

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT
2016 NOV 10 F 2 73

IN RE: ADOBE SYSTEMS INC.

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CIVIL DIVISION

Docket No. 68-11-16 wncv

ASSURANCE OF DISCONTINUANCE

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**IN THE MATTER OF ADOBE
SYSTEMS INC.**

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ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance¹ is entered into by the Attorneys General of Connecticut,² Arkansas, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Missouri, Minnesota, Mississippi, North Carolina, Ohio, Oregon, Pennsylvania and Vermont (hereinafter collectively referred to as the “Attorneys General”) and Adobe Systems Inc. (“Adobe” and together with the Attorneys General, the “Parties”) to resolve the Attorneys General’s investigation into the unauthorized access to certain Adobe servers, including servers containing personal information relating to approximately 534,000 residents of the States represented by the Attorneys General, identified in September 2013. In consideration of their mutual agreements to the terms of this Assurance, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

DEFINITIONS

For the purposes of this Assurance, the following definitions shall apply:

1. “Assurance” shall mean this Assurance of Voluntary Compliance.
2. “Breach of security” shall have the same meaning as that term, or equivalent terms, are defined in the breach notification laws cited in Attachment A.

¹ This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of Discontinuance.

² For ease of reference, this entire group will be referred to collectively herein as the “Attorneys General” or individually as “Attorney General.” Such designations, however, as they pertain to Connecticut, shall refer to the Connecticut Commissioner of Consumer Protection.

3. “Consumer Protection Statutes” shall mean the unfair and deceptive trade practices acts listed in Attachment B.

4. “Effective Date” shall be November 8, 2016.

5. “Personal Information” for purposes of this AVC, shall include: (i) the data elements in the definitions as set forth in the breach notification statutes listed in Attachment A; and (ii) the data elements in the definitions as set forth in the Consumer Protection and Personal Information Safeguards Statutes listed in Attachment B. In the absence of an applicable statutory definition, “Personal Information” shall mean an individual’s first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such individual: (a) Social Security number; (b) driver’s license number; (c) state-issued identification card number; or (d) financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

6. “Personal Information Safeguards Statutes” shall mean the personal information protection acts or regulations listed in Attachment B, as amended from time to time.

BACKGROUND

7. On September 17, 2013, Adobe received an alert that one of its application server’s hard drive was nearing capacity. In responding to the alert, Adobe learned that an unauthorized attempt was being made to decrypt encrypted customer payment card numbers maintained on the subject application server. Adobe ended the decryption process, disconnected the subject application server from the network, and began an investigation.

8. Adobe’s subsequent investigation into the attack revealed that one or more unauthorized parties (the “attacker”) had compromised a public-facing web server and used this

web server to access other servers on Adobe's network. The attacker ultimately stole data from Adobe's network.

9. Specifically, as a result of the attack, the attacker was able to steal the following types of information relating to certain Adobe customers: (a) names; (b) addresses and telephone numbers; (c) usernames (Adobe IDs); (d) e-mail addresses; (e) encrypted passwords associated with Adobe IDs (a limited number of unencrypted passwords may have been stolen as well); (f) plain text password hints; and (g) encrypted payment card numbers and payment card expiration dates.

ATTORNEYS GENERAL'S POSITION

10. As set forth above, the attacker was able to gain access to Personal Information after gaining access to a public-facing Adobe server.

11. It is the Attorneys General's position that Adobe did not employ reasonable security measures to protect its systems and Personal Information on them from an attack that originated at the public-facing server. In the Attorneys General's view, the risk of unauthorized access through the public-facing server was reasonably foreseeable.

12. Further, as set forth above, the attacker was able to exfiltrate Personal Information from Adobe's server, without immediate detection by Adobe.

13. It is the Attorneys General's position that Adobe did not employ reasonable measures to promptly detect and respond to unauthorized activity within its system and may not have had reasonable measures in place to prevent the unauthorized exfiltration of Personal Information from its system.

14. It is also the Attorneys General's position that Adobe's conduct, as described above, was in contravention of Adobe's representations to consumers that it would take reasonable steps to protect Personal Information.

15. It is also the Attorneys General's position that Adobe's conduct, as described above, was in violation of the Consumer Protection Statutes and Personal Information Safeguards Statutes.

ADOBE'S RESPONSE TO ATTORNEYS GENERAL'S POSITION

16. Adobe denies the Attorneys General's assertions as set forth in paragraphs 11 through 15 above.

17. Adobe's investigation found no evidence that decrypted payment card numbers were ever exfiltrated from its systems.

18. Adobe has reported to the Attorneys General that it has taken various remedial steps in response to the breach, including, but not limited to:

- (a) enforcing two-factor authentication on affected servers;
- (b) removing encrypted customer passwords from the affected servers;
- (c) moving microsites to commercially available services that do not have access to Adobe's Corporate network and decommissioning the affected server that previously hosted the microsites;
- (d) setting up additional monitoring alerts;
- (e) implementing additional network sensors;
- (f) implementing certain network blocks for indicators of compromise;
- (g) resetting all administrative passwords in the affected environments;
- (h) implementing network access control lists to restrict access to certain servers;
- (i) increasing monitoring on servers containing and processing customer account information; and

(j) implementing tokenization for all payment card numbers processed using the Adobe.com merchant ID.

19. In addition, Adobe has reset all passwords for customers that had their Adobe IDs and passwords exfiltrated.

ASSURANCES

20. Adobe shall comply with the Consumer Protection and Personal Information Safeguards Statutes listed on Attachment B in connection with its collection, maintenance and safeguarding of consumers' Personal Information, and maintain reasonable security policies and procedures designed to protect Personal Information.

21. Adobe shall not make any representations that have the capacity, tendency or effect of deceiving or misleading consumers in connection with the safeguarding of Personal Information.

22. Adobe shall: (a) timely notify residents of each Attorney General's state of any future breach of security involving the unauthorized access to or acquisition of Personal Information to the extent required by the breach notification laws listed in Attachment A; and (b) timely notify each Attorney General's Office of any future breach of security involving the unauthorized access to or acquisition of Personal Information to the extent required by the breach notification laws listed in Attachment A.

23. Adobe shall, at least twice annually, review its existing internal security policies and procedures regarding the safeguarding of Personal Information, and, where the review results in a determination by Adobe that it is necessary, promptly amend such policies and procedures to further protect the security of Personal Information.

24. Adobe shall provide to the Office of the Connecticut Attorney General an audit report prepared by an independent third party auditor during the four (4) month period

preceding the Effective Date regarding Adobe's security practices relating to Personal Information (the "Audit Report"). Adobe shall provide the Office of the Connecticut Attorney General with a copy of the Audit Report no later than thirty (30) days after its receipt of the Audit Report or thirty (30) days after the Effective Date, whichever is later, which the Connecticut Attorney General may share with the Attorneys General pursuant to paragraph 41. If the Audit Report identifies any deficiencies or contains any recommendation(s) for correction, Adobe shall include with the copy of the Audit Report a plan and time frame for corrective action, which time frame and plan shall take into account the severity of the deficiencies identified by or recommendations contained in the Audit Report and the severity of the deficiencies or recommendation as reasonably determined by Adobe in the context of its overall network and its ongoing business and network operations, and the scope of the resources required to address the issue. The identification of any deficiencies or recommendations for correction in the Audit Report shall not constitute a violation of this Assurance unless Adobe fails to take corrective action within a reasonable time frame established by Adobe pursuant to this paragraph.

25. Adobe shall properly and effectively segregate payment card information from access by public-facing servers.

26. Adobe shall employ tokenization for all Adobe.com merchant ID payment card numbers processed using the Adobe.com merchant ID.

27. Adobe shall perform ongoing risk assessments of its security practices.

28. Adobe shall perform ongoing penetration testing.

29. Adobe shall maintain a process that will create an alert if its exfiltration reporting sources are not operating normally.

30. Adobe shall, at least annually, train relevant employees regarding its security policies. The training required under this paragraph and any policies or materials created in connection therewith shall be regularly reviewed and updated in combination with the requirements of paragraphs 23 through 29.

31. Adobe shall provide the Attorneys General with a certification of its compliance with paragraphs 23 through 30 after the Effective Date of this Assurance. The certification shall describe the policies or practices implemented, or that remain in place, establishing Adobe's compliance with the requirements contained in paragraphs 23 through 30. The Audit Report that Adobe shall provide pursuant to paragraph 24 of this Assurance, as well as the conditions described in paragraph 24 pertaining to such Audit Report, may constitute the certification of compliance and the obligations of compliance for purposes of this paragraph if it describes Adobe's policies or practices that comply with the requirements contained in paragraphs 23 through 30.

PAYMENT TO THE STATES

32. Adobe shall pay a total of \$1,000,000.00 (One Million Dollars) to the Attorneys General. Said payment shall be divided and paid by Adobe directly to each of the Attorneys General in an amount to be designated by the Attorneys General and communicated to Adobe by the Connecticut Attorney General. Each of the Attorneys General agrees that the Connecticut Attorney General has the authority to designate such amount to be paid by Adobe to each Attorney General and to provide Adobe with instructions for the payments to be distributed under this paragraph. Payment shall be made no later than thirty (30) days after the Effective Date and receipt of such payment instructions by Adobe from the Connecticut Attorney General, except that where state law requires judicial or other approval of the

Assurance, payment shall be made no later than thirty (30) days after notice from the relevant Attorney General that such final approval for the Assurance has been secured.

33. Said payment shall be used by the Attorneys General for such purposes that may include, but are not limited to attorneys' fees and other costs of investigation, or to be placed in, or applied to, the consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorneys General.

RELEASE

34. Following full payment of the amounts due under this Assurance, the Attorneys General shall fully and completely release and discharge Adobe from all civil claims that Attorneys General could have brought under the Consumer Protection and Personal Information Safeguards Statutes based on Adobe's conduct set forth in paragraphs 7 through 15. Nothing contained in this paragraph shall be construed to limit the ability of the Attorneys General to enforce the obligations that Adobe and its officers, agents, servants and employees acting on their behalf, have under this Assurance. Further, nothing in this Assurance shall be construed to create, waive or limit any private right of action.

35. Notwithstanding any term of this Assurance, any and all of the following forms of liability are specifically reserved and excluded from the release in paragraph 34 as to any entity or person, including the Respondents:

- (a) Any criminal liability that any person or entity, including Adobe, has or may have to the States.
- (b) Any civil or administrative liability that any person or entity, including Adobe, have or may have to the States under any statute, regulation or rule not expressly

covered by the release in paragraph 34 above, including but not limited to, any and all of the following claims: (i) State or federal antitrust violations; (ii) State or federal securities violations; (iii) State insurance law violations; or (iv) State or federal tax claims.

POTENTIAL CONSEQUENCES OF NONCOMPLIANCE

36. Adobe represents that it has fully read and understood this Assurance and understands the legal consequences involved in signing this Assurance. Adobe expressly understands that any violation of this Assurance may result in any signatory Attorney General seeking all available relief to enforce this Assurance, including an injunction, civil penalties, court and investigative costs, attorneys' fees, restitution, and any other mechanism provided by the laws of the state or authorized by a court.

GENERAL PROVISIONS

37. Any failure of the Attorneys General to exercise any of their rights under this Assurance shall not constitute a waiver of their rights hereunder.

38. Mike Dillon, as General Counsel of Adobe, hereby states that he is authorized to enter into and execute this Assurance of Voluntary Compliance. Adobe is and has been represented by legal counsel and has been advised by its legal counsel of the meaning and effect of this Assurance.

39. This Assurance shall bind Adobe hereto and its agents, employees, successors, and assigns.

40. Adobe shall deliver a copy of this Assurance to, or otherwise fully apprise, its executive management having decision-making authority with respect to the subject matter of this Assurance within thirty (30) days of the Effective Date.

41. Adobe asserts that the Audit Report contains confidential commercial information, confidential financial information and/or trade secrets, and the Attorneys General who receive the Audit Report, whether from Adobe or another Attorney General, shall therefore, to the extent permitted under the laws of the States, treat the Audit Report as confidential and as exempt from disclosure under the relevant public records laws.

42. The settlement negotiations resulting in this Assurance have been undertaken by Adobe and the Attorneys General in good faith and for settlement purposes only, and no evidence of negotiations or communications underlying this Assurance shall be offered or received in evidence in any action or proceeding for any purpose.

43. To the extent this Assurance is filed in any Court, Adobe waives notice and service of process for the filing, and such Court retains jurisdiction over this Assurance and the parties hereto for the purpose of enforcing and modifying this Assurance and for the purpose of granting such additional relief as may be necessary and appropriate. No modification of the terms of this Assurance shall be valid or binding unless made in writing, signed by the parties, and approved by any Court in which the Assurance is filed, and then only to the extent specifically set forth in such a Court's Order. The Parties may agree in writing, through counsel, to an extension of any time period in this Assurance without a court order.

44. To the extent this Assurance must be approved by any Court, Adobe does not object to the Attorney General's ex parte submission and presentation of this Assurance to the Court, does not object to the Court's approval of this Assurance, and does not object to the entry of this Assurance by the clerk of the Court if entry is required.

45. Adobe agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance.

46. Nothing in this Assurance shall be construed as relieving Adobe of its obligation to comply with all state and federal laws, regulations or rules, or as granting permission to engage in any acts or practices prohibited by such law, regulation or rule.

47. This Assurance does not constitute an approval by the Attorneys General of any of Adobe's past, present or future business acts and practices.

48. This Assurance sets forth all of the promises, covenants, agreements, conditions and understandings between the Parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, except for those relating to the confidentiality of documents and information provided by Adobe to the Attorneys General in connection with their investigation of this matter. There are no representations, arrangements, or understandings, oral or written, between the Parties relating to the subject matter of this Assurance that are not fully expressed herein or attached hereto. Each party specifically warrants that this Assurance is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

49. If any portion of this Assurance is held invalid by operation of law, the remaining terms of this Assurance shall not be affected and shall remain in full force and effect.

50. Nothing in this Assurance shall be construed to waive, limit, or expand any claim of sovereign immunity the Attorneys General may have in any action or proceeding.

51. This Assurance may be enforced only by the Parties hereto. Nothing in this Assurance shall provide any rights or permit any person or entity not a party hereto to enforce any provision of this Assurance. No person, entity or official not a signatory hereto is a third-party beneficiary of this Assurance. Nothing in this Assurance shall be construed to affect, limit, alter or assist any private right of action that a consumer may hold against Adobe, nor shall

anything in this Assurance confer upon any consumer standing to pursue any private right of action against Adobe.

52. The obligations and provisions of this Assurance set forth in paragraphs 23, 25, 26 and 30 shall expire at the conclusion of the five (5) year period after the Effective Date of this Assurance, unless they have expired at an earlier date pursuant to their specific terms. Provided, however, that nothing in this paragraph should be construed or applied to excuse Adobe from its obligation to comply with all applicable state and federal laws, regulations, and rules.


53. This Assurance may be executed in counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts may be delivered by facsimile or electronic transmission or a copy thereof with the intent that it or they shall constitute an original counterpart hereof.

WHEREFORE, the following signatures are affixed hereto:

ADOBE SYSTEMS, INC.

MIKE DILLON
General Counsel

By:

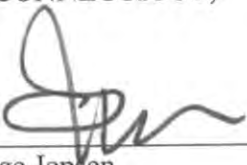


Mike Dillon
General Counsel
Adobe Systems, Inc.
345 Park Ave
San Jose, CA 95110
(408) 536-6934

Date:

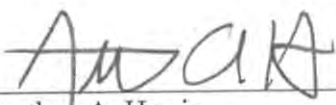
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STATE OF CONNECTICUT,

By: 
George Jepsen
Attorney General

Date: 11/2/16

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

By: 
Jonathan A. Harris
Commissioner of Consumer Protection

Date: 11/3/16

**IN THE MATTER OF ADOBE
SYSTEMS INC.
Assurance of Voluntary Compliance**

**LESLIE RUTLEDGE
Attorney General**

By:



Peggy J. Johnson - Ark. Bar No. 92223

Assistant Attorney General

Office of the Arkansas Attorney General

323 Center Street, Suite 500

Little Rock, Arkansas 72201

Phone: (501) 682-8062

Email: peggy.johnson@arkansasag.gov

Date:

11-7-16

PEOPLE OF THE STATE OF ILLINOIS

**By: LISA MADIGAN
ATTORNEY GENERAL OF ILLINOIS**

By: Matthew W. Van Hise
Matthew W. Van Hise, CIPP/US
Assistant Attorney General
Consumer Privacy Counsel
Consumer Fraud Bureau

Date: 11/7/16

By: Yangsung A. Kim
Yangsung A. Kim
Assistant Attorney General
Consumer Fraud Bureau


By: Elizabeth A. Blackston
Elizabeth A. Blackston
Assistant Attorney General
Bureau Chief
Consumer Fraud Bureau, Southern Region

LISA MADIGAN
Illinois Attorney General

MATTHEW W. VAN HISE
YANGSU A. KIM
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Assistant Attorneys General
Consumer Fraud Bureau
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STATE OF INDIANA

GREGORY ZOELLER
Attorney General

By: 
Ernâni Magalhães
Deputy Attorney General
302 West Washington Street
Indianapolis, IN 46204

Date: 11/7/2016

IN THE MATTER OF ADOBE SYSTEMS INC.

ASSURANCE OF VOLUNTARY COMPLIANCE

ANDY BESHEAR
KENTUCKY ATTORNEY GENERAL

By:



Date:

11-7-16

KEVIN R. WINSTEAD
Assistant Attorney General
Office of the Kentucky Attorney General
Office of Consumer Protection
1024 Capital Center Drive, # 200
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Phone: (502) 696-5300
Fax: (502) 573-8317
kevin.winstead@ky.gov

STATE OF MASSACHUSETTS

MAURA HEALEY

Attorney General

By: 

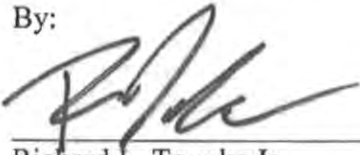
Sara Cable
Director of Data Privacy & Security
Assistant Attorney General
Consumer Protection Division
One Ashburton Place
Boston, MA 02108
(617) 727-2200

Date: November 7, 2016

Agreed to this 8th day of November, 2016, by:

BRIAN E. FROSH
Attorney General of Maryland


By:

A handwritten signature in black ink, appearing to read "R. Trumka Jr.", written over a horizontal line.

Richard L. Trumka Jr.
Assistant Attorney General
Maryland Office of the Attorney General
200 St. Paul Place Baltimore, MD 21202
T: (410) 576-6957 F: (410) 576-6566
rtrumka@oag.state.md.us

STATE OF MINNESOTA

LORI SWANSON
Attorney General

By: 
David Cullen
Assistant Attorney General
445 Minnesota Street, Suite 1200
St. Paul, MN 55101-2130
(651) 757-1221

Date: Nov. 7, 2016

STATE OF MISSOURI

Chris Koster
Attorney General

By: _____


Joseph P. Bindbeutel
Chief Counsel, Consumer Protection
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Jefferson City, Missouri 65109
573.751.7007
Joseph.Bindbeutel@ago.mo.gov

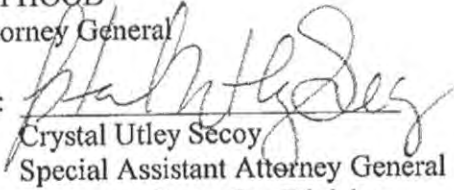
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STATE OF MISSISSIPPI

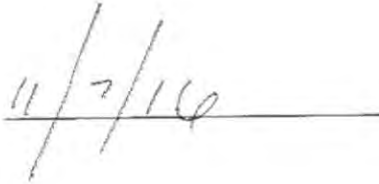
JIM HOOD
Attorney General

By:



Crystal Utley Secoy
Special Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
Post Office Box 22947
Jackson, Mississippi 39225
601-359-4213

Date:



NORTH CAROLINA

Roy Cooper
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Kimberley A. D'Arruda", written over a horizontal line.

Kimberley A. D'Arruda
Special Deputy Attorney General
North Carolina Dept. of Justice
Consumer Protection Division
114 West Edenton Street
Raleigh, NC 27603

Dated: November 8, 2016

STATE OF OHIO

MIKE DeWINE
Attorney General

By: ms Smith
Melissa Smith
Senior Assistant Attorney General
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Columbus, OH 43215
(614) 466-6112

Date: 11.8.16

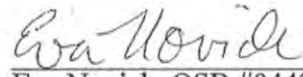
By: ms ziegler
Michael Ziegler
Principal Assistant Attorney General
30 E. Broad Street, Floor 14
Columbus, OH 43215
(614) 466-1305

Date: 11.8.16

1 In the matter of
2 ADOBE SYSTEMS INC.

3
4 Dated: November 7, 2016.

6 ELLEN F. ROSENBLUM
7 Attorney General of Oregon

8
9 
10 Eva Novick, OSB #044294
11 Assistant Attorney General
12 Oregon Department of Justice
13 100 Market Street
14 Portland, OR 97201
15 Phone: (971) 673-1880
16 Fax: (971) 673-1884
17 eva.h.novick@doj.state.or.us
18 Appearance in Oregon only

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25
26 **APPROVAL BY COURT**

APPROVED FOR FILING this ___ day of _____, 2016.

Circuit Court Judge

DM7725029

ASSURANCE OF VOLUNTARY COMPLIANCE

For the Petitioner:

COMMONWEALTH OF PENNSYLVANIA
BRUCE R. BEEMER
ATTORNEY GENERAL

Date: 11/08/16


By: Nicole DiTomo

Nicole R. DiTomo
Deputy Attorney General
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IN THE MATTER OF ADOBE SYSTEMS INC.
ASSURANCE OF VOLUNTARY COMPLIANCE

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Ryan Kriger
Assistant Attorney General
109 State St.
Montpelier, Vermont, 05609
(802) 828-3170

Date: 11/7/2016

ATTACHMENT A

State	Breach Notification Statute
Connecticut	Breach of Security re Computerized Data Containing Personal Information, Conn. Gen. Stat. § 36a-701b
Arkansas	Arkansas Personal Information Protection Act, Ark. Code Ann. §§ 4-110-101 through 4-110-108
Illinois	Illinois Personal Information Protection Act, 815 Ill. Comp. Stat. 530/1 <i>et seq.</i>
Indiana	Disclosure of Security Breach Act, Indiana Code article 24-4.9
Kentucky	Kentucky Revised Statute § 365.732.
Maryland	Maryland Personal Information Protection Act, Md. Code Ann., Com. Law §§ 14-3501 through 14-3508 (2013 Repl. Vol.)
Massachusetts	Mass. Gen. Laws Ch. 93H
Minnesota	Minnesota Data Breach Notification Statute, Minn. Stat. § 325.E.61.
Mississippi	Miss. Code Ann. § 75-24-29
Missouri	Section 407.1500, RSMo.
North Carolina	North Carolina Identity Theft Protection Act, Protection from security breaches, N.C. Gen. Stat. § 75-65
Ohio	Private disclosure of security breach of computerized personal information data, Ohio R.C. 1349.19 <i>et seq.</i>
Oregon	Oregon Consumer Identity Theft Protection Act, ORS 646A.600, <i>et seq.</i>

State	Breach Notification Statute
Pennsylvania	Pennsylvania's Breach of Personal Information Notification Act, 73 P.S. § 2301, <i>et seq.</i>
Vermont	Vermont Security Breach Notice Act, 9 V.S.A. §§ 2430-2435

ATTACHMENT B

State	Consumer Protection Statute; Personal Information Safeguards
Connecticut	Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110a, <i>et seq.</i> ; Safeguarding of Personal Information, Conn. Gen. Stat. § 42-471
Arkansas	Arkansas Personal Information Protection Act, Ark. Code Ann. §§ 4-110-101 through 4-110-108; Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§4-88-101 through 4-88-115 (2011 Repl. Vol.)
Illinois	Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. State. 5050/1 <i>et seq.</i>
Indiana	Deceptive Consumer Sales Act, Indiana Code chapter 24-5-0.5; Disclosure of Security Breach Act, Indiana Code section 24-4.9-3-3.5
Kentucky	Kentucky Consumer Protection Act, Kentucky Revised Statute § 367.170.
Maryland	Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13-501 (2013 Repl. Vol.); Maryland Personal Information Act, Md. Code Ann., Com. Law §§ 14-3501 through 14-3508 (2013 Repl. Vol.)
Massachusetts	Mass. Gen. Laws chapters 93A, 93H and 93I; Title 201 of the Code of Massachusetts Regulations, Section 17.00 <i>et seq.</i> ;
Minnesota	Minnesota Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43-.48; and Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68-.69 and .70
Mississippi	Miss. Code Section 75-24-1 <i>et seq.</i>
Missouri	Section 407.1500.1, RSMO.

State	Consumer Protection Statute; Personal Information Safeguards
North Carolina	North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, <i>et seq.</i>
Ohio	Ohio's Consumer Sales Practices Act, Ohio R.C. 1345.01 <i>et seq.</i>
Oregon	Oregon Unlawful Trade Practices Act, ORS 646.605 <i>et seq.</i> , and Oregon Consumer Identity Theft Protection Act, ORS 646A.600, <i>et seq.</i>
Pennsylvania	Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, <i>et seq.</i> ; Pennsylvania's Breach of Personal Information Notification Act, 73 P.S. § 2301, <i>et seq.</i>
Vermont	Vermont Consumer Protection Act, 9 V.S.A. §§ 2451-2461

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT
DATE: 3/9/16

2016 MAR -9 A 9 57

In Re: Advantage ACH

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Civil Division

Docket No. 134-3-16 Wnew

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Advantage Payment Systems, LLC dba Advantage ACH (“Advantage ACH” or “Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Background

Respondent

1. Respondent Advantage ACH is a Nevada Limited Liability Corporation with its corporate office located at 3993 Howard Hughes Parkway, # 390, Las Vegas, NV 89169.
2. Prior to September 2013, Respondent processed electronic payments in connection with consumer loans made to Vermont residents by lenders, some of whom did not hold a state lending license in the state of Vermont.

Regulatory Framework

3. The Vermont Consumer Protection Act (“the Act”) authorizes the Attorney General to take actions to restrain unfair and deceptive acts in commerce. 9 V.S.A. §§ 2453 & 2458.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

4. On May 18, 2012, the Vermont Legislature added section 2481w to the Act (the unlicensed lender law), to address unlicensed loan transactions. 9 V.S.A. § 2481w.
5. Under section 2481w(b), it is an unfair and deceptive act in commerce for any lender to solicit or make loans in Vermont unless the lender is in compliance with all statutory requirements under Vermont's lending and banking laws contained in Title 8, chapter 73 of the Vermont Statutes Annotated.
6. Under section 2481w(c), it is an unfair and deceptive act in commerce for a processor to process checks or debits, or to transfer any electronic funds in connection with a loan, unless the lender is in compliance with all requirements under Title 8, chapter 73.
7. Chapter 73 of Title 8 requires all lenders to obtain a state license from the Vermont Department of Financial Regulation. 8 V.S.A. § 2201.
8. Lenders who are not licensed under 8 V.S.A. § 2201 are hereinafter referred to as "unlicensed lenders."
9. Chapter 73 of Title 8 also requires that all loans made in Vermont comply with the interest rate limits contained in Title 9, chapter 4. 8 V.S.A. § 2233(b).
10. Chapter 4 of Title 9 caps the interest any person may charge on loans at between 12-24% per annum, depending on the type of loan. 9 V.S.A. § 41a.

Respondent's Payment Processing Practices

11. Respondent processes electronic financial transactions using the Automated Clearing House ("ACH") Network. The ACH Network is a system that allows electronic transfer of funds for participating financial institutions.
12. During 2012-2013, Respondent engaged in processing electronic transfers from various financial institutions employing routing numbers associated with Vermont, withdrawing a total of approximately \$112,000 in net transfers from individual bank accounts located in Vermont.
13. The total amounts processed were collected on behalf of approximately 36 separate lenders (the amounts vary for each lender) in connection with high-interest, small-dollar consumer loans made via the internet.
14. The Attorney General's Office determined that none of the lenders were licensed to make loans in Vermont.
15. As of September 2013, Respondent ceased processing electronic payments in connection with online consumer loans in Vermont.
16. Respondent admits the truth of the facts described in ¶¶ 1-2, 11-13, and 15.

The State's Allegations

17. The Vermont Attorney General's Office alleges the Respondent processed electronic transfers from Vermont consumers' bank accounts on behalf of unlicensed lenders and said processing violated the Vermont Consumer Protection Act, 9 V.S.A. §§ 2453(a) and 2481w(c).

18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices in commerce under 9 V.S.A. § 2453.
19. Respondent denies that it violated Vermont law.
20. The parties agree that this AOD is entered into for settlement purposes only and does not constitute an admission of the violation of any law, rule, or regulation by Respondent.

