.

7 (B) In addition to those 14 recipient governments
8 described in subparagraph (A) hereof, the United
9 States Department of Justice is engaged in equal
10 employment litigation against subdivisions of 12
11 major cities nation-wide, which received a combined
12 total of \$236.8 million in revenue sharing funds in
13 1975. ORS has made no effort to withhold or
14 defer revenue sharing funds to these programs or
15 activities and continues to fund them at approxi-
16 mately the same levels during 1976. Similarly,
17 the United States Department of Justice has
18 instituted equal employment lawsuits against
19 public agencies in four different states, which
20 received and used revenue sharing funds totalling
21 \$89.2 million during 1975. ORS has made no effort
22 to withhold or defer such funds and continues to
23 fund such programs and activities at approximately
24 the same levels during 1976. Plaintiffs are
25 informed and believe that each state subdivision
26 involved in the above litigation continues to
27 receive substantial amounts of revenue sharing
28 funds.

29 (C) The General Accounting Office conducted a report
30 of 26 recipient governments using revenue sharing
31 funds and found that higher percentages of women
32 and minorities were in the recipients' lower level

1 positions, i.e. clerical or manual labor jobs.
2 It also found that police and fire protection
3 employees were predominantly white males while
4 Black males were concentrated in sanitation and
5 service maintenance type activities.

6 (D) The House Committee on the Judiciary, Subcommittee
7 on Civil Rights and Constitutional Rights reports
8 that in 33 jurisdictions surveyed which receive
9 revenue sharing funds "there were wide gaps in the
10 percent of minorities and women in the work force
11 and the percent employed in particular departments
12 and agencies of the government."

13 (E) The Equal Employment Opportunities Commission
14 annually receives complaints of employment dis-
15 crimination on the grounds of race, color, national
16 origin or sex in more than 5,000 jurisdictions
17 which receive revenue sharing funds.

18 22. Beyond employment discrimination, discrimination in
19 the provision of services by revenue sharing recipients also
20 continues to occur, for example, in the use of revenue sharing
21 funds to further school segregation. Eleven states spent their
22 revenue sharing funds to benefit school districts found out of
23 compliance under Title VI of the Civil Rights Act in Adams v.
24 Weinberger, Civ. Action No. 3095-70 (D.D.C. March 14, 1975).
25 Although ORS admits that use of state revenue sharing funds for
26 segregated school districts constitutes a violation of the Act,
27 it refuses to take any action against 10 of the 11 states. ORS
28 referred the 11th case of the Ferndale Michigan School District
29 to the Justice Department, without any action by ORS. Moreover,
30 ORS acted only after HEW had terminated its own funds to the
31 district under Title VI. ORS has taken no further action against
32 the State of Michigan.

1 23. ORS' policy of non-enforcement of the civil rights
2 provisions of the Act has led ORS deliberately to ignore its three
3 primary means of uncovering civil rights violations:

4 (a) ORS has failed affirmatively to locate and monitor
5 for civil rights compliance among recipients on its
6 own initiative;

7 (b) ORS refuses to act on information about civil rights
8 compliance by recipients which is provided to ORS by
9 other Federal agencies (although ORS goes through the
10 motions of collecting and storing such information
11 in vast quantities) and

12 (c) ORS subjects the civil rights complaints of private
13 persons either to extreme delay or to dismissal.

14 24. ORS has made no periodic compliance visits to
15 recipients on its own. After receiving strong criticism, ORS
16 arranged with the Justice Department Civil Rights Division in
17 January of 1975 for Justice investigators to conduct reviews of
18 18 jurisdictions in response to specific complaints. ORS has taken
19 no action on any of the Justice Department investigations to date.
20 Throughout the three and one-half year history of the Act, ORS' own
21 compliance staff has not conducted any periodic reviews of recip-
22 ient compliance. Although the ORS budget request for fiscal
23 year 1976 promised 100 periodic compliance reviews on civil rights,
24 two-thirds of the fiscal year has expired and ORS has conducted
25 none at all. ORS has conducted audits of approximately 1600
26 recipients during the first three years of the Act, in order to
27 monitor compliance with other parts of the Act, but not one audit
28 report attempted to investigate for possible violations of the
29 non-discrimination provision of the Act. Although ORS promulgated
30 new regulations in October of 1975 promising to conduct compliance
31 reviews of those recipients which show a significant disparity
32 between the percentage of minority persons or women in the work
force and the percentage of minority or women employees in the

