STATE OF VERMONT
SUPERIOR COURT
Washington Unit

2016 JUN 30 P 2:07

STATE OF VERMONT **Plaintiff**	)	**CIVIL DIVISION** **Docket No. 370-6-16**
v.	)	
McISAAC AND BAIROS NEW ENGLAND DISTRIBUTION LLC **Defendant**	)	

CONSENT DECREE, ORDER, AND FINAL JUDGMENT

To resolve the violations of law alleged in the Complaint filed in the above-captioned matter, the parties, the State of Vermont and Defendant McIsaac and Bairos New England Distribution LLC, stipulate and agree to the following:

INTRODUCTION

The State of Vermont alleges and Defendant admits and agrees to the following:

1. Defendant is licensed as a wholesale dealer by the Vermont Department of Taxes and was licensed during all relevant periods.
2. In late February 2015, Defendant purchased cigarette tax stamps from the Vermont Department of Taxes.
3. On or about late February through early March of 2015, Defendant sold 263 tax-stamped packs of Seneca cigarettes, a product that is illegal to sell in Vermont as it is not listed on Vermont's tobacco Directory, to Vermont retailers.

4. Based upon the facts above, the Attorney General alleges that the Defendant has violated 33 V.S. A. §1919 and the Consumer Protection Act, 9 V.S.A. § 2458.

REMEDIES

Defendant is enjoined and restrained as follows:

5. Defendant will not possess, sell, or offer for sale any cigarettes or roll-your-own tobacco (RYO) that are not listed on Vermont's tobacco Directory. Defendant will sell into Vermont only those cigarettes and RYO brands listed on Vermont's Directory and its legal for sale list. Defendant is permanently enjoined and restrained from violating 33 V.S.A. § 1919.
6. Defendant will confirm with the Vermont Attorney General's Tobacco Unit that any new brands of cigarettes or RYO it seeks to sell into Vermont are in fact legal for sale 30 days prior to offering any such product for sale in the state.
7. Within 10 (ten) days of signing this Consent Decree, Defendant shall pay a total of $5,000 (five thousand dollars) to the State of Vermont as attorneys' fees and costs in this matter.
8. Defendant shall pay a total of $30,000 (thirty thousand dollars) to the State of Vermont as civil penalties in this matter. This payment is to be made in eight monthly installments of $3,750 (three thousand seven hundred and fifty dollars), the first of which is due within 30 days of the signing of this Consent Decree. The remainder shall be due in monthly installments thereafter, on the 15th of each month from August 1, 2016 through February 1, 2017.

9. Defendant shall make the payments described above to the "State of Vermont" and send such payments to: Helen Wagner, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.
10. Defendant agrees that any failure to abide by the terms of this Consent Decree shall be a violation thereof and agrees that the penalties to be assessed by the Court for each such act in violation of this Consent Decree shall be $10,000 (ten thousand dollars). Defendants shall pay all costs of any enforcement of this Consent Decree.
11. This Court has jurisdiction over the subject matter of this action and the Defendant. Jurisdiction is retained by this Court over this Final Judgment and the parties for the purpose of enabling any of the parties to apply to this Court at any time for orders and directions as may be necessary to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.
12. This Court finds Defendant to have been in violation of the Consumer Protection Act, 9 V.S.A. § 2435, and 33 V.S.A. § 1919.
13. This Final Judgment shall be binding on McIsaac and Bairos New England Distribution LLC and its successors and assigns. The State of Vermont hereby releases and discharges any and all claims under Title 9 and Title 33 that it may have against Defendant based on the specific conduct or activities arising under or in connection with this Final Judgment.
14. Entry of this Final Judgement is in the public interest because it will ensure that Defendant complies with the requirement that only tobacco products that are legal for sale in Vermont are sold to Vermont retailers and consumers.

STIPULATION

Defendant McIsaac and Bairos New England Distribution LLC acknowledges receipt of and voluntarily agrees to the terms of this Consent Decree and waives any formal service requirements of the Consent Decree, the Decree, the Order, and the Final Judgment.

DATED at Avon, Massachusetts this 29th day of June, 2016.

McIsaac and Bairos New England
Distribution LLC

By: Brian Bairos, Member
Authorized Representative

ACCEPTED on behalf of the State of Vermont:

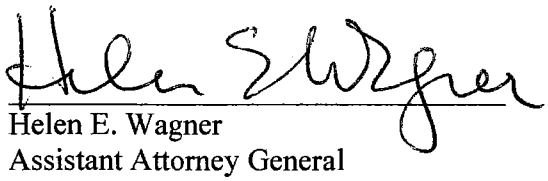
DATED at Montpelier, Vermont this 30th day of JUNE, 2016

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

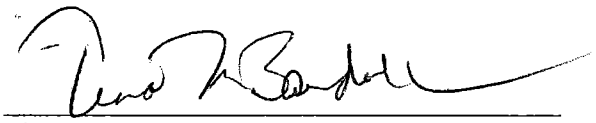
By: Helen E. Wagner

Helen E. Wagner
Assistant Attorney General
109 State Street
Montpelier, Vermont 05609
Tel. 802-828-2508
helen.wagner@vermont.gov

APPROVED AS TO FORM:



Helen E. Wagner
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, Vermont 05609
For the State of Vermont



Tina Bardak, Esq.
464 Franklin Street
Buffalo, New York 14202
For McIsaac and Bairos New England
Distribution LLC

DECREE, ORDER AND FINAL JUDGMENT

This Consent Decree is accepted and entered as a Decree, Order and Final Judgment of this Court in the matter of: *State of Vermont v. McIsaac and Bairos New England Distribution LLC,* Docket No. 370-6-16 Wncv.

SO ORDERED.

DATED at Montpelier, Vermont this 1st day of July, 2016.

Washington Superior Court Judge

FILED
2016 JUL -1 P 2:54
ORDER

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2016 OCT 26 P 1:59

IN RE: MILLENNIUM TRAVEL AND PROMOTIONS, INC., VACATION TOURS USA, INC., SET SAIL VACATION, LLC D/B/A MEMBER TRAVEL SERVICES, TONY ARMAND, AND HENRY ARMAND	)	CIVIL DIVISION Docket No. 638-10-16 Wncv

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Millennium Travel and Promotions, Inc., Vacation Tours USA, Inc., Set Sail Vacation, LLC D/B/A Member Travel Services, Tony Armand, and Henry Armand (collectively "Respondents") hereby agree to this Assurance of Discontinuance ("Assurance") pursuant to 9 V.S.A. § 2459.

REGULATORY FRAMEWORK

1. Vermont's Consumer Protection Act prohibits "unfair or deceptive acts or practices in commerce." 9 V.S.A. § 2453(a).

2. Vermont's Discount Membership Programs Act requires that any person who charges or attempts to charge consumers for a discount membership program or for the renewal of a discount membership program provide certain disclosures and periodic notices to those consumers. 9 V.S.A. §§ 2470aa – 2470hh. Any violation of the Discount Membership Program Act constitutes an unfair and deceptive act in trade and commerce in violation of the Consumer Protection Act as a matter of law. 9 V.S.A. §§ 2470hh.

3. The Attorney General's Consumer Protection Rule 109 provides that it is an unfair and deceptive act and practice under the Consumer Protection Act to represent that a person has been selected or has won a "prize" when, in reality, the prize is a part of a promotional

scheme to make contact with prospective customers, all of whom are receiving the same prize or opportunity. Rule CP 109.02.

4. The violation of a rule or regulation of the Office of the Attorney General is prima facie proof of the commission of an unfair or deceptive act in commerce. 9 V.S.A. § 2453(d).

5. The Vermont Consumer Protection Act authorizes the Attorney General to take actions to restrain unfair and deceptive acts in commerce. 9 V.S.A. §§ 2453, 2458.

6. 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).

RESPONDENTS

7. Millennium Travel and Promotions, Inc. ("Millennium") is a for-profit corporation incorporated under the laws of Florida, with its principal place of business located at 424 Luna Bella Lane, Suite 115, New Smyrna Beach, Volusia County, Florida 32168. Millennium sells and fulfills certificates for travel services that are used as promotional inducements for sales events.

8. Vacation Tours USA, Inc. ("Vacation Tours") is a for-profit corporation incorporated under the laws of Florida, with its principal place of business located at 424 Luna Bella Lane, Suite 115, New Smyrna Beach, Volusia County, Florida 32168. Vacation Tours engages in marketing activities in the travel industry.

9. Set Sail Vacation, LLC D/B/A Member Travel Services ("Set Sail") is a limited liability corporation incorporated under the laws of Florida, with its principal place of business located at 424 Luna Bella Lane, Suite 115, New Smyrna Beach, Volusia County, Florida 32168. Set Sail offers a discount travel membership program, providing discounted travel opportunities to its members.

10. Tony Armand is a Florida resident. At all times relevant to this matter, Tony Armand was an owner and operator of Millennium, Vacation Tours, and Set Sail.

11. Henry Armand is a Florida resident. At all times relevant to this matter, Henry Armand was an owner and operator of Millennium, Vacation Tours, and Set Sail. Henry Armand is Tony Armand's father.

BACKGROUND

12. Beginning in May 2013, Vacation Tours began distributing letters to Vermont consumers as part of an advertising campaign. The letters were printed on letterhead which listed the names of several major U.S. airlines at the top. The letters stated that the recipients had "qualified for an award of two (2) round-trip airline tickets." They claimed that "previous attempts to reach you have been unsuccessful" and that "these travel vouchers will be awarded to an alternate" if the consumer did not reply promptly. An example of these letters is attached as Exhibit A.

13. The airlines whose names were listed at the top of the letter had no involvement in the offers. The letters failed to note that their "awards" were conditioned on attendance at a sales presentation. The letters' claims that there had been previous attempts to contact the consumer, and that an alternate consumer might receive their award, were false.

14. Vacation Tours ultimately distributed over 94,000 of these letters to Vermont consumers.

15. Millennium was responsible for the fulfillment of the offered award of airline tickets.

16. Only one of the 48 Vermonters who attempted to claim their free airline tickets succeeded in doing so.

17. In attempting to claim their travel awards, Vermonters were required to pay a $100 refundable deposit to Millennium. However, 17 Vermont consumers did not receive refunds for their deposits after their attempts to claim travel failed. Millennium ultimately paid refunds of those deposits after the Attorney General identified the issue.

18. These mailers and the promised travel awards were used to encourage Vermont consumers to attend sales presentations, at which a third party, Travel Supplier of America ("TSA"), sold discount travel membership programs to Vermont consumers. The Attorney General's investigation determined that these memberships were sold to consumers at prices of up to $9,000 each. Respondents state that these prices were determined exclusively by TSA and without Respondents' input.

19. Set Sail was responsible for fulfillment and renewal of the discount travel membership programs sold by TSA.

20. Set Sail did not send required quarterly notices to consumers about the costs of the program or their rights to cancel the program. Set Sail did not make required disclosures to consumers about the amount of typical discounts available or other material terms of the transaction prior to charging consumers for the renewals of their memberships.

21. The Attorney General's investigation determined that 35 Vermont consumers spent in excess of $143,000 related to Respondents' and other entities' efforts to offer discount travel membership programs in Vermont.

22. The Respondent Companies collectively billed a total of approximately $68,000 related to the sale of travel memberships to Vermont consumers. Vermonters paid approximately $11,000 of that amount to Respondents, while the remainder was to be paid

by TSA and related entities. Respondents state that a substantial portion of its billings to TSA and related entities were never paid by those entities.

23. Respondents have not distributed advertising to Vermonters, distributed travel certificates to Vermonters, or enrolled new Vermonters in their discount travel membership program since July, 2014. Nor have the other Respondents engaged in such activities in Vermont except as necessary to provide service to existing travel club members.

24. By executing this Assurance, Respondents acknowledge the Attorney General's allegations, and admit the facts set forth in the Background section except those that are described as "The Attorney General's investigation determined..."

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

RESTITUTION

26. Upon execution of this Assurance, Respondents shall pay partial restitution to Vermont consumers of up to a total of $15,000. If restitution payments to Vermont consumers do not total $15,000, any remainder will be paid to the State of Vermont to cover the costs of mailing restitution payments.

27. Respondents shall make checks payable to each consumer in the amounts specified on a spreadsheet which has been exchanged between the parties, and will mail those checks to the Office of the Attorney General for distribution within two weeks of the execution of this Assurance. All checks shall be valid for no less than 60 days and shall state the length of validity on the face of the check.

28. No later than 120 days after both Parties execute this Assurance, Respondents shall mail the total of all uncashed and returned checks to James Layman, Assistant Attorney General, Office of the Vermont Attorney General, 109 State Street, Montpelier, VT 05609:

a. a single check payable to "Vermont State Treasurer," and indicating the company's federal tax identification number, in the total amount of the checks that were not cashed by the intended recipients, to be treated as unclaimed funds;

b. a list, in electronic Excel format on a compact disc or via electronic mail, of the consumers whose checks 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. the company's corporate address.

PENALTIES

29. Upon execution of this Assurance, Respondents shall pay civil penalties of ten thousand dollars ($10,000). Respondent shall make payment to the "State of Vermont" and send payment to: James Layman, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

INJUNCTIVE RELIEF

30. Respondents shall comply with all provisions of Vermont and federal law, including the Vermont Consumer Protection Act, 9 V.S.A. chapter 63.

31. Respondents will cease any and all business activities directed at Vermont consumers.

32. If Respondents Tony Armand and/or Hank Armand, either in their individual capacities or through businesses other than those included among these Respondents, wish

to do business in the State of Vermont within three years of executing this Assurance of Discontinuance, they may only do so if they first obtain the express written permission of the Attorney General, which shall not be unreasonably denied.

33. If any Respondents engage in business in the State of Vermont other than as approved pursuant to Paragraph 32, Respondents will be liable for stipulated penalties of $10,000 per infraction.

OTHER TERMS

34. For a period of three years from the date of the execution of this Assurance of Discontinuance, Tony and Henry Armand will cooperate with the Attorney General's investigation into the conduct of Adrian Miller, Travel Supplier of America, Viva Vacations Inc., Start 2 Finish Travel Management, Inc., Universal Concepts Inc., and any other persons or entities that may have been involved in the sale of discount travel program memberships to Vermonters. Except to the extent that such cooperation would violate legal rights or privileges available to them, Tony and Henry Armand will answer questions from the Attorney General, sign affidavits swearing to true relevant facts, and provide any other assistance requested.

35. Respondents agree that this Assurance of Discontinuance shall be binding on Respondents and their successors and assigns.

36. The Attorney General hereby releases and discharges any and all claims arising under the Consumer Protection Act, 9 V.S.A. chapter 63, that it may have against Respondents for the conduct described in the Background section prior to the date of this Assurance.

37. 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.

38. Acceptance of this Assurance by the Attorney General shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this Assurance, and Respondent shall make no representation to the contrary.

SIGNATURE

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

DATED at New Smyrna Beach, FL, this 20 day of September, 2016.

Millennium Travel and Promotions, Inc.

DATED at New Smyrna Beach, FL, this 20 day of September, 2016.

Vacation Tours USA, Inc.

DATED at New Smyrna Beach, FL, this 20 day of September, 2016.

Set Sail Vacation, LLC D/B/A Member Travel Services

DATED at New Smyrna Beach, FL, this 20 day of September, 2016.

Tony Armand

DATED at New Smyrna Beach, FL this 20 day of September, 2016.

Henry Armand

ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 1 day of October, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

James Layman
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, Vermont 05609
james.layman@vermont.gov
802-828-2315

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2016 DEC -4 P 2:55

In Re: Encore Capital Group, Inc.,)
Midland Funding, LLC, and)
Midland Credit Management, Inc.) Docket No. 663-12-18 Wncv

ASSURANCE OF DISCONTINUANCE

This Assurance of Discontinuance[1] ("Assurance") is entered into between Encore Capital Group, Inc., and the States of Alaska, Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Hawaii[2], Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming (collectively referred to as the "Participating States," or individually, as a "State"), acting through and by their respective Attorneys General, and, provides as follows:

DEFINITIONS

As used in this Assurance, the following terms shall be defined as follows:

"Charge-off" means the act of the Creditor that treats an account receivable or other Debt as a loss or expense because payment is unlikely.

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[1] The State of Delaware and Midland agree that this Assurance shall be treated as a cease and desist agreement pursuant to 29 *Del. C.* §§ 2525(a) and 2526.

[2] Hawaii is represented on 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.

"Charge-off Balance" means the amount allegedly due on a Debt at the time of Charge-off.

"Collect" or "Collection" means any attempts by Midland, whether directly or indirectly through a third party on Midland's behalf, to obtain payments from Consumers for Debts owned by Midland involving a representation, expressly or by implication, that a Consumer owes a Debt or as to the amount of a Debt owed, but does not include any post-judgment activities or Midland's activities in connection with or participation in bankruptcy or probate proceedings or processes involving a Consumer or a Consumer's estate, including any act to create, perfect, or enforce any lien that survives a bankruptcy.

"Collections Litigation" means efforts by any internal legal department or a third-party Law Firm on Midland's behalf to Collect a Debt owned by Midland, including sending correspondence on Law Firm letterhead and filing Collection lawsuits. Collections Litigation does not include any post-judgment Collection or Midland's activities in connection with or participation in bankruptcy or probate proceedings or processes involving a Consumer or a Consumer's estate, including any act to create, perfect, or enforce any lien that survives a bankruptcy.

"Consumer" means any natural person obligated or allegedly obligated to pay any Debt, as that term is defined in the Fair Debt Collection Practices Act, 15 U.S.C. §1692(a)(3).