Assurances and Relief

21. The Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter, and the parties agree as follows:
22. To the extent not already done, Respondent shall immediately cease processing any electronic transfers from Vermont financial accounts on behalf of any unlicensed lender.
23. Prior to doing any future business in Vermont, Respondent shall provide written notice to the Attorney General's Office of its intent to do business in Vermont and comply with all applicable state law requirements, including without limitation, the following sections of the Vermont Statutes Annotated: Title 9, Chapter 63 (Consumer Protection statutes).

Payment to the State of Vermont

24. Within 15 business days of the filing of this AOD, Respondent shall pay to the State of Vermont a total of \$22,000. The parties agree that \$12,000 of the \$22,000 payment shall be set aside by the Attorney

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109 State Street
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05609**

General's Office and paid on a *cy pres* basis to the Vermont Financial Literacy Commission Fund. Payment of the \$22,000 shall be made by check to the "State of Vermont" and shall be sent to the Vermont Attorney General's Office at the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

Other Terms

25. Respondent shall, upon request by the Attorney General, provide all documentation and information necessary for the Attorney General to confirm compliance with, and assist in implementation of, this AOD.
26. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.
27. This AOD and all terms therein shall be binding on Respondent, all of its affiliate companies doing business in Vermont, their officers, directors, owners, managers, successors and assigns.
28. The undersigned authorized agent(s) of Respondent shall promptly take reasonable steps to ensure that copies of this document are provided to all relevant officers, directors, owners and managers of the company, and all of its affiliate companies doing business in Vermont.
29. This AOD constitutes a complete settlement and general release by the Attorney General of all claims, causes of action, damages, restitution,

finances, costs, attorneys' fees, penalties and other remedies, monetary or otherwise, that the Vermont Attorney General could have asserted or obtained under any applicable law, state or federal, including but not limited to the Vermont Consumer Protection Act and Vermont common law, relating to or arising from the conduct that is the subject of this AOD against Respondent, its current and former parents, subsidiaries, predecessors, successors, assigns and affiliates of any kind, and the owners, officers, directors, employees, agents, attorneys, and heirs thereof.

30. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the limited purpose of enabling any of the parties to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. Respondent does not otherwise waive any defense it may have to the jurisdiction of Vermont state courts.
31. All notice related to this AOD shall be given to:
 - (a) **Respondent** at: Richard J. Zack, Pepper Hamilton LLP, 3000 Two Logan Square, Eighteenth and Arch Streets, Philadelphia, PA 19103-2799.

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05609

(b) **The Attorney General** at: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street
Montpelier, VT 05609, justin.kolber@vermont.gov.

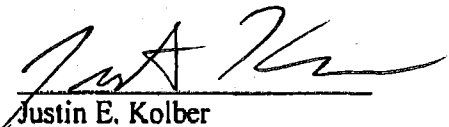
32. For a period of two years beginning from the date of this AOD, Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

*** SIGNATURES APPEAR ON NEXT PAGE ***

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Montpelier, VT
05609**

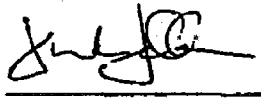
DATED at Montpelier, Vermont this 8th day of March, 2016.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
jkolber@atg.state.vt.us


DATED this 4th day of March, 2016

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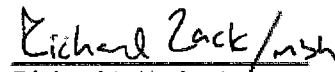
By: 
Its Authorized Agent

LINDEN FELLERMAN ^{Managing Member & CEO}
Name and Title of Authorized Agent

APPROVED AS TO FORM:


Justin E. Kolber
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609

For the State of Vermont


Richard J. Zack, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103

For Respondent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Exhibit A

List of Lenders

1	AAA Fast Cash Inc.
2	AAA Holdings, LLC
3	ABI CO, LLC
4	ABJT Funding, LLC
5	Advance Business Services, LLC
6	Alpine Group LTD
7	American Consumer Credit, LLC
8	Archer Direct, LLC
9	Blue and Grey Capital, Ltd
10	Blue Hole Financial
11	Cash Cloud, LLC
12	Check on Hold, Inc.
13	CK Marketing, Inc.
14	DMA Financial
15	Down Under Ventures, Ltd
16	Eastside Lenders, LLC
17	Encore Service Corp, LLC
18	FFD Resources IV
19	Finestra US, LLC
20	Int'l Cash Advance
21	Joro Resources, LTD
22	MD Financial
23	MK Financial, LLC
24	NHCash.com
25	Ocenture LLC
26	Omega Investments Limited, LLC
27	Payment Direct, Inc.
28	Platinum Finance Co LLC
29	RD STN Financial, LLC
30	RKM, LLC
31	RMF Services LLC
32	RTMM Consulting, LLC
33	Three B Financial, LLC
34	United Consumer Financial
35	United Loan, Inc
36	WTKBJT Financial LLC

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Montpelier, VT
05609**

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT
FALL 2011

In Re: AGNES BAILEY

)
)

CIVIL DIVISION

Docket No. 692-11-16Wncv

2011 NOV 22 P 3:13

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Agnes Bailey (“Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is “presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based.” 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of three rental properties located at 51 State Street, 107-109 State Street, and 1-3 Central Street, all located in Windsor, Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.
13. On September 2, 2016 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondent had not filed an "EMP Rental Property

Compliance Statement” for 107-109 State Street. The Department allowed for 30 days for Respondent to file the necessary statement.

14. Respondent did not respond to the 30-day Notice, and did not file the EMP compliance statement within 30 days.
15. As of October 2016, Respondent has not filed current EMP compliance statements for all three rental properties.
16. Respondent admits the truth of the facts described in ¶¶ 10-15.

The State’s Allegations

17. The Vermont Attorney General’s Office alleges the following violations of the Consumer Protection Act and Lead Law:
 - a. Failing to file EMP compliance statements for rental properties.
18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

19. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
20. By December 1, 2016, Respondent shall provide to the Attorney General’s Office a detailed plan for completing all EMP inspections and work of the Properties (as specified

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109 State Street
Montpelier, VT
05609**

in 18 V.S.A. § 1759), including the names of EMP-certified contractors that he has contacted or will contact and estimated timeframes to complete the EMP work. If Respondent requires additional time to complete the work, Respondent will contact the Attorney General's Office before the expiration of the above deadlines and provide a detailed justification for any extension. Any extension will be granted only for the exterior of the Properties; all interior work must be completed promptly.

21. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: *Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.*
22. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as

the EMP work is complete and the EMP compliance statement is distributed as described above.

23. Respondent shall pay the sum of \$5,000 in civil penalties and costs for the failure to file EMP compliance statements. Payment shall be made as follows:

- a. Within 30 days after entry of this AOD, Respondent shall pay one thousand dollars (\$1,000); within 60 days after entry of this AOD, Respondent shall pay one thousand dollars (\$1,000). All payments shall be a single check payable to “the State of Vermont” and sent to the Office of the Attorney General at the address listed in paragraph 21; and
- b. Respondent shall expend at least three thousand dollars (\$3,000), including the actual cost of materials and the actual cost of labor, on lead hazard reduction improvements at any or all of the Properties described herein.

Other Terms

24. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.

25. Transfer of ownership of any of Respondent’s pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.

26. This AOD shall not affect marketability of title.

27. Nothing in this AOD in any way affects Respondent’s other obligations under state, local, or federal law.

28. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least \$5,000 and not more than \$10,000.

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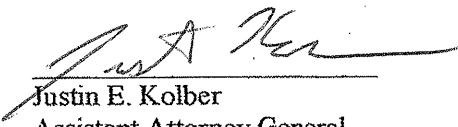
**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

DATED at Montpelier, Vermont this 14th day of November, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

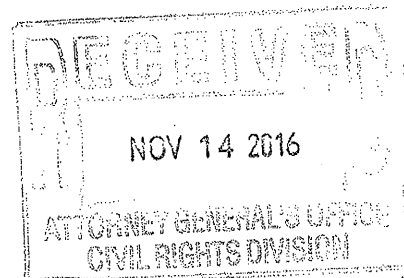
DATED at GULFORD, CT this 8 day of November, 2016.

AGNES BAILEY

By:


Agnes Bailey

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609



STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

STATE OF VERMONT,
Plaintiff

v.

RUBY CORP.
RUBY LIFE, INC., also doing business as
ASHLEYMADISON.COM, and
ADL MEDIA INC.
Defendants

CIVIL DIVISION

Docket No. 730-12-16 *whc*

FILED

2016 DEC 14 AM 11:27

VT SUPERIOR COURT
WASHINGTON UNIT

CONSENT JUDGMENT AND ORDER

This Consent Judgment and Order (“Order”) is entered into between the Attorney General of the State of Vermont (“State”), and Defendants ruby Corp. f/k/a Avid Life Media Inc. (“ruby”), ruby Life Inc., also doing business as AshleyMadison.com and formerly known as Avid Dating Life Inc., (“ruby Life”), and ADL Media Inc. (“ADL Media”), including all of their subsidiaries, affiliates, agents, representatives, employees, successors, and assigns (collectively “Defendants,” and, together with the State, the “Parties”).

This Order resolves the State of Vermont’s concerns regarding Defendants’ compliance with the Vermont’s Consumer Protection Act, 9 V.S.A. Chapter 63.

I. PARTIES

1. The State is acting through its Attorney General with its office located at 109 State Street, Montpelier, Vermont, 05609.

2. Defendant ruby is a privately-held corporation with its principal place of business at 20 Eglinton Avenue West, Toronto, Ontario M4R 1K8. ruby has acted as a holding company for a number of entities that operate dating websites. ruby transacts or has transacted business in this State and throughout the United States.

3. Defendant ruby Life is a Canadian corporation with its principal place of business at 20 Eglinton Avenue West, Toronto, Ontario M4R 1K8. At all times material to this Order, ruby Life has owned and operated the Ashley Madison website. ruby Life transacts or has transacted business in this state.

4. Defendant ADL Media is a Delaware corporation with its principal place of business at 1209 Orange Street, Wilmington, Delaware 19801. At all times material to this Order, ADL Media has collected AshleyMadison.com's U.S. revenue from various payment processors. ADL Media transacts or has transacted business in this district and throughout the United States.

II. COORDINATION WITH OTHER ACTIONS BY OTHER STATE ATTORNEYS GENERAL

5. The Parties acknowledge the States¹ of Alaska, Arkansas, Hawaii, Louisiana, Maryland, Mississippi, North Dakota, Nebraska, New York, Oregon, Rhode Island, Tennessee, Vermont, the District of Columbia (the "Multistate") and the Federal Trade Commission are simultaneously seeking judicial approval of similar Judgments and Orders. The Parties intend to coordinate implementation of the terms of this Order with those referenced above.

III. DEFINITIONS

For purposes of this Order, the following definitions apply:

6. **The "Effective Date"** for purposes of monetary provisions contained in section VI of this Order shall be the last date on which each of the Orders sought by the Multistate and the Federal Trade Commission have been approved and entered. The

1. References to "states," "States," and "Multistate" in this document include the District of Columbia.

Effective Date for the balance of the provisions contained in this Order shall be the date that this Order is filed with the Superior Court for Washington County, Vermont.

7. **“Engager profile”** means an employee or agent-generated account that is not an account used by an actual customer.

8. **“Personal information”** means individually identifiable information from or about an individual consumer, including, but not limited to: (1) first and last name; (2) home or other physical address, including street name and name of city or town; (3) email address or other online contact information, such as an instant messaging user identifier or a screen name; (4) telephone number; (5) date of birth; (6) government-issued identification number, such as a driver’s license, military identification, passport, or Social Security number, or other personal identification number; (7) payment card account numbers; (8) photographs of the consumer; and (9) sexual preferences.

9. **“Seal”** means any trademark, logo, seal of approval, emblem, shield, or other insignia offered for placement on Defendants’ websites and mobile applications.

IV. ENJOINED CONDUCT

Pursuant to 9 V.S.A. § 2458, Defendants are hereby enjoined as follows:

A. PROHIBITION AGAINST MISREPRESENTATIONS

10. Defendants, and Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from misrepresenting, expressly or by implication, to Vermont users of their online dating sites and mobile applications:

(a) the extent to which Defendants collect, use, or maintain personal

information, or protect the privacy, confidentiality, security, or integrity of personal information, including the extent to which consumers may exercise control over the collection, use, or disclosure of personal information;

- (b) the extent to which Defendants use or display engager profiles;
- (c) whether the profiles that appear on Defendants' dating websites or mobile applications were created by Defendants;
- (d) the number of actual users of Defendants' dating websites or mobile applications, or actual women users of their dating websites or mobile applications;
- (e) the terms and conditions for deleting user accounts or profiles;
- (f) the extent to which Defendants received awards or seals from third parties; and
- (g) the extent to which Defendants are members of, adhere to, comply with, are certified by, are endorsed by, or otherwise participate in any privacy or security program sponsored by a third party.

B. PROHIBITED CONDUCT

11. Defendants, and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, whether acting directly or indirectly are permanently restrained and enjoined from engaging in the following conduct with respect to State consumer users of its online dating sites and mobile applications:

- (a) Displaying any Engager Profile;
- (b) If a "Full Delete" option or similar service is offered, failing to delete the accounts of any user who purchases that offer, as described in the terms of the

“Full Delete” option.

C. MANDATED DATA SECURITY PROGRAM

12. Defendants must, no later than the Effective Date, establish and implement, and thereafter maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about U.S. consumers of their online dating websites and mobile applications. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to Defendants’ size and complexity, the nature and scope of Defendants’ activities, and the sensitivity of the personal information collected from or about consumers, including:

- (a) the designation of an employee or employees to coordinate and be responsible for the information security program;
- (b) the identification of internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment must include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management; (2) information systems, such as network and software design, information processing, storage, transmission, and disposal; and (3) prevention, detection, and response to attacks, intrusions, or other systems failures;

(c) the design and implementation of reasonable safeguards to control the risks identified through risk assessment, and regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;

(d) the development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Defendants, and requiring service providers, by contract, to implement and maintain appropriate safeguards; and

(e) the evaluation and adjustment of the information security program in light of the results of the testing and monitoring required by Paragraph 12(c), any material changes to Defendants' operations or business arrangements, or any other circumstances that Defendants know or have reason to know may have an impact on the effectiveness of the information security program.

D. DATA SECURITY ASSESSMENTS BY A THIRD PARTY

13. In connection with compliance with the Section of this Order titled Mandated Data Security Program, Defendant must obtain initial and biennial assessments ("Assessments"):

(a) The Assessments must be obtained from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. A professional qualified to prepare such Assessments must be: an individual qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); an individual holding Global Information Assurance Certification (GIAC) from the SANS Institute; or a qualified individual or entity approved by the Associate Director for

Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

(b) Consistent with its obligations to the Federal Trade Commission, the reporting period for the Assessments must cover: (1) the first one hundred eighty (180) days after the Effective Date for the initial Assessment; and (2) each 2-year period thereafter for twenty (20) years after the Effective Date for the biennial Assessments. Each Assessment must:

(1) set forth the specific administrative, technical, and physical safeguards that Defendants have implemented and maintained during the reporting period;

(2) explain how such safeguards are appropriate to Defendants' size and complexity, the nature and scope of Defendants' activities, and the sensitivity of the personal information collected from or about consumers;

(3) explain how the safeguards that have been implemented meet or exceed the protections required by the Section of this Order titled Mandated Data Security Program; and

(4) certify that the security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

(c) Each Assessment must be completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Defendants must submit the initial Assessment to the State within ten (10) days after the Assessment has been completed. Defendants must retain all subsequent biennial Assessments,

at least until the Order terminates. Defendants must submit any biennial Assessments to the State within ten (10) days of a request from a representative of the State.

V. RECORDKEEPING

14. Consistent with its obligations to the Federal Trade Commission, Defendant must create and retain the following records, which the Attorney General has the right to inspect pursuant to paragraph 19:

- (a) accounting records showing the revenues from all goods or services sold;
- (b) personnel records, showing, for each person providing services relating to the subject matters of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- (c) records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- (d) all records necessary to demonstrate full compliance with each Section of this Order, including all submissions to the Federal Trade Commission; and
- (e) a copy of every materially different advertisement or other marketing material.

VI. MONETARY JUDGMENT

15. Defendants shall pay the amount of Eight Million, Seven Hundred, Fifty Thousand USD (\$8,750,000) to the Multistate, Eight Hundred, Twenty-Eight Thousand,

Five-Hundred USD (\$828,500) of which shall be divided, as determined by the Multistate, and paid to the States participating in the Multistate as per Paragraph 16, and the remainder, Seven Million, Nine Hundred, Twenty-One Thousand, Five-Hundred USD (\$7,921,500), which shall be suspended as per Paragraphs 17-18.

16. Based on Defendants' inability to pay a higher amount and still continue operating, as demonstrated in information produced to the State of Vermont and the Federal Trade Commission, in partial satisfaction of the amount stated in Paragraph 15, Defendants shall pay to the State One Hundred Sixteen Thousand, Eighty Three USD and Six Cents (\$116,083.06) within seven (7) days of the Effective Date. This sum is part of a total amount of Eight Hundred, Twenty-Eight Thousand, Five-Hundred USD (\$828,500) to be paid to the participating States in the Multistate, and the remainder, Seven Million, Nine Hundred, Twenty-One Thousand, Five-Hundred USD (\$7,921,500) shall be suspended.

17. The State's agreement to the suspension of part of the payment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the State of Vermont and the Federal Trade Commission, dated September 30, 2016, October 17, 2016, and October 19, 2016.

18. The suspended penalty of Seven Million, Nine Hundred, Twenty-One Thousand, Five-Hundred USD (\$7,921,500), will be immediately due, plus interest computed from the Effective Date, as per the Rules of Court Procedure of the State of Vermont, if, upon motion by the State or the Federal Trade Commission, a court finds that Defendants failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations.

Such payment shall be made to the Attorney General for the State of Vermont, to be distributed amongst the members of the Multistate in a manner to be agreed upon by the Multistate.

VII. REPORTING

19. To determine or secure compliance with this Order, on reasonable notice given to Defendants, subject to any lawful privilege:

(a) Duly authorized representatives of the Attorney General may request electronic copies of any books, ledgers, accounts, correspondence, memoranda, records created or retained pursuant to Paragraph 14, and other documents and records in the possession, custody, or control of Defendants, and the documents and records to be provided relate to the violations described in this Order.

(b) Defendants shall submit written reports, under oath if requested, with respect to any matters contained in this Order.

VIII. MISCELLANEOUS PROVISIONS

20. The Parties agree that this Order shall apply to Defendants, including all of their subsidiaries, affiliates, agents, representatives, employees, successors, and assigns, in existence as of the Effective Date. The Parties further agree that any subsidiaries, affiliates, agents, representatives, employees, successors, and assigns that Defendants acquire after the Effective Date shall comply with Sections IV.A and IV.B of this Order within two (2) months of the acquisition and Sections IV.C and IV.D of this Order within six (6) months of the acquisition.

21. This Order is for settlement purposes only. No part of this Order constitutes or shall be deemed to constitute an admission or concession by Defendants as to any

matter, including that any of the Defendants has violated any law or regulation, or to any liability or wrongdoing. The Parties acknowledge that this Order was agreed to without any trial or adjudication of any issue of fact or law or finding of wrongdoing or liability of any kind.

22. Upon full payment of the amount due under Paragraph 16, the Attorney General hereby releases Defendants from all civil claims, actions, causes of action, damages, losses, fines, costs, and penalties related to the allegations of the Complaint in this action, that have been or could have been brought by the Attorney General against Defendants or any of their respective current or former affiliates, agents, representatives, or employees pursuant to the State of Vermont's Security Breach Notice Act, 9 V.S.A. Chapter 22, or Consumer Protection Act, 9 V.S.A. Chapter 63 on or before the Effective Date (the "Released Claims"). Notwithstanding any other term of this Order, the following do not comprise Released Claims: private rights of action; criminal claims; claims of environmental or tax liability; claims for property damage; claims alleging violations of State or federal securities laws; claims alleging violations of State or federal antitrust laws; claims alleging violations of State or federal false claims laws; claims brought by any other agency or subdivision of the State; and claims alleging a breach of this Order.

23. It is not the intention of the Parties to allow for the possibility of a double or duplicative recovery by any consumer.

24. The Parties agree that this Order does not constitute an approval by the Attorney General of any of Defendants' past or future practices, and Defendants shall not make any representation to the contrary.

25. The requirements of this Order are in addition to, and not in lieu of, any other requirements of state or federal law. Nothing in this Order shall be construed as relieving Defendants of the obligation to comply with all local, state, and federal laws, regulations, or rules, nor shall any of the provisions of this Order be deemed as permission for Defendants to engage in any acts or practices prohibited by such laws, regulations, or rules.

26. This Order shall not create a waiver or limit Defendants' legal rights, remedies, or defenses in any other action by the Attorney General, except an action to enforce the terms of this Order or to demonstrate that Defendants were on notice as to the allegations contained herein.

27. This Order shall not waive or limit Defendants' rights to defend themselves, or make argument in, any other matter, claim, or suit, including, but not limited to, any investigation or litigation relating to the subject matter or terms of the Order, except with regard to an action by the Attorney General to enforce the terms of this Order.

28. This Order shall not waive, release, or otherwise affect any claims, defenses, or position that Defendants may have in connection with any investigations, claims, or other matters the Attorney General does not release in this Order.

29. Defendants shall not participate directly or indirectly in any activity to form or proceed as a separate entity or corporation for the purpose of engaging in acts prohibited in this Order or for any other purpose which would otherwise circumvent any part of this Order.

30. If any clause, provision or section of this Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Order and this Order shall be construed

and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

31. The section headings and subheadings contained in this Order are included for convenience of reference only and shall be ignored in the construction or interpretation of this Order.

32. In the event that any statute, rule, or regulation pertaining to the subject matter of this Order is enacted, promulgated, modified, or interpreted by any federal or state government or agency, or a court of competent jurisdiction holds that such statute, rule, or regulation is in conflict with any provision of the Order, and compliance with the Order and the subject statute, rule or regulation is impossible, Defendants may comply with such statute, rule or regulation and such action in the affected jurisdiction shall not constitute a violation of this Order. Defendants shall provide written notice to the Attorney General that it is impossible to comply with the Order and the subject law and shall explain in detail the basis for claimed impossibility, with specific reference to any applicable statutes, regulations, rules, and court opinions. Such notice shall be provided immediately upon Defendants learning of the potential impossibility and at least thirty (30) days in advance of any act or omission which is not in compliance with this Order. Nothing in this paragraph shall limit the right of the Attorney General to disagree with Defendants as to the impossibility of compliance and to seek to enforce this Order accordingly.

33. All notices under this Order shall be provided to the following via email and

Overnight Mail:

For ruby, ruby Life, and ADL Media:

ruby Corp., ruby Life Inc., and ADL Media Inc.
PO Box 67027
Toronto, ON Canada M4P 1E4
Attention: James Millership, President
james.millership@rubylife.com

James Halpert
Attorney for Defendants ruby Corp., ruby Life Inc., and ADL Media Inc.
DLA Piper LLP
500 Eighth Street, N.W.
Washington, D.C. 20004
202-799-4441
jim.halpert@dlapiper.com

For the State of Vermont:

Ryan Kriger
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
ryan.kriger@vermont.gov

34. Defendants shall be liable for all court costs.

35. This court retains jurisdiction of this action for the purpose of ensuring compliance with this Order.

APPROVED:
FOR DEFENDANTS ruby Corp., ruby Life, and ADL Media

By: James S. Halpert

Date: 12/11/16

James Halpert
Attorney for Defendants ruby Corp., ruby Life Inc., and ADL Media Inc.
DLA Piper LLP (US)
500 Eighth Street, N.W.
Washington, D.C. 20004
202-799-4441
jim.halpert@dlapiper.com

FOR THE STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: Ryan Kriger

Date: 12/14/2016

Ryan Kriger
Assistant Attorney General

APPROVED BY THE COURT:

JUDGE

Date Entered: _____

VT SUPERIOR COURT
WASHINGTON UNIT
MAY 19 2:36

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: Billing Tree)

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Civil Division

Docket No. 304-S-16Wncv

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Billing Tree, Inc. ("Billing Tree" or "Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Background

Respondent

1. Billing Tree, Inc. is an Arizona corporation with its corporate office located at 2800 N 44th St, Phoenix, Arizona, 85008.
2. Prior to May 2014, Respondent processed electronic payments in connection with consumer loans made to Vermont residents by lenders, some of whom did not hold a state lending license in the state of Vermont.

Regulatory Framework

3. The Vermont Consumer Protection Act ("the Act") authorizes the Attorney General to take actions to restrain unfair and deceptive acts in commerce. 9 V.S.A. §§ 2453 & 2458.

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05609

4. On May 18, 2012, the Vermont Legislature added section 2481w to the Act (the unlicensed lender law), to address unlicensed loan transactions. 9 V.S.A. § 2481w.
5. Under section 2481w(b), it is an unfair and deceptive act in commerce for any lender to solicit or make loans in Vermont unless the lender is in compliance with all statutory requirements under Vermont's lending and banking laws contained in Title 8, chapter 73 of the Vermont Statutes Annotated.
6. Under section 2481w(c), it is an unfair and deceptive act in commerce for a processor to process checks or debits, or to transfer any electronic funds in connection with a loan, unless the lender is in compliance with all requirements under Title 8, chapter 73.
7. Chapter 73 of Title 8 requires all lenders to obtain a state license from the Vermont Department of Financial Regulation. 8 V.S.A. § 2201.
8. Lenders who are not licensed under 8 V.S.A. § 2201 are hereinafter referred to as "unlicensed lenders."
9. Chapter 73 of Title 8 also requires that all loans made in Vermont comply with the interest rate limits contained in Title 9, chapter 4. 8 V.S.A. § 2233(b).
10. Chapter 4 of Title 9 caps the interest any person may charge on loans at between 12-24% per annum, depending on the type of loan. 9 V.S.A. § 41a.

Respondent's Payment Processing Practices

11. Respondent processes electronic financial transactions using the Automated Clearing House ("ACH") Network. The ACH Network is a system that allows electronic transfer of funds for participating financial institutions.
12. During 2012-2014, Respondent engaged in processing electronic transfers from various financial institutions employing routing numbers associated with Vermont, withdrawing a total of approximately \$1,686,920 in net transfers from individual bank accounts located in Vermont.
13. The total amounts processed were collected on behalf of approximately 43 separate lenders (the amounts vary for each lender) in connection with high-interest, small-dollar consumer loans made via the internet.
14. The Attorney General's Office determined that none of the lenders were licensed to make loans in Vermont.
15. As of May 2014, Respondent ceased processing electronic payments in connection with online consumer loans in Vermont.
16. Respondent admits the truth of the facts described in ¶¶ 1-2, 11-13, and 15.

The State's Allegations

17. The Vermont Attorney General's Office alleges the Respondent processed electronic transfers from Vermont consumers' bank accounts

on behalf of unlicensed lenders and said processing violated the Vermont Consumer Protection Act, 9 V.S.A. §§ 2453(a) and 2481w(c).

18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices in commerce under 9 V.S.A. § 2453.
19. The parties agree that this AOD is entered into for settlement purposes only and does not constitute an admission of the violation of any law, rule, or regulation by Respondent.

Assurances and Relief

20. The Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter.
21. To the extent not already done, Respondent shall immediately cease processing any electronic transfers from Vermont financial accounts on behalf of any unlicensed lender.
22. Prior to doing any future business in Vermont, Respondent shall provide written notice to the Attorney General's Office of its intent to do business in Vermont and comply with all applicable state law requirements, including without limitation, the following sections of the Vermont Statutes Annotated: Title 9, Chapter 63 (Consumer Protection statutes).

Payments to Consumers

23. The parties have agreed on a list of lenders (see Exhibit A) whose borrowers shall be entitled to a payment. Billing Tree shall attempt to

make restitution totaling \$153,282 to 3,903 eligible consumer bank accounts.

24. Within 15 days of filing this AOD, Billing Tree shall attempt to credit each eligible consumer's bank account as agreed between the parties; in issuing the credit(s) Billing Tree shall use its best efforts to include a notation or other indication listing the lender's name and the term "VTsettlement refund" in any applicable transaction note.
25. Within 30 days of filing this AOD, Billing Tree shall provide the Attorney General's Office with a list of the payments made, including the lender's name, consumer's name, bank account or routing number, and the amount credited.
26. Any of the credits made by Billing Tree pursuant to ¶ 24 that are returned or undeliverable shall be treated as unclaimed property, pursuant to Vermont's unclaimed property statute, Title 17, Vermont Statutes Annotated, Chapter 14. Within 30 days of filing this AOD, Billing Tree shall send (via mail or email) to the Attorney General's Office:
 - (a) a single check, payable to "Vermont State Treasurer" in the total dollar amount of all credits that were returned or undeliverable;
 - (b) a list, in electronic Excel format, of the consumers whose credits were returned or were not delivered (which list shall set out the first and last names of the consumers in distinct fields or

columns), and for each such consumer, the lender's name, the bank account and routing numbers, and dollar amount due, and

- (c) Billing Tree's principal company address and federal tax identification number.