1 applicable programs, 31 CFR 51.53(d), ORS refuses to require
2 recipients to provide hard statistical information on which it
3 could determine which jurisdictions to review. Instead, ORS in
4 its most recent regulation requires a recipient to provide only
5 a vague "self-evaluation", 31 CFR §51.53(c) rather than the
6 itemized data, identification of deficiencies, and goals and
7 time tables as required of recipients of Federal money under
8 Title VI.

9 25. ORS refuses to utilize prima facie determinations
10 of civil rights violations among recipients made by other federal
11 agencies such as H.E.W. or E.E.O.C. or by the courts of law. The
12 Justice Department is currently engaged in lawsuits against 32
13 separate recipient governments involving employment discrimination
14 by agencies which receive revenue sharing funds, yet ORS refuses
15 to analyze or otherwise to act upon such information. Although
16 consent decrees have been obtained by the Justice Department in
17 14 such cases, ORS refuses to take any action against the
18 recipient. Private litigation has resulted in court orders pro-
19 hibiting employment discrimination by 25 major city or state
20 recipients of federal revenue sharing funds during the past five
21 years. ORS nonetheless refuses to analyze or otherwise to act on
22 the basis of such judicial determinations.

23 26. Throughout its history ORS has subjected private
24 complaints of civil rights violations to delay to the point of
25 disregard. ORS' active caseload of civil rights complaints as of
26 September 30, 1975 totaled 177 complaints, of which only 49 had
27 been resolved. Of these, 37 complaints had not yet triggered a
28 response or other investigative activity by ORS. In 6 of these
29 37 cases the complaints had been filed with ORS from 14 to 20
30 months previous. A total of 91 of ORS' 126 open civil rights cases,
31 or 72%, involved either no ORS activity or only pro forma noti-
32 fication to a recipient of the complaint. Indeed, the median time

1 in which ORS replies to a civil rights complaint is approximately
2 6 months. A 1975 review by the General Accounting Office reported
3 "apparent excessive delays and evidence that the time required to
4 process a complaint is increasing."

5 27. ORS fails to act promptly and uniformly in the
6 rare cases where ORS itself determines a recipient to be in civil
7 rights non-compliance. Of a total of 15 such cases, two cases
8 were referred to the Department of Justice, 4 were settled, and 9
9 have continued in "pending" limbo. Although ORS closed a total of
10 43 other civil rights cases as of June 30, 1975, private
11 complainants in 21 of such cases complained to investigators from
12 the General Accounting Office that the discrimination by recipients
13 continued to exist.

14 28. ORS has failed to develop any objective and uniform
15 criteria for judging civil rights violations and compliance.
16 Instead, ORS resolves complaints of violations on an ad hoc basis.
17 Resolutions often are achieved orally without reduction to writing.
18 When written, such resolutions are hidden from convenient public
19 access.

20 29. ORS refuses to provide an adequate civil rights
21 compliance staff within its agency. It fails to seek, to allocate,
22 or to fill a sufficient number of compliance positions on that
23 staff. Throughout its three and one half year history ORS has
24 attempted to enforce the non-discrimination provisions of the
25 Revenue Sharing Act among 39,000 recipient jurisdictions with a
26 staff of five persons, all located in the Washington, D.C. office.
27 For FY 1975 Congress authorized 5 new compliance positions to ORS;

28 ORS placed none in civil rights. For FY 1976 ORS
29 received 10 new compliance positions of which none have been placed
30 in civil rights. Although civil rights cases comprise 53% of active
31 ORS compliance cases, only 20% of its compliance staff is assigned
32 to civil rights. By contrast, the Elementary and Secondary

1 Education Division of the Office of Civil Rights, Department of
2 HEW, contains 116 professional staff members to monitor 17,000
3 recipients. The Office of Equal Employment Opportunity, Manpower
4 Division, Department of Labor, contains 32 officers to monitor
5 the 50 states and related agencies.