"Consumer Account" means an account for a Debt that Midland has acquired.

"Consumer Reporting Agency" means "consumer reporting agency" as defined in the Fair Credit Reporting Act at 15 U.S.C. § 1681(a)(f).

"Consumer Transaction" means a transaction involving an individual or individuals seeking or acquiring real or personal property, services, future services, money, or credit for personal, family, or household purposes.

"Creditor" means any person who offers or extends credit creating a Debt or to whom a Debt is owed, but such term does not include any person to the extent that person receives an assignment or transfer of a Debt in default solely for the purpose of facilitating Collection of such Debt for another.

"Debt" means any obligation or alleged obligation of a Consumer to pay money arising out of a Consumer Transaction.

"Effective Date" means December 14, 2018.

"Law Firm" shall refer to all in-house counsel, third party law firms, and any other legal representatives retained by Midland, directly or indirectly through a third party, for the purpose of conducting Collections Litigation on Midland's behalf.

"Legacy Account" shall mean any Consumer Account Midland contracted to acquire before the Effective Date, but in no event shall it mean any Consumer Account Midland first acquired more than thirteen months after the Effective Date.

"Midland" shall refer to Encore Capital Group, Inc., as well as its current, as of the Effective Date, direct or indirect, affiliates, subsidiaries, parents, divisions, or branches, and all of their successors and assigns, that are engaged in the purchase or Collection of U.S. consumer receivables.

"Original Account Level-Documentation" means:

a. any documentation that a Creditor or that Creditor's agent provided to a Consumer about a Debt; or

b. a complete transactional history of a Debt created by the Creditor or that Creditor's agent; or

c. where applicable, a copy of the judgment.

"Prior Owners" shall mean all previous owners or assignees of an alleged Debt subsequently sold, assigned, or otherwise transferred to Midland by the Seller, beginning with the Creditor at the time of Charge-off.

"Seller" shall mean the immediate Prior Owner of the Debt sold, assigned, or otherwise transferred to Midland.

"Time-barred" when used to describe a Debt means any Debt that is beyond the applicable statute of limitations for a Collection lawsuit.

I. REQUIREMENTS TO COMPLY WITH ALL APPLICABLE LAWS

1. Midland shall comply with applicable provisions of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*, and the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, *et seq.*, as amended, with respect to its Collection activities.

2. Midland shall comply with applicable State consumer protection laws, rules and regulations pertaining to its Collection activities, including, to the extent applicable, laws, rules and regulations pertaining to the activities or licensing of debt collectors, debt buyers, and collection agencies, and laws governing credit reporting.

3. Midland shall maintain the confidentiality of all financial information maintained on Consumers in compliance with applicable federal, state, and local laws.

4. Specifically, without limiting the scope of the foregoing, Midland shall not:

a. State that Consumers owe Debts when corresponding with any person other than the Consumers for the purposes of acquiring

location information, in violation of the FDCPA, 15 U.S.C. § 1692b(2);

b. Communicate with Consumers in connection with the Collection of Debts at times or places that Midland knows or should know to be inconvenient to the Consumer, in violation of FDCPA, 15 U.S.C. § 1692c(a)(1);

c. Communicate with Consumers in connection with the Collection of Debts, without the prior consent of the Consumers, if Midland knows that the Consumers are represented by attorneys with respect to such Debts and has knowledge of, or can readily ascertain, such attorneys' names and addresses, unless the attorneys fail to respond within a reasonable period of time to a communication from Midland or Midland's representatives or unless the attorneys consent to direct communication with the Consumers, in violation of the FDCPA, 15 U.S.C. § 1692c(a)(2);

d. Communicate with Consumers in connection with the Collection of Debts at the Consumers' place(s) of employment when Midland knows that the Consumers' employer(s) prohibit the Consumers from receiving such communications, in violation of the FDCPA, 15 U.S.C. § 1692c(a)(3);

e. Communicate further with Consumers if a Consumer notifies Midland in writing that the Consumer refuses to pay a Debt or that the Consumer wishes Midland to cease further communication with

the Consumer (except: (i) to advise the Consumer that Midland's further efforts are being terminated; (ii) to notify the Consumer that Midland may invoke specified remedies which are ordinarily invoked by Midland; or (iii) where applicable, to notify the Consumer that Midland intends to invoke a specified remedy), in violation of the FDCPA, 15 U.S.C. § 1692c(c). Midland shall not violate this Subparagraph if it communicates with a Consumer in order to comply with a court order, a binding agreement entered into by Midland and any federal, state, or local governmental body, or as otherwise required to comply with the law;

f. Engage in conduct the natural consequence of which is to harass, oppress, or abuse persons in connection with the Collection of a Debt, in violation of the FDCPA, 15 U.S.C. § 1692d;

g. Use obscene or profane language in connection with the Collection of Debts the natural consequence of which is to abuse the hearer or reader, in violation of the FDCPA, 15 U.S.C. § 1692d(2);

h. Cause a telephone to ring or engage any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number, in violation of the FDCPA, 15 U.S.C. § 1692d(5);

i. Except to acquire location information as provided in 15 U.S.C. § 1692b of the FDCPA, attempt to Collect Debts by telephone

without providing meaningful disclosure of the caller's identity, in violation of the FDCPA, 15 U.S.C. § 1692d(6);

j. Use false, deceptive, or misleading representations to Collect or attempt to Collect Debts, in violation of the FDCPA, 15 U.S.C. § 1692e;

k. Use false representations about the character, amount, or legal status of Debts or services rendered or compensation that may be lawfully received by Midland, in violation of the FDCPA, 15 U.S.C. § 1692e(2);

l. Threaten to take legal actions against a Consumer when there is no legal authority or intention to do so, in violation of the FDCPA, 15 U.S.C. § 1692e(5);

m. Use any false representation or deceptive means to Collect or attempt to Collect any Debt, in violation of the FDCPA, 15 U.S.C. § 1692e(10);

n. Use unfair or unconscionable means to Collect or attempt to Collect Debts, in violation of the FDCPA, 15 U.S.C. § 1692f; or

o. Collect or attempt to Collect amounts that were not expressly authorized by the agreements creating the Debts or permitted by law, in violation of the FDCPA, 15 U.S.C. § 1692f(1);

II. ADDITIONAL REQUIREMENTS RELATED TO DEBT COLLECTION

Prerequisites to Collection

5. When Collecting a Debt, Midland shall not make any representation that a Consumer owes a Debt or as to the amount of a Debt, unless, at the time of making the representation, Midland has a reasonable basis for making such representation.

6. *^Midland shall not Collect or attempt to Collect any Debt allegedly owed to Midland unless it has in its possession the following information:

a. The name and address of the Consumer as they appeared in the Seller's records at or immediately prior to the sale of the Debt;

b. The name of the Creditor at the time of Charge-off, including, where available and applicable, the name under which the Creditor did business with the Consumer or the affinity name associated with the Consumer Account;

c. The last four digits of the account number used by the Creditor or other information as will reasonably enable the Consumer to identify the original account;

d. The name of the current person or entity to whom the Debt is owed and the date on which Midland first acquired the Consumer Account;

e. The date of Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt);

f. If Midland reports, or intends to report, the Debt to any Credit Reporting Agency, the date of first delinquency; and

g. The amount of the Debt at Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt).

7. *^Midland shall not Collect or attempt to Collect a Debt unless it has reasonable access to documentation supporting the Consumer Accounts.

8. ^ In the following circumstances, Midland shall not make a representation that a Consumer owes a Debt or as to the amount of the Debt until Midland has reviewed Original Account-Level Documentation reflecting the Consumer's name and the claimed amount, excluding any post Charge-off or post-judgment payments or credits (unless the claimed amount is higher than the Charge-off Balance or judgment balance, in which case Midland must review (i) Original Account-Level Documentation reflecting the Charge-off Balance or judgment balance and (ii) an explanation of how the claimed amount was calculated and why such increase is authorized by the agreement relating to the Debt or permitted by law):

a. The Consumer has disputed the validity or accuracy of the Debt orally or in writing;

b. The Debt was purchased, after the Effective Date, through a purchase agreement without meaningful and effective representations and warranties as to the accuracy or validity of the Debt;

c. The Debt was purchased, after the Effective Date, through a purchase agreement without meaningful and effective

commitments to provide Original Account-Level Documentation during the time period in which Midland is Collecting the Debt; or

d. The Debt was purchased in a portfolio, after the Effective Date, which Midland knows contains unsupportable or materially inaccurate information about the Debt, based on either of the following factors:

i. At any time during the preceding twelve months, a Consumer disputed, orally or in writing, the accuracy or validity of a Debt in the portfolio and Midland sought but was unable to obtain Original Account-Level Documentation reflecting the amount of the Debt or the identity of the person responsible for the Debt, unless Midland can establish, based on a documented and thorough review of Original Account-Level Documentation concerning other Consumer Accounts in the portfolio, that the inability to obtain Original Account-Level Documentation to support the Consumer Account in the portfolio was an anomaly; or

ii. Original Account-Level Documentation produced to Midland, by a Seller or a Consumer, reflected information about the amount of the Debt or the identity of the person responsible for the Debt that was inconsistent and irreconcilable with information previously provided to

Midland by the Seller, unless Midland can establish, based on a documented and thorough review of Original Account-Level Documentation concerning other Consumer Accounts in the portfolio, that the production of inaccurate or inconsistent information concerning the Consumer Account in the portfolio was an anomaly.

9. ^Where Midland is required to review Original Account-Level Documentation in accordance with Subsection (a) of Paragraph 8, Midland shall refrain from engaging in new attempts to Collect the Debt until Midland completes the review. Provided, however, for purposes of this Paragraph, Collecting or attempting to Collect do not include furnishing information to the Credit Reporting Agencies. Where Midland completes such a review, Midland, either directly or by use of a third party such as a Law Firm, shall provide a copy of such documentation to the Consumer without cost unless Midland has sent to the Consumer the documentation within the last six months.

10. At any time during Midland's ownership of a Debt, if Midland determines that the Debt is not owed by a Consumer, Midland shall:

a. Cease any and all Collection efforts directed to the Consumer in connection with the Debt;

b. Request the deletion of any negative information (or the entire trade line) associated with the Debt that Midland furnished to a Consumer Reporting Agency relating to that Consumer; and

c. If Midland returns the Debt to the Seller, Midland shall inform the Seller that it has determined that the Debt is not owed by the Consumer.

11. For Consumer Accounts on which Midland has not commenced Collection activity as of the Effective Date, Midland shall not commence Collection activity against a Consumer unless Midland has attempted, either directly or by use of a third party, to determine whether:

a. The Debt is subject to the Consumer's active bankruptcy case or has been discharged in bankruptcy;

b. The Consumer is deceased; and

c. The Consumer is a service member on active duty.

Midland shall perform subsequent screening as needed, either directly or by use of a third party, to determine the Consumer Account status as set forth in this Paragraph.

12. Determination by Midland that a Consumer Account meets any of the statuses set forth in Paragraph 11 shall not prohibit Midland from Collecting on such account so long as Collections are in accordance with the law and the following terms:

a. If a Debt is subject to bankruptcy, then Midland shall cease Collecting or attempting to Collect on the Debt from the Consumer that has filed for bankruptcy unless:

i. The applicable court approves Collection or attempted Collection;

ii. The bankruptcy is dismissed; or

iii. The bankruptcy is completed and the Debt is not discharged.

b. If the Debt has been discharged in bankruptcy, then Midland shall cease attempting to Collect on the Debt from the Consumer who was subject to the bankruptcy.

c. Subparagraphs (a) and (b) shall not be deemed to preclude Midland from filing a proof of claim or otherwise participating in the bankruptcy proceeding as a creditor and seeking such relief as the law may allow.

d. If the Consumer(s) responsible for the Debt are deceased, Midland shall cease Collecting or attempting to Collect on the Debt unless Midland complies with the FDCPA or any regulations the Consumer Financial Protection Bureau may adopt regarding the collection of decedents' debts; and

e. If the individual is an active duty service member, Midland shall comply with the Servicemembers Civil Relief Act and state law equivalents.

13. ^Midland shall not re-sell Debt to anyone other than (a) the entity that initially sold the Debt to Midland or to the Creditor, (b) a subsidiary or affiliate of Midland that is subject to the terms of this Assurance (either by operation of law or by agreement), (c) any entity that is subject to the terms of this Assurance as part of an acquisition or merger with Midland, or purchase of all or substantially all of Midland's assets, or (d) Midland's (or its affiliates') creditors or any agent of such creditors in settlement or satisfaction of any claims under, or in connection with the default or remedial provisions of, any relevant loan or lending agreement. The foregoing provisions of this paragraph shall expire on September 9, 2020. As of that date, Midland shall comply with any regulations the Consumer Financial Protection Bureau may adopt regarding the re-sale of Debt.

14. Once Midland begins Collection activity on a Consumer Account, and continuing for so long as Midland pursues Collection activity on that Consumer Account, it will update regularly the Consumer Account information with information obtained by Midland in the

course of its efforts to Collect on that Consumer Account that Midland deems material and relevant to Collections.

Notice and Validation

15. For Consumer Accounts on which Midland has not commenced Collection activity as of the Effective Date, before sending the correspondence required by 15 U.S.C. Section 1692g(a), Midland shall use reasonable efforts, such as using the United States Postal Service's National Change of Address database, to verify the Consumer's current postal or email address. If any validation notice is returned as undeliverable, Midland will disable that address, use reasonable efforts to verify the Consumer's current address, and, if found, send another validation letter to the new address.

16. *^Midland shall, no later than five days after any initial communication with a Consumer (verbal or written) made in connection with the Collection of a Debt, mail a written notice to the Consumer in accordance with 15 U.S.C. Section 1692g(a) (unless the initial communication included the below information or the debt has been paid). That notice shall include the following information:

a. The name of the Creditor at the time of Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt), including, where available and applicable, the name under which the Creditor did business with the Consumer or the affinity name associated with the Consumer Account;

b. The last four digits of the account number used by the Creditor or such other information as will reasonably enable the Consumer to identify the original account;

c. The name of the current person or entity to whom the Debt is owed and the date on which Midland first acquired the Consumer Account;

d. The amount of the Debt at Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt) and, if the claimed amount of the Debt is more than the Charge-off Balance (or post-default balance), a breakdown of any post-Charge-off (or post-default) fees and interest; and

e. A clear and conspicuous statement that Midland has purchased the Debt and is attempting to Collect it from the Consumer.

Furnishing Collection Information to Consumer Reporting Agencies

17. Midland shall not furnish information to the Consumer Reporting Agencies that Midland knows or has reasonable cause to believe is inaccurate. "Reasonable cause to believe that the information is inaccurate" has the same meaning as the term is defined in section 15 U.S.C. § 1681s-2(a)(1)(D) of the FCRA.

Requirements Related to Personnel

18. Midland shall not knowingly employ or permit its agents, employees, representatives, Law Firms or affiliates to employ any deceptive means to Collect a Debt or obtain information concerning a Consumer.

19. Midland shall conduct background checks on all newly hired employees who are located in the United States and whose duties involve personal contact with Consumers or preparation of affidavits. Such background checks shall be carried out before the employee undertakes such duties.

20. Midland shall dedicate an appropriate number of trained representatives to resolve disputes and address questions from Consumers in a timely manner.

21. Midland shall maintain a mandatory training program for newly-hired collection representatives that covers state and federal laws, including the FDCPA, Consumer Financial Protection Act, as well as state law variations, FDCPA terminology, the legal requirements of communicating with Consumers, Midland's internal policies for compliance, the Servicemembers Civil Relief Act, the Gramm-Leach-Bliley Act, and the FCRA. As part of the training program, Midland will require collection representatives to pass a comprehensive examination that includes information on the FDCPA before they are assigned to permanent duties, and to also complete an annual re-examination on the FDCPA.

22. Midland shall monitor a sample of Collection calls of its account managers (*i.e.*, call center employees) for legal compliance and training purposes and will record a sample of Collection calls to the extent permissible or feasible under applicable laws. Based on this monitoring, Midland's quality assurance team will assess the job performance of Midland's account managers and the potential need for corrective or disciplinary action.

23. ^Midland shall confirm in writing any arrangement to settle a Consumer's Debt agreed to after the Effective Date between a Consumer and Midland, or between a Consumer's representative and Midland, over the telephone, and Midland will, not later than 10 business days,

mail, fax, or electronically deliver the confirmation to the Consumer or that Consumer's representative.

III. REQUIREMENTS RELATED TO COLLECTIONS LITIGATION

24. Midland, whether acting directly or indirectly through its Law Firms, shall comply with applicable state and local pleading requirements governing a good faith basis for the filing of Collection lawsuits.

25. Midland, whether acting directly or indirectly through its Law Firms, shall not make material factual assertions in documents filed with a court in Collections Litigation based on information Midland knows or has reasonable cause to believe is inaccurate. Midland shall not be deemed in violation of this Paragraph if the material factual assertions it makes in documents filed with a court comply with the relevant pleading standards applicable in that court.