Payment to the State of Vermont

- 27. Within 15 days of the filing of this AOD, Billing Tree shall pay to the State of Vermont \$25,000. Payment shall be made by check to the "State of Vermont" and shall be sent to the Vermont Attorney General's Office at the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

Other Terms

- 28. Respondent shall, upon request by the Attorney General, provide all documentation and information necessary for the Attorney General to confirm compliance with, and assist in implementation of, this AOD.
- 29. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.
- 30. This AOD and all terms therein shall be binding on Respondent, all of its affiliate companies doing business in Vermont, their officers, directors, owners, managers, successors and assigns.

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05609**

31. The undersigned authorized agent(s) of Respondent shall promptly take reasonable steps to ensure that copies of this document are provided to all relevant officers, directors, owners and managers of the company, and all of its affiliate companies doing business in Vermont.
32. This AOD constitutes a complete settlement and general release by the Attorney General of all claims, causes of action, damages, restitution, fines, costs, attorneys' fees, penalties and other remedies, monetary or otherwise, that the Vermont Attorney General could have asserted or obtained under any applicable law, state or federal, including but not limited to the Vermont Consumer Protection Act and Vermont common law, for the conduct described in the Background section prior to the date of this AOD.
33. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the limited purpose of enabling any of the parties to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. Respondent does not otherwise waive any defense it may have to the jurisdiction of Vermont state courts.
34. All notices related to this AOD shall be given to:

**Office of the
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109 State Street
Montpelier, VT
05609**

(a) **Respondent** at: Glen Donath, Katten Muchin Rosenman LLP,
2900 K Street NW, North Tower - Suite 200, Washington, D.C.
20007-5118.

(b) **The Attorney General** at: Justin Kolber, Assistant Attorney
General, Office of the Attorney General, 109 State Street
Montpelier, VT 05609, justin.kolber@vermont.gov.


35. For a period of two years beginning from the date of this AOD,
Respondent shall notify the Attorney General of any change of business
name or address within 20 business days.

*** SIGNATURES APPEAR ON NEXT PAGE ***

**Office of the
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109 State Street
Montpelier, VT
05609**

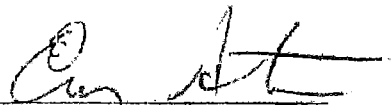
DATED at Montpelier, Vermont this 19th day of May, 2016.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

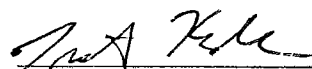
DATED this 16th day of May, 2016

BILLING TREE

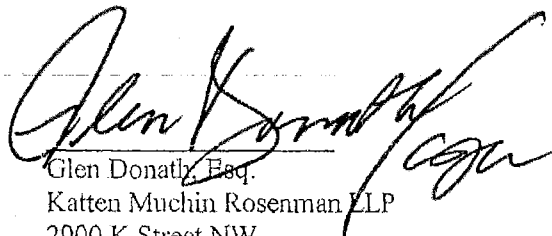
By: 
Its Authorized Agent

Edgars Sturans, CEO
Name and Title of Authorized Agent

APPROVED AS TO FORM:


Justin E. Kolber
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609

For the State of Vermont


Glen Donath, Esq.
Katten Muchin Rosenman LLP
2900 K Street NW
North Tower Suite 200
Washington, D.C. 20007

For Respondent

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109 State Street
Montpelier, VT
05609

Exhibit A

List of Lenders

1	Access
2	Anasazi Group
3	Archway Group
4	Camosun
5	Cornerstone Grp
6	CP Investors
7	Cutter Group
8	First West Coast
9	Gateway
10	Global Group
11	Great Plains Lending
12	Greenwood
13	GTI Holdings
14	Highland
15	Horizon Opp
16	Huskhawk Group
17	HYDRA FUND I
18	HYDRA FUND II
19	HYDRA FUND III
20	HYDRA FUND IV
21	JHS Marketing
22	L.GP
23	Lansbridge
24	MassStreetGroup
25	MNE Services Inc. ACS
26	MNE Services Inc. SCP
27	MobiLoans LLC
28	Namakan Capital
29	National Group
30	OPD
31	Pack Mgmt
32	Plain Green Loans
33	Sandpoint Capital
34	SDS Processing
35	SGQ, LTD.
36	Shoreline Online
37	St. Armands

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38	Triple Services
39	United Holdings
40	Vandelier Group
41	Vince Enterprise
42	Vista Group
43	Westgate

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Montpelier, VT
05609**

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

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FILED

State of Vermont,)
)
 Plaintiff,)
)
)
 v.)
)
 Bristol-Myers Squibb Company,)
)
 Defendant.)

CIVIL DIVISION

Docket No. *719-12-16 Wncv*

FINAL JUDGMENT AND CONSENT DECREE

Plaintiff, the State of Vermont, having filed a Complaint against Bristol-Myers Squibb Company ("BMS") for injunctive and other relief pursuant to 9 V.S.A. § 2453, and the parties having consented to entry of this Final Judgment and Consent Decree ("Judgment") by the Court,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

PARTIES

1. The State of Vermont is the plaintiff in this case and is represented by the Attorney General of the State of Vermont.

2. Bristol-Myers Squibb Company ("BMS") is a corporation with its principal executive office located at 345 Park Avenue, New York, New York 10154. At all times relevant hereto, BMS engaged in trade affecting consumers, within the meaning of the Vermont

Consumer Protection Act, 9 V.S.A. § 2451, *et seq.*, in the State of Vermont including, but not limited to Washington County.

FINDINGS

1. This Court has jurisdiction over the subject matter of this lawsuit and over all Parties.

2. The terms of this Judgment shall be governed by the laws of the State of Vermont.

3. Entry of this Judgment is in the public interest and reflects a negotiated agreement among the Parties.

4. The Parties have agreed to resolve the issues resulting from the Covered Conduct involving Atypical Antipsychotics by entering into this Judgment.¹

5. BMS is willing to enter into this Judgment regarding the Covered Conduct solely in order to resolve the Attorneys General's concerns under the State Consumer Protection Laws as to the matters addressed in this Judgment and thereby avoid unnecessary expense, inconvenience, and uncertainty. Nothing contained herein may be taken as or construed to be an admission or concession of any violation of law or regulation, or of any other matter of fact or law, or of any liability or wrongdoing (including allegations of the Complaint), all of which BMS expressly denies. BMS does not admit any violation of law, and does not admit any wrongdoing that was or could have been alleged by any Attorney General before the date of the

¹ This agreement is entered into pursuant to and subject to the State Consumer Protection Laws cited in footnote 3.

Judgment. No part of this Judgment, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by BMS. This Judgment is made without trial or adjudication of any issue of fact or law or finding of liability of any kind. It is the intent of the Parties that this Judgment shall not be binding or admissible in any other matter, including, but not limited to, any investigation or litigation, other than in connection with the enforcement of this Judgment. No part of this Judgment shall create a private cause of action or confer any right to any third party for violation of any federal or state statute except that a State may file an action to enforce the terms of this Judgment.

6. BMS is entering into this Judgment solely for the purpose of settlement of the instant action. This Judgment does not create a waiver or limit BMS's legal rights, remedies, or defenses in any other action by the Vermont Attorney General and does not waive or limit BMS's right to defend itself from, or make argument in, any other matter, claim, or suit, including, but not limited to any investigation or litigation relating to the subject matter or terms of this Judgment. Nothing in this Judgment shall waive, release or otherwise affect any claims, defenses, or positions BMS may have in connection with any investigations, claims, or other matters the State is not releasing hereunder. Notwithstanding the foregoing, a State may file an action to enforce the terms of this Judgment.

7. In response to legitimate, verified scientific requests from qualified researchers, BMS currently shares clinical trial data from Bristol-Myers Squibb sponsored Phase I – IV interventional trials in patients in accordance with the policies and procedures described on the BMS website.

8. BMS is not responsible for the conduct of Otsuka America Pharmaceutical, Inc. or any of its parents, subsidiaries, or affiliates (hereinafter, "Otsuka") with respect to the marketing or promotion by Otsuka of any Atypical Antipsychotic, including Abilify, up through the Effective Date. The Parties agree that this Judgment does not operate to impute to BMS responsibility for conduct of Otsuka with respect to any Atypical Antipsychotic that is marketed or promoted by Otsuka. This Judgment shall not impose obligations on BMS with regard to functions concerning an Atypical Antipsychotic for which Otsuka, not BMS, has responsibility. Notwithstanding this paragraph, BMS is responsible for claims and representations regarding an Atypical Antipsychotic it creates or disseminates after the Effective Date of this Judgment that are disseminated by a third party or BMS.

9. This Judgment (or any portion thereof) shall in no way prohibit, limit, or restrict BMS from making representations with respect to an Atypical Antipsychotic that are permitted or authorized under Federal law, the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"), U.S. Food and Drug Administration ("FDA") regulations, or FDA Guidances for Industry, currently issued or as revised, except to the extent BMS agrees to certain conduct or limitations in this Judgment which are more restrictive than what is otherwise permitted or authorized under Federal law, the FDCA, FDA regulations, or FDA Guidances for Industry. Further, the Judgment shall in no way prohibit, limit, or restrict BMS from making representations with respect to an Atypical Antipsychotic that are required or authorized by or consistent with the FDA-approved Labeling or prescribing information for an Atypical Antipsychotic, or by any Investigational New Drug Application for an Atypical Antipsychotic, New Drug Application for an Atypical Antipsychotic, Supplemental New Drug

Application for an Atypical Antipsychotic, or Abbreviated New Drug Application for an Atypical Antipsychotic filed with the FDA so long as the representation, taken in its entirety, is not false, misleading or deceptive.

10. Nothing in this Judgment shall require BMS to:
 - a. Take any action that is prohibited by the FDCA or any regulation promulgated thereunder, or by the FDA; or
 - b. Fail to take any action that is required by the FDCA or any regulation promulgated thereunder, or by the FDA.

DEFINITIONS

The following definitions shall be used in construing this Judgment:

1. **“Atypical Antipsychotic”** shall mean all products promoted and/or marketed by BMS that are FDA-approved drug formulations containing aripiprazole.
2. **“BMS”** shall mean Bristol-Myers Squibb Company, including all of its subsidiaries, predecessors, successors and assigns doing business in the United States.
3. **“BMS’s Law Department”** shall mean personnel of the BMS Law Department or its designee providing legal advice to BMS.
4. **“BMS Marketing”** shall mean BMS personnel responsible for marketing an Atypical Antipsychotic in the U.S.
5. **“BMS Sales”** shall mean the BMS sales force responsible for U.S. Atypical Antipsychotic sales, including, but not limited to, BMS personnel whose employment responsibilities include working with public or private entities that decide whether to include an Atypical Antipsychotic on a prescription drug formulary or preferred drug list.

6. **“BMS Independent Medical Education Department”** or **“BMS IMED”** shall mean the organization within BMS responsible for oversight of medical education grants, including the acceptance, review, approval, and payment of all medical education grant requests.

7. **“BMS Scientifically Trained Personnel”** shall mean BMS personnel who are highly trained experts with specialized scientific and medical knowledge, usually with an advanced scientific degree (e.g., an MD, PhD, or PharmD), whose roles involve the provision of specialized, medical or scientific information, scientific analysis and/or scientific information to HCPs and includes Medical Science Liaisons, but excludes anyone performing sales, marketing, promotional ride alongs, or other commercial roles.

8. **“Clearly and Conspicuously”** shall mean with respect to a disclosure or information presented that such information meets the requirements of the FDCA, the requirements of FDA regulations, and the recommended actions in FDA Guidances for Industry, including FDA’s “Guidance for Industry: Presenting Risk Information in Prescription Drug and Medical Device Promotion,” or as revised.

9. **“Clinically Relevant Information”** shall mean information that reasonably prudent clinicians would consider relevant when making prescribing decisions regarding an Atypical Antipsychotic.

10. **“Clinical Response”** shall mean a non-Promotional, scientific communication to address Unsolicited Requests for medical information.

11. **“Covered Conduct”** shall mean BMS’s Promotional and marketing practices, sampling practices, dissemination of information and remuneration to HCPs in the United States in connection with an Atypical Antipsychotic through the Effective Date.

12. **“Effective Date”** shall mean the date on which a copy of this Judgment, duly executed by BMS and by the Vermont Attorney General, is approved by, and becomes a Judgment of the Court.

13. **“FDA Guidances for Industry”** shall mean documents, as currently drafted or as revised, issued by the FDA pursuant to 21 U.S.C. § 371(h) that represent the FDA’s current thinking on a topic related to prescription drug advertising, promotion, labeling, and/or communication of scientific information, including but not limited to “Guidance for Industry: Distributing Scientific and Medical Publications on Unapproved New Use--Recommended Practices,” “Guidance for Industry: Responding to Unsolicited Requests for Off-Label Information About Prescriptions Drugs and Medical Devices,” and “Guidance for Industry: Presenting Risk Information in Prescription Drug and Medical Device Promotion.”

14. **“Health Care Professional”** or **“HCP”** shall mean any physician or other health care practitioner who is licensed to provide health care services or to prescribe pharmaceutical products.

15. **“Labeling”** shall mean all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers, or (b) accompanying such article.

16. **“Multistate Executive Committee”** shall mean the Attorneys General and their staffs representing Arizona, Colorado, Delaware, District of Columbia, Florida, Kentucky, Maryland, North Carolina, Ohio, and Pennsylvania.

17. **“Multistate Working Group”** shall mean the Attorneys General and their staff representing Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii,² Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington, West Virginia, and Wisconsin.

18. **“Off-Label”** shall mean a use (including indication, dosage, population, and/or method of administration) not consistent with the use approved by the FDA in the Labeling for an Atypical Antipsychotic at the time information regarding such use was communicated, or at the time the conduct occurred.

19. **“Parties”** shall mean BMS and the Vermont Attorney General.

20. **“Promotional,” “Promoting,” or “Promote”** shall mean representations made to HCPs, patients, consumers, payors and other customers, and other practices intended to increase sales in the United States or that attempt to influence prescribing practices of HCPs in the United States, including direct-to-consumer.

² Hawaii is represented in this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General's Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity purposes, the entire group will be referred to as the "Attorneys General" or individually as "Attorney General" and the designations, as they pertain to Hawaii, refer to the Executive Director of the State of Hawaii's Office of Consumer Protection.

21. **“Promotional Materials”** shall mean any item used to Promote an Atypical Antipsychotic.

22. **“Promotional Media”** shall mean Promotional Materials in any media format for use in speaker programs.

23. **“Promotional Speaker”** shall mean an HCP speaker engaged to Promote an Atypical Antipsychotic in the United States.

24. **“Reprints Containing Off-Label Information”** shall mean articles or reprints from a Scientific or Medical Journal, as defined in 21 C.F.R. 99.3(j), or Reference Publication, as defined in 21 C.F.R. 99.3(i), describing an Off-Label use of an Atypical Antipsychotic.

25. **“Vermont Attorney General”** shall mean the Attorney General of Vermont, or her/his authorized designee, who has agreed to this Judgment.

26. **“State Consumer Protection Laws”** shall mean the consumer protection laws under which the Attorneys General have conducted the investigation, which are cited in footnote 3.³

³ ALABAMA – *Alabama Deceptive Trade Practices Act*, Ala. Code § 8-19-1 et seq.; ARKANSAS -- *Deceptive Trade Practices Act*, Ark. Code Ann. § 4-88-101, et seq.; ARIZONA – *Arizona Consumer Fraud Act*, A.R.S. § 44-1521 et seq.; CALIFORNIA – *Bus. & Prof Code* §§ 17200 et seq. and 17500 et seq.; COLORADO – *Colorado Consumer Protection Act*, Colo. Rev. Stat. § 6-1-101 et seq.; CONNECTICUT - *Connecticut Unfair Trade Practices Act*, Conn. Gen. Stat. §§ 42-110a et seq.; DELAWARE – *Delaware Consumer Fraud Act*, Del. CODE ANN. tit. 6, §§ 2511 to 2527; DISTRICT OF COLUMBIA, *District of Columbia Consumer Protection Procedures Act*, D.C. Code §§ 28-3901 et seq.; FLORIDA – *Florida Deceptive and Unfair Trade Practices Act, Part II*, Chapter 501, Florida Statutes, 501.201 et. seq.; GEORGIA - *Fair Business Practices Act*, O.C.G.A. § 10-1-390 et seq.; HAWAII- *Uniform Deceptive Trade Practice Act*, Haw. Rev. Stat. Chpt. 481A and Haw. Rev. Stat. Sect. 480-2; ILLINOIS – *Consumer Fraud and Deceptive Business Practices Act*, 815 ILCS 505/2 et seq.; INDIANA--Ind. Code §§ 24-5-0.5 et seq.; IOWA - *Iowa Consumer Fraud Act*, Iowa Code Section 714.16; KANSAS - *Kansas Consumer Protection Act*, K.S.A. 50-623 et seq.; KENTUCKY – *Kentucky Consumer Protection Act*, KRS Ch. 367.110, et seq.; LOUISIANA— LA R.S. 51:1407; MAINE – *Unfair Trade Practices Act*, 5 M.R.S.A. § 207 et seq.; MARYLAND - *Maryland Consumer Protection Act*, Md. Code Ann., Com. Law § 13-101 et seq.; MASSACHUSETTS— *Mass Gen. Laws c.93A*; MICHIGAN – *Michigan Consumer Protection Act*, MCL § 445.901 et seq.; MINNESOTA - *Minnesota Deceptive Trade Practices Act*, Minn. Stat. §§ 325D.43-48; *Minnesota False Advertising Act*, Minn. Stat. § 325F.67; *Minnesota Consumer Fraud Act*, Minn. Stat. §§ 325F.68-70; *Minnesota Deceptive Trade Practices Against Senior Citizens or Disabled Persons Act*, Minn.

27. “Unsolicited Request” shall mean a request for information regarding an Atypical Antipsychotic communicated to an agent of BMS that has not been prompted by BMS.

COMPLIANCE PROVISIONS

I. Promotional Activities

A. BMS shall not make, or cause to be made, any written or oral claim that is false, misleading or deceptive regarding an Atypical Antipsychotic.

B. BMS shall not make any claim regarding safety or efficacy comparing an Atypical Antipsychotic to another product when that claim is not supported by substantial evidence, or by competent and reliable scientific evidence in the case of health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, or by the level of evidence required by an applicable, subsequently promulgated, regulatory standard.

Stat. § 325F.71.; MISSOURI – *Missouri Merchandising Practices Act*, Mo. Rev. Stat. §§ 407.010 *et seq.*; MONTANA -- Mont. Code Ann. § 30-14-101 *et seq.*; NEBRASKA – *Consumer Protection Act*, Neb. Rev. Stat. §§ 59-1601 *et seq.* and the *Uniform Deceptive Trade Practices Act*, Neb. Rev. Stat. §§ 87-301 *et seq.*; NEVADA – *Deceptive Trade Practices Act*, Nevada Revised Statutes 598.0903 *et seq.*; NEW HAMPSHIRE - *New Hampshire Consumer Protection Act*, RSA 358-A; NEW JERSEY – *New Jersey Consumer Fraud Act*, NJSA 56:8-1 *et seq.*; NEW YORK – General Business Law Art. 22-A, §§ 349-50, and Executive Law § 63(12); NORTH CAROLINA – *North Carolina Unfair and Deceptive Trade Practices Act*, N.C.G.S. 75-1.1, *et seq.*; NORTH DAKOTA – *Unlawful Sales or Advertising Practices*, N.D. Cent. Code § 51-15-02 *et seq.*; OHIO – *Ohio Consumer Sales Practices Act*, R.C. 1345.01, *et seq.*; OKLAHOMA – *Oklahoma Consumer Protection Act* 15 O.S. §§ 751 *et seq.*; OREGON – *Oregon Unlawful Trade Practices Act*, Or. Rev. Stat. § 646.605 *et seq.*; PENNSYLVANIA – *Pennsylvania Unfair Trade Practices and Consumer Protection Law*, 73 P.S. 201-1 *et seq.*; RHODE ISLAND - *Rhode Island Deceptive Trade Practices Act*, Rhode Island General Laws § 6-13.1-1 *et seq.*; SOUTH DAKOTA – *South Dakota Deceptive Trade Practices and Consumer Protection*, SDCL ch. 37-24; TENNESSEE – *Tennessee Consumer Protection Act*, Tenn. Code Ann. 47-18-101 *et seq.*; TEXAS – *Texas Deceptive Trade Practices-Consumer Protection Act*, Tex. Bus. And Com. Code 17.41, *et seq.*; VERMONT – *Consumer Protection Act*, 9 V.S.A. §§ 2451 *et seq.*; WASHINGTON – *Unfair Business Practices/Consumer Protection Act*, RCW §§ 19.86 *et seq.*; WEST VIRGINIA- *West Virginia Consumer Credit and Protection Act*, W.Va Code § 46A-1101 *et seq.*; and WISCONSIN – Wis. Stat. § 100.18 (Fraudulent Representations).

C. When Promoting an Atypical Antipsychotic, BMS shall present risk information Clearly and Conspicuously, as that term is defined in this Judgment.

D. BMS shall not make any written or oral Promotional claim of safety or effectiveness for any Atypical Antipsychotic product in a manner that violates the Food, Drug and Cosmetic Act, 21 U.S.C. § 301 *et seq.* (“FDCA”), any regulation promulgated thereto, any voluntary agreement between BMS and the FDA, or any order, settlement, or other resolution of an FDA enforcement action with BMS related to the promotion of an Atypical Antipsychotic, including any modifications agreed to between BMS and the FDA subsequent to such resolution.

The following subsections of Section I. shall be effective for five years from the Effective Date.

E. BMS shall not Promote an Atypical Antipsychotic for any Off-Label use.

F. In Promotional Materials for an Atypical Antipsychotic, BMS shall Clearly and Conspicuously disclose the risks associated with the Atypical Antipsychotic as set forth in the product’s boxed warning and shall present information about effectiveness and risk in a manner consistent with the recommendations in the FDA’s “Guidance for Industry; Presenting Risk Information in Prescription Drug and Medical Device Promotion,” or as revised.

G. BMS shall not compensate an HCP for merely attending a Promotional activity for an Atypical Antipsychotic.

H. BMS shall not present patient profiles/types based on selected symptoms of the FDA-approved indication(s) when Promoting an Atypical Antipsychotic, unless:

1. The Atypical Antipsychotic's specific FDA-approved indication(s) is stated Clearly and Conspicuously in the same spread (i.e., on the same page or on a facing page) in any Promotional Materials that refer to selected symptoms;

2. With respect to Promotional Media:

a. BMS states, Clearly and Conspicuously, the FDA-approved indication(s) on the same slide or page in which selected symptoms are first presented; and

b. With respect to each subsequent reference to selected symptoms, BMS states on the same slide or page that the Atypical Antipsychotic is not approved for the selected symptom referenced in the slide or page and includes on the same slide or page a shorthand reference to the FDA-approved indications (e.g., "[Atypical Antipsychotic] is not approved for X selected symptom referenced in this slide. See complete list of FDA-approved indications at p. Y").

3. Promotional Materials have a reference indicating that the full constellation of symptoms and the relevant diagnostic criteria should be consulted and are available in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V or current version), where applicable.

I. BMS shall require that any Promotional Speakers for any Atypical Antipsychotic engaged by or on behalf of BMS comply with BMS's obligations in paragraphs I.A- I.F, I.H, II.D, and VI.B. of this Judgment, including, but not limited to, ensuring that all Promotional Speakers' Promotional Materials and Promotional Media for any Atypical Antipsychotic comply with BMS's obligations in paragraphs I.A.-I.F, I.H, II.D and VI.B.

J. BMS's systems and controls shall:

1. Be designed to ensure that financial incentives do not motivate individuals to engage in improper promotion, sales, and marketing, including Off-Label Promotion, of any Atypical Antipsychotic;

2. Require the review, and modification, if necessary, of call plans of BMS Sales and BMS Marketing personnel who Promote an Atypical Antipsychotic to ensure that BMS Sales and/or BMS Marketing Promote Atypical Antipsychotics only for FDA-approved uses.

II. Dissemination and Exchange of Medical Information

A. General Terms

1. BMS's communications concerning Off-Label uses of an Atypical Antipsychotic shall not be false, misleading or deceptive.

2. BMS shall not disseminate information describing any Off-Label or unapproved use of an Atypical Antipsychotic, unless such information and materials comply with the standards in applicable FDA regulations and with recommendations in FDA Guidances for Industry, including FDA's "Guidance for Industry: Responding to Unsolicited Requests for Off-Label Information About Prescription Drugs and Medical Devices" and FDA's "Guidance for Industry: Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices," or as revised.

The following subsections of Section II. shall be effective for five years from the Effective Date.

B. Clinical Responses

1. To the extent that BMS develops Clinical Responses regarding an Atypical Antipsychotic, BMS, through BMS Scientifically Trained Personnel, shall have ultimate responsibility for developing and approving all such Clinical Responses regarding an Atypical Antipsychotic, including any that may describe Off-Label information. Additional approvals may be provided by BMS's Law Department. BMS shall not distribute any Clinical Response regarding an Atypical Antipsychotic, unless:

a. Clinically Relevant Information is included in these materials to provide scientific balance;

b. Data in these materials are presented in an unbiased, non-Promotional manner; and

c. These materials are clearly and conspicuously distinguishable from sales aids and other Promotional Materials.

2. BMS Sales and BMS Marketing personnel shall not develop Clinical Responses regarding an Atypical Antipsychotic.

3. To the extent that BMS personnel disseminate Clinical Responses regarding an Atypical Antipsychotic, such Clinical Responses regarding an Atypical Antipsychotic may be disseminated only by BMS Scientifically Trained Personnel to HCPs, and BMS's Sales and Marketing shall not disseminate these materials to HCPs except in circumstances implicating public health and safety issues. In such circumstances, BMS's Sales and Marketing may disseminate a Clinical Response directly to HCPs when expressly authorized by the Head of Compliance & Ethics, the Vice President of Medical/Scientific Affairs

responsible for the Atypical Antipsychotic(s) included in the Clinical Response(s), and Senior Counsel from the BMS Law Department.

4. BMS shall not knowingly disseminate any Clinical Response involving an Atypical Antipsychotic, including one that describes any Off-Label use of an Atypical Antipsychotic, that makes any false, misleading or deceptive representation regarding an Atypical Antipsychotic or any false, misleading or deceptive statement concerning a competing product.

C. Responses to Unsolicited Requests for Off-Label Information

1. If BMS elects to respond to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic, BMS Scientifically Trained Personnel shall provide specific, accurate, objective, and scientifically balanced responses. Any such response shall be a Clinical Response prepared in accordance with Section II.B and shall not Promote an Atypical Antipsychotic for any Off-Label use(s).

2. In responding to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic, including any request for a specific article related to any Off-Label use, BMS shall:

a. advise the requestor that the request concerns an Off-Label use:
b. and inform the requestor of the drug's FDA-approved indication(s) and dosage, and other relevant Labeling information.

3. Any written response to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic that BMS provides shall include:

a. A copy of the FDA-required Labeling, if any, for the product (e.g., FDA-approved package insert and, if the response is for a consumer, FDA-approved patient labeling);

b. A prominent statement notifying the recipient that the FDA has not approved or cleared the product as safe and effective for the use addressed in the accompanying materials; and

c. A complete list of references for all of the information disseminated in the response (e.g., a bibliography of publications in peer-reviewed medical journals or in medical or scientific texts; citations for data on file, for summary documents, or for abstracts).

4. To the extent that BMS responds in writing to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic, only BMS Scientifically Trained Personnel may respond in writing to such an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic.

5. Information that BMS distributes in response to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic shall be:

a. Provided only to the individual making the request as a private, one-on-one communication;

b. Tailored to answer only the specific question(s) asked;

c. Scientific in nature; and

d. Unaccompanied by other material or information that is Promotional in nature or tone.

6. BMS Sales and BMS Marketing personnel may respond orally to an Unsolicited Request for Off-Label information regarding an Atypical Antipsychotic only by offering to refer the request to BMS's medical or scientific department or by offering to put the requester in touch with the scientific exchange call center. BMS Non-Scientifically Trained Personnel shall not characterize, describe, identify, name, or offer any opinions about or summarize any such Off-Label information.

