

Should Wachovia Pay?

A Local Case for Reparations

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Introduction

On June 1, 2005, Wachovia, represented by its CEO, Kenneth Thompson, made a public apology for slavery. An accompanying report provided findings that Wachovia Corporation and its predecessor institutions (hereinafter referred to as Wachovia) owned African-Americans as property – slaves, and supported the commerce of slave buying and selling throughout the South, and in Pennsylvania. The report was commissioned and paid for by Wachovia, and prepared by the History Factory based in Chantilly, Virginia. Several national organizations ripped Wachovia for doing so saying such an apology would lead to demands for reparations, and that the “concept of cross—generational responsibility is an absurdity.”¹ June 27th Wachovia, based in Charlotte, North Carolina, announced, through a news release, that it is committed to lending \$1 billion during the next five years to “auto dealers of color” through a partnership with the National Association of Minority Automobile Dealers (NAMAD).

Most, if not all, of the news stories focused on the apology and not the report. I am an African descendent with origins of enslavement in my family tree, heretofore, traced to Kershaw, South Carolina, in the County of Lancaster, circa 1823. My maternal great, great grandparents were Hunter and Hannah Bailey, enslaved Africans. My grandparents, James W. Stevenson and Louise Bailey, farmed as sharecroppers. It is well documented that the Carolinas were a major hub for the receiving, terrorizing, and auctioning of enslaved Africans. As a ***“broken-hearted”***² African descendent, I wanted to know what was in the report that served as the basis for the apology. What I found, I submit as the starting point for a local case for reparations against Wachovia:

1. The report entitled, Wachovia *Corporation and Its Predecessor Institutions* came under pressure, as a result of Wachovia efforts to do business in the City of Chicago as part of a group receiving a \$9.4 million loan to construct affordable housing. Wachovia had made a formal declaration (lied) before the Chicago City Council claiming that an internal review of its corporate archives found no evidence of past profits from slavery. The Chicago law allows the city to break contracts with companies that don't fully disclose past profits from slavery.
2. Wachovia selected The History Factory, a so-called leading professional research company, to conduct a comprehensive search of its company's record. The research covered predecessors of mergers and acquisitions throughout Wachovia's history, as well as the predecessors of those institutions.
3. The threshold for determining if an institution was connected to slavery was set as “those predecessor institutions holding U.S. government bonds or notes during the period when slavery was legal in the United States, those institutions were considered to have profited, from slavery. Institutions also were considered to have profited from slavery if they held notes in states and municipalities where slavery was legal at the time, or invested in—or

¹ National Legal and Policy Center, U.S. Newswire, June 2, 2005

² Luke 4:18, Holy Bible, KJV, Strong's Exhaustive Concordance of the Bible, Greek Dictionary of the New Testament, #4937

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were themselves invested in by banks or companies that owned slaves, profited from slave labor, or existed in slave states.”³

4. Legalized slavery occurred in the United States from 1619 to 1865 and was followed by another century of legalized racial discrimination. According to the History Factory, Wachovia became a major participant in this racial oppression in 1781 with the founding of the Bank of North America. “This overwhelming oppression and terrorism of one group of humans by another allowed some to create wealth, while the oppressed group was forbidden and then harshly constrained from accumulating wealth.”⁴
5. The continuing effects of slavery in the United States, according to Randall Robinson in his book, *The Debt: What America Owes To Blacks*, is a “human rights crime without parallel in the modern world. It produces its victims, ad infinitum; long after the active stage of the crime has ended. From 1619 to 1865 was “far and away the most heinous human rights crime visited upon any group of people in the world over the last 500 years.”
6. Reparations, as defined by the National Coalition of Blacks For Reparations In America (N’COBRA), means payment of a debt owed; the act of repairing a wrong or injury; to atone for wrongdoings; to make amends; to make one whole again; the payment of damages; to repair a nation; compensation in money, land, or materials for damages.

The Wachovia Report: Findings and Omissions

1. The 102-paged Wachovia Report only covered 19 of Wachovia’s predecessor institutions and omitted information about approximately 381. For example, researchers only viewed 20 linear feet of microfiche material at the Historical Society of Pennsylvania, leaving approximately 130 linear feet of microfiche account ledgers unviewed. A seven-person research team worked on the Report. The racial and gender makeup of the team was omitted. After compiling a list of 400 predecessor institutions, dating back to Wachovia’s earliest predecessor, the Bank of North America, founded in 1781, The History Factory focused on reviewing the records of only 19 predecessor institutions.
2. African-Americans have been unable to secure records with regards to their ancestors due to the failure to reliably access ship manifestos, or human cargo lists that directly connect them to their descendants. Moreover family names were changed once the Africans arrived in America making it nearly impossible to accurately trace records.