26. ^Midland, whether acting directly or indirectly through its Law Firms, shall not initiate a Collection lawsuit against Consumers unless it has in its possession:

a. Original Account-Level Documentation reflecting, at minimum:

i. The name of the Consumer;

ii. The last four digits of the account number associated with the Debt at the time of Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt) or other such information as will reasonably enable the Consumer to identify the original account; and

iii. The claimed amount, excluding any post-Charge-off payments or credits, unless the claimed amount is higher than the Charge-off Balance in which case Midland must possess:

1. Original Account-Level Documentation reflecting the Charge-Off Balance; and
2. an explanation of how the claimed amount was calculated and why such an increase is authorized by the agreement creating the Debt or permitted by law.

b. The name of the Creditor at the time of Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt), including, where available and applicable, the name under which the Creditor did business with the Consumer or the affinity name associated with the Consumer Account;

c. The date of Charge-off (or other date, such as the date of default, as may be required by regulations the Consumer Financial Protection Bureau may adopt regarding the Collection of Debt);

d. The address of the Consumer as it appeared in the Seller's records at or immediately prior to the sale of the Debt;

e. The name of the current person or entity to whom the Debt is owed and the date on which Midland first acquired the Consumer Account;

f. The terms and conditions applicable to the Debt if Midland is suing under a breach of contract theory. Compliance with regulations the Consumer Financial Protection Bureau may adopt relating to the possession of terms and conditions shall be sufficient to comply with this subparagraph); and

g. At least one of the following:

i. A document signed by the Consumer evidencing the Debt or the opening of the account; or

ii. A bill or other record that reflects purchases, payments, or other actual use of a credit card or account by the Consumer.

h. A chronological listing of the names of all Prior Owners of the Debt and the date of each transfer of ownership, beginning with the name of the Creditor at the time of Charge-off; and

i. A certified, verified, or otherwise properly authenticated copy of each bill of sale, or other document, evidencing or otherwise attesting to the transfer of ownership of the Debt beginning at the time of Charge-off to each successive owner, including Midland.

27. ^Midland shall not engage in Collections Litigation without providing the Consumer, either directly or indirectly through a Law Firm, with certain information about the Debt, unless previously provided, including but not limited to:

a. The name of the Creditor at the time of Charge-off, including, where available and applicable, the name under which the Creditor did business

with the Consumer or the affinity name associated with the Consumer Account;

b. Midland's or the Law Firm's name and address;

c. The last four digits of the account number associated with the Debt at the time of Charge-off or other such information as will reasonably enable the Consumer to identify the original account;

d. The Charge-off Balance;

e. The method used to calculate any amount claimed in excess of the Charge-off Balance; and

f. A statement that Midland, or Midland's agent, will, within 30 days of a written request, provide the Consumer with copies of the documentation referenced in Paragraph 27, at no cost. Provided that, Midland has to provide such documentation upon request only once per year and Midland is not required to provide such documentation in response to a request made more than one year after Midland has ceased collecting the Debt.

28. Midland shall not restrict its Law Firms' ability to order from Midland Original Account-Level Documentation that they may request about a Debt that has been placed in Collections Litigation. This Paragraph shall not create an independent obligation on Midland to order Original Account-Level Documentation from Sellers or Prior Owners of a Debt.

29. Midland shall instruct its Law Firms to which Midland places Consumer Accounts that (a) the Law Firms are responsible for calculating the limitations period for each Consumer Account according to applicable law and based on a review of relevant data and/or records (however, Midland may require its Law Firms to use a shorter limitations period), (b) a

Collection lawsuit shall not be filed on a Consumer Account for which the statute of limitations has expired, and (c) the prosecution of any Collection lawsuit must cease and the Law Firm must take reasonable steps to seek to dismiss the lawsuit in accordance with applicable rules if it is determined that the lawsuit was filed after the applicable statute of limitations had expired. Subparagraph (c) shall not apply where the lawsuit is the subject of litigation between the Consumer and Midland.

30. Midland shall instruct its Law Firms to bring suit in the name of the proper party, consistent with all local, state and federal laws, court rules, and other authorities and take appropriate steps to ensure that such instructions are carried out.

31. Midland, whether acting directly or indirectly through its Law Firms, shall not pursue or threaten litigation or otherwise Collect on Consumer Accounts where it knows or has reason to know that it is not the rightful and named owner. This Paragraph shall not apply to Collections that Midland may hereafter make for third parties.

32. Midland shall instruct its Law Firms to engage process servers who are reputable, licensed (where applicable), in good standing with applicable regulatory agencies and trade associations, and who both conform to all legal requirements concerning the service of process and employ systematic checks to validate effective service (*e.g.*, the appropriate use of technology, digital pictures, compliance audits, etc.). Midland shall also instruct its Law Firms to comply with all relevant state and local laws and procedures related to service of process upon Consumers.

IV. REQUIREMENTS RELATED TO AFFIDAVITS

33. Midland's affiants shall not sign an affidavit in connection with Collections Litigation unless the facts stated in the affidavit are based upon:

a. The affiant's review of pertinent business/account records (in either hard copy or electronic format) in Midland's possession, and

b. Any personal knowledge gained by those records actually reviewed by and relied upon by the affiant.

34. Midland shall not produce an affidavit in connection with Collections Litigation that it knows or should know contains false representations regarding the validity, source, authenticity, trustworthiness, or reliability of the records relied on to Collect the Debt, including but not limited to:

a. Falsely asserting that the Creditor affirmed the accuracy or reliability of the account records it sold or transferred to Midland;

b. Falsely asserting that account data was obtained from a source other than the actual source of the data; and

c. Falsely asserting that the affiant has personal knowledge of the manner and mode by which the Creditor prepared, recorded, or maintained the account records.

35. When an affidavit used in connection with Collections Litigation contains attached documents, the affiant shall review the attached documents before executing the affidavit to confirm that the correct documents have been attached and are true and correct copies of documents contained in Midland's records, and Midland shall, either directly or indirectly through its Law Firms, retain a copy of the attached documents for the duration of the litigation.

36. Midland shall not pay incentives to employees or third-party providers based solely on volume of affidavits prepared, verified, executed, or notarized (except for notaries not employed by Midland, who may be paid customary fees for notarial services).

37. Affidavits shall be signed by hand signature of the affiant, except in jurisdictions and situations where electronic signatures are permitted by law.

38. Midland's procedures for the generation and use of affidavits in Collections Litigation shall require, at a minimum, the following tasks of those employees who review and sign affidavits:

a. Such employees must carefully review and fully understand any proposed affidavit prior to executing the proposed affidavit;

b. Such employees must confirm that all of the data points in the proposed affidavit accurately reflect data in Midland's account records prior to executing the proposed affidavit;

c. Such employees will carefully review attachments to the proposed affidavit to confirm that true and correct copies of documents contained within Midland's records are attached and are accurately described in the proposed affidavit; and

d. Affidavits passing such review and confirmation will then be executed in the presence of a notary where required by applicable state or local law. In no event will any affidavit be executed by an affiant if it has not been through the review and confirmation procedures set forth above.

39. Midland's procedures for the generation and use of affidavits shall be in writing, and each employee who has job duties involving the preparation and signing of affidavits to be used in Collections Litigation will be trained annually on those procedures, as set forth in Paragraph 40.

40. Midland shall ensure that its affiants, both as new hires and throughout their tenure, undergo, at minimum, annual training regarding the following topics:

a. the purpose of an affidavit in the legal process;

b. the general legal terms commonly used in affidavits or lawsuits;

c. specialized terms used in the collection industry;

d. federal and state laws specific to the collection industry;

e. requirements regarding personal review and knowledge of records; and

f. the penalties associated with making false statements or signing affidavits without requisite personal knowledge of account records.

41. Midland, whether directly or through Law Firms, shall not knowingly file, or knowingly cause to be filed, affidavits that do not comply with applicable state law. Midland will instruct its Law Firms that affidavits filed in Collection lawsuits shall fully comply with all applicable state laws, and take appropriate steps to ensure that such instructions are carried out and document steps taken to ensure compliance with the provisions of this Assurance.

V. REQUIREMENTS RELATED TO TIME-BARRED DEBT

42. Midland shall not knowingly pursue or threaten to pursue, directly or indirectly, Collections Litigation on any Time-barred Consumer Accounts.

43. ^Midland, whether directly or through Law Firms or other third parties, shall disclose clearly and conspicuously the following disclosures regarding the statute of limitations in oral or written communications to applicable Consumers, depending on the following specific status of the Consumer Account:

a. For those Consumer Accounts where the Debt is Time-barred and generally cannot be included in a consumer report under the provisions of the FCRA,

15 U.S.C. § 1681c(a), Midland, whether directly or through Law Firms or other third parties, shall include the following statement, either verbatim or in substance, in any oral or written Collection attempt: "The law limits how long you can be sued on a debt and how long a debt can appear on your credit report. Due to the age of this debt, we will not sue you for it or report payment or non-payment of it to a credit bureau;" and

b. For those Consumer Accounts where the Debt is Time-barred but collectible, and may be included in a consumer report under the provisions of the FCRA, 15 U.S.C. § 1681c(a), Midland, whether directly or through Law Firms or other third parties, will include the following statement, either verbatim or in substance, in any oral or written Collection attempt: "The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it."

Provided, however, that with regard to oral communications, Midland is not required to make either disclosure to any individual person more than once per 30-day period. Midland will be deemed to have complied with the disclosure requirements of this Paragraph if it makes a disclosure to Consumers that is substantially similar to the disclosure required by this Paragraph.

44. ^Midland shall not, directly or indirectly through a Law Firm or other third parties, make any representation or statement, or take any other action that interferes with, detracts from, contradicts, or otherwise undermines the disclosures required in Paragraph 43 above. Nothing contained in paragraphs 43 or 44 shall be construed to require Midland to make any disclosure that would otherwise be prohibited by, or create liability under, federal, state or local

law; and nothing contained in paragraphs 43 or 44 shall be construed to prohibit Midland from making any disclosure that would otherwise be required by, or to avoid liability under, federal, state or local law.

VI. MISCELLANEOUS COMPLIANCE PROCEDURES

45. Midland shall employ legal counsel, compliance officer(s), and/or other senior manager(s) responsible for compliance oversight, who will identify reasonably foreseeable internal and external violations of applicable laws by its employees and agents.

46. All new Law Firms engaged by Midland after the Effective Date shall be subject to a due diligence process, which will include a site visit by a member of Midland's vendor management team (or equivalent). All Law Firms active as of the Effective Date will be also subject to regular performance reviews for so long as they are engaged in Collections Litigation.

47. Midland shall create, to the extent not already in existence, policies and procedures reasonably expected to ensure compliance with this Assurance.

48. Should Midland learn that any Midland employee, Law Firm, third-party collection agency, or other agent acting on its behalf, is acting in violation of the law or the requirements of this Assurance, Midland shall take such action as may be reasonable to prevent further violation, up to and including the termination of any individual or agent that is in violation of the law or this Assurance.

49. In lieu of any steps required by this Assurance as a prerequisite to any Collection efforts, Midland may, at its option, choose not to pursue Collection efforts on any given Consumer Account.

50. No later than 30 days after the Effective Date of this Assurance, Midland shall deliver a copy of this Assurance to all of its current officers, directors, third-party collection agencies, and Law Firms (current as of the Effective Date).

VII. DISPUTE RESOLUTION

51. Before seeking any relief from any court for any alleged violation of this Assurance, and if in the discretion of the State, the lack of immediate enforcement action will not threaten the health, safety, or welfare of the citizens of their State, the State will give Midland written notice of the alleged violation. Midland shall then be provided the opportunity to respond to the State regarding the alleged violation within a period of ten (10) business days after the written notice is received. Within that ten (10) business day period, Midland may request a meeting to discuss the alleged violation. If Midland makes such a request, the State shall meet with Midland, either by phone or in person, at the earliest possible date, but in no event more than ten (10) business days from the date of Midland's request. The State and Midland agree to attempt to resolve any alleged violation of this Assurance through good-faith negotiation using the procedure described herein prior to the State initiating any action for enforcement.

52. In the event that any statute or regulation pertaining to the subject matter of this Assurance is modified, enacted, promulgated or interpreted by any State with respect to its own laws, or by the federal government or any federal agency, such that Midland contends the statute or regulation is in conflict with any provision of this Assurance and therefore that Midland cannot comply with both the statute or regulation and the provision of this Assurance, Midland shall provide advance written notice of at least thirty (30) days to the State of the inconsistent provision of the statute or regulation with which Midland intends to comply and of the counterpart provision of this Assurance that Midland contends is in conflict with the statute or regulation. If the State

disagrees, that State shall, within thirty (30) days of receipt of Midland's notice, notify Midland that the State does not agree there is a conflict between the requirements of the Assurance and the state or federal law. Any court orders modifying the Assurance in one or more states do not in any way affect the validity or enforceability of the Assurance entered in other states, and cannot be used to support modification of the Assurance in other states. Nothing in this Paragraph shall be deemed to relieve Midland from following any subsequently enacted law that is more restrictive than the provisions of this Assurance, or from following this Assurance if it is more restrictive than applicable laws, to the extent Midland can adhere to both this Assurance and the provisions of state or federal law.

53. To seek a modification of this Assurance for any reason, Midland will send a request to the State. The State will make a good-faith evaluation of the then-existing circumstances and Midland's request, and after collecting any information the State deems necessary, make a prompt decision as to whether to agree to the modification of this Assurance. In the event that the State timely denies the modification request, Midland reserves all rights to pursue any legal or equitable remedies that may be available to it.

VIII. ENFORCEMENT

54. By execution of this Assurance, the Attorney General of each State releases and forever discharges Midland as well as Midland's past and present directors, employees, officers, shareholders, agents and attorneys ("Released Parties") from the following: all common law and other civil law claims that arise under any statute, regulation, or other law that the Attorney General of such State has authority to enforce, and that relate to consumer protection, unfair and deceptive business practices, the purchase and/or collection of debts (including but not limited to laws related to registration, licensing, or certification to engage in debt purchasing and/or debt collection),

and/or the enforcement of judgments (all of which shall be deemed to include, without limitation, the Dodd-Frank Act, the Fair Debt Collection Practices Act, and the Fair Credit Reporting Act) insofar as such claims relate to Midland's Collection activities, up to and including the Effective Date of this Assurance (collectively, the "Released Claims").

55. Nothing in this Assurance shall impair any private right of action as provided by federal or state law or any action by any other local, state, federal, governmental agency; nor shall this Assurance create any right of action in any person or entity, except that the Attorney General in each of the Participating States shall have the right to seek enforcement of this Assurance.

IX. PAYMENT PROVISIONS

Payment Other Than Consumer Relief

56. Within thirty (30) days after the Effective Date of this Assurance, Midland shall pay $6,000,000 to the States. At the sole discretion of the Attorneys General, the payment shall be used for reimbursement of attorneys' fees and/or investigative costs, used for future public protection purposes, placed in or applied to the consumer protection enforcement fund, consumer education, litigation, or local consumer aid fund or revolving fund, or similar fund by whatever name, or used for other consumer protection purposes permitted by state or local statutes, rules, or regulations.

Consumer Relief

57. Upon full execution of this Assurance,

a. Midland shall internally set aside $25,000 per State to be available for restitution for Consumer redress. Notwithstanding Midland's express denial of any violation of local, state or federal law, rule or regulation, for a

period of two years from the Effective Date, a State may submit a claim for restitution to Midland demonstrating a *prima facie* showing that, as a result of Collection efforts undertaken by Midland:

i. Midland submitted an affidavit in support of a Collection lawsuit against a Consumer where the amounts allegedly owed by the Consumer reflected in the affidavit did not accurately reflect Midland's account records related to that Consumer's Debt at the time of execution of the affidavit;

ii. A Consumer of the State made a payment to Midland on a Debt that was not actually owed by the Consumer, and which was not refunded; or

iii. A Consumer of the State made a payment to Midland in excess of that which was owed by the Consumer, and which was not refunded.

Upon any such occurrence, within thirty (30) days of the receipt of the State's claim for restitution, Midland will refund to the Consumer an amount equal to the Consumer's overpayment, unless Midland provides information within that thirty (30) day period that raises a question of fact regarding the validity of that claim. If such evidence is provided by Midland, the State submitting the claim will have thirty (30) days to evaluate the claim in good faith. The State's decision, however, will be final and binding on Midland. After two years from the date of the full execution of this Assurance, or at the

time that the $25,000 fund set aside by Midland for the State has been exhausted, whichever comes first, Midland's obligations under this provision shall terminate.

b. Midland shall provide a credit to the outstanding balance of the judgment up to $1,850 to each Consumer where: (i) the judgment was taken in a court in a Participating State; (ii) the Consumer disputed the Debt with Midland; (iii) Midland filed a Collection lawsuit against the Consumer after the Consumer disputed the Debt with Midland and a Law Firm requested an affidavit from Midland to support the lawsuit between January 1, 2003 and September 14, 2009; and (iv) the Consumer never made a payment to Midland in connection with the Debt. If the amount of the credit would extinguish the outstanding balance of the judgment, Midland shall apply only such amount as will reduce the balance to zero and no refund shall be due. The credits provided by Midland under this subparagraph: (a) shall not renew or extend the period within which the underlying judgments remain valid and subject to enforcement by legal process; and (b) represent settlements, by Midland and the Participating States, of contested liabilities that were disputed in good faith by the Attorneys General of the Participating States on behalf of the Consumers who receive the credits.

c. Consumer relief under this Paragraph does not cover accounts or Debts owned by any subsidiaries of Encore Capital Group before the subsidiaries were acquired by Encore Capital Group.

d. In addition, within 90 days of the Effective Date, Midland shall send notice to all Consumers whose accounts receive a credit under Paragraph 57(b) of the Agreement informing them of the credit. That notice shall be sent to such Consumers' last known mail address or last known email address, as appearing in the records of Midland. Within 120 days of the Effective Date, Midland shall provide the Attorney General of each Participating State a spreadsheet showing the identity of the Consumers in that State who received the credit and the amount of the credit provided.