7. To the extent that BMS responds to Unsolicited Requests for Off-Label information regarding an Atypical Antipsychotic, BMS shall create and subsequently maintain the following records concerning such Unsolicited Requests for Off-Label information regarding an Atypical Antipsychotic:

- a. The nature of the request for information, including the names, addresses, and affiliations of the requestors;
- b. Records regarding the information provided to the requestor; and
- c. Any follow-up inquiries or questions from the requestor.

D. Reprints

1. To the extent that BMS disseminates Reprints Containing Off-Label Information regarding an Atypical Antipsychotic, BMS Scientifically Trained Personnel shall be responsible for approving the Reprints Containing Off-Label Information regarding an Atypical Antipsychotic. Neither BMS Sales nor BMS Marketing personnel shall disseminate these materials, except in a manner consistent with the recommendations in the FDA's "Guidance for Industry: Distributing Scientific and Medical Publications on Unapproved New Uses – Recommended Practices," or as revised.

2. Any request by BMS to proactively disseminate a Reprint Containing Off-Label Information regarding an Atypical Antipsychotic shall be submitted to the Promotional Review Committee, which includes representatives from Medical Information, Promotion Integrity, and the BMS Law Department to examine the facts and justification for the request to distribute a Reprint Containing Off-Label Information on a case-by-case basis.

3. Reprints Containing Off-Label Information regarding an Atypical Antipsychotic that BMS disseminates:

a. shall be accompanied by the FDA-approved Labeling for the product, or a prominently displayed and clearly described hyperlink that will provide the reader with such information;

b. shall contain a disclosure that is prominently displayed, which would include the first page or as a cover page where practicable, indicating that the article may discuss Off-Label information; and

c. shall not be referred to or used in a Promotional manner.

4. Nothing in this Judgment shall preclude BMS from disseminating reprints which have only an incidental reference to Off-Label information. If reprints have an incidental reference to Off-Label information, any such reprints that BMS disseminates shall contain the disclosures required by Section II.D.3.a. and II.D.3.b in a prominent location, as defined above, and such incidental reference to Off-Label information shall not be referred to or used in a Promotional manner as prohibited by Section II.D.3.c.

III. Grants

The following subsections of Section III. shall be effective for five years from the Effective Date.

A. BMS shall disclose information about medical education grants, including continuing medical education (“CME”) grants, regarding an Atypical Antipsychotic consistent with the current disclosures of the BMS Independent Medical Education Department at [http://www.bms.com/responsibility/grantsandgiving/what we support/Pages/default.aspx](http://www.bms.com/responsibility/grantsandgiving/what_we_support/Pages/default.aspx) (hereinafter, “BMS IMED website”) and as required by applicable law.

B. Once posted, BMS shall maintain this information on the BMS IMED website for at least two years, or longer if applicable law so requires, and shall maintain the information in a readily accessible format for review by a Signatory Attorney General upon written request for a period of five years.

C. BMS IMED shall manage all requests to BMS for funding related to medical education grants relating to an Atypical Antipsychotic. Approval decisions shall be made by BMS IMED and BMS Medical, and shall be kept separate from the BMS Sales and BMS Marketing organizations.

D. BMS shall not use medical education grants or any other type of grant to Promote an Atypical Antipsychotic. This provision includes, but is not limited to, the following prohibitions with respect to any program related to an Atypical Antipsychotic:

1. BMS Sales and BMS Marketing personnel shall not initiate, coordinate or implement a grant application on behalf of any customer or HCP;
2. BMS Sales and BMS Marketing personnel shall not be involved in selecting any grantee or medical education speaker; and

3. BMS shall not measure or attempt to track in any way the impact of grants or speaking fees on participating HCPs' subsequent prescribing habits, practices or patterns.

E. BMS shall not condition funding of a medical education program grant request relating to an Atypical Antipsychotic upon the requestor's selection or rejection of any particular speaker.

F. BMS shall not suggest, control, or attempt to influence the specific topic, title, content, speakers or audience for any CME relating to an Atypical Antipsychotic, consistent with Accreditation Council for Continuing Medical Education ("ACCME") guidelines.

G. BMS Sales and BMS Marketing personnel shall not approve any grant request regarding a proposal concerning an Atypical Antipsychotic, nor attempt to influence the awarding of any grant to any customer or HCP for his/her prescribing habits, practices or patterns.

H. BMS shall contractually require each medical education provider to clearly and conspicuously disclose to attendees of a medical education program regarding Atypical Antipsychotic(s) BMS's financial support of the medical education program and any financial relationship with any faculty or speaker at such medical education program.

I. After initial delivery of a CME program regarding an Atypical Antipsychotic, BMS shall not knowingly fund the same program, nor shall it provide additional funding for re-distribution of the same program, if the program's speakers are Promoting an Atypical Antipsychotic for Off-Label use in that program.

IV. Payments to Consultants and Speakers

Until 5 years from the Effective Date, BMS shall be required to file reports concerning any Atypical Antipsychotic consistent with the requirements of Section 6002 of the federal Patient Protection and Affordable Care Act of 2010, or, if amended, the amended version, and final regulations promulgated pursuant to the Act or, if amended, the amended version. BMS shall, on its website, in proximity to information regarding transparency and its position on the Physician Payments Sunshine Act, list the names of the entities under which BMS is making disclosures under the Physician Payments Sunshine Act.

V. Product Samples

The following subsections of Section V. shall be effective for five years from the Effective Date.

A. BMS shall provide samples of an Atypical Antipsychotic only to those HCPs whose clinical practice is such that they treat patients for which treatment with an Atypical Antipsychotic has been approved by the FDA.

B. If an HCP whose clinical practice is inconsistent with an Atypical Antipsychotic's FDA-approved Labeling requests samples of an Atypical Antipsychotic, BMS personnel shall refer the HCP to BMS Medical where the practitioner can speak directly with a BMS Medical representative who will provide answers to the HCP's questions about the Atypical Antipsychotic and may provide him/her with samples only if appropriate (*i.e.*, if the HCP requests the samples for an on-label use).

VI. Clinical Research Results

A. BMS shall report clinical research regarding an Atypical Antipsychotic in an accurate, objective and balanced manner, and as required by applicable law. For all BMS-

sponsored clinical trials regarding an Atypical Antipsychotic and to the extent permitted by the National Library of Medicine, BMS shall register clinical trials and submit clinical trial results to the federal clinical trial registry and results data bank on the publicly accessible NIH website (www.clinicaltrials.gov) as required by the FDA Amendments Act of 2007, Public Law No. 110-85, 121 Stat 823, and any accompanying regulations that may be promulgated pursuant to that Act.

B. When presenting information about a clinical study regarding an Atypical Antipsychotic in any Promotional Materials, BMS shall not do any of the following:

1. Present favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for such information or conclusions, in a manner that causes the Promotional Materials to be false, misleading, or deceptive;

2. Use the concept of statistical significance to support a claim that has not been demonstrated to have clinical significance or validity, or fails to reveal the range of variations around the cited average results, in a manner that causes the Promotional Materials to be false, misleading, or deceptive;

3. Use statistical analyses and techniques on a retrospective basis to discover and cite findings not soundly supported by the study, or to suggest scientific validity and rigor for data from the study the design or protocol of which is not amenable to formal statistical evaluations, in a manner that causes the Promotional Materials to be false, misleading, or deceptive;

4. Present the information in a way that implies that the study represents larger or more general experience with the drug than it actually does; or

5. Use statistics on numbers of patients, or counts of favorable results or side effects, derived from pooling data from various insignificant or dissimilar studies in a way that suggests either that such statistics are valid if they are not or that they are derived from large or significant studies supporting favorable conclusions when such is not the case. If any results derived from pooling data are presented, BMS shall disclose the method of pooling.

VII. Terms Relating to Payment

No later than 30 days after the Effective Date, BMS shall pay \$19.5 million to be divided and paid by BMS directly to each Signatory Attorney General of the Multistate Working Group in an amount to be designated by and in the sole discretion of the Multistate Executive Committee.⁴ The Parties acknowledge that the payment described herein is not a fine, penalty, or payment in lieu thereof. Said payment shall be used by the States as and for attorneys' fees and other costs of investigation and litigation, or to be placed in, or applied to, the consumer protection enforcement fund, including future consumer protection enforcement, consumer education, litigation, or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, and may be used to fund or assist in funding programs directed at mental illness treatment, including but not limited to education and outreach or for other uses permitted

⁴ The State of Vermont's share is \$222,561.00.

by state law, at the sole discretion of each Signatory Attorney General, and in Vermont, pursuant to the Constitution of the State of Vermont, Ch. II, § 27, and 32 V.S.A. § 462.

VIII. Release

A. By its execution of this Judgment, the State of Vermont releases Bristol-Myers Squibb Company and all of its past and present subsidiaries, predecessors, successors, and assigns and each and all of their current and former officers, directors, shareholders, employees, agents, contractors, and attorneys (collectively, the “Released Parties”) from the following: all civil claims, *parens patriae* claims, causes of action, damages, restitution, fines, costs, attorneys’ fees, and penalties that the Vermont Attorney General has asserted or could have asserted against the Released Parties under 9 V.S.A. § 2453 or any amendment thereto, or common law claims concerning unfair, deceptive, or fraudulent trade practices, other than those asserted or that could be asserted under VIII.B below, resulting from the Covered Conduct up to and including the Effective Date (collectively, the “Released Claims”).

B. Notwithstanding any term of this Judgment, specifically reserved and excluded from the Released Claims as to any entity or person, including Released Parties, are any and all of the following:

1. Any criminal liability that any person or entity, including Released Parties, has or may have to the State of Vermont;

2. Any civil or administrative liability that any person or entity, including Released Parties, has or may have to the State of Vermont not expressly covered by the release in Section VIII.A above, including, but not limited to, any and all of the following claims:

a. State or federal antitrust violations;

b. Claims involving “best price,” “average wholesale price,” or “wholesale acquisition cost,” or any practices related to the reporting of prices;

c. Medicaid claims, including, but not limited to, federal Medicaid drug rebate statute violations, Medicaid fraud or abuse (whether common law, statutory, or otherwise), and/or kickback violations related to any State’s Medicaid program; and

d. State false claims violations.

3. Actions on behalf of state program payors of the State arising from the purchase of any Atypical Antipsychotic or any other BMS drug, except for the release of civil penalties under the Vermont Consumer Protection Act, 9 V.S.A. §2461.

4. Any claims individual consumers have or may have under the State of Vermont’s above-cited Consumer Protection Act, and any common law claims individual consumers may have concerning unfair, fraudulent or deceptive trade practices, against any person and/or entity, including Released Parties.

5. Any claims against Otsuka America Pharmaceutical, Inc., its subsidiaries, predecessors, successors and/or any other party not bound by the terms of this Judgment.

6. Claims resulting from any unfair, false, misleading or deceptive representation related to the risk of impulse-control problems, such as pathological gambling, hypersexuality, compulsive spending or shopping, and compulsive or binge eating. The parties acknowledge that this exclusion should not be construed as either an admission by BMS that Abilify causes or can cause any of the above-referenced conditions or an admission by BMS that the Abilify package insert was in any way deficient at any time. The parties further acknowledge that BMS maintains that the potential risks associated with Abilify have at all times been

appropriately disclosed, and appropriately updated in accordance with applicable regulations, standards, and laws.

IX. Dispute Resolution

A. For the purposes of resolving disputes with respect to compliance with this Judgment, should any of the Signatory Attorneys General have a reasonable basis to believe that BMS has engaged in a practice that violates a provision of this Judgment subsequent to the Effective Date, then such Attorney General shall notify BMS in writing of the specific objection, identify with particularity the provision of this Judgment that the practice appears to violate, and give BMS thirty (30) days to respond to the notification; provided, however, that a Signatory Attorney General may take any action if the Signatory Attorney General concludes that, because of the specific practice, a threat to the health or safety of the public requires immediate action. Upon receipt of written notice, BMS shall provide a good-faith written response to the Attorney General notification, containing either a statement explaining why BMS believes it is in compliance with the Judgment, or a detailed explanation of how the alleged violation occurred and a statement explaining how BMS intends to remedy the alleged breach. Nothing in this section shall be interpreted to limit the state's Civil Investigative Demand ("CID") or investigative subpoena authority and BMS reserves all of its rights with respect to a CID or investigative subpoena issued pursuant to such authority.

B. Upon giving BMS thirty (30) days to respond to the notification described above, the Signatory Attorney General shall also be permitted reasonable access to inspect and copy relevant, non-privileged, non-work product records and documents in the possession, custody, or control of BMS that relate to BMS's compliance with each provision of this Judgment pursuant

to that State's CID or investigative subpoena authority. If the Signatory Attorney General makes or requests copies of any documents during the course of that inspection, the Signatory Attorney General will provide a list of those documents to BMS.

C. The State may assert any claim that BMS has violated this Judgment in a separate civil action to enforce compliance with this Judgment, or may seek any other relief afforded by law, but only after providing BMS an opportunity to respond to the notification described in Paragraph IX.A. above; provided, however, that a Signatory Attorney General may take any action if the Signatory Attorney General concludes that, because of the specific practice, a threat to the health or safety of the public requires immediate action.

X. General Provisions

A. BMS shall not cause nor knowingly permit third parties acting on its behalf to engage in practices from which BMS is prohibited by this Judgment.

B. This Judgment represents the full and complete terms of the settlement entered into by the Parties hereto. In any action undertaken by the Parties, neither prior versions of this Judgment nor prior versions of any of its terms that were not entered by the Court in this Judgment may be introduced for any purpose whatsoever.

C. This Court retains jurisdiction of this Judgment and the Parties hereto for the purpose of enforcing and modifying this Judgment and for the purpose of granting such additional relief as may be necessary and appropriate.

D. This Judgment may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

E. The Parties agree that neither of them shall be deemed the drafter of this Judgment and that, in construing this Judgment, no provision hereof shall be construed in favor of one party on the ground that such provision was drafted by the other.

F. All Notices under this Order shall be provided to the following address via Overnight Mail:

For BMS:

Office of General Counsel
Bristol-Myers Squibb Company
345 Park Avenue
New York, New York 10154

Mitchell J. Lazris
Hogan Lovells US LLP
555 Thirteenth Street, N.W.
Washington, D.C. 20004

and


For Attorney General:
Jill S. Abrams
109 State Street
Montpelier, Vermont 05609

G. To the extent that any provision of this Judgment obligates BMS to change any policy(ies) or procedure(s) and to the extent not already accomplished, BMS shall implement the policy(ies) or procedure(s) as soon as reasonably practicable, but no later than 90 days after the Effective Date.

APPROVED:

For Plaintiff,
BY ATTORNEY GENERAL

By: _____

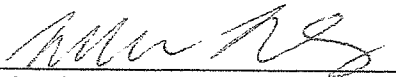

Jill S. Abrams
Assistant Attorney General
Public Protection Division
Vermont Office of the Attorney General
109 State Street
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Date: _____

Dec. 7, 2016

APPROVED:

For Defendant,
BRISTOL-MYERS SQUIBB COMPANY

By: 
Sandra Leung
Executive Vice President and General Counsel
Bristol-Myers Squibb Company

Date: 12-2-16

APPROVED:

For Defendant,
BRISTOL-MYERS SQUIBB COMPANY

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ATTORNEYS FOR DEFENDANT

Date: November 23, 2016

Prior 31 pages in Docket # 719-12-16 Wnew
APPROVED BY THE COURT:

Mary Miles Teachout
JUDGE Mary Miles Teachout

Date Entered: December 8, 2016

1 **MARK BRNOVICH**
 2 **ATTORNEY GENERAL**
 (Firm State Bar No. 14000)
 3 **NANCY VOTTERO ANGER** (No. 006810)
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9 **IN THE UNITED STATES DISTRICT COURT**
 10 **FOR THE DISTRICT OF ARIZONA**

11 Federal Trade Commission; all Fifty 12 States; and the District of Columbia; 13 Plaintiffs, 14 vs. 15 Cancer Fund of America, Inc., a Delaware corporation, et al.; 16 Defendants.	CASE NO. 2:15-cv-00884-NVW STIPULATION RE ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AGAINST CANCER FUND OF AMERICA, INC., CANCER SUPPORT SERVICES, INC., AND JAMES REYNOLDS, SR.
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 18 Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and the states
 19 of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware,
 20 Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana,
 21 Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana,
 22 Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North
 23 Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South
 24 Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West
 25 Virginia, Wisconsin, Wyoming, and the District of Columbia have filed a complaint for a
 26 permanent injunction and other equitable relief against Defendants Cancer Fund of
 27 America, Inc., also d/b/a Breast Cancer Financial Assistance Fund (“CFA”), Cancer
 28 Support Services, Inc. (“CSS”), Children’s Cancer Fund of America, Inc. (“CCFOA”),

1 and The Breast Cancer Society, Inc., also d/b/a The Breast Cancer Society of America
2 (“BCS”), James Reynolds, Sr. (“Reynolds, Sr.”), and other individuals, alleging that all
3 named Defendants violated, among other statutes, the Federal Trade Commission Act, 15
4 U.S.C. § 45, the Telemarketing and Consumer Fraud and Abuse Prevention Act
5 (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Unfair and Deceptive Acts and
6 Practices and Charitable Solicitation laws of the Plaintiff States. Plaintiffs and
7 Defendants CFA, CSS, and Reynolds, Sr. stipulate to the entry of this Stipulated Order
8 for Permanent Injunction and Monetary Judgment Against Cancer Fund of America, Inc.,
9 Cancer Support Services, Inc., and James Reynolds, Sr. (“Order” or “Permanent
10 Injunction”). Plaintiffs and Defendants CFA, and CSS also stipulate to the entry of a
11 separate and concurrently filed Stipulated Order Appointing Liquidating Receiver Over
12 Cancer Fund of America, Inc., and Cancer Support Services, Inc. (“CFA and CSS
13 Receivership Order”). Together, this Order and the CFA and CSS Receivership Order
14 resolve all matters in dispute in this action between Plaintiffs and Defendants CFA, CSS,
15 and Reynolds, Sr.

16 THEREFORE, IT IS ORDERED as follows:

17 **FINDINGS**

- 18
- 19 1. This Court has jurisdiction over this matter.
 - 20 2. Venue is proper in the District of Arizona.
 - 21 3. The Complaint charges that Defendants CFA and CSS were sham charities
22 and that they, in concert with Reynolds, Sr., among others, engaged in deceptive acts or
23 practices by making false and misleading claims in charitable solicitations in violation of
24 Section 5 of the FTC Act, 15 U.S.C. § 45, the Telemarketing Sales Rule (“TSR”), 16
25 C.F.R. Part 310, and the following state statutes regulating charitable solicitations and
26 prohibiting deceptive and/or unfair trade practices:

1	Alabama:	ALA. CODE §§ 8-19-1 through -15; and 13A-9-70 through 76.
2	Alaska:	ALASKA STAT. §§ 45.50.471 through 45.50.561; and 45.68.010 through 45.68.900.
3	Arizona:	ARIZ. REV. STAT. ANN. §§ 44-1521 through 44-1534 and 44-6551 through 44-6561.
4	Arkansas:	ARK. CODE ANN. §§ 4-28-401 through 4-28-416; and §§ 4-88-101 through 4-88-115.
5	California:	CAL. GOV. CODE §§ 12580 through 12599.6; CAL. BUS. & PROF. CODE §§ 17200 through 17206; and §§ 17510 through 17510.95.
6	Colorado:	COLO. REV. STAT. §§ 6-1-101 through 115; and 6-16-101 through 114.
7	Connecticut:	CONN. GEN. STAT. §§ 21a-175 through 21a-190l; and 42-110a through 42-110q.
8	Delaware:	DEL. CODE ANN. tit. 6, § 2513(a) (1998); tit. 6, § 2532(a) (1995); and tit. 6, §§ 2595(a) – (b) (1995).
9	Florida:	FLA. STAT. ch. 501, Part II; and ch. 496 (2013).
10	Georgia:	GA. CODE ANN. §§ 43-17-1 through 43-17-23 (2011).
11	Hawaii:	HAW. REV. STAT. §§ 467B-9.6, 467B-9.7(d), and 467B-10.5; 480-15; and Act 217 §2 Haw. Sess. Laws (2014).
12	Idaho:	IDAHO CODE ANN. §§ 48-601 through 619; and 48-1201 through 1206.
13	Illinois:	225 ILL. COMP. STAT. §§ 460/0.01 through 460/23.
14	Indiana:	IND. CODE §§ 24-5-0.5-1 through -12; and §§ 23-7-8-1 through -9.
15	Iowa:	IOWA CODE § 714.16.
16	Kansas:	KAN. STAT. ANN. §§ 17-1759 through 17-1776.
17	Kentucky:	KY. REV. STAT. ANN. §§ 367.110 through 367.300.
18	Louisiana:	LA. REV. STAT. ANN. §§ 51:1401 through 1427; and 51:1901 through 1909.1.
19	Maine:	ME. REV. STAT. ANN. tit. 5, §§ 205-A through 214.
20	Maryland:	MD. CODE ANN., BUS. REG. §§ 6-101 through 6-701 (2010).
21	Massachusetts:	MASS. GEN. LAWS ch. 12 §§ 8 through 8M, 10; ch. 68 §§ 18 through 35; and ch. 93A §§ 1 through 11.
22	Michigan:	MICH. COMP. LAWS §§ 400.271 through 400.294.
23	Minnesota:	MINN. STAT. ch. 309.
24	Mississippi:	MISS. CODE ANN. §§ 79-11-501 through 79-11-529.
25	Missouri:	MO. REV. STAT. ch. 407.
26	Montana:	MONT. CODE ANN. § 30-14-103.
27	Nebraska:	NEB. REV. STAT. §§ 21-1901 through 21-19,177; 59-1601 through 59-1622; and 87-301 through 87-306.
28	Nevada:	NEV. REV. STAT. §§ 598.1305, 598.0915(15), 598.096, 598.0963, and 598.097.
	New Hampshire:	N.H. REV. STAT. ANN. §§ 7:19; 7:20; 7:21; 7:24; 7:28; 7:28-c; 7:28-f; and 641:8.

1	New Jersey:	N.J. STAT. ANN. §§ 45:17A-18 through 45:17A-32(c); 56:8-1 through 56:8-20; and N.J. ADMIN. CODE §§ 13:48-1.1 through 13:48-15.1.
2		
3	New Mexico:	N.M. STAT. §§ 57-12-1 through 57-12-22; and §§ 57-22-1 through 57-22-11 (1978).
4	New York:	N.Y. EXEC. LAW §§ 63 (12); 171-a through 175; and N.Y. GEN. BUS. LAW § 349.
5	North Carolina:	N.C. GEN. STAT. ANN. §§ 75-1.1; and 131F.
6	North Dakota:	N.D. CENT. CODE §§ 50-22-01 through 50-22-07; and 51-15-01 through 51-15-11.
7	Ohio:	OHIO REV. CODE ANN. § 1716.
8	Oklahoma:	OKLA. STAT. ANN. tit. 18 §§ 552.1 through 552.22.
9	Oregon:	OR. REV. STAT. §§ 128.886; and 646.605 through 646.636.
10	Pennsylvania:	10 PA. STAT. ANN. §§ 162.1 through .14 (1990).
11	Rhode Island:	R.I. GEN. LAWS §§ 5-53.1-1 through 5-53.1-18.
12	South Carolina:	S.C. CODE ANN. §§ 33-56-10 through 33-56-200.
13	South Dakota:	S.D. CODIFIED LAWS §§ 37-30-17 through 37-30-21; and 21-34-1 through 21-34-14.
14	Tennessee:	TENN. CODE ANN. §§ 48-101-501 through 48-101-522.
15	Texas:	TEX. BUS. & COM. CODE ANN. §§ 17.41 through 17.63.
16	Utah:	UTAH CODE ANN. §§ 13-11-1 through 13-11-23; 13-22-1 through 13-22-23; and 13-26-1 through 13-26-11.
17	Vermont:	VT. STAT. ANN. tit. 9 §§ 2453 through 2461; and 2471 through 2479.
18	Virginia:	VA. CODE ANN. §§ 57-48 through 57-69.
19	Washington:	WASH. REV. CODE §§ 19.86; and § 19.09.
20	West Virginia:	W.VA. CODE §§ 29-19-1 -15b; and 46A-1-101 through 46a-6-110.
21	Wisconsin:	WIS. STAT. §§ 202.11-202.18.
22	Wyoming:	WYO. STAT. ANN. §§ 40-12-101 through 114.

23 4. Defendants CFA, CSS, and Reynolds, Sr. neither admit nor deny any of the
24 allegations in the Complaint, except as specifically stated in this Order. Only for
25 purposes of this action, these Defendants admit the facts necessary to establish
26 jurisdiction.

27 5. Defendants CFA, CSS, and Reynolds, Sr. waive any claim that they may
28 have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the
prosecution of this action through the date of this Order, and agree to bear their own costs
and attorney fees.

1 6. Defendants CFA, CSS, and Reynolds, Sr. waive all rights to appeal or
2 otherwise challenge or contest the validity of this Order.

3 7. Entry of this Order is in the public interest.

4 **DEFINITIONS**

5 For purposes of this Order, the following definitions shall apply:

6 1. "Defendants" means the individual defendant James Reynolds, Sr. and the
7 corporate defendants Cancer Fund of America, Inc., and Cancer Support Services, Inc.,
8 individually, collectively, or in any combination.

9 2. "CFA" means Cancer Fund of America, Inc., also d/b/a Breast Cancer
10 Financial Assistance Fund, and its successors and assigns.

11 3. "CSS" means Cancer Support Services, Inc., and its successors and assigns.

12 4. "Reynolds, Sr." means individual defendant James Reynolds, Sr.

13 5. "CFA and CSS Receivership Order" means the "Stipulated Order
14 Appointing Liquidating Receiver Over Cancer Fund of America, Inc., and Cancer
15 Support Services, Inc."

16 6. "CFA and CSS Receiver" or "Receiver" means the receiver appointed over
17 the CFA and CSS receivership estate by the CFA and CSS Receivership Order.

18 7. "Person" means a natural person, an organization or other legal entity,
19 including a corporation, partnership, sole proprietorship, limited liability company,
20 association, cooperative, or any other group or combination acting as an entity.

21 8. "Charitable contribution" means any donation or gift of money or any other
22 thing of value.

23 9. "Donor" or "consumer" means any person solicited to make a charitable
24 contribution.

25 10. "Fundraising" means a plan, program, or campaign that is conducted to
26 induce charitable contributions by mail, telephone, electronic mail, social media, or any
27 other means.

28

1 11. “Nonprofit organization” means any person that is, or is represented to be, a
2 nonprofit entity, or that has, or is represented to have, a charitable purpose, specifically
3 including but not limited to any such entity that purports to benefit, either in whole or in
4 part, individuals who suffer or have suffered from cancer.

5 12. “Plaintiff States” means the states of Alabama, Alaska, Arizona, Arkansas,
6 California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois,
7 Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts,
8 Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New
9 Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio,
10 Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota,
11 Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin,
12 Wyoming, and the District of Columbia. For purposes of Section VIII, below, the term
13 “Plaintiff States” does not include Minnesota.

14 13. “Solicitor” means any person who solicits a charitable contribution.

15 14. “Telemarketing” means a plan, program, or campaign that is conducted to
16 induce the purchase of goods or services or a charitable contribution, by use of one or
17 more telephones and that involves a telephone call, whether or not covered by the
18 Telemarketing Sales Rule.

19 15. “And” and “or” shall be construed both conjunctively and disjunctively to
20 make the applicable sentence or phrase inclusive rather than exclusive.

21 ORDER

22 I. CORPORATE DISSOLUTION

23 IT IS FURTHER ORDERED that, pursuant to the CFA and CSS Receivership
24 Order of which CFA and CSS have consented to entry, the CFA and CSS Receiver shall
25 take the steps necessary to cause CFA and CSS to be dissolved and to cease to exist as
26 corporate entities.