³ The History Factor, Research Methodology, Findings Report, Wachovia Corporations and Its Predecessors

⁴ Attorney Jon M. Van Dyke, *Reparations for the Descendants of American Slaves Under International Law, pg.58, Should America Pay?* by Raymond A. Winbush

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3. Corporate histories and records have also been inaccessible to most people. Hence research tracing the monetary benefit derived, and accrued, by Wachovia from the slave trade has only been recently accessible and discussed by prominent researchers.

4. The 19 predecessor institutions covered by the Report included the:
 - Bank of North America (Philadelphia), established 1781
 - Bank of Baltimore, established 1795
 - The Philadelphia Bank, established 1803; recognized as Philadelphia National Bank in 1864
 - Farmers' and Mechanics' Bank (Philadelphia), established 1807
 - Bank of Northern Liberties (Philadelphia) established 1810
 - Pennsylvania Company for Insurances on Lives and the Granting of Annuities (Philadelphia) established 1812
 - State Bank of Elizabeth (Elizabeth, New Jersey), established 1812
 - State Bank of Newark (Newark, New Jersey), established 1812
 - Savings Bank of Baltimore, established 1818
 - Kensington Bank (Pennsylvania), established 1823
 - Bank of Penn Township (Pennsylvania), established 1828
 - Girard National Bank (Philadelphia), established 1832
 - Georgia Railroad Company/Georgia Rail Road & Banking Company, established 1833
 - Bank of Charleston (Charleston, South Carolina), established 1834
 - Germantown Savings Bank (Philadelphia), established 1834
 - City National Bank of (Philadelphia), established 1855
 - Atlanta National Bank (Atlanta), established 1865
 - First National Bank of Clarksville (Clarksville, Tennessee), established 1865
 - Lowery National Bank (Atlanta), established 1865

5. Two of the three of the founders of the **Bank of North America**, Robert Morris and Thomas Willing, amassed their personal fortunes from the slave trade. In 1781, they formed Willing & Morris, a Philadelphia-based merchant business that dealt primarily in slave shipments and trading. Their profits from the slave shipping and trade were used to fund the establishment of the Bank of North America—the enabling institution--based in Philadelphia.

6. Morris and Willing owned a 1500 acre indigo plantation on the Mississippi River, and a 3,000 acre plantation in Baton Rouge, Louisiana. One of their advertisements published in the *Pennsylvania Gazette*, May 1762, announced:

'Just imported from the Coast of Africa, in the Brig Nancy (slave ship), and to be sold at Wilmington, in New Castle County, by Willing, Morris, and Company, of Philadelphia, ONE HUNDRED AND SEVENTY FINE Gold Coast NEGROES.'

“ ... In the west India Islands, where slaves are best known, those of the Gold Coast are in much greater Esteem, and higher valued, than any others, on Account of their natural good Disposition, and being better capable of hard labour.”

7. The list contained in “Slaves and Slave owners in Pennsylvania,” The William & Mary Quarterly, 1973, matched 186 names of depositors of the Bank of North America. Stocks and dividends were also found in the name of the

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Agriculture Bank of Mississippi, and the Mechanics and Traders Bank of New Orleans.

8. Wachovia, through its predecessor institutions participated in the activities of the institution of slavery, starting with its enabling institution –The Bank of North America. In so doing, it furthered the commission of crimes against humanity, crimes against peace, slavery and forced labor, physical and mental abuse.
9. Wachovia knowingly benefited from a system that enslaved, tortured, and exploited human beings, so as to personally benefit its business and its owners and officers.
10. Wachovia directly or indirectly subjected the ancestors of African-Americans to inhumane treatment, physical and mental abuse, torture and starvation, even execution, and subjected African descendants/African Americans to continued effects of the original acts, including but not limited to: race discrimination, unequal opportunity, poverty, substandard health care, substandard treatment, substandard housing, substandard education, unjust incarceration, racial profiling, and inequitable pay in violation of international law.
11. Wachovia has improperly benefited from the immoral and inhumane institution of Slavery in the United States. Wachovia has failed to account for and/or return to African descendants/African Americans the value of their ancestors' slave labor and/or the profits and benefits Wachovia derived therefrom and Wachovia has concealed the nature and scope of their participation in the institution of slavery.
12. The founders of **The Bank of Baltimore**, Christopher Johnson, Lois Pascault, and George Salmon all owned an undetermined number of slaves. The bank profited from slavery through the State of Maryland's investment in the bank itself, and the bank's investment in U.S. bonds. The Bank of Baltimore received the State's investment while it was a slave state. The Bank of Baltimore invested in U.S. bonds while the United States was taxing slaves as assets.
13. In 1796, slaves were taxed in New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, North Carolina, South Carolina, and Georgia. Pennsylvania taxed imported slaves prior to the Constitution.⁵
14. Shipping and financial interests benefited from the slave trade and slave commerce. Yankee and British ships carried many slaves across the Atlantic or participated financially in the voyage, contributing to the fortunes of Newport, Boston, Philadelphia, Liverpool, and London.⁶

⁵ . Winbush, Raymond, A., [Should America Pay](#), Article by Kevin Outterson, [Slave Taxes](#)

⁶ Ibid.

