

U.S. DEPARTMENT OF LABOR
OFFICE OF THE ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS
WASHINGTON, D.C. 20210



APR 16 1980

Ms. Ruth Olds
Banking Chair
9 to 5
Organization for Women
Office Workers
140 Clarendon Street
Boston, Massachusetts 02116

Dear Ms. Olds:

Thank you for your letter by which you transmitted a copy of your December 18, 1979 letter to Weldon Rougeau, Director, Office of Federal Contract Compliance Programs (OFCCP), regarding the OFCCP Boston Region's investigation of the New England Merchants National Bank. My inquiry into your expressed concerns has revealed that, since consolidation of the contract compliance agencies into OFCCP in October, 1978, Equal Opportunity Specialists from the Boston Area Office have spent more than 500 hours in conducting the compliance review of this bank. It is my understanding that both the Regional Office and the Area Office have been in regular contact with your organization throughout this period to assure that your complaint was being properly addressed.

Our investigation of your allegations has not resulted in their verification. A new tape was obtained from the Bank reflecting employment as of April, 1979. This differed from the tape used by the Treasury Department prior to consolidation only in that it was more current by one year. There is no evidence that the use of the April, 1979 tape as opposed to the April, 1978 tape had any consequences on the results of the regression analysis. The difference in the results obtained by the Department of Labor analysis and the Treasury Department analysis is because of the techniques used, not the time span of the data base.

Further studies by the OFCCP National Office, using a statistical consulting firm, determined that the regression techniques used with the April, 1978 tape were inappropriate. A new study was therefore conducted by the National Office to assure that the technique being used was professionally sound, and could withstand the test of an administrative hearing. As a result of that further study, the National Office determined that the data could not support a finding of an affected class. On August 29, 1979, the National Office advised the regional manager that the study indicated no discrimination for post-1968 employees (the date of the amendment to the Executive Order prohibiting sex discrimination) and gave only a minimal indication of possible discrimination with respect to pre-1968 employees.

The regional manager advised the Area Office to review carefully pre-1968 employees to assure that discrimination with respect to this group could be factually supported. As a result, the Boston Area Office conducted a substantial inquiry with respect to this group of employees. The inquiry determined that, for employees hired between 1932 and 1968, 35% of men and only 5% of women had college degrees. In addition, 22 additional men received college degrees after employment, but no women. In spite of this disparity of educational levels, slightly more than half of supervisory skill training had been given to women as opposed to men, and in the last two years the promotion rate of pre-1968 women exceeded that of the pre-1968 men. Of eight promotions from staff to officers, four were given to men and four to women. Of the sixteen pre-1968 staff promotions, nine were given to women and seven to men. It was also determined that those pre-1968 women with college degrees either were in positions commensurate with their ability or were in other positions for reasons which were non-discriminatory.

During the course of this investigation, more than 40 women were interviewed in depth, including

representatives from each of the departments which were identified as problem areas by your organization. In addition, in March of 1979, the Boston Area Office maintained evening hours so that any woman employee who wished to speak to the investigators in confidence could have the opportunity to do so. Notification of this fact was given to your organization, posted clearly throughout the bank, and was even contained in the bank's house organ. Although the office remained open each evening, no women employees chose to appear for interviews.

Your statement that the complaint filed by 9 to 5 has been lost is puzzling. The Boston Area Office and the Regional Office report that they are in possession of your complaint, have addressed each issue raised, and have worked very closely with you and your membership on the basis of that complaint.

On September 24, 1979, one of the investigators assigned to this case wrote to your Chair, Anne Serino, to advise that he would like to review certain remaining matters addressed in the complaint, and that he understood it might be possible for Ms. Serino to identify the division in which it was alleged that Irish Catholic men who attended certain colleges were given preference, so that the Division identified could be given a special investigation. No reply to this letter was received.

In addition, the regional manager has met with you and several other representatives of 9 to 5 to discuss the case, and to obtain from you whatever additional information you might have. The regional manager informally shared with you the OFCCP National Office findings of the regression analysis, and indicated he would leave the case open for a period of time to give your organization the opportunity of bringing to OFCCP's attention any additional leads or issues which might be helpful to assure a factual and appropriate finding.

Although the last meeting occurred over one month ago, I am told that no additional information has been received from B to S.

In my judgment the investigation of the Merchants Bank has been most thorough and professional. The Boston Region appears to have made every reasonable effort to advise you of the status of the case and offer you opportunities to have input.

You should not draw any conclusions regarding the investigation of the First National Bank of Boston in light of any findings which may be made regarding New England Merchants National Bank. Each bank investigation stands on its own merits and will be handled accordingly. The Boston Region and Area Offices inform me they have been working very closely with your organization regarding the investigation of the First National Bank, and that they will continue to do so.

Thank you for your cooperation with the Department's officials in this matter.

Sincerely,

Donald Elisburg
Assistant Secretary