27

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1 **II. PROHIBITIONS RELATED TO CHARITABLE ACTIVITIES**

2 IT IS FURTHER ORDERED that Reynolds, Sr. is permanently restrained and
3 enjoined from engaging in the following activities individually or in concert with other
4 persons or entities, directly or indirectly:

5 A. Receiving any payment or other financial benefit for: (1) participating or
6 assisting in the solicitation of charitable contributions, directly or indirectly, including by
7 advising, acting as an independent contractor or as a fundraising consultant, supplying
8 contact or donor lists, or providing caging, mail processing, or fulfillment services, or
9 (2) controlling, directly or indirectly, or holding an ownership interest in, any entity
10 engaged in the business of fundraising;

11 B. Receiving any payment or other financial benefit from any nonprofit
12 organization or other entity that holds charitable assets for any work, services, or
13 employment of any kind;

14 C. Establishing, operating, controlling, or managing any nonprofit
15 organization or other entity that holds charitable assets, or any program thereof, or
16 participating or assisting in establishing, operating, controlling, or managing any
17 nonprofit organization or other entity that holds charitable assets, directly or indirectly,
18 whether compensated or not, including by serving as a founder, incorporator, officer,
19 director, trustee, chief executive, manager, supervisor, or other fiduciary; and

20 D. Managing, controlling, directing, distributing, or accounting for the use or
21 application of any charitable asset, or participating or assisting in managing, controlling,
22 directing, distributing, or accounting for the use or application of any charitable asset,
23 directly or indirectly, whether compensated or not, including by acting as an employee,
24 independent contractor, advisor, or consultant.

25 E. **Provided that**, subject to the limitations of Sections II.A - D above,
26 Reynolds, Sr. may volunteer for his church in any capacity not prohibited by the above.

27
28

III. PROHIBITION ON MISREPRESENTATIONS

IT IS FURTHER ORDERED that Reynolds, Sr., CFA, CSS, their respective officers, agents, employees, and independent contractors, and all other persons in active concert or participation with them who receive actual notice of this Order, whether acting directly or indirectly, are hereby permanently restrained and enjoined from making material misrepresentations in connection with the sale of consumer goods or services.

IV. TELEMARKETING SALES RULE COMPLIANCE

IT IS FURTHER ORDERED that Reynolds, Sr., CFA, CSS, their respective officers, agents, employees, and independent contractors, and all other persons in active concert or participation with them who receive actual notice of this Order, whether acting directly or indirectly, are hereby permanently restrained and enjoined from violating, or assisting others in violating, any provision of the TSR, 16 C.F.R. Part 310, as currently promulgated or as it hereafter may be amended.

V. COMPLIANCE WITH STATE LAW

IT IS FURTHER ORDERED that CFA, CSS, their respective officers, agents, employees, and independent contractors, and Reynolds, Sr., whether acting directly or indirectly, are hereby permanently restrained and enjoined from violating, or assisting others in violating, any provision of the following state laws:

Alabama:	ALA. CODE §§ 8-19-1 through -15; and 13A-9-70 through 76.
Alaska:	ALASKA STAT. §§ 45.50.471 through 45.50.561; and 45.68.010 through 45.68.900.
Arizona:	ARIZ. REV. STAT. ANN. §§ 44-1521 through 44-1534 and 44-6551 through 44-6561.
Arkansas:	ARK. CODE ANN. §§ 4-28-401 through 4-28-416; and §§ 4-88-101 through 4-88-115.
California:	CAL. GOV. CODE §§ 12580 through 12599.6; CAL. BUS. & PROF. CODE §§ 17200 through 17206; and §§ 17510 through 17510.95.
Colorado:	COLO. REV. STAT. §§ 6-1-101 through 115; and 6-16-101 through 114.
Connecticut:	CONN. GEN. STAT. §§ 21a-175 through 21a-190l; and 42-110a through 42-110q.

1	Delaware:	DEL. CODE ANN. tit. 6, § 2513(a) (1998); tit. 6, § 2532(a) (1995); and tit. 6, §§ 2595(a) – (b) (1995).
2	Florida:	FLA. STAT. ch. 501, Part II; and ch. 496 (2013).
3	Georgia:	GA. CODE ANN. §§ 43-17-1 through 43-17-23 (2011).
4	Hawaii:	HAW. REV. STAT. §§ 467B-9.6, 467B-9.7(d), and 467B-10.5; 480-15; and Act 217 §2 Haw. Sess. Laws (2014).
5	Idaho:	IDAHO CODE ANN. §§ 48-601 through 619; and 48-1201 through 1206.
6	Illinois:	225 ILL. COMP. STAT. §§ 460/0.01 through 460/23.
7	Indiana:	IND. CODE §§ 24-5-0.5-1 through -12; and §§ 23-7-8-1 through -9.
8	Iowa:	IOWA CODE § 714.16.
9	Kansas:	KAN. STAT. ANN. §§ 17-1759 through 17-1776.
10	Kentucky:	KY. REV. STAT. ANN. §§ 367.110 through 367.300.
11	Louisiana:	LA. REV. STAT. ANN. §§ 51:1401 through 1427; and 51:1901 through 1909.1.
12	Maine:	ME. REV. STAT. ANN. tit. 5, §§ 205-A through 214.
13	Maryland:	MD. CODE ANN., BUS. REG. §§ 6-101 through 6-701 (2010).
14	Massachusetts:	MASS. GEN. LAWS ch. 12 §§ 8 through 8M, 10; ch. 68 §§ 18 through 35; and ch. 93A §§ 1 through 11.
15	Michigan:	MICH. COMP. LAWS §§ 400.271 through 400.294.
16	Minnesota:	MINN. STAT. ch. 309.
17	Mississippi:	MISS. CODE ANN. §§ 79-11-501 through 79-11-529.
18	Missouri:	MO. REV. STAT. ch. 407.
19	Montana:	MONT. CODE ANN. § 30-14-103.
20	Nebraska:	NEB. REV. STAT. §§ 21-1901 through 21-19,177; 59-1601 through 59-1622; and 87-301 through 87-306.
21	Nevada:	NEV. REV. STAT. §§ 598.1305, 598.0915(15), 598.096, 598.0963, and 598.097.
22	New Hampshire:	N.H. REV. STAT. ANN. §§ 7:19; 7:20; 7:21; 7:24; 7:28; 7:28-c; 7:28-f; and 641:8.
23	New Jersey:	N.J. STAT. ANN. §§ 45:17A-18 through 45:17A-32(c); 56:8-1 through 56:8-20; and N.J. ADMIN. CODE §§ 13:48-1.1 through 13:48-15.1.
24	New Mexico:	N.M. STAT. §§ 57-12-1 through 57-12-22; and §§ 57-22-1 through 57-22-11 (1978).
25	New York:	N.Y. EXEC. LAW §§ 63 (12); 171-a through 175; and N.Y. GEN. BUS. LAW § 349.
26	North Carolina:	N.C. GEN. STAT. ANN. §§ 75-1.1; and 131F.
27	North Dakota:	N.D. CENT. CODE §§ 50-22-01 through 50-22-07; and 51-15-01 through 51-15-11.
28	Ohio:	OHIO REV. CODE ANN. § 1716.
	Oklahoma:	OKLA. STAT. ANN. tit. 18 §§ 552.1 through 552.22.

1	Oregon:	OR. REV. STAT. §§ 128.886; and 646.605 through 646.636.
2	Pennsylvania:	10 PA. STAT. ANN. §§ 162.1 through .14 (1990).
3	Rhode Island:	R.I. GEN. LAWS §§ 5-53.1-1 through 5-53.1-18.
4	South Carolina:	S.C. CODE ANN. §§ 33-56-10 through 33-56-200.
5	South Dakota:	S.D. CODIFIED LAWS §§ 37-30-17 through 37-30-21; and 21-34-1 through 21-34-14.
6	Tennessee:	TENN. CODE ANN. §§ 48-101-501 through 48-101-522.
7	Texas:	TEX. BUS. & COM. CODE ANN. §§17.41 through 17.63.
8	Utah:	UTAH CODE ANN. §§ 13-11-1 through 13-11-23; 13-22-1 through 13-22-23; and 13-26-1 through 13-26-11.
9	Vermont:	VT. STAT. ANN. tit. 9 §§ 2453 through 2461; and 2471 through 2479.
10	Virginia:	VA. CODE ANN. §§ 57-48 through 57-69.
11	Washington:	WASH. REV. CODE §§ 19.86; and §19.09.
12	West Virginia:	W.VA. CODE §§ 29-19-1 -15b; and 46A-1-101through 46a-6-110.
13	Wisconsin:	WIS. STAT. §§ 202.11-202.18.
14	Wyoming:	WYO. STAT. ANN. §§ 40-12-101 through 114.

VI. COOPERATION

IT IS FURTHER ORDERED that CFA, CSS, and Reynolds, Sr. must cooperate fully with Plaintiffs' representatives in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. CFA, CSS, and Reynolds, Sr. must provide truthful and complete information, evidence, and testimony. Reynolds, Sr. must appear, and CFA and CSS must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that any Plaintiff's representative may reasonably request upon five days written notice, or other reasonable notice, at such places and times as any Plaintiff's representative may designate, without the service of a subpoena.

VII. MONETARY JUDGMENT

IT IS FURTHER ORDERED that judgment is hereby entered against Defendants as follows:

A. Judgment in the amount of Seventy-Five Million, Eight Hundred Twenty-Five Thousand, Six Hundred Fifty-Three Dollars (\$75,825,653) is entered in

1 favor of Plaintiffs against CFA, CSS, and Reynolds, Sr., jointly and severally, as
2 equitable monetary relief;

3 B. Payments by CFA and CSS:

4 1. In partial satisfaction of this judgment, the CFA and CSS Receiver
5 shall take the necessary steps to wind down the affairs of CFA and CSS and
6 liquidate their assets in the manner set forth in the CFA and CSS Receivership
7 Order, and deposit all net assets to the short term court ordered trust fund
8 (hereinafter "STCO Fund") described in Section VIII.E, below;

9 2. Payments made by the CFA and CSS Receiver to the STCO Fund on
10 behalf of CFA and CSS shall be credited toward satisfaction of the judgment
11 against CFA and CSS;

12 C. Payments by Reynolds, Sr.:

13 1. Reynolds, Sr. shall, within five days of entry of this Order, transfer
14 ownership, possession, custody, and control, together with any documents of title
15 or authenticity necessary for sale, to the CFA and CSS Receiver of the following
16 items, which are described more fully in the financial statements specified in
17 Section VII.C.3, below:

- 18 a) 15 framed art prints;
- 19 b) 5 Remington statues;
- 20 c) 50 collector beer steins; and
- 21 d) 1 Versa 9 mm pistol and 1 Smith & Wesson 9 mm pistol.

22 Reynolds, Sr. shall forever waive, release, discharge, and disclaim all right, title,
23 and interest in these items. The CFA and CSS Receiver shall be authorized to sell
24 these items and to credit the net proceeds of the sale to the outstanding debt owed
25 by Reynolds, Sr. to CFA. Reynolds, Sr. shall fully cooperate with the efforts of
26 the CFA and CSS Receiver to sell these items.

27 2. Reynolds, Sr. shall immediately take specific steps necessary to sell, for
28 Fair Market Value to a third-party buyer, his 2009 Premier Boundary Waters Sky

1 Deck pontoon boat (“boat”) identified in the Financial Statements specified in
2 Section VII. C.3, below, and, within three days of the boat’s sale, pay to the STCO
3 Fund identified in Section VIII.E below, the proceeds of the sale, after paying off
4 any existing loan or other monetary obligation owed on the boat, subject to the
5 following:

6 a) Reynolds, Sr. shall immediately advertise the boat for sale through
7 an online auction service or place the boat for sale through an appropriate
8 broker or boat listing service and provide notice to Plaintiffs of the
9 proposed sale price;

10 b) Reynolds, Sr., represents that no encumbrances have been added to
11 the boat since he provided his sworn financial statement of June 26, 2015,
12 and that he will make the loan repayments due on the boat loan and not
13 otherwise add any encumbrances after signing this Order, except as needed
14 to secure his performance under this Section;

15 c) Until the boat is sold, Reynolds, Sr. shall i) maintain the boat in
16 good working order and in the same condition as reported in his sworn
17 financial statement of June 26, 2015; ii) take no action to diminish the value
18 of the boat; iii) remain current on all amounts due and payable on the boat,
19 including but not limited to tax, insurance, reasonable and necessary
20 maintenance, registration, and similar fees; and iv) cause existing
21 insurance coverage for the boat to remain in force until any transfer of
22 ownership. In the event that the boat suffers any loss or damage covered by
23 such insurance policy, Reynolds, Sr. shall make such claims as are
24 permitted by the insurance policy and shall assign or remit any insurance
25 payment they receive as a result of such loss or damage to the STCO Fund
26 described in Section VIII.E, below;

27 d) If, after 90 days from the date of entry of this Order, the boat has not
28 been sold, Reynolds, Sr. shall immediately either i) retain an auction

1 company, direct such auction company to sell the boat at a public auction,
2 and pay the net proceeds to the STCO fund, or ii) surrender possession,
3 custody, and control of the boat to the lender holding the lien on the boat
4 and deliver notice of such surrender to Plaintiffs' counsel; and

5 e) Reynolds, Sr. shall in no way profit from the sale of the boat,
6 including by sharing in any sales commission or fee, or by receiving
7 anything of value in kind. Upon sale of the boat, Reynolds, Sr. shall
8 forever waive, release, discharge, and disclaim all right, title, and interest in
9 the boat.

10 3. Further execution of the monetary judgment shall be suspended as to
11 Reynolds, Sr., subject to Sections VII.C.4-5, below. Plaintiffs' agreement to the
12 suspension of the judgment owed by Reynolds, Sr. is expressly premised upon the
13 truthfulness, accuracy, and completeness of Reynolds, Sr.'s sworn financial
14 statements and related documents submitted to Plaintiffs, namely, the Financial
15 Statement of Individual, signed on June 26, 2015 (including attachments),
16 additional financial information provided on June 30, 2015; July 15, 2015; August
17 14, 2015; September 17 - 21, 2015; January 22, 2016, and February 2, 2016; and
18 the sworn financial interview of Reynolds, Sr. on September 15, 2015.

19 4. The suspension of the judgment will be lifted as to Reynolds, Sr. if, upon
20 motion by any Plaintiff, the Court finds that Reynolds, Sr. failed to disclose any
21 material asset, materially misstated the value of any asset, or made any other
22 material misstatement or omission in the representations made in the sworn
23 financial statements and related documents identified Section VII.C.3, above. If
24 the suspension of the judgment is lifted pursuant to this provision, the judgment
25 becomes immediately due in the amount specified in Section VII.A above as to
26 Reynolds, Sr. (which the Parties stipulate for purposes only of this Section
27 represents the consumer injury alleged in the Complaint for which Reynolds, Sr. is
28 jointly and severally liable with CFA and CSS), less any payment previously made

1 pursuant to this Section, plus interest computed from the date of entry of this
2 Order.

3 5. The suspension of the judgment will be lifted as to Reynolds, Sr. if, upon
4 motion by any Plaintiff State, the Court finds that Reynolds, Sr. has violated any
5 provision of Section II, above, and a judgment in the amount set forth in Section
6 VII.A above, less any prior payments by Reynolds, Sr., CFA, or CSS, becomes
7 immediately due as to Reynolds, Sr. The judgment amount shall be payable to the
8 moving Plaintiff State, which shall use any money collected pursuant to the
9 requirements of Section VIII.E.2, below.

10 **VIII. ADDITIONAL MONETARY PROVISIONS**

11 IT IS FURTHER ORDERED that:

12 A. CFA, CSS, and Reynolds, Sr. relinquish dominion and all legal and
13 equitable right, title, and interest in all assets transferred pursuant to this Order and the
14 CFA and CSS Receivership Order, and may not seek the return of any assets;

15 B. The facts alleged in the Complaint will be taken as true, without further
16 proof, in any subsequent civil litigation by or on behalf of the Plaintiffs or the CFA and
17 CSS Receiver, including in a proceeding to enforce their rights to any payment or
18 monetary judgment pursuant to this Order, such as a nondischargeability complaint in
19 any bankruptcy case;

20 C. The facts alleged in the Complaint establish all elements necessary to
21 sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code,
22 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such
23 purposes;

24 D. CFA, CSS, and Reynolds, Sr. acknowledge that their Taxpayer
25 Identification Numbers, Social Security Numbers and/or Employer Identification
26 Numbers, which Defendants previously submitted to Plaintiffs, may be used for
27 collecting and reporting on any delinquent amount arising out of this Order, in
28 accordance with 31 U.S.C. § 7701; and

1 E. Payment to the Plaintiff States:

2 1. All money paid to the Plaintiff States pursuant to this Order shall be
3 made by wire transfer to the Litigation Deposits Trust Fund (Fund Code “T-xx-909N”),
4 an interest bearing trust fund held by the Hawaii Attorney General’s Office in trust for
5 the Plaintiff States (“the short-term court ordered trust fund” or “STCO Fund”);

6 2. The STCO Fund shall be used to pay: (a) pursuant to cy pres,
7 qualifying charitable organizations with charitable purposes substantially similar to the
8 purposes for which CFA and CSS solicited funds, and (b) the Plaintiff States to reimburse
9 costs of the investigation and litigation and to pay attorneys’ fees. When payment(s)
10 from the STCO Fund are appropriate, the Plaintiff States shall submit to this Court a
11 Motion and Proposed Order recommending cy pres recipients and the amounts to be paid
12 to such recipients and/or the amounts to be paid to reimburse the Plaintiff States for their
13 costs and attorneys’ fees. The Hawaii Attorney General shall distribute monies from the
14 STCO Fund only as authorized and directed by this Court. CFA, CSS, and Reynolds, Sr.
15 have no right to challenge any recommendations regarding monetary distributions made
16 by the Plaintiff States.

17 **IX. ORDER ACKNOWLEDGMENTS**

18 IT IS FURTHER ORDERED that Reynolds, Sr. provide acknowledgment of
19 receipt of this Order:

20 A. Reynolds, Sr., within seven days of entry of this Order, must submit to
21 Plaintiff Federal Trade Commission an acknowledgment of receipt of this Order sworn
22 under penalty of perjury;

23 B. For five years after entry of this Order, Reynolds, Sr., for any business that
24 he, individually or collectively with any other Defendant named in this matter, is the
25 majority owner or controls directly or indirectly, must deliver a copy of this Order to:
26 (1) all principals, officers, directors, and LLC managers and members; (2) all employees,
27 agents, and representatives who participate in conduct related to the subject matter of this
28 Order; and (3) any business entity resulting from any change in structure as set forth in

1 Section X below. Delivery must occur within seven days of entry of this Order for
2 current personnel. For all others, delivery must occur before they assume their
3 responsibilities; and

4 C. From each individual or entity to which Reynolds, Sr. delivered a copy of
5 this Order, Reynolds, Sr. must obtain, within 30 days, a signed and dated
6 acknowledgment of receipt of this Order.

7 **X. COMPLIANCE REPORTING**

8 IT IS FURTHER ORDERED that Reynolds, Sr. make timely submissions to
9 Plaintiff Federal Trade Commission.

10 A. One year after entry of this Order, Reynolds, Sr. must submit a compliance
11 report, sworn under penalty of perjury. Reynolds, Sr. must:

12 1. Identify all his telephone numbers and all physical, postal, email and
13 Internet addresses, including all residences;

14 2. Identify all his business activities, including any business for which
15 he performs services whether as an employee or otherwise and any entity in which
16 he has any ownership interest;

17 3. Describe in detail his involvement in each such business, including
18 title, role, responsibilities, participation, authority, control, and any ownership;

19 4. Identify all such businesses by all of their names, telephone
20 numbers, and physical, postal, email, and Internet addresses;

21 5. Describe the activities of each business, including the goods and
22 services offered, the means of advertising, marketing, sales, methods of payment,
23 and the involvement of any other Defendant named in this matter (which
24 Reynolds, Sr. must describe if he knows or should know due to his own
25 involvement);

26 6. Identify the primary physical, postal, and email address and
27 telephone number, as designated points of contact, which Plaintiffs or their
28 representatives may use to communicate with him;

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- 7. For any activity with any nonprofit organization:
 - a. identify each such nonprofit organization by all of its names, telephone number[s], and physical, postal, email, and Internet addresses; and
 - b. describe in detail his involvement in each such nonprofit organization, including any title, role, responsibilities, participation, authority, and control;

8. Describe in detail whether and how Reynolds, Sr. is in compliance with each Section of this Order; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to Plaintiff Federal Trade Commission.

B. For ten years after entry of this Order, Reynolds, Sr. must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Reynolds, Sr. must report any change in: (a) any designated point of contact; or (b) the structure of any entity that he has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Reynolds, Sr. must report any change in: (a) name, including aliases or fictitious names, or residence address; or (b) title or role in any business activity, including any business for which he performs services, whether as an employee or otherwise, and any entity in which he has any ownership interest or controls, directly or indirectly, and identify the name, physical address, and any Internet address of the business or entity.

1 C. Reynolds, Sr. must submit notice of the filing of any bankruptcy petition,
2 insolvency proceeding, or similar proceeding by or against him within 14 days of its
3 filing.

4 D. Any submission required by this Order to be sworn under penalty of perjury
5 must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I
6 declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct. Executed on [date] at [location]” and supplying the date,
8 location, signatory’s full name, title (if applicable), and signature.

9 E. Unless otherwise directed by a Commission representative in writing, all
10 submissions to Plaintiff Federal Trade Commission pursuant to this Order must be
11 emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:

12 Associate Director for Enforcement,
13 Bureau of Consumer Protection,
14 Federal Trade Commission,
15 600 Pennsylvania Avenue NW,
16 Washington, DC 20580

17 The subject line of each submission must begin: FTC v. Cancer Fund of America, et al.

18 **XI. RECORDKEEPING**

19 IT IS FURTHER ORDERED that Reynolds, Sr. must create certain records for ten
20 years after entry of this Order, and retain each such record for five years. Specifically,
21 for any business that he, individually or collectively with any other Defendant named in
22 this matter, is a majority owner or controls directly or indirectly, he must create and
23 retain the following records:

24 A. Accounting records showing revenues from all goods or services sold or
25 billed;

26 B. Personnel records showing, for each person providing services, whether as
27 an employee or otherwise, that person’s name; address; telephone number; job title or
28 position; dates of service; and reason for termination (if applicable);

1 C. Records of all consumer complaints, whether received directly or indirectly,
2 such as through a third party, and any response;

3 D. All records necessary to demonstrate full compliance with each provision
4 of this Order, including all submissions to Plaintiff Federal Trade Commission; and

5 E. A copy of each unique advertisement or other marketing material.

6 **XII. COMPLIANCE MONITORING**

7 IT IS FURTHER ORDERED that, for purposes of monitoring Reynolds, Sr.'s
8 compliance with this Order, including the accuracy of the financial representations upon
9 which the judgment was suspended:

10 A. Within 14 days of receipt of a written request from a representative of any
11 Plaintiff, Reynolds, Sr. must submit additional compliance reports or other requested
12 information, which must be sworn under penalty of perjury; appear for depositions; and
13 produce documents for inspection and copying. Plaintiffs are also authorized to obtain
14 discovery, without further leave of court, using any of the procedures prescribed by
15 Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34,
16 36, 45, and 69.

17 B. For matters concerning this Order, Plaintiffs are authorized to communicate
18 directly with Reynolds, Sr. Reynolds, Sr. must permit representatives of any Plaintiff to
19 interview any employee or other person affiliated with him who has agreed to such an
20 interview. The person interviewed may have counsel present.

21 C. Plaintiffs may use all other lawful means, including posing, through their
22 representatives, as consumers, suppliers, or other individuals or entities, to Reynolds, Sr.
23 or any individual or entity affiliated with him, without the necessity of identification or
24 prior notice. Nothing in this Order limits Plaintiff Federal Trade Commission's lawful
25 use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
26 §§ 49, 57b-1, or the Plaintiff States' lawful use of relevant state laws governing pre-suit
27 investigation and discovery.

28

1 D. Upon written request from a representative of the Commission or any
2 Plaintiff State, any consumer reporting agency must furnish a consumer report
3 concerning Reynolds, Sr. pursuant to Section 604(1) of the Fair Credit Reporting Act, 15
4 U.S.C. §1681b(a)(1).

5 **XIII. RETENTION OF JURISDICTION**

6 IT IS FURTHER ORDERED that that this Court retains jurisdiction of this matter
7 for purposes of construction, modification, and enforcement of this Order.

8 **XIV. STATE COURT ENFORCEMENT**

9 Without limiting the above provisions, CFA, CSS, and Reynolds, Sr. agree that the
10 provisions of Sections II, III, and V of this Order may be enforced by any Plaintiff State
11 in a court of general jurisdiction in that Plaintiff's state if that Plaintiff State has reason to
12 believe that persons in its state have been affected. Defendants CFA, CSS, and Reynolds,
13 Sr. consent to any such court's jurisdiction for purposes of enforcing the terms of
14 Sections II, III, and V of this Order.

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1 SO STIPULATED AND AGREED:

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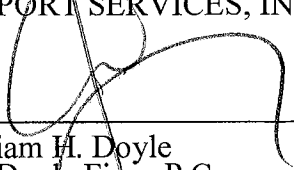
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5

6 *Feb. 2,*
Date, 2016

FOR DEFENDANTS JAMES
REYNOLDS, SR.; CANCER FUND OF
AMERICA, INC.; and CANCER
SUPPORT SERVICES, INC.



7 William H. Doyle
8 The Doyle Firm, P.C.
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10 Phoenix, AZ 85014
11 wdoyle@doylelawgroup.com
12 (602) 240-6711

13 Attorney for James Reynolds, Sr.,
14 Cancer Fund of America, Inc., and
15 Cancer Support Services, Inc.

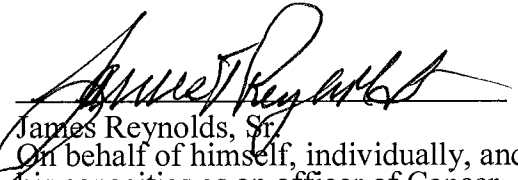
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JAMES REYNOLDS, SR.

13

14 *Feb. 2,*
Date, 2016



15 James Reynolds, Sr.
16 On behalf of himself, individually, and in
17 his capacities as an officer of Cancer
18 Fund of America, Inc., and Cancer
19 Support Services, Inc.

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STIPULATION RE ORDER FOR PERMANENT INJUNCTION AS TO CFA, CSS, AND REYNOLDS. SR.