15. **The Philadelphia Bank** profited from slavery through its many investments in banks based in slave states. The Philadelphia Bank invested in railroad companies located in slave states. Slave labor was common among Southern railroad companies. The bank invested in the Chesapeake and Delaware Canal, which was built in slaveholding lands. The Philadelphia Bank held 136 shares of Planters Bank of Tennessee; valued at \$100 a share, and 140 shares of stock in the North Tennessee Railroad Company, valued at \$10 a share.
16. The Report confirms several specific connections **between Farmers' and Mechanics' Bank of Philadelphia** and profits derived from slavery. The bank had investments in the Grand Gulf Railroad and Banking Company, notoriously known to use slave labor.
17. The Report confirms **Girard National Bank** profited from slavery through the transacting of business with the New Orleans Canal and Banking Company, which mortgaged slaves as collateral.
18. **The Georgia Railroad Company/Georgia Railroad & Banking Company**, established by an act of the General Assembly of Georgia, relied on slave labor for the construction and maintenance of the railway between the city of Augusta and some point in the interior of the State. While it was awarding work to contractors who used slave labor (400), the Georgia Railroad and Banking Company was actively acquiring slaves. Documentation shows (202) the principal founding directors, James A. Camak, E.L. Newton, and James Shannon owned slaves.
19. Demonstrable evidence shows that the **Bank of Charleston** profited directly from slavery and slaveholding interests in the provision of loans, mortgages, and/or bonds wherein slave holdings, i.e., "negroes," were specifically employed by patrons as collateral.
20. Documented evidence shows the Bank had significant business ties to other companies known to have purchased, sold and/or employed slave labor in its/their day-to-day-operations, e.g., other banks, railroads, and manufacturing facilities. Most prominent examples are **The South Carolina Railroad Company, the Southwestern Railroad Bank, and the Georgia Railroad Bank** in the millions of dollars.
21. In addition to its day-to-day business dealings in the slave economy, ties to the personal holdings and business activities of the Bank, its founders, directors, and officers owned and sold slaves and profited from slavery through the ownership and sale of 15 slave plantations, including seven on Hilton Head Island, Beaufort County, South Carolina. Omitted from the

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report were the number of slaves in commerce at most of these plantations, which ranged, as noted by the Report, from 850 to 1,820 acres.

22. In the late 1850s and throughout the Civil War, the Bank of Charleston, like many Southern Banks, provided support to the newly established Confederate State government. Loan support to the Confederate government, through Confederate stock purchases in 1862 alone exceeded more than \$1.5 million.
23. The first commercial sale of slaves took place in Pennsylvania in 1684 when the British merchant ship *Isabella* docked in Philadelphia with a cargo of 150 African slaves. Members of the Quaker religion purchased most of these enslaved Africans. William Penn, a Quaker who was given the area west of the Delaware River in 1681 by King Charles II, preferred slaves to white servants because "they worked for life." Slave imports into the state remained small until the 1730s when duties on slave imported into the colony were lowered. By the turn of the century approximately 1,700 enslaved blacks lived in Pennsylvania, with one in 15 white families owning one or more slaves.⁷
24. Sixteen years after the first slave ship arrived in Pennsylvania colonial legislators officially recognized the institution of slavery. In 1700, a statute was passed noting how slave criminals were to be prosecuted and sentenced. Murder, robbery and rape all commanded a death sentence. Attempted rape of a white woman by a black man was punished with castration. Miscegenation was of particular concern to lawmakers. A petition filed in 1723 asking the assembly to "do something concerning the intermarriages of Negroes and whites" resulted in a statute prohibiting such marriages. Manumission fell into disfavor during the 1700s as white leaders sought to control and restrict the rights of free blacks. A 1726 statute declared that free black children not raised properly could be removed from their parents and indentured until the child reached adulthood.
25. Wachovia and each of its predecessor industry group acted individually, and in concert with their industry groups, and with each other, either expressly or tacitly, to participate in a plan that was designed in part to commit the tortuous acts as referred to herein.
26. For example, as indicated in the Report, each industry group was co-dependent on each other and operated, after being enabled by the Bank of North America, its founders, directors and officers, as a joint enterprise, designed in part, to maintain and continue a system of inhumane servitude.
27. The shipping and railroad industry benefited and profited from the transportation of the slaves. The railroad industry utilized slave labor in the construction of rail lines. These transportation industries were dependent