6 30. A United States District Court has held that ORS
7 has the authority, and has the duty to exercise its authority, to
8 withhold or defer funds to recipients which are in violation of the
9 non-discrimination provisions of the Act. United States v. Chicago,
10 395 F. Supp. 329 (N.D. Ill. (1975)). Despite this, ORS stead-
11 fastly refuses to exercise such authority except in the single
12 instance when it was ordered to withhold funds by the same Court.
13 In recent regulations ORS says only that it may have discretion
14 to withhold funds, but only where a combination of improbable
15 circumstances exist: (1) where a violation of §122 of the Act has
16 been alleged in the complaint; and (2) where the Court finds a
17 violation of §122; and (3) where the court does not resolve the
18 question of withholding. 31 CFR §51.59(c). Plaintiffs are informed
19 and believe that ORS deliberately adopted this narrow policy
20 because no such combination of factors has existed in the past or
21 is likely to occur in the future.

22 31. Plaintiffs and other private groups have filed
23 administrative complaints with ORS about discrimination in
24 departments, programs and activities of recipient governments
25 supported in whole or in part with revenue sharing funds. Such
26 discrimination adversely affects plaintiffs

- 27 (a) by reducing employment opportunities with recipient
28 governments for themselves and their members,
29 (b) by failing to increase the general demand for
30 minority and female persons in the local labor
31 supply -- an increase which would necessarily result
32 from non-discriminatory hiring, promotion and pay

- 1 of such persons by recipient governments,
2 (c) by limiting or prohibiting future opportunity for
3 promotion, increased pay and career advancement of
4 minority and female members of plaintiff groups who
5 are currently employed by recipient governments,
6 and
7 (c) by reducing or denying minority persons equal access
8 to services and facilities.

9 32. Plaintiffs and others have filed administrative
10 complaints with ORS against the current discriminatory practices
11 of recipient governments in each jurisdiction where plaintiffs
12 respectively are located. ORS has subjected such complaints
13 to the same policy of delay and nontreatment as it has subjected
14 all such complaints throughout its history. ORS refuses to
15 exercise meaningful legal authority in order to eliminate
16 grievances contained in said complaints. ORS' treatment of such
17 complaints necessarily follows from its deliberate policy of
18 non-enforcement of the civil rights provisions of the Act.
19 Past complaints to ORS by plaintiffs, and by other citizen groups
20 alleging the same grievances as plaintiffs here, include the
21 following:

22 (A) On September 11, 1974, private persons filed an
23 administrative complaint with ORS against the City
24 of Philadelphia, Commonwealth of Pennsylvania, for
25 discrimination in employment on the basis of sex.
26 As of its last complete reporting period, ORS has
27 done absolutely nothing on this complaint. In
28 February, 1974, the Justice Department filed suit
29 against the City of Philadelphia, the Police
30 Commissioner and other City officials alleging
31 employment policies and practices which discriminate
32 between women because of their sex. An interim

1 consent decree was entered on March 5, 1976
2 (U.S. v. City of Philadelphia, E.D. Pa. CA No.
3 74-400, consol. with Brace v. O'Neil, E.D. Pa. CA No.
4 74-339.) The same court has enjoined racially
5 discriminatory hiring procedures against the
6 Philadelphia Police Department (Commonwealth of
7 Pa. v. O'Neil, 348 F.Supp. 1084 (E.D. Pa. 1972)
8 affm. in rel. part en banc, 473 F.2d 1029 (3d Cir.
9 1972)) and against the Philadelphia Fire Department
10 (Commonwealth of Pa. v. Rizzo, 9 [CCH] EPD ¶9891
11 (E.D. Pa. 1975)). Despite the City's direction of
12 revenue sharing funds to both the police and fire
13 departments, ORS has failed to take any remedial
14 action against the City.