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FOR PLAINTIFF FEDERAL TRADE
COMMISSION:

Date: March 28, 2016



Charles A. Harwood
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Krista K. Bush
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Commission

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FOR THE STATE OF NEW MEXICO

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Attorney for Plaintiff State of New Mexico

Signed March 1, 2016

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FOR THE STATE OF ARIZONA

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Signed March 2, 2016

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FOR THE STATE OF ALABAMA
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Signed March 3, 2016

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FOR THE STATE OF ALASKA

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Signed February 22, 2016

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FOR THE STATE OF ARKANSAS

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Signed March 2, 2016

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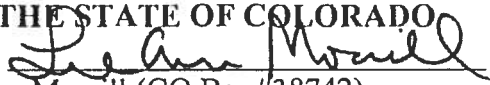
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Signed March 10, 2016

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FOR THE STATE OF COLORADO

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Signed March 11, 2016

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FOR THE STATE OF CONNECTICUT

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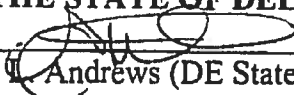
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Attorney for Plaintiff State of Connecticut

Signed , 2016

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FOR THE STATE OF DELAWARE

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Signed March 11, 2016

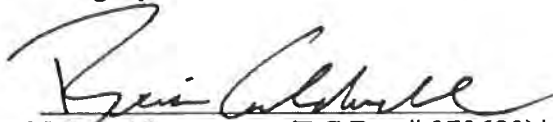
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FOR THE DISTRICT OF COLUMBIA

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Attorney General for the District of Columbia

ELIZABETH SARAH GERE
Deputy Attorney General
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Attorney for Plaintiff District of Columbia

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FOR THE STATE OF FLORIDA

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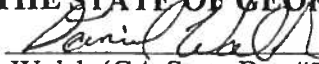
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Signed FEB 23, 2016

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FOR THE STATE OF GEORGIA

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and Georgia Secretary of State

Signed MARCH 2, 2016

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FOR THE STATE OF HAWAII
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Signed March 3, 2016

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FOR THE STATE OF IDAHO

By: Jane E. Hochberg

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Deputy Attorney General

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Consumer Protection Division

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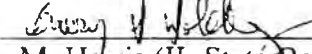
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Attorney for Plaintiff State of Idaho

Signed Feb 17, 2016

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FOR THE STATE OF ILLINOIS

By: 
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Signed FEBRUARY 22, 2016

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FOR THE STATE OF INDIANA

By: *Richard M. Bramer*
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Consumer Protection Division

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Attorney for Plaintiff State of Indiana

Signed *February 10*, 2016

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FOR THE STATE OF IOWA

By: 
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Attorney for Plaintiff State of Iowa

Signed February 10, 2016

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FOR THE STATE OF KANSAS

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Attorney for Plaintiff State of Kansas

Signed February 17, 2016

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FOR THE COMMONWEALTH OF KENTUCKY

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FOR THE STATE OF LOUISIANA

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FOR THE STATE OF MAINE

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FOR THE STATE OF MARYLAND

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and Secretary of State John Wobensmith

Signed March 11, 2016

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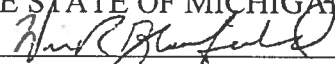
FOR THE COMMONWEALTH OF
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FOR THE STATE OF MICHIGAN

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Signed March 2, 2016

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FOR THE STATE OF MINNESOTA

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Signed March 23, 2016

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FOR THE STATE OF MISSISSIPPI

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Signed March 1, 2016

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FOR THE STATE OF MISSOURI

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Signed 2/17, 2016

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FOR THE STATE OF MONTANA

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Signed March 7, 2016

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FOR THE STATE OF NEBRASKA

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Signed March 8, 2016

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FOR THE STATE OF NEVADA

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FOR THE STATE OF NEW HAMPSHIRE

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FOR THE STATE OF NEW JERSEY

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FOR THE STATE OF NEW YORK

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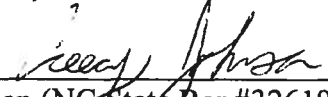
Attorneys for Plaintiff State of New York

Signed March 9, 2016

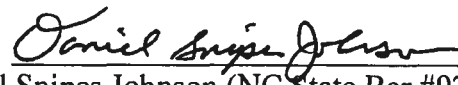
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Signed March 10, 2016

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FOR THE STATE OF NORTH DAKOTA

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Signed Feb. 16, 2016

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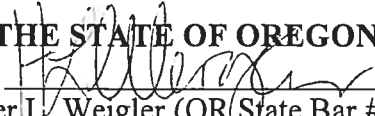
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FOR THE STATE OF OKLAHOMA
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FOR THE STATE OF OREGON

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**FOR THE COMMONWEALTH OF
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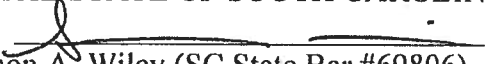
Attorneys for Plaintiff Commonwealth of Pennsylvania
Signed February 18, 2016

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FOR THE STATE OF SOUTH CAROLINA

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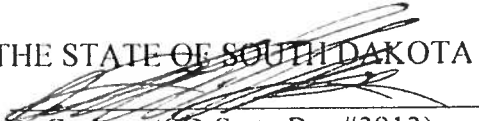
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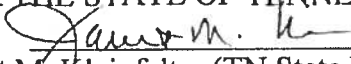
Signed March 10, 2016

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FOR THE STATE OF SOUTH DAKOTA
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FOR THE STATE OF TENNESSEE

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Secretary of State Tre Hargett
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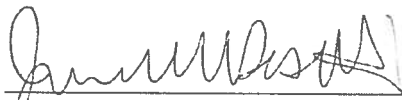
FOR THE STATE OF TEXAS

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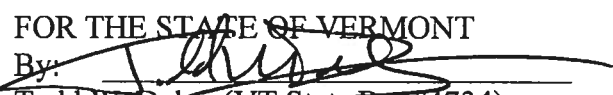
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FOR THE STATE OF VERMONT
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FOR THE STATE OF WASHINGTON

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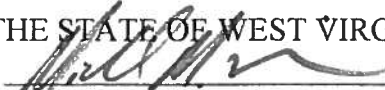
Email: sarah.shifley@atg.wa.gov

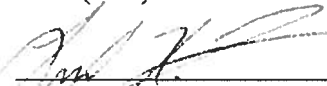
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Attorney for Plaintiff State of Washington

Signed Flr. 17, 2016

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FOR THE STATE OF WEST VIRGINIA
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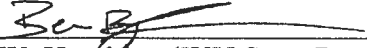
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FOR THE STATE OF WISCONSIN
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FOR THE STATE OF WYOMING

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STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT

In Re: CHARLES JARRAS

)
)

2011 NOV 22 P 3:13
CIVIL DIVISION
Docket No. 691-11-16 Wncv

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Charles Jarras (“Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is “presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based.” 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of at least four rental properties, containing 16 rental units, located at 164-168 Westminster Street (4 units), 25-27 Oak Street (4 units), 21 Westminster Terrace (6 units), and 9 Russell Street (2 units), all located in Bellows Falls, Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

13. On August 10, 2016, Respondent filed with the Vermont Department of Health an “EMP Rental Property Compliance Statement” for 164-168 Westminster Street and 25-27 Oak Street (hereinafter “EMP Statements”).

14. The EMP Statements represent that Respondent performed EMPs at 164-168 Westminster Street on June 1, 2016, and at 25-27 Oak Street on July 10, 2016.

15. The EMP Statements specifically certify that Respondent:

- a. visually inspected exterior surfaces and outbuildings;
- b. stabilized exterior paint; and
- c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings.

16. The EMP Statements were signed by Charles Jarras and certified that “all information provided on this form is true and accurate” and acknowledged that “providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law.”

17. On September 21, 2016, Vermont Department of Health staff inspected the exterior of 164-168 Westminster Street and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property’s exterior surface; on October 13, 2016, Vermont Department of Health staff inspected the exterior of 25-27 Oak Street and also documented (via photographs) deteriorated paint exceeding more than 1 square foot on the property’s exterior surface.

18. Respondent admits the truth of the facts described in ¶¶ 10-17.

The State’s Allegations

19. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Lead Law:

- a. Submitting false EMP compliance statements and inaccurately representing that the properties were in compliance with the lead law; and
- b. Failing to file EMP compliance statements for rental properties.

20. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

21. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
22. By November 15, 2016, Respondent shall provide to the Attorney General's Office a detailed plan for completing all EMP inspections and work of the Properties (as specified in 18 V.S.A. § 1759), including the names of EMP-certified contractors that he has contacted or will contact and estimated timeframes to complete the EMP work. By May 31, 2017, all exterior EMP work of the Properties shall be completed in a lead-safe manner in accordance with 18 V.S.A. § 1760. If Respondent requires additional time to complete the work, Respondent will contact the Attorney General's Office before the expiration of the above deadlines and provide a detailed justification for any extension.

Any extension will be granted only for the exterior of the Properties; all interior work must be completed by November 30, 2016.

23. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

24. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

25. Respondent shall pay the sum of \$25,000 in civil penalties and costs for the filing of false EMP compliance statements and failure to file EMP compliance statements. Payment shall be made to the "State of Vermont" and sent to the following address: Justin E.

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street,
Montpelier, Vermont 05609.

Other Terms

26. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
27. Transfer of ownership of any of Respondent's pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
28. This AOD shall not affect marketability of title.
29. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
30. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least \$5,000 and not more than \$10,000.

SIGNATURES APPEAR ON NEXT PAGE

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

DATED at Montpelier, Vermont this 11th day of November, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at Rockingham, Vermont this 15th day of November, 2016.

CHARLES JARRAS

By: 

Charles Jarras

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT

In Re: CHARLES JARRAS

)
)

2016 DEC 20 P 2:56
CIVIL DIVISION
Docket No. 691-11-16 Wncv

ADDENDUM TO ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Charles Jarras ("Respondent"), agree to this Addendum to the Assurance of Discontinuance filed on Nov. 22, 2016 ("AOD"):

1. Paragraph 25 of the AOD is modified as follows: Respondent shall pay the sum of \$20,000 in civil penalties and costs for the filing of false EMP compliance statements. Payment shall be made as follows:
 - a. By December 30, 2016, Respondent shall pay five thousand dollars (\$5,000), by a single check payable to "the State of Vermont" and sent to the Office of the Attorney General at the address listed below; and
 - b. Respondent shall expend at least fifteen thousand dollars (\$15,000), including the actual cost of materials and the actual cost of labor, on lead hazard reduction improvements at any or all of the Properties described herein.
2. Respondent shall pay the costs of any follow-up compliance inspections as determined by the Attorney General's Office.
3. All other terms of the AOD filed Nov. 22, 2016 remain in full force and effect.

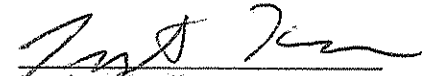
Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

DATED at Montpelier, Vermont this 20th day of December, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:



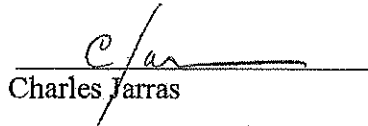
Justin E. Kolber

Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at Rochester, VT, _____ this 19th day of December, 2016.

CHARLES JARRAS

By:



Charles Jarras

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL DIVISION

2015 MAY -21 P 2:44

In Re: CYNTHIA McTAGGART)

CIVIL DIVISION

)
Docket No. 255-5-16Wncd

FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Cynthia McTaggart (“Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is “presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based.” 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of two rental properties, containing 10 total rental units, located at 50 Elm Street (5 units) and 29 Grant Street (5 units) located in Rutland, Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent the Properties.

13. On December 13, 2015, Respondent filed with the Vermont Department of Health an “EMP Rental Property Compliance Statement” for each of the Properties (hereinafter “EMP Statements”).
14. The EMP Statements represent that Respondent performed EMPs at the Properties in August 2015.
15. The EMP Statements specifically certify that Respondent:
 - a. visually inspected exterior surfaces and outbuildings;
 - b. stabilized exterior paint; and
 - c. did not identify deteriorated paint exceeding 1 square foot on exterior surfaces of the buildings.
16. The EMP Statements were signed by Cynthia McTaggart and certified that “all information provided on this form is true and accurate” and acknowledged that “providing false, incomplete or inaccurate information on this form is unlawful and is punishable by civil and criminal penalties pursuant to Vermont law.”
17. In October 2015 and January 2016, Vermont Department of Health staff inspected the exterior surfaces of the Properties and documented (via photographs) deteriorated paint exceeding more than 1 square foot on all of the exterior surfaces of the Properties.
18. Respondent admits the truth of the facts described in ¶¶ 10-17.

The State’s Allegations

19. The Vermont Attorney General’s Office alleges the following violations of the Consumer Protection Act:

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

- a. Submitting false EMP Statements and inaccurately representing that the Properties were in compliance with the lead law.
20. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

21. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership interest.
22. By August 31, 2016, Respondent shall hire, at her expense, an EMP-certified independent contractor to conduct compliance inspections and perform all EMP work of the interior and exterior of the Properties as specified in 18 V.S.A. § 1759. If Respondent requires additional time to complete the work, Respondent will contact the Attorney General's Office and provide justification for any extension.
23. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all properties, and will give a copy of the compliance statement to an adult in each rented unit of all properties. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney

General, Office of the Attorney General, 109 State Street, Montpelier, Vermont
05609.

24. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of the properties that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.
25. Respondent shall pay the sum of \$20,000 in civil penalties and costs for the filing of false EMP compliance statements. Based on Respondent's demonstrated inability to pay the full penalty and upon review of financial information provided to the State by Respondent, the State agrees to accept a reduced penalty of \$1,000. Payment of the \$1,000 shall be made to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609. The payment may be made in four installments as follows: (a) \$250 due on or before June 1, 2016; (b) \$250 due on or before July 1, 2016; (c) \$250 due on or before August 1, 2016; and (d) \$250 due on or before September 1, 2016. Further, at least \$10,000 shall be expended on

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

the Properties to perform lead hazard reduction improvements, including covering of painted exterior walls with siding.

Other Terms

26. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
27. Transfer of ownership of any of Respondent's pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
28. This AOD shall not affect marketability of title.
29. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
30. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least \$5,000 and not more than \$10,000.

SIGNATURES APPEAR ON NEXT PAGE

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

DATED at Montpelier, Vermont this _____ day of April, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at _____, _____ this _____ day of April, 2016.

CYNTHIA McTAGGART

By: _____

Cynthia McTaggart

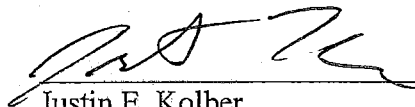
**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

DATED at Montpelier, Vermont this 29th day of April, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

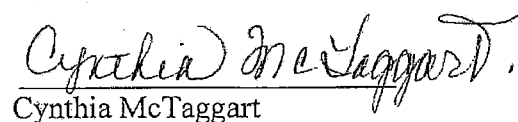


Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at Brandon, Vt. Vt. this 30th day of April, 2016.

CYNTHIA McTAGGART

By:



Cynthia McTaggart

Office of the
Attorney
General
109 State Street
Montpelier VT
05609

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: DAVID ROGERS

)
)

CIVIL DIVISION

Docket No. 731-12-16 *Whw*

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and David Rogers (“Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is “presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based.” 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of four rental properties located at 2051 VT Route 14, 2950 VT Route 14, 2978 VT Route 14, and 3070 VT Route 14, all located in North Montpelier, Vermont (collectively, "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.
13. On September 2, 2016 the Vermont Department of Health sent a "Notice of Non-Compliance" indicating that Respondent had not filed an "EMP Rental Property

Compliance Statement” for the Properties. The Department allowed for 30 days for Respondent to file the necessary statements.

14. Respondent did not respond to the 30-day Notice, and did not file the EMP compliance statements within 30 days.
15. As of November 2016, Respondent has not filed current EMP compliance statements for all four rental properties.
16. Respondent admits the truth of the facts described in ¶¶ 10-15.

The State’s Allegations

17. The Vermont Attorney General’s Office alleges the following violations of the Consumer Protection Act and Lead Law:

- a. Failing to file EMP compliance statements for rental properties.

18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

19. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which they currently have, or later acquire, an ownership or property management interest.
20. By December 15, 2016, Respondent shall complete all EMP inspections and work of the Properties (as specified in 18 V.S.A. § 1759), giving priority to the Properties where a

child age 6 or under is residing. Pursuant to 18 V.S.A. § 1759(a)(3), exterior work of the properties may be postponed until May 31, 2017, so long as access to exterior surfaces and components of the Properties with lead hazards and areas directly below the deteriorated surfaces are clearly restricted. All interior work must be completed by the December 15, 2016 deadline. If Respondent requires additional time to complete the work, Respondent will contact the Attorney General's Office before the expiration of the above deadlines and provide a detailed justification for any extension.

21. Within one week of completion of the EMP work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. The copy for the Office of the Attorney General shall be sent to: *Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.*

22. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant, Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as

the EMP work is complete and the EMP compliance statement is distributed as described above.

23. Respondent shall pay the sum of \$7,500 in civil penalties and costs for the failure to file EMP compliance statements. Payment shall be a single check payable to “the State of Vermont” and sent to the Office of the Attorney General at the address listed in paragraph 21.
24. Respondent shall pay the costs of any follow-up compliance inspections as determined by the Attorney General’s Office.


Other Terms

25. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.
26. Transfer of ownership of any of Respondent’s pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.
27. This AOD shall not affect marketability of title.
28. Nothing in this AOD in any way affects Respondent’s other obligations under state, local, or federal law.
29. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least \$5,000 and not more than \$10,000.

DATED at Montpelier, Vermont this 15th day of ~~November~~ ^{December}, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at _____, _____ this _____ day of November, 2016.

DAVID ROGERS

By: 
David Rogers

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

VT SUPERIOR COURT
WASHINGTON UNIT
OFFICE

2016 NOV 22 A 9:52

**STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT**

IN RE: GIVALIKE.ORG, LLC, DONATIC, and BENJAMIN KATZ,)
) CIVIL DIVISION
)
) Docket No. 688-11-16 *atw*
)

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell (the "Attorney General"), together with Givalike.Org, LLC ("Givalike"), Donatic, and Benjamin Katz (collectively "Respondents"), hereby agree to this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. §§ 2459, 2479(b).

SUMMARY

The Attorney General alleges that Respondents failed to register as paid fundraisers pursuant to the Vermont Charitable Solicitations Law, 9 V.S.A. §§ 2471-2479, or to otherwise comply with that statute. In addition, the Attorney General alleges that by improperly using a charity's logo Respondents misled consumers into believing that they are connected to that charity or had the charity's permission to use its mark, in violation of the Vermont Consumer Protection Act, 9 V.S.A. Chapter 63.

REGULATORY FRAMEWORK

1. The Attorney General is authorized to enforce the provisions of the Consumer Protection Act, 9 V.S.A. Chapter 63, including the Charitable Solicitations Law, 9 V.S.A. §§ 2471-2479.

2. Under the Charitable Solicitations Law, a “paid fundraiser” is a “person who, for financial consideration, solicits contributions from persons in [Vermont].” 9 V.S.A. § 2471(9)(A).
3. The definition of “solicit” is “the direct or indirect request for a contribution . . . in connection with which. . . [t]he name of any charitable organization or name similar to any charitable organization is used as an inducement for making the contribution” 9 V.S.A. § 2471(9)(A).
4. Under 9 V.S.A. § 2473, a paid fundraiser is required to file with the Attorney General a notice of solicitation prior to soliciting in Vermont.
5. Vermont’s Consumer Protection Act prohibits “[u]nfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.” 9 V.S.A. § 2453.
6. The three elements of the Vermont Consumer Protection Act are: (1) the consumer is likely to be misled or has been misled; (2) the consumer’s interpretation of the representation is reasonable; and (3) the misleading misrepresentation is material. Jordan v. Nissan North America, Inc., 2004 VT 27, 176 Vt. 465, 853 A.2d 40.
7. The Attorney General is authorized to pursue enforcement and seek relief under 9 V.S.A. § 2458 for violations of the Consumer Protection Act, including injunctive relief, civil penalties of up to \$10,000 for each violation, reimbursement for the reasonable value of the services and expenses incurred in investigating and prosecuting an action, and restitution for persons aggrieved by the violation.

DEFINITIONS

8. For the purposes of this AOD, the terms “charitable organization,” “contribution,” “paid fundraiser,” and “solicitation” are defined in the same manner as they are defined in 9 V.S.A § 2471.

BACKGROUND

9. Until August 2015, respondent Givalike was a limited liability company operating under the laws of Delaware, and had its principal place of business located at 4858 Mercury St. #205, San Diego, California 92111. Givalike cancelled its corporate status on August 25, 2015, is no longer in business, and no longer has a website.

10. Respondent Benjamin Katz of 4676 Kensington Dr., K, San Diego, California 92116-3823, was an owner and the CEO of Givalike.

11. Respondent Donatic is a non-profit corporation specializing in computer services incorporated under the laws of California, with its principal place of business located at 404 Euclid Ave., Suite 261, San Diego, California 92114.

12. At all times relevant to this AOD, Donatic and Givalike had a contract pursuant to which Givalike (a) managed Donatic’s internet and mobile device applications and databases; (b) automated a large portion of the workflow for Donatic; (c) provided technical support and training for current and potential Donatic website users; and (d) promoted Donatic through social media.

13. Beginning on or about May 23, 2013, Givalike entered into a contract with Tributes, a publisher of online obituaries. This contract permitted Givalike to use web “plugin” software to automatically update obituaries (the “Givalike Plugin”) published by Tributes with hyperlinks to Givalike’s website except where the obituary already contained a hyperlink to a charity. A consumer who clicked on the hyperlink was brought to a donation form on Givalike’s website via the Givalike Plugin through which he or she could make a donation to a charity for a fee (the “Donation Form”).

14. Beginning on or about June 10, 2013, Givalike entered into a contract similar to its contract with Tributes with CurrentObituary, a publisher of online obituaries, to use the Givalike Plugin with respect to online obituaries published by CurrentObituary, thereby taking donors to the Donation Form.

15. Beginning on or about August 20, 2014, Givalike entered into a contract similar to its contract with Tributes and CurrentObituary with Legacy.com, a publisher of online obituaries, to use the Givalike Plugin with respect to online obituaries published by Legacy.com, thereby taking donors to the Donation Form.

16. A donation made via the Donation Form required a fee of the donor ranging from 5% of the charitable donation, plus \$0.50, to 8.5% of the charitable donation, plus \$0.50.

17. Givalike did not receive consent from any charity before inserting its Givalike Plugin into an online obituary, and instead informed the charity about the Givalike Plugin after a donation was made.
18. On its Donation Form, Givalike used certain charities' names, trademarks and/or logos without those charities' permission.
19. None of the Respondents are registered paid fundraisers in Vermont.
20. From August 2013 to April 2015, over 200 Vermont consumers clicked on the Givalike Plugin, made a donation via Givalike's Donation Form and paid fees ranging from \$1 to \$40.50 to make a contribution to a charity.
21. From August 6, 2013, to April 5, 2015, Vermont consumers donated \$16,961.35 to 157 charities using Givalike's Donation Form. These donations ranged in size from \$10 to \$535.50.
22. From August 6, 2013 to April 5, 2015, Vermonters paid Givalike \$1,311.03 in fees.
23. Respondents admit to the truth of all facts set forth in the Background section.
24. The Attorney General alleges that the conduct described above demonstrates violations of the Vermont Charitable Solicitations Law and the Vermont Consumer Protection Statute.

AGREEMENT

25. It is hereby AGREED that Respondents shall not: (a) operate as a paid fundraiser in the state of Vermont without registering as a paid fundraiser and complying with Vermont's Charitable Solicitations Law, (b) accept, or solicit for, charitable donations from donors with Vermont zip codes without making a full disclosure of the fees that the Respondents will charge

to process the donation, or (c) accept donations on behalf of, or solicit for, any charity headquartered in Vermont, without the express, written permission from the charity and after full disclosure of the fees that the Respondents will charge to process the donation.

MONETARY RELIEF

26. Within ten (10) days of signing this Assurance of Discontinuance, Respondents Donatic, Givalike, and/or Mr. Katz shall pay collectively fifteen thousand three hundred eleven dollars (\$15,311.00, the "Settlement Payment") to the State of Vermont by either wire transfer or in the form of a bank or cashier's check made out to the State of Vermont and delivered to Assistant Attorney General Charity R. Clark, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

OTHER TERMS

27. Respondents agree that the terms of this AOD shall be binding on them and their successors and assigns.

28. The Attorney General hereby releases and discharges any and all potential or actual claims arising under the Consumer Protection Act, 9 V.S.A. chapter 63, Consumer Protection Rule CP 119 that it may have against Respondents for the conduct described in the Background section up to August 21, 2015.

29. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this AOD.

STIPULATED PENALTIES


30. If the Superior Court of the State of Vermont, Washington Unit, enters an order finding any Respondent to be in violation of this AOD, then the parties agree that penalties to be assessed by the Court against the Respondent in violation of this AOD shall be \$10,000.00 for each violation.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

SIGNATURES

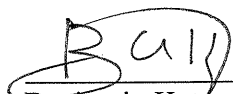
In lieu of instituting an action or proceeding against Respondents, the Office of the Attorney General, pursuant to 9 V.S.A. §§ 2459 and 2479, accepts this AOD. By signing below, Respondents voluntarily agree with and submit to the terms of this AOD.

DATED at SAN DIEGO, CA, this 18 day of OCTOBER, 2016.




Benjamin Katz, as Owner and CEO of Givalike

DATED at SAN DIEGO, CA, this 18 day of OCTOBER, 2016.



Benjamin Katz

DATED at San Diego, this 18 day of October, 2016.



Dwayne Crenshaw as Chair of Donatic

ACCEPTED on behalf of the Vermont Attorney General:

DATED at Burlington, Vermont this 16th day of November 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Charity R. Clark
Assistant Attorney General
109 State Street
Montpelier, Vermont 05609
charity.clark@vermont.gov
(802) 656-8430

**STATE OF VERMONT
SUPERIOR COURT**

IN RE: Gregory Finch

) CIVIL DIVISION 2018 027 10 28

) Docket No. 625-10-16wncv

)

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell (“the Attorney General”) and Gregory Finch (“Respondent”) hereby agree to this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

REGULATORY FRAMEWORK

1. Vermont’s Consumer Protection Act prohibits “unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.” 9 V.S.A. § 2453.

BACKGROUND

2. Gregory Finch is an individual residing at Sullivan, New Hampshire.
3. Vermont’s Family Farm is a terminated Limited Liability Company with its previous place of business located at 15 Towle Neighborhood Rd., Enosburg Falls, VT 05450;
4. Gregory Finch operated his pig production operation through Vermont’s Family Farm, and Gregory Finch was the sole member and manager of Vermont’s Family Farm.
5. Respondent began producing pigs in 2009, purchasing approximately 100 pigs from within and outside of Vermont.
6. In 2009, Respondent circulated a protocol dated December 2, 2009 (the “Initial Protocol”), which stated that “[t]he pigs are born, grown and processed exclusively in the State of Vermont.”

7. Respondent never stopped using pigs purchased out of state to supplement his Vermont-born stock. These “feeder” pigs were purchased, primarily, from New Holland, Pennsylvania, and were taken to the Enosburg Falls farm site.
8. Respondent never signed the protocol, but Respondent never amended the protocol to reflect his actual practices.
9. Although Respondent processed all of his pigs in Vermont, his pigs were never exclusively born or grown in the state of Vermont.
10. In January of 2014, Respondent signed a Black River Protocol, which required that his pigs be raised the lesser of 90 days or half their life in Vermont.
11. The pigs Respondent purchased from New Holland Stables were not in Vermont for half of their life.
12. The Attorney General alleges that, based on the records of purchases from New Holland Stables, located in New Holland, Pennsylvania, and the pigs remaining at Vermont’s Family Farm on February 13, 2015, when the Vermont State Veterinarian placed a quarantine order restricting the movement of livestock, Respondent could not have been maintaining the pigs in Vermont for a minimum of 90 days.
13. Both the Initial Protocol and the Black River Protocol additionally stated that Respondent’s pigs were raised antibiotic-free throughout their lifetimes.
14. While Respondent did not use antibiotics on any pigs in his care or custody that went to Black River, he is unable to substantiate the claims that the pigs were raised antibiotic-free and did not obtain records from New Holland Stables that addressed the use of antibiotics.

15. The representations made by Respondent regarding the origin of the pigs and circumstances of production were relied upon by Vermont Packing House for the labeling of slaughtered pigs, Black River Meats in packaging and distributing the pork, and Vermont Smoke and Cure in labeling and marketing its consumer products.

16. Consumers paid a premium price for products made from Respondent's pigs.

17. Except where otherwise indicated, Respondent admits the truth of all facts set forth in the Background section.

18. The Attorney General alleges that the above conduct constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

INJUNCTIVE RELIEF

19. Respondent must comply fully with 9 V.S.A. § 2454 and must cease making any unsubstantiated representations regarding any characteristic of his products, including without limitation the origin, use of antibiotics, other production practices, and treatment of livestock.

PENALTIES

20. Respondent shall pay civil penalties of \$143,875 to the State of Vermont.

21. Based on Respondent's demonstrated inability to pay the penalty listed in paragraph 20, and upon review of the financial information Respondent provided to the Office of the Attorney General, Respondent is required to pay only \$5,000 of the penalty, which shall be paid within ten days of both Parties signing this AOD. Respondent shall make payment to the "State of Vermont" and send payment to: Wendy Morgan, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

22. No later than May 1 of each calendar year beginning in 2017 and ending in 2021, Respondent shall submit to the Vermont Attorney General's Office accurate copies of his income tax returns for each of the calendar years 2016 through 2020, respectively, along with sworn and accurate statements of his then-current assets and liabilities. After 2021, Respondent shall no longer be required to submit any further tax returns and liability for any outstanding civil penalty under this Assurance of Discontinuance shall expire.

23. In the event that an income tax return or statement of assets and liabilities required by paragraph 23, above, shows that Respondent has pre-tax income exceeding \$50,000.00, and/or net assets exceeding \$80,000.00, Respondent shall, no later than June 1 of that year, pay to the State of Vermont, in care of the Attorney General's Office, an amount equal to 20 percent of any pre-tax income exceeding \$50,000.00, plus an amount equal to 20 percent of any net assets exceeding \$80,000.00, provided that once Respondent has paid a total of \$138,269 pursuant to this paragraph, he shall have no further liability under this paragraph or further obligation to report under paragraph 23.

24. Respondent will not have any obligation to pay amounts due pursuant to paragraph 24 from payments of benefits subject to statutory exemptions including, but not limited to Veteran's Benefits (38 U.S.C. § 5301); Social Security or Supplemental Security Income (42 U.S.C. §§407 and 1383); Unemployment Compensation Benefits (21 V.S.A. § 1367); Workers' Compensation Benefits (21 V.S.A. § 687); or Welfare or Public Assistance Benefits (33 V.S.A. § 124).

25. Respondent does not waive and shall be entitled to claim all exemptions under New Hampshire and Vermont law.

OTHER TERMS

26. Respondent agrees that this Assurance of Discontinuance shall be binding on Vermont's Family Farm, Gregory Finch, and their successors and assigns.

27. As Gregory Finch was the sole member and manager of Vermont's Family Farm, this Assurance of Discontinuance does not extend or apply to any spouse or family member of Gregory Finch, except to the extent that said spouse or family member becomes a successor or assign.