⁷Pennsylvania Laws on Slavery from the Colonial Era to the Civil War

upon the manufacturing and raw materials industry to utilize the slaves they shipped. The cotton, tobacco, rice, indigo, sugar industries thrived on profits generated from their use of slave labor, and relied upon financial and insurance industries to finance and insure the slaves that they utilized and owned. All industries: raw market, retail, financial, insurance, and transportation benefited from the reduced costs of slave-produced goods.¹⁰

Cause of Action

1. Sociologist Glenn C. Loury queries: “How does one calculate the cost of inner-city ghettos, of poor education, of the stigma of perceived racial inferiority? The severity of slavery’s injury is far more profound than any cash transfer will be able to reverse.”⁸
2. In an attempt to put this injury in economic terms, Professor Adrienne Davis makes clear, “the slave-holding states did not confer legal status on black families; through inheritance, the family is one of the primary institutions of wealth transfer, but black slaves were excluded from their inter-generational wealth transfer, one of the centerpieces of Anglo-American culture.”⁹
3. Three separate trials were combined in the Holocaust Victim Asset Litigation for pretrial purposes.¹⁰ In regard to Holocaust reparations litigation and settlements, the cases involved claims against Union Bank of Switzerland, Swiss Bank Corporation, and Credit Suisse. In these three cases the causes of action included a breach of contract, breach of fiduciary duty, conversion, conspiracy, and unjust enrichment. The banks were pressured to settle the disputes. breach of fiduciary duty, conversion, conspiracy, and unjust enrichment. The banks were pressured to settle the disputes.
4. Harper’s Magazine of November 2000 printed an interview with renowned class action attorneys Willie E. Gary, Alexander J. Piries, Jr, Richard F. Scruggs, and Dennis Sweet III, entitled: Does America Owe a Debt to the descendants of Its Slaves? The attorneys gave practical strategies about how to bring America’s most abnormal sorrow into a court of law. Below are some of their thinking on a cause of action:

Attorney Willie Gary: “Think about this. In 1865 the federal government of this country freed 4 million blacks. Without a dime, with no property, nearly all illiterate, they were let loose upon the land to wander. That’s what begins the aftermath of slavery.”

⁸ Farmer-Paellman v. FleetBoston, AETNA, Inc., CSX, and Their predecessors, successors and/or assigns *Ibid*.

⁹ Davis, “The Case for Reparations.”

¹⁰ David Rosenberg, Class Actions for Mass Torts: Doing Individual Justice by Collective Means, 62 IND.L.J. 561, 567-68 (1987)

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Editor Hitt: (Randall) “Robinson points out that until 1950 the federal government included in mortgage loans restrictive covenants preventing blacks and only blacks, no other group, from buying houses in white neighborhoods. So blacks could not make their equity work for them. They couldn’t move up.”

Attorney Gary: “And banks kept it up denying loans to blacks, often by redlining, by which they literally would draw lines on a map around a neighborhood and not give loans to creditworthy people living there. That happened until almost last week.”

Editor Hitt: “These are all compelling examples. And so you wonder: If Koreans can sue the Japanese about heinous acts carried out in the 1930s, and Jews are suing over prewar slave-labor camps, and American POWs imprisoned in Pacific camps are even suing the Japanese for slave-labor wages, why can’t blacks also sue for similar recompense.”

Attorney Sweet: “It can be done... The effects of slavery are still with us, we all know that: single parents, black men wandering off from their families, a tradition of not going to school, distrust of the future. This is not black culture. It’s slave culture.”

5. From **The Report**, Wachovia knew or should have known of the existence of corporate records that indicate their profiting from slave labor. Wachovia has failed to provide said records. The Report is not enough
6. As a result of Wachovia’s failure and refusal to account for, acknowledge and return to African Americans, Wachovia has willingly and wrongfully misappropriated and converted the value of that labor and its derivative profits into Wachovia’s own property. Wachovia, in doing business with local governments, has not fully accounted and disclosed its direct and indirect involvement in crimes against humanity in the American institution of slavery.
7. Wachovia has improperly benefited from the immoral and inhumane institution of slavery in the United States. Wachovia has been unjustly enriched at the expense of African descendants and the fore-parents of African Americans. Therefore, as a result of the information contained herein, I submit this case against Wachovia for compensatory damages in an amount to be determined through negotiations or in a court of law.

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Suggested Plan of Action

1. Inform and coordinate with other local and national organizations supporting and demanding reparations.
2. Select legal representation.
3. Further research Wachovia's involvement in the enslavement of Africans.
4. Call for negotiations with Wachovia.
5. Develop a public relations strategy to educate the general public.