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RICHARD BOYWITT,

Plaintiff,

v.

BRUNSWICK BANCORP d/b/a BRUNSWICK BANK AND TRUST COMPANY,

Defendant.

SUPERIOR COURT OF NEW JERSEY

MIDDLESEX COUNTY
LAW DIVISION

DOCKET NO. L-3503-08

CIVIL ACTION

COMPLAINT, JURY DEMAND, and DESIGNATION OF TRIAL COUNSEL

Plaintiff, Richard Boywitt, by way of Complaint against the Defendant, says:

PARTIES

1. Richard Boywitt is a resident of the State of Connecticut with an address of P.O. Box 30, Somers, CT 06071 and was, at all relevant times herein, an employee of Defendant Brunswick Bancorp d/b/a Brunswick Bank and Trust Company.

2. Defendant Brunswick Bancorp d/b/a Brunswick Bank and Trust Company ("BBT" or the "Bank") is an entity organized under the laws of the State of New Jersey with a principal place of business at 439 Livingston Avenue, New Brunswick, NJ 08901 and was, at all relevant times herein, Plaintiff's employer. BBT is a "financial institution" within the meaning of the Bank Secrecy Act ("BSA"), 31 U.S.C. § 5311-5330 and 12 U.S.C. § 1818(s), 1829(b), and 1951-1959 and its implementing regulation, 31 C.F.R. 103.

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NATURE OF THE CASE

3. This is an action brought by Mr. Richard Boywitt, a former employee of BBT, to recover damages and other relief from the Bank for its retaliation against him for engaging in whistle-blowing activity, in violation of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq. ("CEPA").

4. In late April, 2007, Mr. Boywitt, who served as the Bank's Bank Secrecy Act Compliance Officer, advised the Bank's Chairman, President, and Chief Executive Officer, Roman T. Gumina, III, that he planning on filing BSA-required Suspicious Activity Reports ("SARs") regarding a customer's repeated exchanges of thousands of dollars of old cash and two bank tellers' involvement in covering up and refusing to report such transactions.

5. Within two business days, Mr. Gumina terminated Mr. Boywitt's employment, saying, among other things, "you would file an SAR against employees? Are you fucking out of your mind? You're fired."

6. Mr. Boywitt's objections to, disclosures, and refusals to participate in the conduct of the Bank, which he reasonably believed was in violation of the BSA and its implementing regulation, were the motivating factors for the Bank's retaliatory action against him. Mr. Boywitt seeks compensatory and punitive damages, attorney's fees, costs, and such other relief as the Court deems equitable and just.

PERTINENT FACTS

7. BBT hired Mr. Boywitt to the position of Internal Auditor on or about July 24, 2006 at a salary of $40,000 per year.

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8. Mr. Boywitt was well-qualified for this position. Mr. Boywitt's educational background includes a B.S. in Business Administration from Bryant College in 1989 an M.B.A. in Finance from Fairleigh Dickinson University in 2000. Mr. Boywitt became a Certified Public Accountant in 2002. Mr. Boywitt has worked in the banking, finance, and/or accounting industries for over fifteen years.

9. At all times during his employment, Mr. Boywitt performed his job in a manner which met his employer's legitimate expectations. The Bank gave Mr. Boywitt a $5,000 raise in October 2006, and a year-end bonus of $1,000.

10. Indeed, after employing Mr. Boywitt for approximately five months, the Bank transferred Mr. Boywitt to the position of Bank Secrecy Act Compliance Officer, and gave him another $2,000 per year raise in pay, bringing his total salary to $47,000 per year.

11. The BSA and its implementing regulation "is a tool the U.S. government uses to fight drug trafficking, money laundering, and other crimes. Congress enacted the BSA to prevent banks and other financial service providers from being used as intermediaries for, or to hide the transfer or deposit of money derived from, criminal activity." Comptroller of the Currency, Administrator of National Banks, *Bank Secrecy Act/Anti-Money Laundering Comptroller's Handbook*, at pg. 1 (2000) ("BSA Handbook").

12. The BSA and its implementing regulation contain reporting and record keeping requirements which assist law enforcement with investigating money laundering schemes and other illegal activities. BSA Handbook, pg. 1.

13. Pertinent to the matter at bar, the BSA requires financial institutions to timely file "Suspicious Activity Reports" when they receive suspicious transactions, including transactions

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which have "no business or apparent lawful purpose or [are] not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction." 31 C.F.R. 103.18.

14. Mr. Boywitt had never worked as a BSA Compliance Officer before, and knew little about the BSA and its requirements. However, Mr. Boywitt attended seminars, read government and private publications, and worked in a loyal and determined manner to quickly learn the duties and responsibilities of a BSA Compliance Officer. The Bank advised Mr. Boywitt that he was "the best man for the job" and would receive "on the job training."

15. From the start, Mr. Boywitt's ability to perform his job was frustrated and complicated by the fact that the former BSA Compliance Officer, Mr. Kamrul Chowdhury, refused to share his audit reports. Mr. Boywitt had to start his audits from scratch.

16. In addition, Mr. Roman Gumina advised Mr. Boywitt, in essence, to overlook activity which could have been the subject of a BSA-mandated SAR. He said words to the effect of "be careful what you write, we don't want anyone to get fired."

17. Plaintiff was also frustrated in his efforts to audit the Bank's branches by a lack of cooperation from the Bank employees. By way of example, and not of limitation, when Mr. Boywitt reviewed the Bank's cancelled checks and discovered that a large screen television set was on the books but not on Bank property, Mr. Gumina and Mr. Chowdhury told Mr. Boywitt to stop the audit. Further, when Mr. Boywitt attempted to audit the Bank's accounts with other banks, the Vice President and Chief Operating Officer, Christine A. Cioffi, would not provide a reconciliation, and told Mr. Chowdhury to tell Mr. Boywitt to stop the audit.