X. GENERAL PROVISIONS

58. Midland shall not seek, nor is it entitled to obtain, specific releases from Consumers in conjunction with the restitution ordered herein or related to this Assurance.

59. Any notices required or permitted by this Assurance shall be in writing and sent by United States mail, certified mail return receipt requested, or other nationally-recognized courier service that provides for tracking services and identification of the person signing for the document. Any notice to any Attorney General shall be addressed to such contact and address as the Attorney General shall designate.

Any notices or other documents required by this Assurance to be sent to Midland shall be sent to both of the following addresses:

Midland Credit Management, Inc.
Attention:
Andrew Asch, General Counsel
3111 Camino del Rio North, Suite 1300
San Diego, CA 92108

Siran S. Faulders, Esq.
and/or Ashley L. Taylor, Jr., Esq.
Troutman Sanders LLP
1001 Haxall Point, Suite 1500

Richmond, VA 23219

Either Party may change or add the name and address or addresses of the person(s) designated to receive notice on its behalf by notice given (effective upon the giving of such notice), as provided in this Paragraph.

60. Midland shall designate one or more management-level employees to be the primary contact for the Signatory Attorneys General regarding complaints and inquiries from Consumers regarding their Debt. Midland shall provide the Attorney General or Consumer a written response to such inquiries, or seek from the Attorney General additional time to respond, within forty-five (45) days after Midland receives the inquiry from the Attorney General.

61. Midland's assurance to undertake the obligations described herein shall not be construed as evidence that such steps are necessary to comply with any statute, regulation or other rule of law of any State or the United States of America, nor shall such Assurance be construed as evidence that such measures did not exist at Midland prior to the execution of this Assurance, nor shall this Assurance otherwise prejudice the position of Midland with respect to whether it has complied with any statute, regulation or other rule of law of the State.

62. Each of the Parties is represented by counsel who participated in the drafting of this Assurance shall be deemed to have been mutually drafted by the Parties and shall not be construed against either Party as the author thereof.

63. Nothing in this Assurance shall be construed to authorize or require any action by Midland in violation of applicable federal, state or other laws.

64. The titles or headings to each section or provision of this Assurance are for convenience purposes only and are not intended by the parties to lend meaning to the actual provisions of this Assurance.

65. If any clause, provision, or section of this Assurance 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 Assurance, and this Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

66. Nothing contained herein, and no act required to be performed hereunder, including, but not limited to, the provision of information and/or material, is intended to require the disclosure by Midland of any communication by and between any officer, director, employee, agent or consultant of Midland and any person retained to provide Midland with legal advice, or otherwise, to constitute, cause or effect any waiver (whether by subject matter, in whole, or in part) of: (a) attorney-client privilege, work product protection, common law defense privilege and/or any other applicable privilege; or (b) confidential, proprietary or trade secret exception under each States' public records laws.

67. Nothing contained in this Assurance shall be construed to diminish the post-investigation obligations undertaken by the States in the course of their investigation of Midland (including but not necessarily limited to the post-investigation obligations set forth in the Confidentiality Agreement executed by Midland and the members of the Executive Committee in October 2012). Said obligations shall survive the execution of this Assurance and shall continue to be in effect. Nothing contained herein shall be construed to diminish any confidentiality obligations arising under state law with respect to materials or information obtained during the course of said investigation. Any documents provided to the States under the terms of this Assurance shall be treated in accordance with the Confidentiality Agreement that was executed by Midland and the members of the Executive Committee in October 2012.

68. This Assurance supersedes and nullifies the terms of any prior Tolling Order executed between Midland and any of the States during this investigation.

69. Notwithstanding any provision of this Assurance, Midland is not required to refuse to accept any payments voluntarily submitted by Consumers; suspend Collections for Consumers who have acknowledged the Debt and agreed to make payments, or refuse to communicate with a Consumer who affirmatively contacts Midland (or Midland's agents) or requests contact from Midland (or Midland's agents) to discuss the Consumer Account.

70. This Assurance shall be effective upon the Effective Date, except that the obligations of Paragraphs 10(c), 16, 27(b), and 47 shall not take effect until 60 days after the Effective Date. Notwithstanding the foregoing, the obligations imposed by this Assurance by Paragraphs 6, 7, and 16 shall not apply to any Legacy Accounts.[3]

71. Paragraphs 6, 7, 8, 9, 13, 16, 23, 26, 27, 43, and 44 shall terminate September 9, 2020.[4]

72. Except for Midland's obligations to credit judgments, as set forth in Paragraph 57(b), nothing contained herein shall be deemed to apply to any act or omission by Midland (i) with respect to any natural person who is not a resident of a Participating State at the time of such act or omission; or (ii) with respect to Collections Litigation in any court outside of the Participating States.

73. Midland shall ensure that any entities acquired by Midland subsequent to the Effective Date are brought into compliance with the applicable terms of this Assurance within one year after the closing of the acquisition transaction.

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[3] *Indicates that paragraph will not apply to Legacy Accounts
[4] ^Indicates that paragraph will sunset

74. Midland shall not participate directly or indirectly in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited by this Assurance or for any other purpose that would otherwise circumvent any part of this Assurance.

75. Midland shall not represent directly or indirectly or in any way whatsoever imply that the State has sanctioned, condoned, or approved any part or aspect of Midland's business practices, current efforts to reform its practices, or any further practices that Midland may adopt or consider adopting.

76. This Assurance does not constitute an admission by Midland of any fact or any violation of any local, state or federal law, rule or regulation, and Midland expressly denies any such violation. Midland enters into this Assurance for settlement purposes only. This Assurance is made without trial or adjudication of any issues of fact or law other than those finding that Midland was engaged in trade or commerce. This Assurance does not constitute evidence or admission of any issues of fact or law.

77. The provisions of this Assurance, stating that Midland shall perform a certain action or engage in certain practices or conduct itself in a certain manner (*e.g.*, comply with various statutes), shall not be construed to imply that Midland did not perform that action or engage in that practice or conduct itself in that manner before the execution of this Assurance. Likewise, the provisions of this Assurance, stating that Midland shall not perform a certain action or engage in certain practices or conduct itself in a certain manner, shall not be construed to imply that Midland performed that action, or engaged in that practice, or conducted itself in that manner before the execution of this Assurance.

IN WITNESS WHEREOF, Midland and the undersigned Attorneys General have executed this Assurance on the dates set forth below.

IN THE MATTER OF:

Encore Capital Group, Inc., Midland Funding, LLC, and Midland Credit Management, Inc.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: _____

Justin Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, Vermont 05609
802.828.3186

Date: 12/3/18

IN THE MATTER OF:

Encore Capital Group, Inc., Midland Funding, LLC, and Midland Credit Management, Inc.

ENCORE CAPITAL GROUP, INC., et al.

By: Troutman Sanders, LLP

By: _____
Siran S. Faulders, Esq.

Date: December 4, 2018

NO. 90-2-16 Wncv

In the matter of:	§	
	§	
MONEYGRAM	§	
PAYMENT SYSTEMS, INC.	§	

ASSURANCE OF DISCONTINUANCE

A. PARTIES

1. The signatories to this Assurance of Discontinuance ("Assurance") are MoneyGram Payment Systems, Inc. ("MoneyGram" or "the Company"), a wholly owned subsidiary of MoneyGram International Inc., and the States and Commonwealths listed in Exhibit A (hereafter "the Participating States" or "the States," and, collectively with MoneyGram, may be referred to as "the Parties.").

2. The States are represented by the Consumer Protection Divisions of their respective Attorneys General.[1]

3. MoneyGram International Inc. is a publicly traded corporation in the global money services business, incorporated under the laws of Delaware, and headquartered in Dallas, Texas. Its principal executive offices are located at 2828 N. Harwood St., 15th Floor, Dallas, Texas 75201. MoneyGram provides services that enable Consumers to transfer money to Outlets throughout the United States and around the world. MoneyGram has a global network of approximately 350,000 locations where its Agents send and receive Money Transfers.

[1] The Utah Division of Consumer Protection is statutorily authorized to enforce all statutes listed in Utah Code 13-2-6, including the Utah Consumer Sales Practices Act, Utah Code 13-11-1, *et seq*. Hawaii is represented by its Office of Consumer Protection, an agency that 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. Massachusetts is represented by the Insurance and Financial Services Division of the State Attorney General's Office which, as part of the State Attorney General's Office, is statutorily authorized to bring consumer protection actions under M.G.L. c. 93A, Section 1 et seq.

B. PREAMBLE

1. MoneyGram and the States are committed to protecting Consumers from fraudulently induced money transfers through a program that includes prominent consumer warnings at locations and platforms offering MoneyGram's products and services, nationwide consumer education, Agent monitoring, training and remediation of any identified issues, interdictions of high-risk transfers, and sharing of complaint information with the States.

2. Pursuant to their respective authority under their state consumer protection statutes ("Acts[2]"), the States conducted an investigation of MoneyGram's Money Transfer services, and in particular the States considered (a) the complaints of Consumers who were contacted by phone, U.S. mail, or the Internet, and were fraudulently induced to send money to third parties involved in schemes to defraud the public using MoneyGram's wire transfer service and (b) MoneyGram's ongoing efforts to implement and maintain effective anti-fraud measures to prevent financial losses to Consumers.

3. The Parties have agreed to resolve the concerns addressed in the Compliance Provisions in Part E below by entering into this Assurance.

4. MoneyGram is willing to enter into this Assurance in order to resolve the concerns of the Attorneys General under the Acts as to the matters addressed in this Assurance. However, (i) nothing in this Assurance shall be construed as authorizing any person or entity other than a State acting through its Attorney General, to enforce or seek remedies under or as the result of this Assurance or a breach thereof and (ii) this Assurance and all negotiations, statements, and proceedings in connection therewith shall not be construed as or deemed to be evidence of an admission or concession on the part of MoneyGram of any violation of law, liability, or wrongdoing by it, and shall not be offered or received in evidence in any action or

[2]Exhibit A attached here lists the Participating States and cites the applicable state consumer protection laws of each.

proceeding or used in any way as an admission, concession or evidence of any violation of law, liability or wrongdoing of any nature on the part of MoneyGram.

5. MoneyGram is entering into this Assurance solely for the purpose of resolving the concerns addressed in the Compliance Provisions in Part E below. This Assurance does not create a waiver or limit MoneyGram's legal rights, remedies, or defenses in any other action by the States, and does not waive or limit MoneyGram'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 Assurance. Nothing in this Assurance shall waive, release, or otherwise affect any claims, defenses, or positions MoneyGram may have in connection with any investigations, claims, or other matters the States are not releasing hereunder.

C. DEFINITIONS

The following definitions shall be used in construing this Assurance:

1. **"AFAS"** means MoneyGram's Anti-Fraud Alert System implemented on or about May 2010. This system alerts, identifies and then places on hold transactions that are suspected to be Fraud-Induced Money Transfers. MoneyGram employees may then contact the sender by telephone and interview him or her to determine whether the Money Transfer may be fraud-induced or otherwise sent for an improper purpose. If MoneyGram believes the transfer may be fraud-induced or otherwise sent for an improper purpose, the transfer is cancelled and all monies paid by the sender are returned to him or her. This process is referred to as an "AFAS Review." For purposes of construing this Assurance, the term "AFAS" shall apply to any future Money Transfer interdiction system that MoneyGram may implement to augment or replace AFAS as described above, regardless of whether or not such future system is titled "AFAS."

2. **"Agent"** or **"MoneyGram Agent"** means an entity contractually authorized to offer MoneyGram's products and services. MoneyGram's Agents are not employed by MoneyGram but have entered into contractual agreements with MoneyGram. MoneyGram Agents receive a commission from MoneyGram on Money Transfers processed at their Outlets. MoneyGram has the legal right to terminate an Agent for a variety of reasons, including suspected involvement in fraudulent activities such as Fraud-Induced Money Transfers.

3. **"Agent Outlet"** or **"Outlet"** means a specific location owned or operated by an Agent.

4. **"Attorney General"** or **"Attorneys General"** means the Attorneys General or their designees of the Participating States.

5. **"Clear and Conspicuous"** means when referring to a statement or disclosure required by Section E, Paragraphs 11, 13 and 15 of this Assurance, that such statement, disclosure or other information, by whatever medium communicated, is disclosed in such size, color, contrast, location, duration, and/or audibility that it is readily noticeable, readable, understandable, and/or capable of being heard. Further, a disclosure of information is not Clear and Conspicuous if, among other things, it is obscured by the background against which it appears or contradicts or is inconsistent with any other information with which it is presented. If a statement modifies, explains or clarifies other information with which it is presented, then the statement must be presented in proximity to the information it modifies, explains or clarifies, in a manner that is readily noticeable, readable, and understandable, and not obscured in any manner. In addition (1) an audio disclosure must be delivered in a volume and cadence sufficient for a Consumer to hear and comprehend it, and (2) an Internet disclosure must be of a type size,

location and shade and remain on the screen for a duration sufficient for a Consumer to read and comprehend it.

6. **"Consumer"** means any person who initiates a Money Transfer through a MoneyGram Agent located in the United States.

7. **"Consumer Fraud Report"** means the document that reflects a Consumer's report of potentially fraudulent activity to MoneyGram, including Consumer complaints received electronically or via MoneyGram's consumer complaint hotline(s).

8. **"Effective Date"** means the date on which a copy of this Assurance is duly executed by MoneyGram and by the States through their respective Attorneys General or designees.

9. **"Fraud-Induced Money Transfer"** means a Money Transfer, the sending of which is induced by fraud or deception by a third party.

10. **"Fuzzy Name Recognition" or "Matching"** means a system under which a Consumer's identity can be more accurately determined within technological limits and utilizing other data points provided by the Consumer, even if the name presented by the Consumer to a MoneyGram Agent is not the same as the name used by the Consumer in previous MoneyGram transactions.

11. **"High-Risk Corridor"** means a destination country or a destination state of the United States that has an elevated incidence of Fraud-Induced Money Transfers from Consumers in the United States as measured by specific risk indicators, including, but not limited to, Consumer Fraud Report statistics, geographical risk, and transaction volume.

12. **"Hotline System"** means a system that allows reports of suspected ethical violations to be received from MoneyGram's employees, its Agents, and the Agents' employees.

13. **"Internal Watch List" or "IWL"** means MoneyGram's lists of individuals, including Consumers, whom the Company blocks from sending or receiving Money Transfers, absent contact with the individual to ascertain if the transaction is for a legitimate purpose. For example, MoneyGram includes certain Consumers on the IWL who have sent fraudulent transactions in the past and the individuals who have received those transactions. This is a dynamic list that is updated as MoneyGram learns information about the identity of a Consumer or the Consumer's behavior.

14. **"Materially Elevated Level of Consumer Fraud Reports"** means a level of Consumer Fraud Reports to MoneyGram related to transactions received at an Agent Outlet that exceeds thresholds set by MoneyGram. This level shall be determined in good faith by MoneyGram, taking into account the number of incidents of Fraud-Induced Money Transfers handled by a given Agent or Agent Outlet in relation to the total number of Money Transfers handled by the Agent or Outlet, any fraud-related information received from Consumers, law enforcement officials and other MoneyGram Agents, and any other fraud-related or risk assessment information deemed relevant by MoneyGram.

15. **"MoneyGram"** or **"the Company"** means MoneyGram Payment Systems, Inc. and all of its subsidiaries, successors, and assigns.

16. **"Money Transfer"** shall mean the sending of money between a Consumer in one location to a recipient in another location using a service offered by MoneyGram, and shall include transfers initiated in person, online, by telephone, or through whatever means made available. The term "Money Transfer" does not include MoneyGram's payment services available to Consumers to pay bills or make payments, such as MoneyGram's urgent or utility

bill payment services and MoneyGram's prepaid services for items such as prepaid cards or cellular phones.

17. **"Monitor"** means the person(s) appointed in *United States of America v. MoneyGram International, Inc.*, Case No. 12-291 (United States District Court for the Middle District of Pennsylvania) and charged with compliance-related responsibilities under the Deferred Prosecution Agreement filed in that case.

18. **"Multiple Transfers"** means a series of Money Transfers sent by the same Consumer within a short period of time.

19. **"Multistate Executive Committee"** means the Attorneys General and their staff representing the following states: Illinois, Massachusetts, New Jersey, North Carolina, Ohio, Texas, Vermont, and Washington.

20. **"Participating States"** or **"States"** refers to the states and commonwealths listed in Exhibit A.[3]

21. **"Pickup Location"** means the Outlet where a Money Transfer is received.

22. **"Rule"** is a component of MoneyGram's compliance programs, is developed by MoneyGram based on information and analytics, and is used in part by MoneyGram to identify and assess the risk of fraud faced by a Consumer in any given transaction.

D. STIPULATIONS

The Parties have entered into the following stipulations:

1. This Assurance does not constitute an approval by the Attorneys General of MoneyGram's business practices, and MoneyGram shall make no representation or claim to the contrary.

[3] With regard to the Commonwealth of Virginia, this document will be titled as an "Agreement." With regard solely to MoneyGram's agreement with the State of Delaware, the parties agree that this Assurance shall operate as a cease and desist by agreement authorized by 29 Del.C. Section 2525(a).

2. This Assurance sets forth the entire agreement between the Parties.

3. In each State which has or will file this Assurance in its respective court, such court retains jurisdiction over the Parties for the purpose of enforcing this Assurance and for the purpose of granting such additional relief as may be necessary and appropriate.