15 (B) According to the Government Accounting Office, 60
16 complaints alleging employment discrimination by
17 the City of Milwaukee, Wisconsin have been filed
18 with state human relations agencies since 1971.
19 On February 3, 1975, a federal district court
20 issued a preliminary injunction requiring ratio
21 hiring of blacks for positions in the City's
22 skilled crafts. 388 F.Supp. 912, (E.D. Wis.). On
23 October 17, 1974, a consent decree was signed by
24 the Justice Department and the City requiring ratio
25 hiring of minorities for firefighter positions in
26 the City's fire department (Civil Actions 74-C-318,
27 74-C-368 and 74-C-480, E.D. Wis.). Actions by the
28 U.S. Department of Justice and private plaintiffs
29 for race and sex discrimination in the City's
30 police department are pending in federal district
31 court (Civil Actions 74-C-480 and 74-C-333); interim
32 ratio hiring relief was ordered on July 25, 1975.

1 According to ORS, citizen groups in Milwaukee
2 complained to ORS in July, 1974, against racially
3 discriminatory employment practices of the City in
4 its use of revenue sharing funds. Nonetheless, ORS
5 has taken absolutely no action on this complaint
6 as of its last complete reporting period.

7 (C) In May of 1974, citizen groups in the City of
8 Memphis, State of Tennessee, filed a complaint with
9 ORS against the City of Memphis for maintaining
10 racially discriminatory employment practices.
11 Memphis receives approximately \$12 million yearly
12 in general revenue sharing funds. Although three
13 out of eight residents of Memphis are black persons,
14 white persons dominate City employment in most of
15 the City's agencies: Fire Department (94.4% White);
16 Police Department (89% White among uniformed
17 officers); Finance and Administration (90% White).
18 In other Departments where Black persons are hired
19 in a proportion equal to or greater than their
20 parity in the general population, they are crowded
21 in the unskilled and low-paying end of the scale.
22 White persons dominate the administrative positions
23 in these departments, including Administration of
24 the Park Commission (92% White); Sanitation Service
25 (92% White); and Public Works (100% White). The
26 Justice Department filed a lawsuit against the City
27 of Memphis charging employment discrimination on
28 the basis of sex and race, resulting in a consent
29 decree in November of 1974. Nonetheless, ORS has
30 taken absolutely no action to date either on the
31 administrative complaint or the Justice Department
32 consent decree. (U.S. v. City of Memphis, C-74-286,
W.E. Tenn.).

1 (D) The City of Santa Maria, Santa Barbara County,
2 employs only 19% Spanish-surnamed persons while 27%
3 of the City residents are Spanish-surnamed.
4 Approximately one-half of its Spanish-surnamed
5 employees are engaged in the collection of trash.
6 Of the 50 City employees drawing a salary of more
7 than \$13,000.00 per year, only one is a woman.
8 The City Department of Administration and Finance,
9 receiving over \$100,000 in revenue sharing money,
10 has 37 employees, all of whom are white. The City
11 hires minority persons in supervisory positions
12 at only 1/9th of parity to the general population.
13 The City draws over \$300,000 annually in revenue
14 sharing funds.

15 (E) The population of the County of San Diego, State of
16 California contains 12.8% Spanish-surnamed persons,
17 but only 4.2% of the County's 10,000 employees are
18 Spanish-surnamed. Only 3.7% of the County's
19 administrative officials are Spanish-surnamed and
20 none are Black. Of 148 law enforcement officials,
21 one is Spanish-surnamed and none is Black. While
22 half the County employees are women, only 7.9% of
23 the administrative positions are filled by women.
24 The County receives approximately \$7 million per
25 year in revenue sharing funds. Although the
26 County does not publicly identify the amounts of
27 revenue sharing funds channelled to each agency,
28 plaintiffs are informed and believe that a
29 substantial portion each year goes to administration
30 and law enforcement. Plaintiffs Casa Justicia filed
31 an administrative complaint with ORS on December 10,
32 1975 alleging civil rights non-compliance by the