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18. At one point during his employment, prior to the end of March 2007, Mr. Boywitt witnessed a customer named Frank Santisi enter the Bank and speak briefly to Mr. Roman Gumina. At that time, Mr. Gumina turned to Mr. Boywitt and said words to the effect of "I hope you didn't hear that." Mr. Gumina stated that Mr. Santisi had a brother who was President of the Bank many years ago but had been arrested for loan fraud. Mr. Gumina stated that Mr. Santisi should not have an account at the Bank.

19. At or about the end of March or early April 2007, Ms. Joanne Miller, Head Teller, advised Mr. Boywitt that Mr. Santisi had come into the Bank to exchange several thousand dollars in cash. Ms. Miller reported that the cash smelled old. The customer's explanation was that his mother died and that he is "finding money" throughout her house. Ms. Miller told Mr. Boywitt that she would have reported the transaction sooner, but another Head Teller, Barbara Rosenberg, told her not to.

20. Mr. Boywitt asked Ms. Miller to write down the serial numbers, dates, and denominations of the cash from Mr. Santisi and to segregate it. Mr. Boywitt then asked Ms. Rosenberg to do the same thing with any cash transactions she may have processed from this customer, and to instruct the other tellers to do the same. Ms. Rosenberg refused, saying it was too much work.

21. A few weeks later, Mr. Boywitt returned to Ms. Miller and Ms. Rosenberg to follow up on Mr. Santisi's exchanges of cash. They both told Mr. Boywitt that Mr. Santisi had not exchanged any more cash since Mr. Boywitt first became aware of the situation several weeks prior. Mr. Boywitt asked Ms. Rosenberg for the total amount of money that Mr. Santisi had exchanged at that point. She said seven or eight thousand dollars.

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22. A day or two later, Mr. Boywitt interviewed another teller, Nasma. Nasma reported that Mr. Santisi had come to the Bank the previous Saturday and exchanged $8,000 in old cash. Nasma stated that neither Ms. Rosenberg nor Ms. Miller ever informed her to monitor this customer.

23. Mr. Boywitt realized at that point that he was required, under the BSA, to file SARs regarding Ms. Rosenberg, Ms. Miller, and Mr. Santisi.

24. Mr. Russel Yaskey, a Senior Loan Officer of the Bank, saw Mr. Boywitt speaking with Ms. Rosenberg and asked what was happening. Mr. Boywitt explained the situation to him. Mr. Yaskey stated words to the effect that "it sounds like you need to file an SAR on Ms. Rosenberg, talk to Frank [Gumina] first."

25. Mr. Boywitt then telephoned Mr. Gumina and left him a voicemail stating that he was planning to file SARs regarding Ms. Rosenberg, Ms. Miller, and Mr. Santisi. The date was on or about Friday, April 27, 2007.

26. On or about May 1, 2007, i.e., approximately two business days later, Mr. Roman Gumina telephoned Mr. Boywitt and terminated his employment. Mr. Gumina stated words to the effect of "how could you file an SAR against a customer whose mother died? You would file an SAR against employees? Are you fucking out of your mind? You're fired."

COUNT ONE

(Violation of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq.)

27. Mr. Boywitt repeats and realleges each and every allegation set forth above as if recounted at length herein.

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28. The Bank terminated Mr. Boywitt's employment because he objected to, disclosed and/or refused to participate in conduct which he reasonably believed was in violation of a rule or regulation promulgated pursuant to law, was unethical, or was incompatible with a clear mandate of public policy concerning the public health, safety or welfare.

29. The Bank's actions constitute a violation(s) of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq.

30. As a result of the foregoing unlawful action(s) on the part of the Bank, Mr. Boywitt has suffered, and will continue to experience, a loss of income and benefits.

31. In addition, Mr. Boywitt has suffered, and will continue to experience, extreme emotional distress, as well as other adverse effects upon his daily, social and family life.

32. The Bank's conduct was egregious, willful, wanton and/or in reckless disregard of Mr. Boywitt's rights and, moreover, involved the participation of the Bank's upper management, including, but not limited to, Mr. Roman T. Gumina, III, warranting the imposition of punitive damages.

WHEREFORE, Mr. Boywitt demands judgment against BBT awarding him compensatory damages, including front and back pay and benefits; emotional distress damages; punitive damages; and attorney's fees, costs of suit, and any other relief the Court may deem just and appropriate under the circumstances.

LAW OFFICE OF STEVEN SIEGLER, ESQ.
Attorneys for Plaintiff

By: _____
Steven Siegler

Dated: May 1, 2008

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JURY DEMAND

Plaintiff hereby demands a trial by jury as to all causes so triable.

LAW OFFICE OF STEVEN SIEGLER, ESQ.
Attorneys for Plaintiff

By: _____
Steven Siegler

Dated: May 1, 2008

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Steven Siegler as trial counsel.

LAW OFFICE OF STEVEN SIEGLER, ESQ.
Attorneys for Plaintiff

By: _____
Steven Siegler

Dated: May 1, 2008

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned attorney for Plaintiff hereby certifies that the matter in controversy is not the subject of any other action or arbitration proceeding pending or contemplated, nor are there any other parties known to Plaintiff who should be joined in this proceeding.

LAW OFFICE OF STEVEN SIEGLER, ESQ.
Attorneys for Plaintiff

By: _____
Steven Siegler

Dated: May 1, 2008