4. This Assurance may be executed in counterparts, each of which shall be deemed to constitute an original counterpart hereof, and all of which shall together constitute one and the same Assurance. One or more counterparts of this Assurance may be delivered by facsimile or electronic transmission with the intent that it, or they, shall constitute an original counterpart hereof.

5. Nothing in this Assurance shall require MoneyGram to:

(a) Take any action inconsistent with recommendations, requirements, or prohibitions of the Monitor appointed in *United States of America v. MoneyGram International, Inc.*, or prohibited by or in conflict with the terms of the Deferred Prosecution Agreement into which MoneyGram entered with the United States Department of Justice and the United States Attorney's Office for the Middle District of Pennsylvania on November 9, 2012, in that same case, or any subsequent modifications thereof; or

(b) Take any action inconsistent with the requirements or prohibitions of the Stipulated Order for Permanent Injunction and Final Judgment entered in *Federal Trade Commission v. MoneyGram International, Inc.*, Civil Action No. 09-cv-6576, in the United States District Court for the Northern District of Illinois, Eastern Division, or any subsequent modifications thereof.

6. The Parties further stipulate that the Compliance Provisions of this Assurance are consistent with MoneyGram's obligations pursuant to the matters listed in paragraph D(5) above. In the event that MoneyGram believes that a conflict exists between the Compliance Provisions of this Assurance and its obligations pursuant to the settlements described in the preceding paragraph D(5), that conflict shall be addressed through the process provided in paragraph J(2) below.

E. COMPLIANCE PROVISIONS

General Anti-Fraud Measures

1. **Comprehensive And Robust Anti-Fraud Compliance Program.** MoneyGram shall continue to enhance and maintain a comprehensive and robust anti-fraud compliance program ("Program") designed to protect Consumers from economic losses resulting from Fraud-Induced Money Transfers and to avoid providing assistance or support to persons engaged in acts or practices in violation of the state or federal consumer protection laws. At a minimum, the Program shall (a) include the elements listed in paragraphs 2 through 22, below; and must (b) be documented in writing; (c) be overseen by a Board of Directors committee responsible for ensuring compliance with this Assurance; and (d) include sufficient budgeted resources for the implementation of the Program, commensurate with a risk-based approach.

2. **Timely and Effective Anti-Fraud Rules.** MoneyGram shall continue to enhance processes to ensure that its AFAS Rules are adopted in a timely manner and implemented effectively. More specifically, MoneyGram shall take measures necessary to automate, to the extent practicable, its AFAS Rule-making process and the placement of "holds" on all Money Transfers that fall within an AFAS Rule. In conjunction with other anti-fraud measures, MoneyGram shall implement AFAS Rules related to High-Risk Corridors that are based on the

dollar amount or other attributes of Money Transfers to such destinations consistent with ongoing fraud risk assessments.

3. **Streamlined Placement of Consumers on IWL.** MoneyGram shall enhance technology solutions that, to the maximum extent practicable, eliminate delays in placing names and other required information of Consumers on MoneyGram's IWL. These solutions shall include the use of Fuzzy Name Recognition (or Matching), where appropriate

4. **Limits on Multiple Transfers.** MoneyGram shall implement additional anti-fraud policies and procedures designed to detect Multiple Transfers to High-Risk Corridors and to block such transactions. Similarly, MoneyGram shall implement additional anti-fraud policies and procedures designed to identify and block Multiple Transfers by Consumers who have previously filed a Consumer Fraud Report with MoneyGram or have been identified by the States pursuant to paragraph E(21) below.

5. **Agents' Ability to Place Money Transfers on Hold.** MoneyGram shall continue to permit sending Agents to place Money Transfers on hold when the Agent suspects the transfer may be fraud-induced, and such holds shall trigger a review of the Consumer's activity. MoneyGram shall include guidelines in its Agent training to assist Agents in identifying Fraud-Induced Money Transfers that should be placed on hold and in effectively communicating with Consumers whose transfers are placed on hold and may be fraud-induced.

6. **Verification of Identification Information.** MoneyGram shall identify and utilize effective tools as part of a risk-based approach to verify the accuracy of sender and receiver identification information entered by Agents in connection with Money Transfers. Further, MoneyGram shall take commercially reasonable steps towards requiring Agents to enter each Money Transfer receiver's identification information into the Company's data system and

to confirm this data against the biographical information provided by the Consumer. These commercially reasonable steps shall be included in the Implementation Timeline discussed in Section J below.

Fostering a Culture of Compliance

7. **Agent and Employee Training.** MoneyGram shall enhance and provide anti-fraud training materials and programs for all Agents and shall require each Agent to provide training to its employees prior to their assuming duties that involve Money Transfers. Such training shall put Agents and their employees on notice of the importance of compliance with anti-fraud policies and procedures, of the consequences for the Agents of noncompliance with anti-fraud policies and procedures, and of MoneyGram's Hotline System. MoneyGram shall provide additional training to Agents as is necessary to ensure that Agents and their employees maintain requisite knowledge and skill with respect to the prevention of Fraud-Induced Money Transfers. MoneyGram shall require Agents and employees who are the subject of a Materially Elevated Level of Consumer Fraud Reports, or whose conduct is otherwise determined to be out of compliance with the Program and who are not terminated, to complete additional targeted training designed to remediate a compliance failing promptly after MoneyGram receives such Consumer Fraud Reports or otherwise learns of the failure to comply. MoneyGram shall require Agents to comply with all training requirements and to maintain documentation of completion of these training requirements. To the extent that MoneyGram permits Agents to develop their own training materials and methods of delivery, MoneyGram shall either develop minimum standards for such training or implement a system to evaluate such training, and confirm that it meets MoneyGram's requirements.

8. **Hotline System.** MoneyGram shall maintain a reasonably designed Hotline System. This system shall include a hotline(s), (telephonic and electronic), to which MoneyGram's employees, its Agents, and the Agents' employees can anonymously report information regarding Fraud-Induced Money Transfers and suspected misconduct by an Agent.

9. **Managerial Accountability.** MoneyGram shall continue to maintain policies and practices that promote a culture of compliance with anti-fraud policies and procedures, including informing managers of the Company that its conduct in connection with implementing, complying with, and promoting compliance with MoneyGram's Program will be considered in connection with such personnel actions as bonuses, promotions, evaluations, and terminations.

10. **Remedial or Supplemental Training.** MoneyGram shall continue to provide person-to-person, online, or telephone training designed to address compliance deficiencies at Agents or Agent Outlets known to have a Materially Elevated Level of Consumer Fraud Reports related to Money Transfers sent from the United States. MoneyGram shall continue to identify Agents and Agent Outlets that have a Materially Elevated Level of Consumer Fraud Reports and enhance this program as appropriate.

11. **Electronic Messaging to Agents.** At least once a month, MoneyGram shall provide its Agents in the United States with an electronic message which is Clear and Conspicuous and designed to highlight the issue of Fraud-Induced Money Transfers and/or new developments relating to such transfers. This paragraph shall apply only to those Outlets that have the technical capability to receive such messages through their MoneyGram point-of-sale systems. In addition, to the extent practicable, MoneyGram shall—on an as-needed basis, to be determined in good faith by MoneyGram—employ this mechanism to provide Agents with compliance tips, reminders, or reference guides.

12. **Termination of Agents.** MoneyGram shall continue to monitor and review the Money Transfers of Agents and Agent Outlets with a Materially Elevated Level of Consumer Fraud Reports and provide appropriate guidance and additional anti-fraud training as necessary to them. If an Agent or Agent Outlet with a Materially Elevated Level of Consumer Fraud Reports fails to take commercially reasonable steps to reduce Fraud-Induced Money Transfers, MoneyGram shall suspend or terminate the Agent or Agent Outlet. MoneyGram shall develop and disseminate to Agents a written policy to include detailed guidelines regarding when an Agent's or Agent Outlet's conduct warrants suspension or termination. These guidelines shall take into consideration factors including whether the Agent's or Agent Outlet's management or employees (a) are knowingly involved in Fraud-Induced Money Transfers; (b) knowingly ignore and fail to take steps to prevent such transfers from occurring; (c) fail to take steps to address any involvement in such fraud by its employees or representatives; (d) maintain documentation of compliance with MoneyGram's training requirements; or (e) have adopted and implemented written anti-fraud compliance policies. After termination, if MoneyGram reasonably believes the Agent or Agent Outlet has taken commercially reasonable steps to reduce the fraud, MoneyGram may consider that Agent or Agent Outlet for reinstatement, provided that MoneyGram's written policy includes guidelines for such reinstatement.

Disclosures to Consumers

13. **Consumer Fraud Warnings.** MoneyGram shall continue to provide a Clear and Conspicuous Consumer fraud warning on the front page of all Money Transfer send forms used by Consumers to initiate Money Transfers. At a minimum, the warning shall disclose (a) the most common schemes being used to fraudulently induce Consumers to send money to third parties using MoneyGram's wire transfer services; (b) notice that the money being sent can be

quickly collected by fraudsters at the Pickup Location; and (c) the toll-free MoneyGram number that Consumers can call to file a Consumer Fraud Report if they later discover that their Money Transfer was the result of fraud. MoneyGram shall provide substantially the same disclosures to Consumers who initiate Money Transfers via the Internet or over the telephone. These disclosures shall be in a format appropriate for the media or platform being used by the Consumer and in substantially the same language used on the send form or other media type or platform.

14. **Disclosure to Transferors.** Upon request of a Consumer whom MoneyGram reasonably believes is a victim of a fraud-induced money transfer, MoneyGram shall expeditiously disclose to the Consumer the stated name of the recipient of the transfer and the Pickup Location.

Notice of Consumer Fraud Report Process

15. **Improved Consumer Fraud Report Information and Process.** MoneyGram shall continue to take measures to facilitate Consumers' ability to report fraud and obtain information about MoneyGram's Consumer Fraud Report process, including placing a hyperlink labeled "Report Fraud" or similar language on the MoneyGram website home page, located at www.moneygram.com, and on MoneyGram's preventfraudmoneygram.com or similar website where a Consumer would initiate a Money Transfer. These links must be Clear and Conspicuous and shall direct Consumers to an online form for filing Consumer Fraud Reports together with a "Frequently Asked Questions" ("FAQ") page with information regarding Fraud-Induced Money Transfers and MoneyGram's Consumer Fraud Report handling process. The FAQ page shall disclose to Consumers that they may also file complaints with the Federal Trade Commission and with State Attorneys General and include Clear and Conspicuous hyperlinks to the website

of the Federal Trade Commission and to the webpage of the National Association of Attorneys General (currently http://www.naag.org/current-attorneys-general.php).[4] In addition, MoneyGram shall, on its website, post current information that is Clear and Conspicuous and warns Consumers about Fraud-Induced Money Transfers. MoneyGram's mobile website shall also provide a Clear and Conspicuous disclosure of contact information, such as a telephone number, which Consumers can contact to report fraud and to obtain information about how to file a Consumer Fraud Report. MoneyGram shall also provide Consumers who have filed a Consumer Fraud Report with information on how to access appropriate fraud education information.

Refunds to Consumers

16. **Refunds to Consumers.** MoneyGram shall promptly refund the full amount of a Money Transfer, including associated fees, whenever either (a) a MoneyGram Agent paid out a Money Transfer in a manner that is inconsistent with the Company's transfer payout policies related to receiver verification; (b) the transfer was wrongfully paid out after being identified as violative of the IWL (e.g., the Consumer was on the IWL) and the transaction was improperly released after the Consumer provided truthful information in response to MoneyGram's questions or other requests for information; (c) the Money Transfer was timely communicated by an Agent to MoneyGram as one that should have been held pending review but was incorrectly released; (d) a Consumer, or his or her authorized representative, requests that MoneyGram stop or reverse the Money Transfer before the funds have been picked up and reasonably claims that the transfer was fraudulently induced, and MoneyGram makes a good faith determination that the Consumer is reasonably claiming that the transfer was fraudulently induced. At or around

[4]The "whos-my-AG" page found at the website of the National Association of Attorneys General lists the name, mailing address and web site of the Attorney General (or chief legal officers) of each of the fifty states and the District of Columbia.

the same time as MoneyGram provides a refund under this paragraph, the Company shall orally inform the Consumer of the reason for the refund.

17. **Consumer Refunds under AFAS.** Once a Money Transfer is alerted and identified as requiring AFAS review, MoneyGram shall hold the intended recipient's collection of the monies until such time as the AFAS review is completed and a determination is made that the Money Transfer is not fraud-induced. In the event that a Money Transfer subject to such a hold is incorrectly released, MoneyGram shall complete its AFAS review and determine whether the transfer was fraud-induced. If the AFAS review reflects that the transfer was, or was likely fraud-induced, MoneyGram shall promptly provide a full refund to the Consumer, including associated fees, and orally inform the Consumer of the reason for the refund.

Additional Measures

18. **Assessment of Actual Fraud Rates.** MoneyGram shall continue to develop and implement sound mechanisms, such as proactively linking Consumer Fraud Reports to other Consumers' Money Transfers, surveys, or other appropriate measures, to evaluate actual fraud rates and losses suffered by MoneyGram Consumers as a result of Fraud-Induced Money Transfers, and utilize information obtained through these mechanisms to evaluate and improve its Program. MoneyGram shall maintain documentation of these efforts, including the basis for its good faith assertion that the mechanism used was a sound one, and its findings.

19. **Consumer Data Sharing.** As permitted by applicable laws, regulations, federal authorities, and agreed upon by other money transfer companies representing at least 50 percent of the Money Transfers sent from the United States, MoneyGram shall exchange data with other money transfer companies for the sole purpose of identifying fraud trends, suspected victims,

and perpetrators of fraud, and if the agreed-upon process so provides, blocking suspected victims or perpetrators of fraud from sending or receiving funds.

20. **Fraud-Induced Money Transfers within the United States.** MoneyGram shall continue to devise a program to specifically address the problem of U.S.-to-U.S. Fraud-Induced Money Transfers, with a focus on states that are High-Risk Corridors.

Continued Cooperation with the States

21. **Blocking of Certain Transfers at State's Request.** If the Attorney General reports to the Company that there are good faith grounds to believe that a Fraud-Induced Money Transfer is occurring or will occur with respect to a particular Consumer, MoneyGram shall use its best efforts to place the Consumer on the IWL to block Money Transfers from that Consumer. The Attorney General's report may be founded on information received by the State from the Consumer, his or her agent, a law enforcement or regulatory agency, or the Company itself and shall contain sufficient information for MoneyGram to place the Consumer on the IWL. The reporting Attorney General shall notify MoneyGram when, if at all, the Consumer may resume Money Transfers using MoneyGram's systems. This process is limited to those situations where there is substantial evidence of a potential Fraud-Induced Money Transfer and is not intended to serve as a vehicle for the Attorney General to submit lists of names of potential senders or receivers to MoneyGram. Nothing in this paragraph shall require a State to provide information on Fraud-Induced Money Transfers to MoneyGram.

22. **Sharing of Complaint Information.** Whenever a Consumer advises MoneyGram that a Money Transfer has been induced by fraud or deception, MoneyGram, where practicable, shall seek the Consumer's permission to share the complaint information with United States law enforcement officials, including the Attorneys General, and shall upon request

of the appropriate Office of the Attorney General, provide the available complaint information in electronic form to the Office of the Attorney General in the State in which the Consumer resides and, if known, where the recipient is located. Notwithstanding this requirement, MoneyGram may decline to provide this information if the Consumer, directly or in response to a question from the Company, says that he or she does not want the information shared with law enforcement or does not provide consent to share such information. "Available complaint information" shall consist of information that is regularly collected and stored in the Company's consumer fraud database, including, but not limited to, the name and address of the Consumer; the date and amount of the Money Transfer; the date and Pickup Location of receipt; the name of the receiver; the nature of the Consumer's complaint; and the sending Agent Outlet.

F. MONETARY TERMS

1. MoneyGram shall pay a total of thirteen million dollars ($13,000,000.00) to the Participating States, to be distributed among such states as agreed by the Attorneys General.

2. The Participating States shall set aside a portion of MoneyGram's payment for consumer restitution and for the costs of the administration of such restitution (Restitution Program). The primary goal of the Restitution Program will be to provide redress to Foreign Wire Transfer Complainants: U.S. consumers who filed complaints that they were victims of fraud induced money transfers involving wire transfers made through MoneyGram from the United States to payees located in foreign countries (other than Canada).

3. The Executive Committee shall select a duly qualified Settlement Administrator who will administer the Restitution Program in accordance with the terms of the Assurance and the direction to be provided by the Executive Committee. Final decisions regarding distribution of restitution will be within the sole discretion of the Executive Committee which will consider factors including the funds available, the number of complainants, the costs of administration

and the redress or restitution funds distributed to consumers through the federal settlements referenced in the preceding paragraph D.5.[5] In the event that any funds remain after restitution is completed, the Executive Committee may distribute any remaining funds to states to defer their costs of the investigation of this matter. At the conclusion of the distribution, the Settlement Administrator shall provide a final report to the Executive Committee and Participating States.

4. The Participating States shall also set aside a portion of MoneyGram's Thirteen Million dollar ($13,000,000.00) payment to be distributed to each participating state as a payment to the state as set forth by the Executive Committee and approved by the Participating States. Each state shall use its portion of funds as compensation for recovery of its costs and attorney's fees in investigating this matter, future monitoring and enforcement of this Assurance, future enforcement of its consumer protection laws[6] or for any lawful purpose including consumer education or redress in the discharge of the Attorney General's duties at the sole discretion of the Attorney General in accordance with applicable state laws and procedures.