28. The Attorney General hereby releases and discharges any and all claims arising under the Consumer Protection Act, 9 V.S.A. §§ 2451-2480, that it may have against Vermont's Family Farm and Gregory Finch for the conduct described in the Background section between the dates of January 1, 2009, through March 1, 2015.

29. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this Assurance and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this Assurance of Discontinuance.

NOTICE

30. Respondent may be located at:
Sullivan, New Hampshire.

31. Respondent shall notify the Attorney General of any change of address within 20 business days.

32. In the event that Respondent obtains any ownership or managerial interest in any business that engages in food production, Respondent shall notify the Attorney General of the name and address of the business.

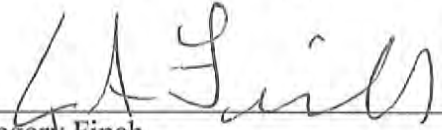
STIPULATED PENALTIES

33. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance, then the parties agree that penalties to be assessed by the Court for each act in violation of this Assurance of Discontinuance shall be \$10,000.

SIGNATURE

In lieu of instituting an action or proceeding against Respondent, the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance. By signing below, Respondent voluntarily agrees with and submits to the terms of this Assurance of Discontinuance.

DATED at Sullivan, NH, this 31st day of August, 2016.



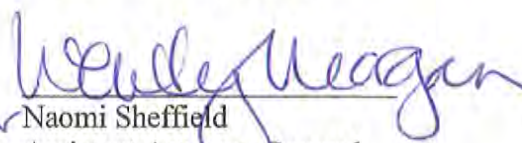
Gregory Finch

ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 3rd day of October 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 
for Naomi Sheffield
Assistant Attorney General

VT SUPERIOR COURT
WASHINGTON UNIT
2016 MAY -2 P 1:32

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: HASKINS GAS SERVICE, INC.)

CIVIL DIVISION

Docket No. 203-S-16Wncw

FILED FILED

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Haskins Gas Service, Inc. (“Haskins” or “Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Background

Haskins Gas Service, Inc.

1. Haskins is a corporation with its principal place of business at 1791 Route 30, Dorset, Vermont 05251.
2. Haskins’ operations include the retail marketing, sale and distribution of propane to residential, commercial, and industrial customers in Vermont. In 2015, Haskins provided propane service to approximately 2,769 customers.

Regulatory Framework

3. 9 V.S.A. § 2453(a) prohibits “[u]nfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.”
4. Pursuant to 9 V.S.A. § 2461b, the Vermont Attorney General’s Office has regulation of and rulemaking authority to promote business practices which are uniformly fair to sellers and to protect consumers concerning propane gas. Since 1986, Vermont Consumer Protection Rule 111 (“CP 111” or “Propane Rule”) has governed the

Office of the
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GENERAL
109 State Street
Montpelier, VT
05609

business practices of propane service providers in Vermont and is enforced by the Office of the Attorney General.

5. When a propane gas seller terminates service to a consumer using a seller-owned tank, CP 111.16(a) requires that seller to, “refund the consumer within 20 days of the date when the seller disconnects propane service or is notified by the consumer in writing that the seller’s equipment is no longer connected, whichever is earlier, (1) the amount paid by the consumer for any propane remaining in the storage tank, less any payments due the seller from the consumer; or, (2) the amount paid by the consumer for 80 percent of the seller’s best reasonable estimate of the quantity of propane remaining in the tank less any payments due the seller from the consumer, if the quantity of propane remaining in the storage tank cannot be determined with certainty.” *See also* 9 V.S.A. § 2461b(e)(2)(B) (same).
6. CP 111.16(c)(1) requires a propane seller that fails to issue a timely refund to pay a penalty to consumers of \$250 for the first day, plus \$75/day each day thereafter, until the refund and penalty are paid in full. *See also* 9 V.S.A. § 2461b(e)(4) (same, but capping the total amount of the \$75/day penalty at 10 times the amount of the refund).
7. CP 111.15(a) requires a propane seller to remove a seller-owned storage tank at a terminated consumer’s request (which must be in writing if the tank was disconnected by someone other than the seller owning the tank) within 20 days for an aboveground tank (30 days in the case of an underground tank) or as soon as weather and access to the tank permits. As of July 1, 2013, 9 V.S.A. § 2461b(h)(3) requires a propane seller that fails to remove a tank within required timeframes to

pay a penalty to consumers of \$250 for the first day, plus \$75/day each day thereafter (and capping the total amount of the \$75/day penalty at \$2,000), until the tank has been removed and the tank removal penalty is paid in full.

Haskins' Propane Practices

8. The Vermont Attorney General's Consumer Assistance Program received consumer complaints about Haskins' propane practices. In investigating those complaints, Haskins acknowledged its practices as follows.
9. Between January 1, 2012 and July 30, 2015, 96 customers appeared to have experienced unjustified refund delays and tank removal delays during Haskins' service termination practices.

The State's Allegations

10. The Vermont Attorney General's Office alleges the following violations of the Consumer Protection Act and Rules:
 - a. The failure to reimburse Vermont consumers for unused gas remaining in the tank following disconnection or termination of service within the required timeframe is a violation of 9 V.S.A. § 2461b(e)(2)(B) and CP 111.16(a); and
 - b. The failure to remove storage tanks, without apparent justification, within the required timeframe is a violation of the 9 V.S.A. § 2461b(h)(1) and CP 111.15(a).
11. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Haskins, the Attorney General and Haskins are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Agreeing to the terms of this Assurance of Discontinuance for purposes of settlement does not constitute an admission by Haskins to a violation of any law, rule, regulation or prior AOD. Accordingly, the parties agree as follows:

12. Haskins shall comply with the Vermont Consumer Protection Act 9 V.S.A. Chapter 63 and CP 111, as they may from time to time be amended.
13. Haskins shall immediately establish policies and procedures reasonably designed to achieve compliance with: (a) 9 V.S.A. § 2461b(h) and CP 111.15 [requirements for timely removal of propane storage tanks]; and (b) 9 V.S.A. § 2461b(e)(2)-(4) and CP 111.16 [requirements for issuing timely refunds of unused propane gas]. Haskins shall provide appropriate training to its applicable personnel in how to properly implement those policies and procedures.
14. Within 30 days of entry of this AOD, Haskins shall pay \$475 to each of the 96 consumers referenced in ¶ 9 as restitution and as liquidated and/or punitive damages in settlement for any tank or refund delay, which payments shall total \$45,600. Haskins shall mail a check to the consumers along with a copy of Exhibit A in an envelope provided by the Attorney General's Office. All checks may be written by Haskins to expire within 90 days. Consumers who wish to pursue a claim independently may do so by refusing the payment. However, a consumer who accepts the payment by receiving the check and cashing it within 90 days of its date waives the ability to pursue an individual claim of either a delayed tank removal or

delayed refund check. Within 30 days of entry of this AOD Haskins shall send to the Attorney General's Office a list of all consumers to whom restitution payments were mailed, including, for each consumer, contact information and the amount paid.

15. Within 30 days of entry of this AOD, Haskins shall pay to the State of Vermont \$15,000 in civil penalties and costs. Payment shall be made to the "State of Vermont" and shall be sent to the Vermont Attorney General's Office at the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.
16. In the event that Haskins is not able to locate consumers to whom payments are owed after all reasonable efforts to do so have been taken and no later than 120 days after the signing of this AOD, Haskins shall send (via mail or email) to the Attorney General's Office:
 - a. a single check, payable to "Vermont State Treasurer" in the total dollar amount of all outstanding amounts intended as settlement payments, which shall be treated as unclaimed funds, under Vermont's unclaimed property statute, Title 17, Vermont Statutes Annotated, Chapter 14;
 - b. a list, in electronic Excel format, of the consumers whose checks were returned or were not cashed (which list shall set out the first and last names of the consumers in distinct fields or columns), and for each such consumer, the last known address and dollar amount due, and
 - c. Haskins' principal company address and federal tax identification number.
17. For a period of one year from the date of entry of this AOD, Haskins shall document its compliance with CP 111.15 and CP 111.16 by recording the dates and manner

that: (a) a consumer requests termination of service (including any request for a future tank removal if applicable); (b) the consumer's propane tanks were disconnected or removed; and (c) the consumer's refund check, if any, was issued.

18. Haskins shall send to the Attorney General's Office a report containing the information required by ¶ 18. If there are delays in terminating service (i.e., beyond the allowable timeframes), Haskins shall document the reason(s) for the delay(s), whether any penalty was paid for delayed termination or refund, and the date and amount of any payment. Such reports and documentation shall be submitted every 6 months for one year for a total of two reports.
19. If any consumer complains to Haskins about a delay in tank removals or refund checks between July 31, 2015 to the date of entry of this AOD, Haskins shall review the consumer's complaint in good faith within twenty days. In the event the consumer demonstrates that the refund check or tank removal was untimely and unexcused pursuant to Vermont law, then Haskins shall pay the penalty owed per Vermont law. If Haskins disputes that any penalty is owed, Haskins shall send a written explanation to the consumer as to why it believes no penalty is owed, and shall include a statement that the consumer may contact the Consumer Assistance Program at (802) 656-3183 or consumer@uvm.edu if the consumer disagrees.

Other Terms

20. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.

21. Nothing herein shall waive any defense available to Haskins on the issues of termination fees, tank removals and/or refunds under the Vermont Consumer Protection Act or CP 111.
22. This AOD shall be binding on Respondent, all of its affiliate companies doing business in Vermont, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of Respondent shall promptly take reasonable steps to ensure that copies of this document are provided to all officers, directors, owners and managers of the company, and all of its affiliate companies doing business in Vermont, but only to the extent such officers and managers are responsible for operations in the State of Vermont.
23. This AOD resolves all existing claims the State of Vermont may have against Respondent stemming from the conduct described in this document as of the date of signature below.
24. Nothing in this AOD waives the right of any consumer to pursue claims stemming from the conduct described in this document; except, however, that any consumer as provided herein and/or in Exhibit A hereto who accepts and cashes a check shall waive any claim regarding delayed refund checks and tank removals.
25. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties for the purpose of enabling any of the parties hereto to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

26. All notices related to this AOD shall be given to Respondent via:

Richard A. Lang, Esq.
Law Offices of John Franco
110 Main Street, Suite 208
Burlington, VT 05401-8451
Ralangjr4030@gmail.com

Violations and Stipulated Penalties

27. In the event that the Attorney General alleges that Haskins has violated any of the terms of this AOD, then the parties agree that the Attorney General shall be entitled to bring any other matters to the Court's attention involving potential violations of law by Haskins, and that the Attorney General shall not have waived any of its rights to assert and prove any violations of law by Haskins unrelated to the conduct described in this AOD.

28. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Haskins to be in violation of this AOD, then the parties agree that penalties to be assessed by the Court for each act in violation of this AOD shall be \$5,000. For purposes of this paragraph 28, it shall not apply to a *de minimis* violation and the term "each act" shall mean: (i) failing to remove a propane tank within the timeframe required by Vermont law; (ii) failing to issue a refund check for unused propane gas within the timeframe required by Vermont law; and (iii) charging a termination fee that does not comply with CP 111.

**Office of the
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Montpelier, VT
05609**

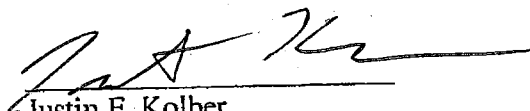
SIGNATURES APPEAR ON NEXT PAGE

DATED at Montpelier, Vermont this 29th day of April, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

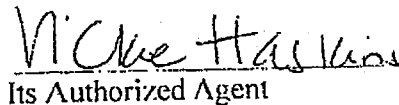


Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at DORSET, VT this 29 day of April, 2016.

HASKINS GAS SERVICE, INC.

By:

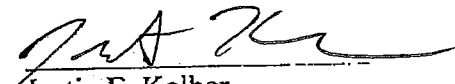


Its Authorized Agent

Vickie HASKINS VP
Name and Title of Authorized Agent

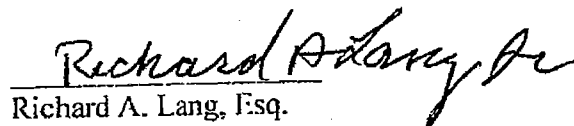
APPROVED AS TO FORM:

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609



Justin F. Kolber
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609

For the State of Vermont



Richard A. Lang, Esq.
Law Offices of John Franco
110 Main Street, Suite 208
Burlington, VT 05401-8451

For Haskins Gas Service, Inc.

EXHIBIT A

May 2016

Re: Haskins Gas Service, Inc. settlement

Dear Vermont consumer:

You are a current or former customer of Haskins Gas Service, Inc. ("Haskins"). Between January 1, 2012, and July 1, 2015, you may have terminated propane service from Haskins.

Haskins reached a settlement with the Attorney General's Office. Haskins is providing the enclosed payment of \$475 for you. The payment is to address any delays that may have happened while removing propane tanks or issuing refund checks.

Under the Vermont Consumer Protection Act, propane companies generally have 20 days to remove propane tanks and 20 days to issue refund checks. Some exceptions apply. Consumers are generally entitled to penalties if propane companies exceed those timeframes. The penalties are generally \$250 plus \$75 per day, up to certain limits. The full statute is here: <http://legislature.vermont.gov/statutes/section/09/063/02461b>.

To accept the enclosed check as full payment, simply cash the check within 90 days. If you accept the check, you will waive whatever rights, if any, that you may possess to pursue an individual claim against Haskins resulting from delays in tank pick-up and/or making a refund.

You may decline the payment if you wish. However, please note that the Attorney General's Office does not provide legal representation and you will be responsible for the costs of any claim you might wish to pursue. To decline the payment, return or mail the check within 90 days of the date of this letter, to: Vickie Haskins, Haskins Gas Service, 1791 Route 30, Dorset, VT, 05251.

For more information on Vermont's propane laws or this settlement, please call the Consumer Assistance Program at 800-649-2424 or (802) 656-3183 or visit the website at <https://www.uvm.edu/consumer/?Page=fuel.html>.

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

Sincerely,

William H. Sorrell
Attorney General

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	Civil Action No. 16-0199
HSBC NORTH AMERICA HOLDINGS)	
INC., <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

CONSENT JUDGMENT

WHEREAS, Plaintiffs, the United States of America and the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia, and the District of Columbia (collectively, the States, Commonwealths, and the District of Columbia are referred to as the “States”) filed their complaint on February 5, 2016, alleging that HSBC North America Holdings Inc. (“HNAH”), HSBC Bank USA, N.A. (“HBUS”), HSBC Finance Corporation (“HBIO”), and HSBC Mortgage Services Inc. (“HMSI”) (collectively, “Defendants”) violated, among other laws, the Unfair and Deceptive Acts and Practices laws of the Plaintiff States, the

False Claims Act, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the Bankruptcy Code and Federal Rules of Bankruptcy Procedure;

WHEREAS, the parties have agreed to resolve their claims without the need for litigation;

WHEREAS, Defendants, by their attorneys, have consented to entry of this Consent Judgment without trial or adjudication of any issue of fact or law and to waive any appeal if the Consent Judgment is entered as submitted by the parties;

WHEREAS, Defendants, by entering into this Consent Judgment, do not admit the allegations of the Complaint other than those facts deemed necessary to the jurisdiction of this Court;

WHEREAS, the intention of the United States and the States in effecting this settlement is to remediate harms allegedly resulting from the alleged unlawful conduct of the Defendants;

AND WHEREAS, Defendants have agreed to waive service of the complaint and summons and hereby acknowledge the same;

NOW THEREFORE, without trial or adjudication of issues of fact or law, without this Consent Judgment constituting evidence against Defendants, and upon consent of Defendants, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355(a), and 1367, and under 31 U.S.C. § 3732(a) and (b), and over Defendants. The Complaint states a claim upon which relief may be granted against Defendants. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2) and 31 U.S.C. § 3732(a).

II. SERVICING STANDARDS

2. Defendants shall comply with the Servicing Standards, attached hereto as Exhibit A, in accordance with their terms and Section A of Exhibit E, attached hereto.

III. FINANCIAL TERMS

3. *Payment Settlement Amounts.* Defendants shall pay the sum of one hundred million dollars (\$100,000,000.00), which shall be known as the “Direct Payment Settlement Amount.” Forty million and five hundred thousand dollars (\$40,500,000.00) (the “Federal Payment Settlement Amount”) of the Direct Payment Settlement Amount shall be paid by Defendants by electronic funds transfer within seven days after the date on which this Consent Judgment has been entered by the Court and has become final and non-appealable¹ (“Date of Entry”) pursuant to written instructions to be provided by the United States Department of Justice. The remaining fifty-nine million and five hundred thousand dollars (\$59,500,000.00) (the “State Payment Settlement Amounts”) of the Direct Payment Settlement Amount shall be paid into an interest bearing escrow account to be established for this purpose and shall be distributed in the manner and for the purposes specified in Exhibit B. Defendants shall pay the State Payment Settlement Amounts by electronic funds transfer, pursuant to written instructions to be provided by the State Members of the Monitoring Committee into an escrow account established in accordance with this Paragraph 3, within seven days of receiving notice that the escrow account has been established or within seven days of the Date of Entry of this Consent Judgment, whichever is later. After Defendants have made the required payments, Defendants shall no longer have any property right, title, interest or other legal claim in any funds, including those held in escrow. The interest bearing escrow account established by this Paragraph 3 is

¹ An order entering the Consent Judgment shall be deemed final and non-appealable for this purpose if there is no party with a right to appeal the order on the day it is entered.

intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1 of the U.S. Internal Revenue Code of 1986, as amended. The State members of the Monitoring Committee established in Paragraph 8 shall, in their sole discretion, appoint an escrow agent (“Escrow Agent”) who shall hold and distribute funds as provided in Exhibit B. All costs and expenses of the Escrow Agent, including taxes, if any, shall be paid from the funds under its control, including any interest earned on the funds.

4. *Payments to Foreclosed Borrowers.* In accordance with written instructions from the State members of the Monitoring Committee, for the purposes set forth in Exhibit C, the Escrow Agent shall transfer from the escrow account to the Administrator appointed under Exhibit C fifty-nine million and three hundred thousand dollars (\$59,300,000) (the “Borrower Payment Amount”) to enable the Administrator to provide cash payments to borrowers whose homes were finally sold or taken in foreclosure by Defendants between and including January 1, 2008 and December 31, 2012; who submit claims allegedly arising from the Covered Conduct (as that term is defined in Exhibit G hereto); and who otherwise meet criteria set forth by the State members of the Monitoring Committee; and to pay the reasonable costs and expenses of a Settlement Administrator, including state and federal taxes and fees for tax counsel, if any. Defendants shall also pay or cause to be paid any additional amounts necessary to pay claims, if any, for borrowers whose data is provided to the Settlement Administrator by Defendants after Defendants warrant that the data is complete and accurate pursuant to Paragraph 3 of Exhibit C. The Borrower Payment Amount and any other funds provided to the Administrator for these purposes shall be administered in accordance with the terms set forth in Exhibit C.

5. *Consumer Relief.* Defendants shall provide three hundred and seventy million dollars (\$370,000,000.00) of relief to consumers who meet the eligibility criteria in the forms

and amounts described in Paragraphs 1-9 of Exhibit D, as amended by Exhibit I, to remediate harms allegedly caused by the alleged unlawful conduct of Defendants. Defendants shall receive credit towards its consumer relief obligations as described in Exhibit D as amended by Exhibit I.

IV. ENFORCEMENT

6. The Servicing Standards and Consumer Relief Requirements, attached as Exhibits A and D, are incorporated herein as the judgment of this Court and shall be enforced in accordance with the authorities provided in the Enforcement Terms, attached hereto as Exhibit E.

7. The Parties agree that Joseph A. Smith, Jr. shall be the Monitor and shall have the authorities and perform the duties described in the Enforcement Terms, attached hereto as Exhibit E.

8. The Parties agree that the Monitoring Committee established pursuant to certain Consent Judgments entered in *United States, et al. v. Bank of America Corp., et al.*, No. 12-civ-00361-RMC (April 4, 2012) (Docket Nos. 10-14) and referenced specifically in paragraph 8 of those Consent Judgments, shall be designated as the committee responsible for performing the role of the Administration and Monitoring Committee, as described in the Enforcement Terms. References to the “Monitoring Committee” in this Consent Judgment and related documents shall be understood to refer to the same Monitoring Committee as that established in the *Bank of America Corp.* case referenced in the preceding sentence, except that the Monitoring Committee will not include any non-signatories to this Consent Judgment, and the Monitoring Committee shall serve as the representative of the participating state and federal agencies in the administration of all aspects of this Consent Judgment and the monitoring of compliance with it by the Defendants.

V. RELEASES

9. The United States and Defendants have agreed, in consideration for the terms provided herein, for the release of certain claims and remedies, as provided in the Federal Release, attached hereto as Exhibit F. The United States and Defendants have also agreed that certain claims and remedies are not released, as provided in Paragraph 11 of Exhibit F. The releases contained in Exhibit F shall become effective upon payment of the Direct Payment Settlement Amount by Defendants.

10. The Plaintiff States and Defendants have agreed, in consideration for the terms provided herein, for the release of certain claims and remedies, as provided in the State Release, attached hereto as Exhibit G. The State Plaintiffs and Defendants have also agreed that certain claims and remedies are not released, as provided in Part IV of Exhibit G. The releases contained in Exhibit G shall become effective upon payment of the Direct Payment Settlement Amount by Defendants.

VI. OTHER TERMS

11. In the event that the Defendants (a) do not complete the Consumer Relief Requirements set forth in Exhibit D, as amended by Exhibit I, and (b) do not make the Consumer Relief Payments (as that term is defined in Exhibit F (Federal Release)) and fail to cure such non-payment within thirty days of written notice by the party, the United States and any State Plaintiff may withdraw from the Consent Judgment and declare it null and void with respect to the withdrawing party.

12. This Court retains jurisdiction for the duration of this Consent Judgment to enforce its terms. The parties may jointly seek to modify the terms of this Consent Judgment,

subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

13. The Effective Date of this Consent Judgment shall be the date the Consent Judgment is executed by all parties.

14. This Consent Judgment shall remain in full force and effect until four Quarters of compliance testing have been completed, which shall be no later than December 31, 2016 (the “Term”), at which time the Defendants’ obligations under the Consent Judgment shall expire, except that, pursuant to Exhibit E, Defendants shall submit a final Quarterly Report for the last Quarter or portion thereof falling within the Term and cooperate with the Monitor's review of said report and the Monitor’s review and certification that Defendant has completed its consumer relief obligations, if not already certified, all of which shall be concluded no later than June 30, 2017. Defendants’ obligations to submit a final Quarterly Report and cooperate with the Monitor’s review of said report and Defendant’s consumer relief obligations shall expire June 30, 2017, but the Court shall retain jurisdiction for purposes of enforcing or remedying any outstanding violations, including any violations that are identified in the final Monitor Report and that have occurred but not been cured during the Term, and to enforce HSBC’s consumer relief obligations, to the extent that the Monitor has not already certified that HSBC has satisfied its consumer relief obligations. The Parties have agreed to a shortened term in recognition of the fact that HBIO has steadily decreased its servicing portfolio over the last several years, and has moved a significant portion of its remaining serviced loans to held-for-sale status, ultimately intending to exit servicing.

15. Except as otherwise agreed in Exhibit B, each party to this litigation will bear its own costs and attorneys’ fees associated with this litigation.

16. Nothing in this Consent Judgment shall relieve Defendants of their obligation to comply with applicable state and federal law.

17. The sum and substance of the parties' agreement and of this Consent Judgment are reflected herein and in the Exhibits attached hereto. In the event of a conflict between the terms of the Exhibits and paragraphs 1-17 of this summary document, the terms of the Exhibits shall govern.

SO ORDERED this ____ day of _____, 2015

UNITED STATES DISTRICT JUDGE

For the United States:



STUART DELERY

Acting Associate Attorney General

U.S. Department of Justice

950 Pennsylvania Ave., N.W.

Washington, DC 20530

Tel.: 202-514-9500

Fax: 202-514-0238

For the Department of the Treasury:

John H. Sturc

JOHN H. STURC

Chief Counsel

Office of Financial Stability

U.S. Department of the Treasury

1500 Pennsylvania Avenue, NW

Washington, D.C. 20220

Tel.: 202-622-5451

For the Department of Housing and Urban Development:



HELEN R. KANOVSKY

General Counsel

U.S. Department of Housing and Urban Development


451 7th Street, S.W.

Washington, DC 20410

Tel.: 202-708-2244

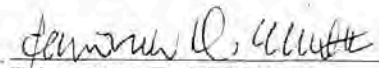
Fax: 202-708-3389

For the Consumer Financial Protection Bureau:
(as to Exhibit F only):




James T. Sugarman
Assistant Litigation Deputy
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
Tel: 202-435-5915

For the Executive Office for U.S. Trustees



RAMONA D. ELLIOTT
Deputy Director/General Counsel
441 G Street, N.W., Suite 6150
Washington, DC 20530
Tel.: 202-307-1399
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For the Federal Trade Commission
(as to Exhibit F only):



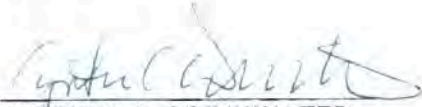
Stephanie Rosenthal, Chief of Staff
Division of Financial Practices
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Ave., NW
CC-10232
Washington, DC 20058
Tel: 202-326-3332
Fax: 202-326-3768

For the State of Alabama:

A handwritten signature in black ink, appearing to read 'Olivia Martin', written over a horizontal line.

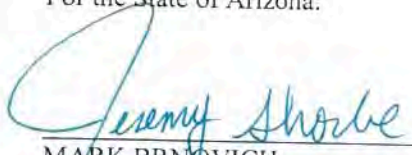
OLIVIA MARTIN
Assistant Attorney General
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For the State of Alaska:



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Alaska Attorney General's Office
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For the State of Arizona:



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Arizona Attorney General
by Jeremy T. Shorbe
Assistant Attorney General
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For the State of Arkansas:

LESLIE RUTLEDGE
Attorney General



SARAH PAGE TACKER
Ark. Bar No. 2002-189
Deputy Attorney General
Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
Tel.: 501-682-1321
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For the State of California:

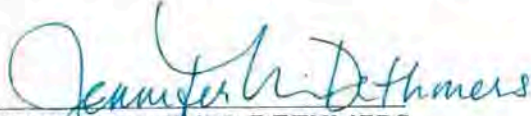
KAMALA D. HARRIS
Attorney General

A handwritten signature in cursive script, appearing to read "Tina Charoenpong", is written over a horizontal line.

TINA CHAROENPONG
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300 South Spring Street, Suite 1702
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For the State of Colorado, *ex. rel.*

CYNTHIA H. COFFMAN, Attorney General:



JENNIFER MINER DETHMERS

THERESA C. LESHER

Assistant Attorneys General

Consumer Protection Section

Colorado Department of Law

Ralph L. Carr Colorado Judicial Center

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For the State of Connecticut:

GEORGE JEPSEN, Attorney General

A handwritten signature in cursive script, appearing to read "Joseph J. Chambers", is written over a horizontal line.

JOSEPH J. CHAMBERS

Assistant Attorney General

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For the State of Delaware:



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Delaware Department of Justice
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Fax: 302-577-6499

For the District of Columbia:

KARL A. RACINE
Attorney General for the District of Columbia

NATALIE LUDAWAY
Chief Deputy

A handwritten signature in black ink, appearing to read 'Philip Ziperman', is written over a horizontal line. The signature is stylized and somewhat cursive.

PHILIP ZIPERMAN
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For the State of Florida:

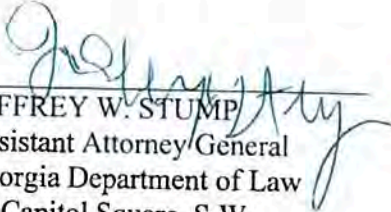
PAMELA JO BONDI
Attorney General

PATRICIA A. CONNERS
Deputy Attorney General

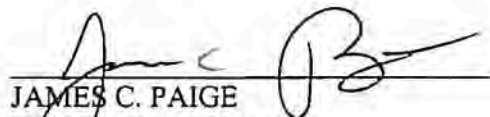


VICTORIA A. BUTLER
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For the State of Georgia:


JEFFREY W. STUMP
Assistant Attorney General
Georgia Department of Law
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Fax: 404-656-0677

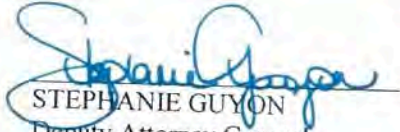
For the State of Hawaii:

A handwritten signature in black ink, appearing to read "James C. Paige", is written over a horizontal line.