1 County of San Diego on which no action has been
2 taken to date.

3 (F) The City of San Diego, State of California contains
4 23.7% minority residents including 12.7% Spanish-
5 surnamed and 7.6% Black residents. Minority figures
6 are grossly under-represented among City agencies
7 which receive large shares of revenue sharing money.
8 The Fire Department, which receives \$1.95 million
9 in revenue sharing each year, hires only 7.9%
10 minorities; it hires 2% women, all of whom are
11 clerical. The Police Department, which receives
12 \$1.6 million in revenue sharing each year, hires
13 only 10.9% minorities and 15% women, none of whom
14 are ranking officers such as sergeant, lieutenant
15 or inspector. The average monthly salary of all
16 city employees is \$1,056.00, for minority employees
17 is \$912.00 per month and for women is \$739.00 per
18 month. The City receives \$7.5 million annually in
19 revenue sharing funds. Plaintiff Casa Justicia
20 filed a civil rights complaint against the City
21 with ORS on December 10, 1975 and no action has
22 been taken to date.

23 (G) Sutter County, State of California itself is the
24 largest employer within its boundaries, having 535
25 full-time employees. Minority persons constitute
26 17% of the County population. Yet 22 of its 37
27 departments are staffed exclusively with white
28 persons. None of the 62 county officials or
29 administrators are minority persons. No minority
30 person earns more than \$13,000.00 yearly, although
31 48 white employees do. The median income for the
32 County's male employees is \$10,00-\$12,000; for

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females the median income is \$6,000 - \$8,000.
The County receives \$796,024 annually in revenue sharing funds. A civil rights complaint against Sutter County was filed with ORS by plaintiffs NAACP, Yuba-Sutter Chapter, Sacramento Concilio, Farm Workers' Program, Eugene Elvett Fields and J. Magdaleno Botello. Plaintiffs Fields and Botello each have been deprived of employment by Sutter County because of policies alleged herein, depriving each of them of wages exceeding \$10,000.

(H) San Luis Obispo County, State of California, with 1,700 employees under-hires Spanish-surnamed persons by a factor of more than 2 to 1 and Blacks by 3 to 1, in relation to their percentage in the County population. For three years the County has steadfastly refused to adopt an affirmative action policy which identifies its hiring deficiencies and creates remedies for them. The County Personnel Director's refusal to adopt such a policy is defended by her husband, the District Attorney. The County receives approximately \$3 million annually in revenue sharing funds. Plaintiff Concerned Citizens for Equal Employment filed a civil rights complaint against the County with ORS on November 12, 1975, and no action has been taken by ORS to date.

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1 (I) Minority persons in Tulare County, State of
2 California, fluctuate between 32% and 50% of the work force, but
3 constitute 14% of County employees. Although 30% of all County
4 employees earn more than \$10,000.00 per year, only 9.2% of these
5 are minorities. The County receives \$4 million in revenue sharing
6 funds each year. The president of plaintiff TULARE COUNTY TENANT'S
7 UNION filed an administrative complaint with ORS on August 15,
8 1975. ORS has mailed a form acknowledgment to date.

9 (J) In the City of Delano, California, County of Kern,
10 minorities constitute 65% of the residents of the city but only
11 35.9% of the City's work force. Those minorities who are employed
12 by the City are confined to menial tasks in low-paying positions
13 of certain departments such as sewage and sanitation. The City
14 historically has utilized various devices and requirements having
15 an adverse impact on minority hiring and promotion. The City
16 receives \$200,000 per year in revenue sharing funds and disperses
17 this throughout its work force, yet it refuses to identify or
18 correct its hiring deficiencies. An administrative complaint
19 charging employment discrimination was filed with ORS on August
20 5, 1975. ORS has mailed a form acknowledgment to date.

21 (K) The City of Oceanside, County of San Diego, State
22 of California, contains 15.5% Spanish-surnamed persons, 5.0%
23 Black persons and 3.5% other minority persons within the general
24 population. White persons comprise 76% of the City's population
25 but 84% of the City's work force. The disproportion is even
26 greater among the City departments receiving the majority of
27 revenue sharing funds, including the Police Department (90% White),
28 the Streets and Highways Department (90% White), and the Fire
29 Department (97% White). Plaintiff CHICANO TAXPAYER'S ASSOCIATION
30 filed an administrative complaint with ORS against the employment
31 policy of the City, which has received over \$660,000 of general
32 revenue sharing funds to date. ORS has not acted on it.