5. MoneyGram's payment shall be made no later than thirty (30) days after the Effective Date in accordance with instructions which the Executive Committee will provide to MoneyGram through its counsel.

6. The States acknowledge that MoneyGram's payment to the States is not a fine, penalty, punitive assessment, or forfeiture having a similar punitive purpose. MoneyGram relinquishes all dominion, control, and title to the payment to the States and shall make no claim to such payment, directly or indirectly, through counsel or otherwise.

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[5]The Participating States recognize that as referenced in paragraph D.5, MoneyGram has separately entered into settlements with the Federal Trade Commission and the United States Department of Justice which have resulted in payments to consumers in the total amount of approximately Eighty-Three Million Dollars but which did not include payments to US-based Foreign Wire Transfer Complainants.

[6]See Exhibit A for a list of those laws.

G. REPORTING AND MEETING REQUIREMENTS

1. For a period of three (3) years after the Effective Date of this Assurance, beginning on the first Friday in April 2016 and ending on the first Friday in April 2018 ("Reporting Period"), MoneyGram shall, using an agreed upon format, annually report to the Multistate Executive Committee on its progress in implementing the injunctive provisions of this Assurance ("Annual Report"). However, in the event that the term of the Deferred Prosecution Agreement referenced in paragraph D(5)(a) above is extended, the Reporting Period shall be extended to the first Friday in April 2019. In addition, if so requested during the Reporting Period, MoneyGram shall provide the Multistate Executive Committee with the Monitor's Reports, provided that the Monitor consents. MoneyGram also shall meet with the Multistate Executive Committee and provide updated information on its anti-fraud programs as reasonably requested by the States.

H. RELEASE

1. By execution of this assurance, the Participating States hereby fully release and discharge MoneyGram, its parents, affiliates, subsidiaries, employees, officers, and directors (collectively, the "Released Parties"), from the following: any and all civil and administrative actions, claims, and causes of action that were or could have been asserted against the Released Parties by the States' respective Attorneys General under the States' consumer protection laws, or any amendments thereto, resulting from the matters addressed in this Assurance, up to and including the effective date of this Assurance (collectively, the "Released Claims"). Nothing in this Assurance or in this release shall be construed to alter, waive, or limit any private right of action specifically provided by state law.

2. Notwithstanding any term of this Assurance, any and all of the following forms of liability are specifically reserved and excluded from the Released Claims:

(a) any criminal liability that any person or entity, including MoneyGram, has or may have in the Participating State;

(b) any civil or administrative liability that any person or entity, including MoneyGram has or may have to the Participating State under any statute, regulation or rule not expressly covered by the release in the preceding paragraph (H. 1) 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, and

iii. state or federal tax claims.

I. COMPLIANCE WITH ALL LAWS

Except as expressly provided in this document, nothing in this Assurance shall be construed as:

1. Relieving MoneyGram of its obligation to comply with all applicable State laws, regulations, or rules, or granting permission to engage in any acts or practices prohibited by any law, regulation, or rule; or

2. Limiting or expanding in any way any right the State may otherwise have to enforce applicable state law or obtain information, documents, or testimony from MoneyGram pursuant to any applicable State law, regulation, or rule, or any right MoneyGram may otherwise have to oppose any subpoena, civil investigative demand, motion, or other procedure issued, served, filed, or otherwise employed by the State pursuant to any such State law, regulation, or rule.

J. GENERAL PROVISIONS

1. To the extent that any provisions of this Assurance obligate MoneyGram to change any policy or procedure, and to the extent not already specified, MoneyGram shall implement the terms of this Assurance within one hundred twenty (120) days after the Effective Date or as soon as reasonably practicable. The Parties shall meet within ninety (90) days of the Effective Date to determine a mutually agreed upon timeline for the implementation of the terms of this Assurance ("Implementation Timeline"). MoneyGram's progress towards meeting the Implementation Timeline shall be provided as part of the Annual Report.

2. If, subsequent to the Effective Date of this Assurance, the federal government or any of the States enact or promulgate any law or regulation with respect to matters governed by this Assurance that creates a conflict with any provision of the Assurance, such law or regulation, and not this Assurance, shall apply only to the extent such conflict exists. For purposes of this Assurance, a conflict exists if conduct prohibited by this Assurance is required by such federal or State law or regulation, or if conduct required by this Assurance is prohibited by such federal or State law or regulation.

3. The failure of any party to exercise any rights under this Assurance shall not be deemed a waiver of any right.

4. If any part of this Assurance shall for any reason be found or held invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder hereof, which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.

5. As consideration for the relief agreed to herein, if the Attorney General of a Participating State determines that MoneyGram has failed to comply with any of the terms of this Assurance, the Attorney General will notify MoneyGram in writing of such failure to

comply and MoneyGram shall then have thirty (30) business days from receipt of such written notice to provide a written response to the Attorney General's determination. The response shall include, at a minimum, either

(a) a statement explaining why MoneyGram believes it is in full compliance with the Assurance, or

(b) a detailed explanation of how the alleged violation(s) occurred, and

i. a statement that the alleged breach has been addressed and how, or

ii. a statement that the alleged breach cannot be reasonably addressed within thirty (30) business days from receipt of the notice and such statement shall include a summary of commercially reasonable corrective actions initiated by MoneyGram and an action plan containing reasonably estimated completion dates for addressing the alleged violation(s).

6. Nothing herein shall prevent the Attorney General from agreeing in writing to provide MoneyGram with additional time beyond the thirty (30) business day period to respond to a notice of noncompliance referred to here. MoneyGram's request for additional time to respond shall not be unreasonably refused.

7. Nothing in this Assurance shall be construed to exonerate any failure by MoneyGram to comply with any provision of this Assurance after the date of its entry, or unless expressly provided in this Assurance to limit the authority of the Attorney General to enforce the terms of the Assurance in accordance with the laws of their respective states.

8. To seek a modification of this Assurance for any reason—including that MoneyGram believes that the requirements of this Assurance are in conflict with its obligations

pursuant to the matters described in this Assurance—MoneyGram shall send a written request for modification to the States, including with that request, an explanation of the circumstances which MoneyGram believes warrant the modification. The States shall give such request reasonable consideration and shall respond to MoneyGram within thirty (30) days of receiving the request. At the conclusion of this thirty (30) day period, MoneyGram reserves all rights to pursue any legal or equitable remedies to which it may be entitled. For the purposes of this Assurance, a conflict exists if conduct prohibited by the matters described in paragraph D(5), above, is required by this Assurance, or if conduct required by the matters described in paragraph D(5), above, is prohibited by this Assurance.

9. MoneyGram further agrees to execute and deliver all authorizations, documents, and instruments which are necessary to effectuate the terms and conditions of this Assurance of Discontinuance, whether required prior to, contemporaneous with, or subsequent to the Effective Date. All notices, requests, demands, or other communications required by this Assurance, or given pursuant to its terms, must be in writing. For any such communication to be considered delivered, it must be mailed by registered or certified mail, postage prepaid, or sent by an overnight courier service to the Multistate Executive Committee at the addresses identified in the signature pages of this Assurance, and/or to MoneyGram at:

MoneyGram International, Inc.
F. Aaron Henry
General Counsel
2828 N. Harwood Street, 15th Floor
Dallas, Texas 75201

With a copy to:

Lewis Rose, Esq.
Kelley Drye & Warren LLP
101 Park Avenue
New York, New York 10178

Date: January 20, 2016

MONEYGRAM PAYMENT SYSTEMS, INC.

By: _____

W. Alexander Holmes
Chief Executive Officer
MoneyGram Payment Systems, Inc.

REPRESENTING MONEYGRAM PAYMENT SYSTEMS, INC.

By: _____

Lewis Rose, Esq.
Kelley Drye & Warren LLP
101 Park Avenue
New York, New York 10178

DATED at Montpelier, Vermont this 11th day of February, 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

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

_____

Pietro J. Lynn, Esq.
Sean M. Toohey, Esq.
Lynn, Lynn, Blackman & Manitsky, P.C.
76 St. Paul Street, Suite 400
Burlington, VT 05401

For MoneyGram Payment Systems, Inc.

MONEY GRAM EXHIBIT A – List of State Laws

1. Alabama Deceptive Trade Practices Act, Alabama Code Section 8-19-1, et seq.
2. Alaska Unfair Trade Practices and Consumer Protection Act, AS 45.50.471 et seq.
3. Arizona Consumer Fraud Act, A.R.S. §§ 44-1521, et seq.
4. Arkansas Deceptive Trade Practices Act, Arkansas Code Ann. 4-88-101, et seq.
5. California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq.
6. Colorado Consumer Protection Act, Colorado Revised Statutes § 6-1-101, et seq.
7. Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110b, et seq.
8. Delaware Code Ann. Tit. 6, §§ 2511 to 2536.
9. District of Columbia D.C. Code § 28-3901 et seq. (2001).
10. Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. §§ 501.201 et seq.
11. Georgia Fair Business Practices Act of 1975, O.C.G.A. § 10-1-390 et seq.
12. Hawaii Unfair and Deceptive Trade Practices Act, Haw. Rev. Stat. §§ 480-1 et seq.
13. Idaho Consumer Protection Act, Idaho Code Section 48-601 et seq.
14. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, et seq.
15. Indiana Deceptive Consumer Sales Act, Indiana Code 24-5-0.5-1 et. seq.
16. Iowa Consumer Fraud Act, Iowa Code § 714.16.
17. Kansas Consumer Protection Act, K.S.A. 50-623 et seq.
18. Kentucky Consumer Protection Act, K.R.S. 367.110 et seq.
19. Louisiana Unfair Trade Practices and Consumer Protection Law, La. R.S. 51:1401, et seq.
20. Maine Unfair Trade Practices Act, 5 M.R.S. §§ 207 and 209.
21. Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13- 501 (2013 Repl. Vol. and 2015 Supp.)
22. Massachusetts M.G.L. c. 93A, Section 1 et seq.
22. Michigan Consumer Protection Act, MCL 445.901, et seq.
23. Minnesota Consumer Fraud Act, Minn. Stat. §§ 325F.68 and 325F.69, Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.43-.48, and Minnesota False Statement in Advertising Act, Minn. Stat. § 325F.67.
24. Mississippi Consumer Protection Act, § 75-24-1 through § 75-24-27 (1972, as amended).
25. Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, et seq.
26. Montana Unfair Trade Practices and Consumer Protection Act (MUTCPA), Mont. Code Ann. § 30-14-101 et seq.
27. 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.
28. Nevada Deceptive Trade Practices Act, NRS 598.0903 et seq.
29. New Hampshire Rev. Stat. Ann. 358-A.
30. New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.
31. New Mexico Unfair Practices Act, NMSA § 57-12-1 et seq. (1967), NMSA § 57-15-1, et seq., and N. M. Admin. Code 12.2.11.
32. N.Y. Gen. Bus. Law §§ 349 and 350.
33. North Carolina Unfair and Deceptive Trade Practices Act, N.C.G.S. 75-1.1 et seq.
34. N.D.C.C. §§ 51-12-08 et seq. and 51-15-01 et seq.

35. **Ohio Consumer Sales Practices Act, R.C. 1345.01 et seq.**
36. **Oklahoma Consumer Protection Act, 15 O.S. §§ 751 et seq. ("OCPA")**
37. **Oregon Unlawful Trade Practices Act, ORS §§ 646.605 et seq.**
38. **Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, et seq.**
39. **Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, et seq.**
40. **South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10 et seq.**
41. **South Dakota Codified Laws 37-24-1, et. seq**
42. **Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 et seq.**
43. **Texas - Tex. Bus. & Com. Code Ann. § 17.41 et seq.**
44. **Utah Consumer Sales Practices Act, Utah Code Ann. § 13-11-(4)1, 13-11-5**
45. **Vermont Consumer Fraud Act, 9 V.S.A. §§ 2451-2466.**
46. **Virginia Consumer Protection Act, Va. Code §§ 59.1-196 through 59.1-207.**
47. **Washington Revised Code of Washington RCW 19.86.020.**
48. **West Virginia Consumer Credit and Protection Act, W.Va. Code §§ 46A-1-101 et seq.**
49. **Wisconsin Stat. §§ 100.18(1) fraudulent representations**
50. **Wyoming Consumer Protection Act, Wyo. Stat. Ann. §§ 40-12-101 through 114.**

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: Osterman Propane, LLC	)	CIVIL DIVISION
	)	Docket No. 715-12-16 WNCV

ASSURANCE OF DISCONTINUANCE

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

Background

Osterman Propane

1. Osterman Propane, LLC is a corporation with its principal place of business at 1 Memorial Square, PO Box 29, Whitinsville, MA 01588.
2. Osterman's operations include retail marketing, sale, and distribution of propane to residential, commercial, and industrial customers in Vermont. Since 2015, Osterman has provided propane service to approximately 2,500 customers in Vermont.

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 liquefied petroleum gas ("propane"). Since 1986, Vermont Consumer Protection Rule 111 ("CP 111" or "Propane Rule")

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109 State Street
Montpelier, VT 05609

has governed the business practices of propane service providers in Vermont and is enforced by the Office of the Attorney General. The Rule was amended in 2009, effective on January 1, 2010, and amended again in 2011, effective on January 1, 2012 (reference to "CP 111" or the "Propane Rule" refers to the most recent version as amended).

5. As part of the 2012 amendments, the definition of "consumer" was changed to include propane users with storage tanks of up to 2,000 gallons. CP 111.02(c).

6. CP 111.03 & 111.09(a)(2) require disclosure of all fees on a Fee Disclosure Form ("FDF"), including the amount and duration of all fees. The FDF is a standardized form mandated by CP 111 to provide consumers with advance notice of fees charged by a propane seller, and with the means to compare the fees charged by different sellers. CP 111 provides for an Initial FDF to be used with a potential consumer upon inquiry or when establishing service, and an Existing Customer FDF to provide consumers with at least 60 days' notice of new or increased fees. *See* CP 111.03.

7. A violation of CP 111 constitutes an unfair and deceptive trade act and practice in commerce under Vermont's Consumer Protection Act, 9 V.S.A. § 2453. 9 V.S.A. § 2461(c)(1).

8. 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).

Osterman's Propane Practices

9. The Vermont Attorney General's Consumer Assistance Program received a consumer complaint about Osterman's propane practices. In investigating this complaint, Osterman responded promptly and acknowledged its practices as follows. The

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investigation included, but was not limited to, fee disclosures, meter reading, and tank pick-ups associated with commercial accounts.

10. Since 2012, Osterman has collected $15,778.51 in fees from 89 consumers without proper prior disclosure of these fees in an FDF. These 89 consumers were commercial accounts who were not considered a "consumer" under the pre-2012 definition of consumer in CP 111.02.

11. In response to the Attorney General's investigation of the above, Osterman acknowledged that it misinterpreted the definition of "consumer" changed in 2012 so that commercial accounts with up to 2,000-gallon tanks were subject to the fee disclosure requirements of CP 111. As a result of the Attorney General's investigation, Osterman promptly updated its FDF, its contracts, and its practices, to comply with CP 111.

12. Osterman admits the truth of the facts described in ¶¶ 1-2; 9-11.

The State's Allegations

13. The Vermont Attorney General's Office alleges that charging consumers fees without disclosure on an FDF violated the Vermont Consumer Protection Act and Propane Rule.

14. 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 litigation, the Attorney General and Osterman are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter. Accordingly, the parties agree as follows:

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15. Osterman 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.

16. Osterman shall immediately provide Initial or Existing Customer FDFs to all potential or existing customers before collecting any fees as required by CP 111.03 & 111.09.

17. Within 30 days of entry of this AOD, Osterman shall refund all 89 consumers identified in ¶ 10 the fees that were improperly collected, totaling $15,778.51 in restitution. Osterman shall mail a check to all former customers along with any explanatory letter it wishes to send in an envelope provided by the Attorney General's Office. For current customers, Osterman, at its election, may mail a check or offer a credit to their account or a reduction of any outstanding balance; Osterman shall provide a check for those customers which request it within 10 days of the request.

18. Within 10 days of signing this AOD, Osterman shall pay to the State of Vermont $7,500. 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.

Other Terms

19. 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.

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20. This AOD shall be binding on Osterman, all of its affiliate companies doing business in Vermont, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of Osterman 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.

21. This AOD resolves all existing claims the State of Vermont may have against Osterman stemming from the conduct described in this document as of the date signed below.

22. 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 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.

23. Communications related to this AOD shall be given to Osterman at:

    a. Joshua R. Diamond (jrd@dimaond-robinson.com), Diamond & Robinson, P.C. P.O. Box 1460, Montpelier, Vermont 05601.

24. Communications and notices related to this AOD shall be given to the Attorney General's Office to the undersigned Assistant Attorney General.

25. Any consumer who accepts payment under paragraph # 17 shall waive any claim regarding undisclosed fees against Osterman that occurred through the date of the execution of this AOD.

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26. In the event that Osterman violates any of the terms of this AOD, the Attorney General may pursue any remedies available under 9 V.S.A. Chapter 63, and the Attorney General shall not have waived any of its rights to assert and prove any violations of law by Osterman unrelated to the conduct described in this AOD.

SIGNATURES APPEAR ON NEXT PAGE

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

DATED at Montpelier, Vermont this 7th 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

DATED at Whitinsville, Massachusetts this 1st day of December, 2016.

Osterman Propane, LLC

By: _____
Its Authorized Agent

Vincent Osterman / Managing Member
Name and Title of Authorized Agent

APPROVED AS TO FORM:

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

For the State of Vermont

_____
Joshua R. Diamond, Esq.
Diamond & Robinson, P.C.
P.O. Box 1460
Montpelier, VT 05601

For Osterman Propane, LLC

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

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on July 28, 2016, by and among the respective States, by and through their respective Attorneys General (the "States"), and Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., and Cephalon, Inc. (together the "Cephalon Parties"), by and through its undersigned counsel, (collectively, the "Parties").