JAMES C. PAIGE
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Department of the Attorney General
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For the State of Idaho

LAWRENCE WASDEN, Attorney General:



STEPHANIE GUYON

Deputy Attorney General

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For the State of Illinois:

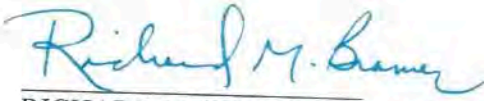
LISA MADIGAN
Attorney General

A handwritten signature in black ink, appearing to read 'D. Hagan', written over a horizontal line.

DEBORAH HAGAN
Chief, Consumer Protection Division

SUSAN ELLIS
Chief, Consumer Fraud Bureau
Illinois Attorney General's Office
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For the State of Indiana:



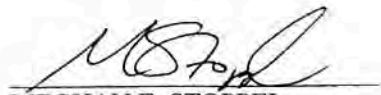
RICHARD M. BRAMER
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For the State of Iowa:



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For the State of Kansas:



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meghan.stoppel@ag.ks.gov

For the Office of the Attorney
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Commonwealth of Kentucky
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For the State of Louisiana:

JEFF LANDRY
Attorney General



Lisha C. Landry
Louisiana Bar Roll Number 34317
Assistant Attorney General
Louisiana Department of Justice
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Public Protection Division
Consumer Protection Section
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For the State of Maine:



JANET T. MILLS

Attorney General

Burton Cross Office Building, 6th Floor

111 Sewall Street

6 State House Station

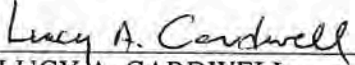
Augusta, Maine 04330

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For the State of Maryland:

BRIAN E. FROSH
Attorney General



LUCY A. CARDWELL
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For The Commonwealth Of Massachusetts:

MAURA HEALEY
Attorney General



1/29/16

JUSTIN J. LOWE
Mass. BBO # 624857
Assistant Attorney General
Public Protection and Advocacy Bureau
Consumer Protection Division
One Ashburton Place
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Tel: 617-727-2200

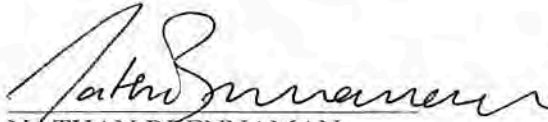
For the State of Michigan:



BILL SCHUETTE
Attorney General
D.J. PASCOE
Assistant Attorney General
525 W. Ottawa Street
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Lansing, MI 48909
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For the State of Minnesota:

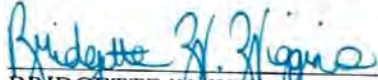
LORI SWANSON
Attorney General, State of Minnesota

A handwritten signature in black ink, appearing to read "Nathan Brennaman". The signature is written in a cursive style with a large initial "N".

NATHAN BRENNAMAN
Deputy Attorney General
Minnesota Attorney General's Office
445 Minnesota Street, Suite 1200
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For the State of Mississippi:

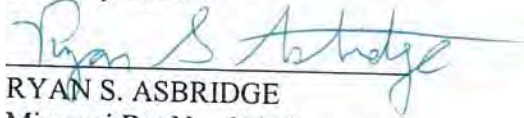
JIM HOOD, ATTORNEY GENERAL



BRIDGETTE W WIGGINS
Special Assistant Attorney General
Mississippi Attorney General's Office
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Jackson, MS 39225-2947
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For the State of Missouri:

CHRIS KOSTER
Attorney General

A handwritten signature in blue ink that reads "Ryan S. Asbridge". The signature is written over a horizontal line.

RYAN S. ASBRIDGE
Missouri Bar No. 61440
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For the State of Montana:

A handwritten signature in blue ink, appearing to read 'T. Fox', with a horizontal line extending to the right from the end of the signature.

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CHUCK MUNSON
Assistant Attorney General
Montana Department of Justice
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Helena MT 59620-0151
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Fax: 406-442-1894

For the State of Nebraska:

DOUGLAS J. PETERSON,
Attorney General, #18146



ABIGAIL M. STEMPSON, #28329

Assistant Attorney General
Office of the Attorney General
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Lincoln, NE 68509-8920
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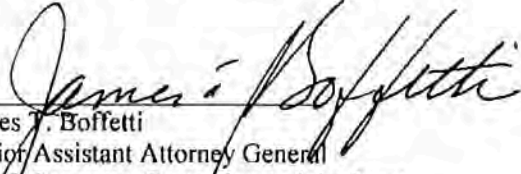
For the State of Nevada:

ADAM PAUL LAXALT
Attorney General



SHERI ANN FORBES
Senior Deputy Attorney General
Nevada Bar No. 7337
10791 W. Twain Avenue
Suite 100
Las Vegas, Nevada 89135
Tel: 702-486-3085
Fax: 702-486-3283

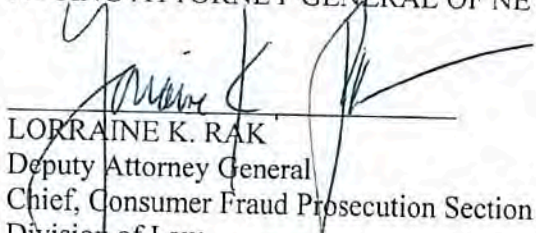
For the State of New Hampshire:



James J. Boffetti
Senior Assistant Attorney General
Chief, Consumer Protection and Antitrust
Bureau
N.H. Department of Justice
33 Capitol Street
Concord, New Hampshire 03301
Tel.: 603-271-3643
Fax: 603-271-2110

For the State of New Jersey:

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY



LORRAINE K. RAK
Deputy Attorney General
Chief, Consumer Fraud Prosecution Section
Division of Law
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Tel.: 973-877-1280
Fax: 973-648-4887

For the State of New Mexico:



HECTOR H. BALDERAS,
Attorney General
Office of New Mexico Attorney
General
PO Drawer 1508
Santa Fe, NM 87504-1508
Tel: 505-222-9100
Fax: 505-222-9033

For the State of New York:

ERIC T. SCHNEIDERMAN
Attorney General




JANE M. AZIA

Bureau Chief

Bureau of Consumer Frauds & Protection
Office of the New York State Attorney General
120 Broadway
New York, NY 10271
Tel.: 212-416-8727
Fax: 212-416-6003

For the Attorney General of
North Carolina:

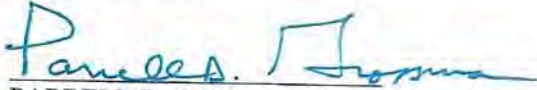
ROY COOPER
Attorney General



KEITH T. CLAYTON
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602
Tel: 919-716-6000
Fax: 919-716-6050
Email: kclayton@ncdoj.gov

For the State of North Dakota

WAYNE STENEHJEM
Attorney General



PARRELL D. GROSSMAN

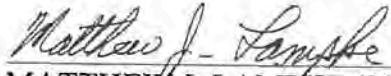
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Assistant Attorney General
Director, Consumer Protection and Antitrust
Division

Office of Attorney General
Gateway Professional Center
1050 E Interstate Ave, Ste. 200
Bismarck, ND 58503-5574
Tel: 701-328-5570
Fax: 701-328-5568

For the State of Ohio:

MIKE DEWINE
Ohio Attorney General



MATTHEW J. LAMPKE (0067973)

Mortgage Foreclosure Counsel

JEFFREY R. LOESER (0082144)

JENNIFER L. MILDREN (0087564)

Assistant Attorneys General

Consumer Protection Section

30 East Broad Street, 14th Floor

Columbus, Ohio 43215

Tel: 614-466-8831

Fax: 877-650-4712

For the State of Oregon,

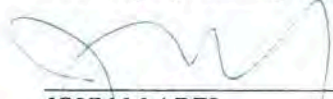
Attorney General
ELLEN F. ROSENBLUM:



JANET BORTH
Assistant Attorney General
Oregon Department of Justice
Financial Fraud/Consumer Protection
1162 Court St. NE
Salem, OR 97301
Tel.: 503-934-4400
Fax: 503-378-5017

For the Commonwealth of Pennsylvania

Office of Attorney General
BRUCE R. BEEMER
First Deputy Attorney General



JOHN M ABEL
Senior Deputy Attorney General
Pennsylvania Office of the Attorney General
Bureau of Consumer Protection
15th Floor, Strawberry Square
Harrisburg, PA 17120
Tel: 717-787-1439
Fax: 717-705-3795

For the Rhode Island Department of Attorney General:

A handwritten signature in black ink, appearing to read "Gerald Coyne", written over a horizontal line.

GERALD COYNE

Rhode Island Department of Attorney General

Deputy Attorney General

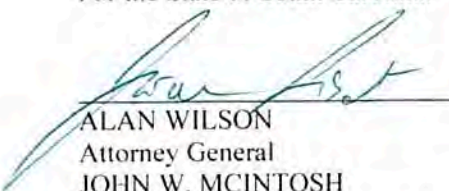
150 South Main Street

Providence, RI 02903

Tel: 401-274- 4400 Ext. 2257

Fax: 401- 222-1302

For the State of South Carolina:



ALAN WILSON

Attorney General

JOHN W. MCINTOSH

Chief Deputy Attorney General

C. HAVIRD JONES, JR.

Senior Assistant Deputy Attorney General

JARED Q. LIBET

Assistant Deputy Attorney General

South Carolina Attorney General's Office

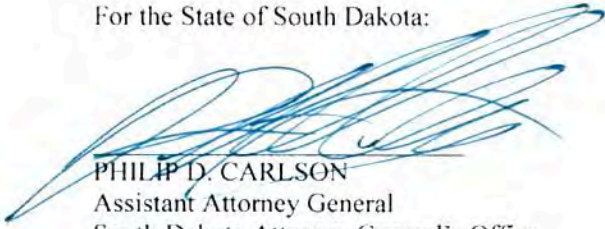
1000 Assembly Street, Room 519

Columbia, SC 29201

Tel.: 803-734-3970

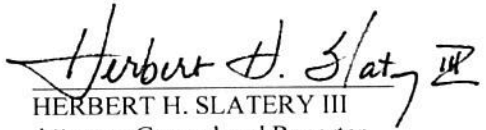
Fax: 803-734-3677

For the State of South Dakota:



PHILIP D. CARLSON
Assistant Attorney General
South Dakota Attorney General's Office
1302 E. Highway 14, Suite 1
Pierre, SD 57501
Tel.: 605-773-3215
Fax: 605-773-4106

For the State of Tennessee:

Handwritten signature of Herbert H. Slattery III in black ink, featuring a stylized 'H' and 'S'.

HERBERT H. SLATTERY III
Attorney General and Reporter
Office of the Tennessee Attorney General
425 Fifth Avenue North
Nashville, TN 37243-3400
Tel.: 615-741-1671
Fax: 615-532-2910

For the State of Texas:



RICHARD L. BISCHOFF
Assistant Attorney General
Consumer Protection Division
401 E. Franklin Avenue, Suite 530
El Paso, Texas 79901
Tel.: 915-834-5800
Fax: 915-542-1546

For the State of Utah:



SEAN D. REYES

Utah Attorney General

350 North State Street, #230

Salt Lake City, UT 84114-2320

Tel.: 801-538-1191

Fax: 801-538-1121

For the State of Vermont:

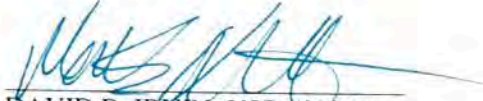
WILLIAM H. SORRELL
Attorney General

A handwritten signature in cursive script, appearing to read "James Layman", written over a horizontal line.

JAMES LAYMAN
Assistant Attorney General
109 State Street
Montpelier, VT 05609-1001
(802) 828-2315

For The Commonwealth of Virginia,

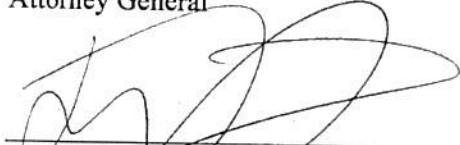
ex rel. MARK R. HERRING,
Attorney General;



DAVID B. IRVIN (VSB #23927)
Senior Assistant Attorney General
MARK S. KUBIAK (VSB #73119)
Assistant Attorney General
Office of Virginia Attorney General
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Richmond, Virginia 23219
Tel.: 804-786-7364
Fax: 804-786-0122

For the State of Washington:

ROBERT FERGUSON
Attorney General

A handwritten signature in black ink, appearing to read 'Jeffrey G. Rupert', is written over a horizontal line. The signature is stylized and somewhat cursive.

~~JEFFREY G. RUPERT~~ WSBA #45037
Assistant Attorney General
AMY C. TENG WSBA #50003
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Tel: 206-464-6293
Fax: 206-587-5636

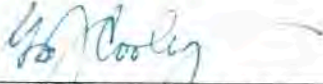
STATE OF WEST VIRGINIA
PATRICK MORRISEY
ATTORNEY GENERAL

R. Stephen Jarrell

R. STEPHEN JARRELL
Assistant Attorney General
Office of the Attorney General of West Virginia
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Charleston, WV 25326
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Fax: (304) 558-0184
Steve.R.Jarrell@wvago.gov

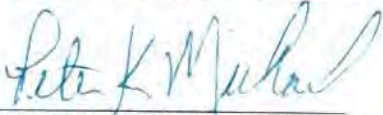
For the State of Wisconsin:

BRAD D. SCHIMEL
Attorney General



GWENDOLYN J. COOLEY
Assistant Attorney General
Wisconsin Department of Justice
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Madison, Wisconsin 53707-7857
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Fax: 608-267-2778

For the State of Wyoming:



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Wyoming Attorney General
Wyoming Attorney General's Office
Kendrick Building
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Cheyenne, WY 82002
Tel.: 307-777-7847
Fax: 307-777-3435

For HSBC North America Holdings Inc.:



Patrick J. Burke
President and CEO
HSBC North America Holdings Inc.

For HSBC Bank USA, N.A.:



Patrick J. Burke
President and CEO
HSBC Bank USA, N.A.

For HSBC Finance Corporation:

Kathryn Madison
CEO
HSBC Finance Corporation

For HSBC Mortgage Services Inc.

Kathryn Madison
President
HSBC Mortgage Services Inc.

For HSBC North America Holdings Inc.:

Patrick J. Burke
President and CEO
HSBC North America Holdings Inc.

For HSBC Bank USA, N.A.:

Patrick J. Burke
President and CEO
HSBC Bank USA, N.A.

For HSBC Finance Corporation:



Kathryn Madison
CEO
HSBC Finance Corporation

For HSBC Mortgage Services Inc.



Kathryn Madison
President
HSBC Mortgage Services Inc.

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT

In Re: LARSON VIAL, LLC

)
)

CIVIL DIVISION

Docket No. 690-11-16 Wncv

NOV 22 P 3:13

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Larson Vial, LLC (“Respondent”), hereby enter into this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. § 2459.

Regulatory Framework

1. Lead-based paint in housing, the focus of the Vermont lead law, is a leading cause of childhood lead poisoning, which can result in adverse health effects, including decreases in IQ.
2. All paint in pre-1978 housing is presumed to be lead-based unless a certified inspector has determined that it is not lead-based. 18 V.S.A. § 1759(a).
3. All paint in rental target housing is “presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based.” 18 V.S.A. § 1760(a).
4. The lead law requires that essential maintenance practices (“EMPs”) specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
5. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated paint, restoring surfaces to be free of deteriorated paint within 30 days after such paint has been visually identified

or reported to the owner, and posting lead-based paint hazard information in a prominent place. 18 V.S.A. § 1759(a) (2), (4) and (7).

6. The EMP requirements also mandate that an owner of rental target housing file affidavits or compliance statements attesting to EMP performance with the Vermont Department of Health and with the owner's insurance carrier. 18 V.S.A. § 1759(b).
7. A violation of the lead law requirements may result in a maximum civil penalty of \$10,000.00. 18 V.S.A. § 130(b)(6). Each day that a violation continues is a separate violation. 18 V.S.A. § 130(b)(6).
8. The Vermont Consumer Protection Act, 9 V.S.A Chapter 63, prohibits unfair and deceptive acts and practices, which includes the offering for rent, or the renting of, target housing that is noncompliant with the lead law.
9. Violations of the Consumer Protection Act are subject to a civil penalty of up to \$10,000.00 per violation. 9 V.S.A. § 2458(b)(1). Each day that a violation continues is a separate violation.

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of fourteen rental properties located in Windsor, Vermont (see Attachment A, collectively hereafter "the Properties").
11. The Properties were all constructed prior to 1978, and therefore, are pre-1978 "rental target housing" within the meaning of the Vermont lead law, 18 V.S.A. § 1751(23), and are all subject to the requirements of 18 V.S.A. Chapter 38.
12. Respondent has in the past and continues presently to rent and offer for rent units in the Properties.

13. On September 2, 2016, the Vermont Department of Health sent a “Notice of Non-Compliance” indicating that Respondent had not filed an “EMP Rental Property Compliance Statement” for at least one property in Windsor, VT. The Department allowed for 30 days for Respondent to file the necessary statement.
14. Respondent did not respond to the 30-day Notice, and did not file the EMP compliance statement within 30 days.
15. As of October 2016, Respondent has not filed current EMP compliance statements for all of the Properties.
16. Respondent admits the truth of the facts described in ¶¶ 10-16.

The State’s Allegations

17. The Vermont Attorney General’s Office alleges the following violations of the Consumer Protection Act and Lead Law:
 - a. Failing to file EMP compliance statements for rental properties.
18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices under 9 V.S.A. § 2453.

Assurances and Relief

In lieu of instituting an action or proceeding against Respondent, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

19. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as they maintain any ownership or property management interest in the Properties and in any other pre-1978 rental housing in

which they currently have, or later acquire, an ownership or property management interest.

20. By December 15, 2016, Respondent shall complete all EMP inspections and work of the Properties (as specified in 18 V.S.A. § 1759), giving priority to the Properties where a child age 6 or under is residing. Pursuant to 18 V.S.A. § 1759(a)(3), exterior work of the properties may be postponed until May 31st so long as access to exterior surfaces and components of the Properties with lead hazards and areas directly below the deteriorated surfaces are clearly restricted. All interior work must be completed by the December 15, 2016 deadline. If Respondent requires additional time to complete the work, Respondent will contact the Attorney General's Office before the expiration of the above deadlines and provide a detailed justification for any extension.

21. Within one week of completion of the EMP inspections and work at the Properties described in the paragraph above, Respondent will file with the Vermont Department of Health, Respondent's insurance carrier and with the Office of the Attorney General, a completed EMP compliance statement for all Properties, and will give a copy of the compliance statement to an adult in each rented unit of all Properties. If exterior work is being postponed until May 31st of next year, Respondent shall explain that in the EMP statements. The copy for the Office of the Attorney General shall be sent to: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

22. In the event Respondent wishes to rent a unit which becomes vacant in any of Respondent's pre-1978 rental housing before such housing is made EMP compliant,

Respondent shall provide advance written notice of the intent to rent to the Office of the Attorney General at the address listed above. Respondent's advance written notice shall also: (1) verify that the interior of the specific unit to be rented is EMP compliant; (2) provide an update as to any remaining EMP work to be performed at the property, including the date by which the entire property will be EMP compliant. Otherwise, Respondent shall not rent, or offer for rent, any unit which becomes vacant in any of property owned or managed by Respondent that is not EMP compliant until such time as the EMP work is complete and the EMP compliance statement is distributed as described above.

23. Respondent shall pay the sum of \$15,000 in civil penalties and costs for the failure to file EMP compliance statements. Based on Respondent's demonstrated inability to pay the full penalty and upon review of financial information provided to the State by Respondent, the State agrees to accept a reduced penalty of \$3,000. Payment of the \$3,000 shall be made to the "State of Vermont" and sent to the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609. The payment may be made in three installments as follows: (a) \$1,000 due on or before December 15, 2016; (b) \$1,000 due on or before January 15, 2017; and (c) \$1,000 due on or before February 15, 2017.

24. In addition to the \$3,000 payment described above, Respondent shall expend at least twenty-five thousand dollars (\$25,000), including the actual cost of materials and the actual cost of labor, on lead hazard reduction improvements at any or all of the Properties described herein.

25. Respondent shall pay the costs of any follow-up compliance inspections as determined by the Attorney General's Office, but not to exceed \$1,000.

Other Terms

26. This AOD is binding on Respondent, however, sale of any pre-1978 rental property may not occur unless Respondent has complied with all obligations under this AOD, or this AOD is amended in writing to transfer to the buyer or other transferee all remaining obligations.

27. Transfer of ownership of any of Respondent's pre-1978 rental properties shall be consistent with Vermont law, including the provisions of 18 V.S.A. § 1767 specifically relating to the transfer of ownership of pre-1978 rental housing.

28. This AOD shall not affect marketability of title.

29. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.

30. In addition to any other penalties or relief which might be appropriate under Vermont law, any future failure by Respondent to comply with the terms of this AOD shall be subject to a liquidated civil penalty paid to the State of Vermont in the amount of at least \$5,000 and not more than \$10,000.


SIGNATURES APPEAR ON NEXT PAGE

**Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609**

DATED at Montpelier, Vermont this 22nd day of November, 2016.

STATE OF VERMONT

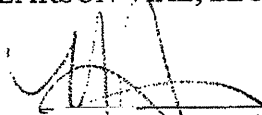
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov

DATED at Hillsboro, Oregon this 22nd day of November, 2016.

LARSON VIAL, LLC

By: 

Michelle Larson, registered agent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

Attachment A – List of Respondent’s Rental Properties in Windsor, VT

1. 4-10 Central Street (4 units)
2. 18 Central Street (3 units)
3. 36 Central Street (3 units)
4. 24 Durkee Street (4 units)
5. 63 Main Street (9 units)
6. 27 Maple Street (4 units)
7. 5 River Street (3 units)
8. 35 River Street (1 unit)
9. 10 State Street (3 units)
10. 24 State Street (5 units)
11. 57-59 State Street (4 units)
12. 61-63 State Street (4 units)
13. 18 Union Street (4 units)
14. 54 Union Street (3 units)

Total: 14 properties (54 units)

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2015 JUL 18 A 95b

IN RE: LEGACY.COM, INC.

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)
)

CIVIL DIVISION

427-7-16Wncv

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell (“the Attorney General”) and Legacy.com, Inc. (“Respondent”) hereby agree to this Assurance of Discontinuance (“AOD”) pursuant to 9 V.S.A. §§ 2459.

SUMMARY

The Attorney General alleges Respondent enabled use of a plugin that directed consumers to a website which improperly used a charity’s name and logo without permission, thereby misleading consumers into believing such use was permitted or legitimate, in violation of the Vermont Consumer Protection Act, 9 V.S.A. Chapter 63.

REGULATORY FRAMEWORK

1. The Attorney General is authorized to enforce the provisions of the Consumer Protection Act, 9 V.S.A. Chapter 63.
2. Vermont’s Consumer Protection Act prohibits “[u]nfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.” 9 V.S.A. § 2453.
3. The three elements of the Vermont Consumer Protection Act are: (1) the consumer is likely to be misled or has been misled; (2) the consumer’s interpretation of the representation is reasonable; and (3) the misleading misrepresentation is material. Jordan v. Nissan North America, Inc., 2004 VT 27, 176 Vt. 465, 853 A.2d 40.
4. The Attorney General is authorized to pursue enforcement and seek relief under 9 V.S.A. § 2458 for violations of the Consumer Protection Act, including injunctive relief, civil

penalties of up to \$10,000 for each violation, reimbursement for the reasonable value of its services and its expenses in investigating and prosecuting an action, and restitution for persons aggrieved by the violation.

BACKGROUND

5. Respondent Legacy.com is a for-profit corporation incorporated under the laws of Delaware, with its principal place of business located at 820 Davis Street, Evanston, Illinois 60201.

6. On August 20, 2014, Legacy.com entered into a contract with a for-profit corporation called Givalike.org, LLC (“the Contract”). The Contract permitted Givalike to use a “plugin” to automatically update obituaries on Legacy.com’s website with links to Givalike’s website (the “Givalike Plugin”). Specifically, the Givalike Plugin inserted a hyperlink to the Givalike website from the names of charities appearing in Legacy.com’s obituaries, unless the obituary already contained a hyperlink to the charity. A consumer who clicked on the hyperlink was brought to a donation form on Givalike’s website through which he or she could make a donation to a charity for a fee (the “Donation Form”).

7. A donation made via the Donation Form required a fee of the donor ranging from 5% of the charitable donation, plus \$0.50, to 8.5% of the charitable donation, plus \$0.50.

8. Pursuant to the Contract, Legacy.com received 2.5% of any donation amount made using the Givalike Plugin placed in an obituary appearing on Legacy.com’s website.

9. Legacy.com did not receive consent from any charity before inserting the Givalike Plugin. The State asserts that Givalike did not receive consent from any charity before inserting the Givalike Plugin, only informing them of its insertion after a donation was made.

10. The State represents that on Givalike's Donation Form, it used certain charities' names, trademarks, and/or logos without those charities' permission.
11. The State represents that from August 2013 to April 2015, over 200 Vermont consumers clicked on the Givalike Plugin at Legacy.com and other similar sites, made a donation via Givalike's Donation Form, and paid fees ranging from \$1 to \$40.50.
12. The State represents that from the date of the Contract, Vermont consumers donated \$15,332.12 to over 100 charities using Givalike's Donation Form. These donations ranged in size from \$10 to \$535.50.
13. The State represents that from the date of the Contract, Vermonters paid Givalike \$1,220.10 in fees.
14. Legacy.com is a foreign entity not registered to do business in Vermont.
15. Without admitting liability, Respondent admits to the truth of all facts set forth in the Background section.
16. The Attorney General alleges that the conduct described above demonstrates violations of the Vermont Consumer Protection Statute.

AGREEMENT

17. It is hereby AGREED that Respondent:
 - a. shall not accept donations on behalf of, or solicit for, any charity located in Vermont, unless it has the express, written permission from the charity after full disclosure of the fees that the Respondent will charge to process the donation;
 - b. shall not permit insertion of a plugin in an online obituary requesting donations be made to any charity located in Vermont without first obtaining the express,

- written permission of the charity after full disclosure of the fees that the consumer will be charged to process the donation;
- c. shall not permit insertion of a plugin in an online obituary of a Vermont resident requesting donations be made to any charity without first obtaining the express, written permission of the charity after full disclosure of the fees that the consumer will be charged to process the donation;
 - d. shall not permit insertion of a plugin which links to the name, emblem, trademark or logo of any charity without first obtaining that charity's consent;
 - e. shall not directly or indirectly represent that it is authorized, sanctioned, or permitted to accept donations for any charity located in Vermont, or otherwise is affiliated with any such charity, without first obtaining the express, written permission of the charity;
 - f. shall, whenever a charity located in Vermont requires use of a plugin on Respondent's site that does not direct the donor to the charity's own website, provide that information clearly and conspicuously in close proximity to the plugin (e.g. "powered by _____").

Monetary Relief

18. Within ten (10) days of all parties signing this AOD, Respondent shall pay fifteen thousand two hundred twenty dollars (\$15,220.00) to the State of Vermont. Payment shall be made either by wire transfer or in the form of a bank or cashier's check made out to the State of Vermont and delivered to Assistant Attorney General Charity R. Clark, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

OTHER TERMS

19. Respondent agrees that the terms of this AOD shall be binding on Respondent and its successors and assigns.
20. The Attorney General hereby releases and discharges any and all potential or actual claims arising under the Consumer Protection Act, 9 V.S.A. chapter 63, subchapters 1 and 2, and Consumer Protection Rule CP 119 that it may have against Respondent for the conduct described in the Background section up to April 2015.
21. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this AOD.

STIPULATED PENALTIES

22. If the Superior Court of the State of Vermont, Washington Unit, enters an order finding Respondent to be in violation of this AOD, then the parties agree that penalties to be assessed by the Court shall be \$10,000.00 for each violation.
23. It is AGREED that the parties have hereby settled all potential claims regarding alleged violations of 9 V.S.A. §§2453 and 2475(e), described in the background section of this AOD, up to the date of execution of this AOD.

SIGNATURE

In lieu of instituting an action or proceeding against Respondent, the Office of the Attorney General, pursuant to 9 V.S.A. §§ 2459 and 2479, accepts this AOD. By signing below, Respondent voluntarily agrees with and submits to the terms of this AOD.

DATED at Evanston, IL, this 17th day of June, 2016.

Helene Donahue

Helene Donahue
Chief Financial Officer
Legacy.com

ACCEPTED on behalf of the Vermont Attorney General:

DATED at Burlington, Vermont this 11th day of July, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

Charity R. Clark

Charity R. Clark
Assistant Attorney General
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charity.clark@vermont.gov
(802) 656-8430