1 33. As set forth in the preceeding paragraphs, Defen-
2 dants have deliberately disregarded their statutory duty to assure
3 the absence of discrimination on the basis of race, color,
4 national origin or sex in the expenditure of revenue sharing
5 funds by recipients thereof. Plaintiffs have been deprived of
6 rights to equal employment opportunity by such recipients and are
7 deprived of constitutional and statutory protection of such
8 rights by reason of defendants' default in the enforcement of
9 the Act's civil rights provisions.

10 34. Plaintiffs have suffered and will continue to
11 suffer irreparable injury as a result of defendants' failure and
12 refusal to utilize their authority to insure that general revenue
13 sharing funds are not used in a racially or sexually discrimina-
14 tory manner by a recipient in any program or activity, and as a
15 result of defendants' failure to exercise their statutory duty to
16 assure non-discrimination in the use of general revenue sharing
17 funds. Plaintiffs have no plain, speedy or adequate remedy at
18 law.

19 35. An actual controversy has arisen and now exists
20 between plaintiffs and defendants relating to their respective
21 rights and duties in that Plaintiffs contend that defendants'
22 policies, practices and regulations, as more fully described
23 herein, are not reasonably calculated to secure enforcement of
24 the non-discrimination provisions of the Revenue Sharing Act and
25 are contrary to law, whereas defendants dispute such contentions
26 and contend that said policies, practices and regulations are
27 valid.

28 FIRST CAUSE OF ACTION

29 36. Defendants have violated rights secured to the
30 plaintiffs by section 122 of the Revenue Sharing Act of 1972,
31 21 U.S.C. §1242 (a).

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SECOND CAUSE OF ACTION

37. Defendants have violated rights secured to the plaintiffs by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.

THIRD CAUSE OF ACTION

38. Defendants have violated rights secured to the plaintiffs by the due process clause of the Fifth Amendment to the United States Constitution, by 42 U.S.C. §§1981, 1985 (3) and 1986 and by their knowledge of, and neglect or refusal to prevent the deprivation of, the equal protection of the laws to plaintiffs as alleged herein.

FIFTH CAUSE OF ACTION

39. Defendants have committed an abuse of their discretion under law by failing and refusing to perform their duties under §122 of the Revenue Sharing Act, in violation of Title 5 U.S.C. §§701 et seq.

40. ORS has further failed or refused to take all other steps in good faith which are normally incident to an effective civil rights enforcement program. It has failed to use auditing and investigatory procedures which have any substantial likelihood of uncovering discrimination in the provisions of services and use of facilities subsidized with revenue sharing funds. It has failed to adopt regulations or other standards for investigation. It has failed to investigate inadequate performance in recipient provision of bi-lingual services to non-English speaking members of the public where their numbers are substantial and where they are eligible for services subsidized with revenue sharing funds. It has failed to adopt regulations or guidelines for investigation of bias in employment in construction jobs subsidized with revenue sharing funds. It has failed adequately to inform recipients and the general public of the civil rights requirements which accompany receipt of revenue sharing.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

- A. Assume jurisdiction of this cause;
- B. Certify this action as a class action pursuant to Rules 23 (a) and 23 (b) (2) of the Federal Rules of Civil Procedure;
- C. Enter a declaratory judgment declaring the acts, practices and omissions of the defendants to be in violation of §122 (a) of the Revenue Sharing Act of 1972, 21 U.S.C. §1242(a), of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§2000d et seq, and of the due process clause of the Fifth Amendment to the United States Constitution, of 42 U.S.C. §§1981, 1985 (3) and 1986;
- D. Enter a declaratory judgment that the regulations and informational guidelines adopted by defendants, including but not limited to those regulations appearing in 31 CFR Parts 51.53 (c) and 51.59 (b) and (c), are insufficient to satisfy the requirements of §122(a) of the Revenue Sharing Act of 1972, 31 U.S.C. §1242 (a), Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§2000d et seq, ^{and} the due process clause of the Fifth Amendment to the United States Constitution, 42 U.S.C. §§1981, 1985 (3) and 1986;
- E. Issue an Order enjoining the defendants from failing to adopt regulations and a plan of enforcement which fully enforces the defendants' Federal civil rights obligations under §122(a) of the Revenue Sharing Act of 1972, 21 U.S.C. §1242(a); Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§2000d et seq, and due process clause of the Fifth Amendment

1 to the United States Constitution, 42 U.S.C.

2 §§1981, 1985 (3) and 1986;

3 F. Issue a writ of mandamus pursuant to 28 U.S.C.
4 §1361 requiring the defendants to ensure that
5 revenue sharing funding is not awarded to state
6 and local governmental agencies which engage in
7 discriminatory practices or otherwise violate their
8 civil rights obligations under §122(a) of the
9 Revenue Sharing Act of 1972, 31 U.S.C. §1242 (a),
10 Title VI of the Civil Rights Act of 1964, 42 U.S.C.
11 §§2000d et seq, and due process clause of the Fifth
12 Amendment to the United States Constitution, 42
13 U.S.C. §§1981, 1985 (3) and 1986;

14 G. Issue a writ of mandamus pursuant to 28 U.S.C.
15 §1361 requiring the defendants to issue regulations
16 which adequately enforce Defendants' civil rights
17 obligations under §122(a) of the Revenue Sharing Act
18 of 1972, 21 U.S.C. §1242(a), Title VI of the
19 Civil Rights Act of 1964, 42 U.S.C. §§2000d et seq,
20 and due process clause of the United States
21 Constitution, 42 U.S.C. §§1981, 1985 (3) and 1986;

22 H. Issue an injunction and a writ of mandamus
23 requiring the defendants:

24 (1) To suspend and terminate all revenue sharing
25 funding to all state and local governmental
26 agencies which have been judicially determined
27 to be in violation of the Federal civil rights
28 laws; and to initiate proceedings to recover
29 all revenue sharing funds spent by the above
30 agencies in any such program or activity in-
31 volving discrimination;

1 (2) To initiate administrative hearings to sus-
2 pend and terminate revenue sharing funding to
3 state and local recipients which have been
4 determined by other state or federal agencies
5 to be in civil rights noncompliance, or where
6 the Justice Department has filed a lawsuit
7 alleging such noncompliance, and which recipients
8 have not voluntarily complied with civil
9 rights law; and to initiate proceedings to
10 recover all revenue sharing monies spent by
11 such agencies in any program or activity found
12 to have been discriminatory;

13 I. Order the defendants to take such other appropriate
14 and immediate actions as may be necessary to redress
15 the effects of defendants' past unlawful acts,
16 practices and omissions set forth herein, including,
17 but not limited to the following:

18 (1) Submitting a good faith request for each
19 annual budgetary appropriation which includes
20 provision for compliance positions sufficient
21 to secure defendants' duties under §122 of the
22 Act;

23 (2) Filling each civil rights compliance position
24 immediately upon its opening;

25 (3) Allocating existing compliance staff positions
26 in the ratio which ORS' civil rights com-
27 pliance caseload bears to ORS' total compliance
28 caseload;

29 J. Award plaintiffs' costs and attorneys fees incurred
30 in the prosecution of this action;

31 K. Retain jurisdiction of this action until the
32 defendants have fully complied with the orders of
this Court; and

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L. Award such other and further relief as this Court
may deem just and proper.

DATED: March 22, 1976

Respectfully submitted,

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VERIFICATION

The undersigned declares under penalty of perjury that he is one of the attorneys for plaintiffs in this action; that he has read the foregoing complaint and that he is informed and believes the matter therein to be true, and, on that ground, alleges that the matters stated therein are true.

Executed March 19, 1976 at Santa Maria, California.

BURTON D. FRETZ