WHEREAS, the States allege under various antitrust and consumer protection laws that actions by the Cephalon Parties delayed the entry of generic versions of the prescription drug Provigil and made misrepresentations to the Patent & Trademark Office that damaged the States and Eligible Consumers;

WHEREAS, the Cephalon Parties deny any allegation of unlawful conduct, and deny they caused any damage;

WHEREAS, the Parties agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Cephalon Parties, or a waiver of any defenses thereto;

WHEREAS, arm's-length settlement negotiations have taken place between the States and the Cephalon Parties, and the result is this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the States and the Cephalon Parties (the "Settlement Agreement");

WHEREAS, the States have concluded that it is in the best interests of the States and, through them, Eligible Consumers to enter into this Settlement Agreement; and

WHEREAS, the Cephalon Parties have concluded, despite their belief that no unlawful conduct has occurred, that it would be in their best interests to enter into this Settlement Agreement to avoid the uncertainties and risks inherent in complex litigation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

I. DEFINITIONS

As used herein:

A. The "Cephalon Parties" means Cephalon, Inc., Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., and Teva Pharmaceuticals USA, Inc.

B. "Claims Administrator" means A.B. Data, Ltd.

C. "Distribution Plan" means the plan or method of allocation among Eligible Consumers (1) who have not filed valid and timely requests for exclusion from this Settlement Agreement with the District Court when applicable; and (2) who otherwise participate in the allocation. The Distribution Plan will be submitted to the District Court separately from the Settlement Agreement and is not part of this Settlement Agreement.

D. The "District Court" means the United States District Court for the Eastern District of Pennsylvania.

E. "Effective Date" means the date when all of the following conditions have been satisfied, unless one or more of such conditions is modified or waived in a writing signed by the Parties: (1) execution of this Settlement Agreement; (2) entry by the District Court of the Preliminary Approval Order; (3) approval and effectuation of the Notice Plan; (4) final approval by the District Court of the Settlement Agreement; (5) entry of the Final Approval Order by the District Court; and (6) the time for appeal or to seek permission to appeal from the District Court's Final Approval Order has expired or, if appealed, the Final Approval Order has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

F. "Eligible Consumers" mean natural persons who purchased Modafinil during the period June 24, 2006 through March 31, 2012.

G. "Escrow Agent" means Huntington National Bank.

H. "Final Approval Order" means the order to be entered by the District Court that grants final approval of this Settlement Agreement. The Parties intend that the Final Approval Order will include the following provisions: (1) an affirmance by the District Court that the Notice Plan has been completed; (2) a determination by the District Court that the Settlement Agreement is approved finally as fair, reasonable, and adequate; (3) a directive from the Court that the monies in the Consumer Compensation Account are to be disbursed pursuant to the Court-approved Distribution Plan; and (4) a directive from Liaison Counsel that monies in the State Proprietary Compensation Account and State Disgorgement, Costs, and Fees Account are to be paid to the Escrow Agent for disbursement to the States for use pursuant to Paragraph III.B.

I. "Liaison Counsel" mean the designated representatives for the Attorneys General of the States of Indiana, Minnesota, New York, Ohio, and Vermont.

J. "Modafinil" means Provigil® or its generic version (modafinil).

K. "Notice Plan" means the plan specifying the manner and content of notifying Eligible Consumers of this Settlement Agreement and informing Eligible Consumers of their rights to object to or exclude themselves from the Settlement Agreement. The Parties contemplate that the Notice Plan will take ninety (90) days or such other time period set by the District Court. The Notice Plan shall specify the manner in which Eligible Consumers are to be notified of this settlement and shall be coordinated with the notice plan under the settlement of *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case").

L. "Plaintiff States" means the following States and Commonwealths of the United States, by and through their Attorney Generals, in their sovereign capacity, as plaintiffs, and as *parens patriae* on behalf of Eligible Consumers in such Plaintiff States: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia,[1] Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

M. "Preliminary Approval Order" means an order to be entered by the District Court that preliminarily approves this Settlement Agreement. The Parties intend that the Preliminary Approval Order will include the following provisions: (1) preliminary approval of this Settlement Agreement as fair, reasonable, and adequate and in the best interests of Eligible Consumers; and (2) approval of the Notice Plan.

N. "Related Case" means any of the following cases, or any case consolidated with or merged into the following cases: *Federal Trade Commission v. Cephalon, Inc.*, No. 08-2141 (E.D. Pa.) ("FTC Case"); *King Drug Co., et al. v. Cephalon, Inc., et al.*, No 06-1797 (E.D. Pa.) ("Direct Purchaser Class Case"); *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case"); *Apotex, Inc. v. Cephalon, Inc., et al.*, No. 06-2768 (E.D. Pa.); *Rite Aid Corp. v. Cephalon, Inc., et al.*, No. 09-3820 (E.D. Pa.); *Walgreen Co. v. Cephalon, Inc., et al.*, No. 09-3956 (E.D. Pa.); and *Giant Eagle, Inc. v. Cephalon, Inc., et al.*, No. 10-5164 (E.D. Pa.).

[1] The District of Columbia has a "quasi-sovereign interest in the . . . well-being . . . of its residents in general." *See Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 607 (1982) (applying analysis to Puerto Rico).

O. "Released Claims" means any and all manner of claims, counterclaims, set-offs, demands, actions, rights, liabilities, costs, debts, expenses, attorneys' fees, and causes of action of any type, whether or not accrued in whole or in part, that were asserted or that could have been asserted, known or unknown, against the Cephalon Parties, and/or their officers, directors, employees and attorneys, arising from any of the facts, matters, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act set forth or alleged in the Complaint filed by Plaintiff States as part of implementing this Settlement Agreement ("State Complaint"), including, without limitation, past, present and future competition claims arising under federal or state antitrust, unfair competition or consumer protections laws, or state common or equitable law that seeks damages, unjust enrichment, restitution, penalties, or other monetary, declaratory, or injunctive relief, whether brought as direct claims, representative claims, class claims, or *parens patriae* claims on behalf of the States or any other person or entity the States represent for:

1. the alleged delayed entry of generic versions of Provigil (modafinil);
2. conduct with respect to the procurement, maintenance, and enforcement of United States Reissue Patent Number 37,516, United States Patent Number 5,618,845, or United States Patent Number 7,297,346,[2] including but not limited to any commencement, maintenance, defense, settlement, or other participation in litigation concerning any such patents;
3. any conduct relating to Nuvigil that could fairly be characterized as being alleged in, is related to an allegation made in, or could have been alleged

[2] The release of claims concerning United States Patent Number 7,297,346 does not extend to enforcement actions taken by the Cephalon Parties after the execution of this Settlement Agreement.

in the State Complaint, expressly excluding any litigation or agreement with any pharmaceutical manufacturer pertaining to Nuvigil; and

4. the impact on competition in the sale, marketing, or distribution of Provigil or its generic equivalent, except as expressly excluded in this Agreement.

State Attorneys General have authority to release claims held by (a) any Eligible Consumer in a Plaintiff State, who did not timely and validly exclude themselves from this Settlement Agreement, to the extent permitted by state law; (b) each Plaintiff State's Attorney General in his or her sovereign capacity as chief law enforcement officer of his or her respective state; (c) each Plaintiff State for claims of the Plaintiff State, including but not limited to claims based on purchases made by the Plaintiff State; and (d) each Plaintiff State for claims the Plaintiff State may have in a representative capacity, including any *parens patriae*, class, or other representative claims.

Notwithstanding any term in this Agreement, Released Claims specifically do not include claims unrelated to competition, including:

1. any civil or administrative liability under state revenue codes;
2. any civil or administrative liability related to a State's Medicaid program under any statute, regulation, or rule for any conduct other than the conduct alleged in the State Complaint, including, but not limited to, state or federal false claims act, anti-kickback or off-label marketing violations associated with Provigil, modafinil, Nuvigil, or armodafinil;
3. any criminal liability;
4. any liability based upon obligations created by this Agreement;

5. any liability for expressed or implied warranty claims or other liability for defective or deficient products and services provided by the Cephalon Parties;

6. any liability for unfair or deceptive representations made in the marketing or advertising or for off-label marketing claims of Provigil, modafinil, Nuvigil, or armodafinil.

Nothing in this definition of Released Claims is intended to affect the ability of government entities that may be considered class members in the Direct Purchaser Class Case or the End Payor Class Case to submit claims and receive payment through the relevant class claims process.

P. "Released Parties" means the Cephalon Parties and any past and present parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing).

Q. "Settlement Accounts" mean the Consumer Compensation Account, the State Proprietary Compensation Account, and the State Disgorgement, Costs, and Fees Account as described in Paragraph II. The Settlement Accounts shall be administered by Huntington National Bank, as Escrow Agent, pursuant to Paragraph IV.

R. "Settlement Administration Costs" means costs to be paid for all actual, customary, and reasonable costs and fees incurred in the administration of this Settlement Agreement, which includes costs and fees incurred for the purpose of (1) compiling necessary Eligible Consumer information and providing notice, including notice by publication or paid

media as may be needed to effectuate adequate notice, (2) completing administrative tasks, and (3) processing and paying claims, including distributing credits and/or checks to Eligible Consumers. Such Settlement Administration Costs expressly include those fees or costs payable to the Escrow Agent and Claims Administrator appointed by Plaintiff States pursuant to Paragraph IV.

S. "Written Direction" means a written notification directed to the Escrow Agent and/or Claims Administrator directing disbursements from the Settlement Accounts and signed by representatives of Ohio and Texas on behalf of Plaintiff States.

II. DISBURSEMENT REQUESTS

A. Consumer Compensation Account

1. Within eight business days of the later of (i) entry of the Preliminary Approval Order by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission under paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $35,000,000 ("Consumer Settlement Payment"). The Disbursement Request will request that the disbursement of the Consumer Settlement Payment be made into a qualified settlement escrow account for disbursement to Eligible Consumers ("Consumer Compensation Account") as directed by Plaintiff States. The Consumer Settlement Payment deposited into the Consumer Compensation Account and any accrued interest after deposit shall become part of and shall be referred to as the "Consumer Fund."

2. The Consumer Compensation Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the Escrow Agent shall disburse funds from the Consumer Compensation Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the Consumer Fund shall become part of the Consumer Fund, less any taxes imposed on such interest.

3. The Consumer Fund shall be available for distributions to Eligible Consumers upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund.

B. State Proprietary Compensation Account

1. Within eight business days of the later of (i) the Preliminary Approval Order being entered by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission as required by paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $55,000,000 ("State Proprietary Compensation Payment"). The Disbursement Request will request that the disbursement of the State Proprietary Compensation Payment be made into a qualified settlement escrow account for disbursement to Plaintiff States ("State Proprietary Compensation Account") as directed by Plaintiff States. The State Proprietary Compensation Payment deposited into the State

Proprietary Compensation Account and any accrued interest after deposit shall become part of and shall be referred to as the "State Proprietary Fund."

2. The State Proprietary Compensation Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the Escrow Agent shall disburse funds from the State Proprietary Compensation Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the State Proprietary Fund shall become part of the State Proprietary Fund, less any taxes imposed on such interest.

3. The State Proprietary Compensation Fund shall be available for distributions to Plaintiff States upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund.

C. State Disgorgement, Costs, and Fees Account

1. Within eight business days of the later of (i) the Preliminary Approval Order being entered by the Court and (ii) receipt in writing of all required payment information, the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission as required by paragraph 8 of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit A). The Disbursement Request will request disbursement in the amount of U.S. Dollars $35,000,000 ("State Disgorgement, Costs, and Fees Payment"). The Disbursement Request will request that the disbursement of the State Disgorgement, Costs, and Fees Payment be made into a qualified

settlement escrow account for disbursement to Plaintiff States ("State Disgorgement, Costs, and Fees Account") as directed by Plaintiff States. The State Disgorgement, Costs, and Fees Payment deposited into the State Disgorgement, Costs, and Fees Account and any accrued interest after deposit shall become part of and shall be referred to as the "State Disgorgement, Costs, and Fees Fund."

2. The State Disgorgement, Costs, and Fees Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit B (the "Escrow Agreement"). Except as otherwise expressly permitted by the Escrow Agreement, the State Escrow Agent shall disburse funds from the State Disgorgement, Costs, and Fees Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Approval Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the State Disgorgement, Costs, and Fees Fund shall become part of the State Disgorgement, Costs, and Fees Fund, less any taxes imposed on such interest.

3. The State Disgorgement, Costs, and Fees Fund shall be available for distributions to Plaintiff States upon the Effective Date, subject to deductions for payments of taxes payable on the Settlement Fund and settlement administration costs.

D. The Consumer Settlement Payment, the State Proprietary Compensation Payment, and the State Disgorgement, Costs, and Fees Payment together constitute the Settlement Amount. The sole and total consideration that the Cephalon Parties, by making the above referenced Disbursement Requests, will pay under this Settlement Agreement shall be the Settlement Amount. All Settlement Administration Costs will come out of the States Disgorgement Costs & Fees Amount.

E. No portion of the Settlement Amount shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

F. The Settlement does not include any provision for injunctive or declaratory conduct relief.

III. SETTLEMENT DISTRIBUTIONS

A. Distribution to Consumers

1. All funds in the Consumer Compensation Account shall be distributed according to the Distribution Plan (Exhibit C). The Distribution Plan shall be submitted to the District Court for approval concurrently with this Settlement Agreement.

2. The Parties agree and understand that the Distribution Plan is to be considered by the District Court separately from the District Court's consideration of the fairness, reasonableness, and adequacy of the resolution set forth in the Settlement Agreement, and any order or proceedings relating to the Distribution Plan shall not operate to terminate or cancel the Settlement Agreement or affect the finality of the Final Approval Order, or any other orders entered pursuant to the Settlement Agreement.

B. Distribution to States

1. The State Proprietary Compensation Payment and the State Disgorgement Costs & Fees Payment shall be apportioned among the States at their sole discretion. The State Proprietary Compensation Payment shall be distributed to the States on behalf of state purchasers for distribution in accordance with state law. The State Disgorgement Costs & Fees Payment shall be used for settlement administration costs and then collectively or individually by the States' Attorneys General for any one or more of the following purposes, as the Attorneys

General, in their sole discretion, see fit: (i) payment of attorneys' fees and expenses; (ii) antitrust or consumer protection law enforcement; (iii) to cover additional expenses relating to the ongoing Attorneys General's Investigation and any related litigation; (iv) for deposit into a state antitrust or consumer protection account (e.g., revolving account, trust account), for use in accordance with the state laws governing that account; (v) for deposit into a fund exclusively dedicated to assisting state attorneys general enforce the antitrust laws by defraying the costs of a) experts, economists, and consultants in multistate antitrust investigations and litigation, b) training or continuing education in antitrust for attorneys in state attorney general offices, or c) information management systems used in multistate antitrust investigations and litigation; or (vi) for such other purpose as the Attorneys General deem appropriate, consistent with the various states' laws.[3]

IV. SETTLEMENT ADMINISTRATION

A. The Escrow Agent for the Settlement Accounts shall be Huntington National Bank.

1. Other than maintaining an account to meet short-term obligations, the Escrow Agent shall invest the funds in the Settlement Accounts in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, to obtain the

[3] Colorado's allotted share is to be held, along with any interest thereon, in trust by the Attorney General to be used for reimbursement of the State's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud or antitrust enforcement actions, consumer education, and public health initiatives. Connecticut's allotted share shall be deposited as follows: (a) One Hundred Fifty Thousand Dollars ($150,000) shall be deposited into the State's Department of Consumer Protection "Prescription Drug Monitoring Fund;" (b) Any amounts paid to the State of Connecticut for reimbursement to the state's Medicaid program shall be deposited with the State's Department of Social Services; and (c) The remaining amount shall be deposited into the State's General Fund. Wyoming's allocated share shall be used by the Attorney General of the State of Wyoming as trustee to hold and distribute such amount, pursuant to Wyoming Statute § 9-1-639(a)(i), exclusively for the purpose of addressing consumer protection matters in the State of Wyoming, including future consumer protection enforcement, consumer education, litigation, or grants or other aid to agencies and organizations approved by the Attorney General of the State of Wyoming at his sole discretion. Any interest accruing to these funds will remain with the fund. Vermont's share shall be used in accordance with the Constitution of the State of Vermont, Ch. II, § 27, and 32 V.S.A. § 462.

highest available return on investment, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Cephalon Parties shall bear no risk related to the investment of the escrow funds.

2. The Escrow Agent shall not disburse the funds of the Settlement Accounts except by an order of the District Court or pursuant to Written Direction.

3. All funds held by the Escrow Agent shall be deemed to be in the custody of the District Court, and shall remain subject to the jurisdiction of the District Court, until the funds shall be distributed pursuant to the Settlement Agreement, Distribution Plan, and/or further order(s) of the District Court.

B. Tax Treatment of Settlement Accounts:

1. Parties and Escrow Agent agree to treat the Settlement Accounts as being, at all times, a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1(a). In addition, the Escrow Agent and, as required, the Parties shall jointly and timely make such reasonable elections that are necessary or advisable to carry out the provisions of this Section, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)(M)), back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulation. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary Parties, and thereafter to cause the appropriate filing to occur.

2. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Accounts (including without limitation the

returns described in Treas. Reg. § 1.468B-2(k) and (1)). Such returns (as well as any election as described in Paragraph IV.B.1above, shall be consistent with this Section IV, and in all events shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Accounts shall be paid out of the Settlement Accounts.

3. All taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Accounts, including any taxes that may be imposed upon the Cephalon Parties with respect to any income earned by the Settlement Accounts for any period during which the Settlement Accounts do not qualify as a "qualified settlement fund" for federal, state, or local income tax purposes ("Taxes") shall be paid out of the Settlement Accounts and in all events the Cephalon Parties and their insurers shall have no liability or responsibility for such Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority in respect of such Taxes. Taxes shall be treated as, and considered to be, a Settlement Administration Cost and shall be timely paid by the Settlement Administrator out of the Settlement Accounts without prior order from the District Court, and the Settlement Administrator and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Plaintiff States any funds necessary to pay such amounts including the establishment for adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). The Cephalon Parties and their insurers are not responsible and shall have no liability for such withholdings or for any reporting requirements that may relate thereto. The Parties agree to cooperate with the Settlement Administrator, Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out

the provisions of this Paragraph IV. For purposes of this Paragraph, references to the Settlement Accounts shall include the Settlement Accounts and any earnings thereon.

V. REQUESTS FOR APPROVAL AND NOTICE

A. Plaintiff States intend to seek approval from the District Court for the actions that the Parties contemplate for the Consumer Compensation Account and the State Disgorgement, Costs, and Fees Account. Within seven (7) days of this Settlement Agreement being finally executed, Plaintiff States will file a Motion for Preliminary Approval Order. Plaintiff States shall provide a copy of such motion (including all exhibits and attachments to such motion) to the Cephalon Parties for comment in advance of filing.

B. Plaintiff States shall disseminate Notice of the Settlement Agreement to potentially affected Eligible Consumers in the manner and within the time directed by the District Court. The Parties contemplate a Notice Period of ninety (90) days, unless another time period is set by the District Court.

C. Within thirty (30) days following the conclusion of the Notice Period or as otherwise directed by the District Court, Plaintiff States shall file with the District Court a Motion for a Final Approval Order. At least seven (7) days prior to filing their Motion for a Final Approval Order, Plaintiff States shall provide a copy of such motion (including all exhibits and attachments to such motion) to the Cephalon Parties for comment.

VI. RELEASED CLAIMS

A. Upon entry of the Final Approval Order and only as permitted by law, each Plaintiff State shall unconditionally, fully and finally release and forever discharge the Released Parties from all Released Claims.

B. Each Plaintiff State hereby covenants and agrees that it shall not sue or otherwise seek to establish or impose liability, in any capacity and on behalf of itself or any other person or entity or class thereof, against any Released Party based, in whole or in part, on any of the Released Claims. The Final Approval Order shall be deemed *res judicata* of any Released Claim.

C. In addition, the Parties expressly waive, release and forever discharge any and all provisions, rights and benefits conferred by §1542 of the California Civil Code, which reads:

> **Section 1542. General Release; extent.** A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Parties may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the Released Claims, but each Party hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. This provision shall not in any way expand the scope of the Released Claims and shall not convert what is a limited release into a general release.

VII. COOPERATION AND IMPLEMENTATION

A. The Parties, and their respective counsel, agree to cooperate fully to implement the terms and conditions of this Settlement Agreement.

B. The Cephalon Parties waive notice under the tolling agreement with any Plaintiff State and of any claims asserted by any Plaintiff State in the State Complaint.

VIII. NO ADMISSION

A. Neither the Settlement, the Settlement Payment, nor the Settlement Agreement shall be used or construed by any person as an admission of liability by the Cephalon Parties to any party or person, or be deemed evidence of any violation of any statute or law or admission of any liability or wrongdoing by the Cephalon Parties or of the truth of any of the claims or allegations contained in the Related Cases.

IX. BENEFIT AND BINDING EFFECT

A. The terms of this Settlement Agreement shall be binding on, and shall inure to the benefit of the Parties and their successors. The Parties expressly disclaim any intention to create rights under this Settlement Agreement which may be enforced by any other person under any circumstances whatsoever.

X. MISCELLANEOUS

A. The Cephalon Parties may file the Settlement Agreement and/or the Final Approval Order in any action that may be brought against them to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment, bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

B. Liaison Counsel for the States are expressly authorized by the States to execute this Settlement Agreement on their behalf and take all appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

C. Each counsel or other person executing the Settlement Agreement on behalf of any party hereto warrants that such person has full authority to do so.

D. This Settlement Agreement contains the entire agreement and understanding of the Parties. There are no additional promises or terms of the Settlement Agreement other than those contained herein. This Settlement Agreement shall not be modified except in writing signed by counsel for Liaison States and the Cephalon Parties or by their authorized representatives.

E. All dates and time periods in this Settlement Agreement shall be calculated pursuant to the Federal Rules of Civil Procedure. All such dates and time periods may be modified if mutually agreed upon, in writing, signed by counsel for Liaison States and the Cephalon Parties or by their authorized representatives.

F. Each of the parties hereto participated materially in the drafting of this Settlement Agreement. None of the parties hereto shall be considered the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter thereof.

G. The captions contained in this Settlement Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Settlement Agreement or the intent of any provision hereof.

H. The Settlement Agreement may be executed in one or more counterparts. Scanned signatures, digital signatures or signatures received by facsimile or PDF shall be treated the same as originals for the Settlement Agreement and any written, agreed modification thereof. All executed counterparts and each of them shall be deemed to be one and the same instrument.

I. The terms of the Settlement Agreement shall control in the event there are any conflicting terms in any related document.

J. The Settlement Agreement and any related documents shall be subject to, governed by and construed, interpreted and enforced pursuant to the internal laws of the Commonwealth of Pennsylvania, without regard to choice of law principles.

K. The District Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement Agreement, and all Parties hereby submit to the exclusive jurisdiction of the District Court for purposes of implementing and enforcing the Settlement Agreement.

L. Any and all notices, requests, consents, directives, or communications by any party intended for any other party shall be in writing and shall, unless expressly provided otherwise herein, be provided by United States mail and electronic mail to:

For the States:

Director & Chief Counsel
Consumer Protection Division
Office of the Attorney General of Indiana
219 State House
200 West Washington Street
Indianapolis, IN 46204
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Fax: 317-232-7979

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Counsel for the Defendants

Any one of the Parties may, from time to time, change the address to which such notices, requests, consents, directives, or communications are to be delivered, by giving the other Parties prior written notice of the changed address, in the manner herein above provided, ten (10) calendar days before the change is effective.

BARR LABORATORIES, INC.,
TEVA PHARMACEUTICAL INDUSTRIES LTD.,
TEVA PHARMACEUTICALS USA, INC., and
CEPHALON, INC.

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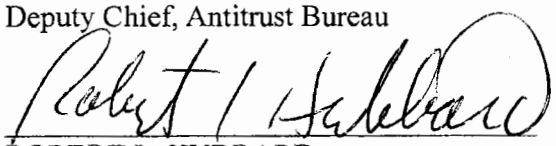

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Dated: 7-28-16

STATE OF VERMONT

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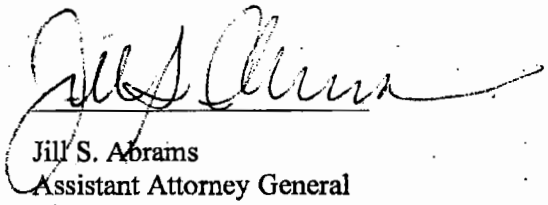

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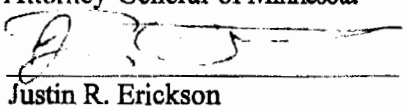

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION, 600 Pennsylvania Avenue, N.W. Washington, D.C. 20580 Plaintiff, v. CEPHALON, INC., 41 Moores Road Frazer, Pennsylvania 19355 Defendant.	:	CIVIL ACTION No. 2:08-cv-2141

STIPULATED ORDER FOR PERMANENT INJUNCTION AND EQUITABLE MONETARY RELIEF

Plaintiff, the Federal Trade Commission ("Commission"), filed its Complaint for Injunctive Relief, subsequently amended as Plaintiff Federal Trade Commission's First Amended Complaint for Injunctive Relief, ("Complaint"), in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Commission, Cephalon, Inc. ("Cephalon") and Teva Pharmaceutical Industries Ltd. ("Teva") have reached an agreement to resolve this case through settlement, and without trial or final adjudication of any issue of fact or law, and stipulate to entry of this Stipulated Order for Permanent Injunction and Equitable Monetary Relief ("Order") to resolve all matters in dispute in this action.

THEREFORE, IT IS ORDERED as follows:

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. "Commission" means the United States Federal Trade Commission.

2. "Cephalon" means Cephalon, Inc.

3. "Cephalon Group" means Cephalon, any joint venture, subsidiary, division, group, or affiliate Controlled currently or in the future by Cephalon that engages in Commerce in the United States, their successors and assigns, and the respective directors, officers, employees, agents and representatives acting on behalf of each.

4. "Teva" means Teva Pharmaceutical Industries Ltd.

5. "Teva US Entities" means any joint venture, subsidiary, division, group, or affiliate Controlled currently or in the future by Teva that engages in Commerce in the United States.

6. "Teva Group" means Teva, Teva US Entities, their successors and assigns, and the respective directors, officers, employees, agents, and representatives acting on behalf of each.

7. "Cephalon Parties" mean Cephalon, Cephalon Group, Teva and Teva Group.

8. "ANDA" means an Abbreviated New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(j) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.§ 355(j).

9. "ANDA Filer" means a party to a Brand/Generic Settlement who controls an ANDA for the Subject Drug Product or has the exclusive right under such ANDA to distribute the Subject Drug Product.

10. "ANDA Product" means a Drug Product manufactured under an ANDA.

11. "Brand/Generic Settlement" means any agreement or understanding that settles a Patent Infringement Claim in or affecting Commerce in the United States.

12. "Brand/Generic Settlement Agreement" means a written agreement that settles a Patent Infringement Claim in or affecting Commerce in the United States.

13. "Branded Subject Drug Product" means a Subject Drug Product marketed, sold or distributed in the United States under the proprietary name identified in the NDA for the Subject Drug Product.

14. "Commerce" has the same definition as it has in 15 U.S.C. § 44.

15. "Control" or "Controlled" means the holding of more than fifty percent (50%) of the common voting stock or ordinary shares in, or the right to appoint more than fifty percent (50%) of the directors of, or any other arrangement resulting in the right to direct the management of, the said corporation, company, partnership, joint venture or entity.

16. "Drug Product" means a finished dosage form (e.g., tablet, capsule, or solution), as defined in 21 C.F.R. § 314.3(b), that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients.

17. "NDA" means a New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(b) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(b), including all changes or supplements thereto which do not result in the submission of a new NDA.

18. "NDA Holder" means a party to a Brand/Generic Settlement that controls the NDA for the Subject Drug Product or has the exclusive right to distribute the Branded Subject Drug Product.

19. "U.S. Patent" means any patent issued by the United States Patent and Trademark Office, including all renewals, derivations, divisions, reissues, continuations, continuations-in part, modifications or extensions thereof.

20. "Patent Infringement Claim" means any allegation threatened in writing or included in a complaint filed with a court of law, that an ANDA Product may infringe any U.S. Patent held by, or exclusively licensed to, an NDA Holder.

21. "Payment by the NDA Holder to the ANDA Filer" means transfer of value by the NDA Holder to the ANDA Filer (including, but not limited to, money, goods or services), regardless of whether the ANDA Filer purportedly transfers value in return, where such transfer is either (i) expressly contingent on entering a Brand/Generic Settlement Agreement, or (ii) agreed to during the 60 day period starting 30 days before executing a Brand/Generic Settlement Agreement and ending 30 days after executing a Brand/Generic Settlement Agreement. The following, however, are not Payment by the NDA Holder to the ANDA Filer:

    a. compensation for saved future litigation expenses not to exceed a maximum limit, which is initially set at seven million dollars ($7,000,000), and shall be increased (or decreased) as of January 1 of each year by an amount equal to the percentage increase (or decrease) from the previous year in the annual average Producer Price Index for Legal Services (Series Id. PCU5411--5411--) published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor;

    b. provisions in a Brand/Generic Settlement Agreement providing a date after which an ANDA Filer can begin selling, offering for sale or distributing the Subject Drug Product;

c. provisions in a Brand/Generic Settlement Agreement through which the NDA Holder provides the ANDA Filer an exclusive license to the Subject Drug Product;

d. provisions in a Brand/Generic Settlement Agreement that permit an ANDA Filer to begin selling, offering for sale, or distributing the Subject Drug Product once another drug company begins selling, offering for sale, or distributing the Subject Drug Product;

e. an agreement to settle or resolve a different litigation claim, so long as that separate agreement independently complies with the terms of this Order (including the timing provisions above); and

f. continuation or renewal of a pre-existing agreement so long as (i) the pre-existing agreement was entered at least 90 days before the relevant Brand/Generic Settlement Agreement, (ii) the terms of the renewal or continuation, including the duration and the financial terms, are substantially similar to those in the pre-existing agreement, and (iii) entering the continuation or renewal is not expressly contingent on agreeing to a Brand/Generic Settlement.

22. "Related Case" means (a) any of the following cases, or any case consolidated with or merged into the following cases: *King Drug Co., et al. v. Cephalon, Inc., et al.*, No 06-1797 (E.D. Pa.) ("Direct Purchaser Class Case"); *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.*, No. 06-1833 (E.D. Pa.) ("End Payor Class Case"); *Apotex, Inc. v. Cephalon, Inc., et al.*, No. 06-2768 (E.D. Pa.); *Rite Aid Corp. v. Cephalon, Inc., et al.*, No. 09-3820 (E.D. Pa.); *Walgreen Co. v. Cephalon, Inc., et al.*, No. 09-3956 (E.D. Pa.); and *Giant Eagle, Inc. v. Cephalon, Inc., et al.*, No. 10-5164 (E.D. Pa.); or (b) any other

government investigation or litigation that is threatened in writing or filed that seeks to recover damages or equitable monetary relief based on alleged anticompetitive or other unlawful practices by the Cephalon Parties in connection with (i) the procurement, listing or enforcement of patents related to the drug Provigil®, (ii) FDA exclusivities related to the drug Provigil®, or (iii) settling litigation related to the drug Provigil®.

23. "Subject Drug Product" means the Drug Product for which one or more Patent Infringement Claims are settled under a given Brand/Generic Settlement. For purposes of this Order, the Drug Product of the NDA Holder and the ANDA Filer to the same Brand/Generic Settlement shall be considered to be the same Subject Drug Product.

24. "Verified Accounting" means a written statement by a representative of the Cephalon Parties, made pursuant to 28 U.S.C. § 1746, that verifies the relevant details of each relevant settlement and judgment.

FINDINGS

1. This Court has jurisdiction over the parties and the subject matter of this action. Teva has stipulated that, for purposes of this Order alone, the Court has personal jurisdiction over Teva.

2. Venue for this matter is proper in this Court under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).

3. The Complaint charges that Cephalon engaged in anticompetitive acts that constitute an unfair method of competition in violation of Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b), by entering agreements that delayed the launch of generic equivalents of the name-brand drug Provigil®.

4. In *FTC v. Actavis*, 133 S. Ct. 2223 (2013), the United States Supreme Court held that certain agreements to settle patent litigation can violate the United States antitrust laws, including the FTC Act.

5. Cephalon has answered the Complaint denying the charges, and disputes that the Commission is entitled to obtain relief, including monetary relief under Section 13(b) of the FTC Act.

6. Cephalon admits the facts necessary to establish the personal and subject matter jurisdiction of this Court in this matter only.

7. The Court denied Cephalon's motion for summary judgment.

8. The Commission and Cephalon have agreed to stipulate to entry of this Order to resolve the litigation between them.

9. Cephalon waives any claim that it may 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 agrees to bear its own costs and attorney fees in this action.

10. Cephalon waives all rights to appeal or otherwise challenge or contest the validity of this Order.

11. This Order does not constitute any evidence against the Cephalon Parties, or an admission of liability or wrongdoing by the Cephalon Parties in this case, any Related Case, or any other case or proceeding. This Order shall not be used in any way, as evidence or otherwise, in any Related Case or other proceeding; *provided that*, nothing in this provision prevents the Commission from using this Order in this case, in any proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

12. Entry of the Order satisfies the requests for relief made by the FTC in its complaint and is in the public interest.

STIPULATIONS

1. Teva stipulates that, in return for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Teva agrees to be fully bound by the terms of this Order.
2. Teva stipulates that it will not object to the Commission's right to seek relief under this Order against Teva to the same extent the Commission can seek relief against Cephalon (or Cephalon's successors and assigns). Teva does not otherwise waive its right to contest any enforcement action against it.
3. For purposes of this Order alone, Teva does not contest personal jurisdiction of this Court over Teva. Teva is an Israeli company with its principal place of business at 5 Basel Street, Petah Tikva, 49131, Israel.
4. Teva stipulates that it is the ultimate corporate parent of Cephalon.
5. Teva stipulates that venue for this matter is proper in this Court under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).
6. Teva stipulates that all stipulations herein are made on behalf of, and include, Teva and Teva Group.
7. The Cephalon Parties stipulate that they shall comply with the provisions of this Order pending its entry by the Court.

ORDER

I. Prohibited Agreements

IT IS ORDERED that

A. From the date this Order is signed by Cephalon and Teva, the Cephalon Parties are prohibited from, together or separately, entering into any Brand/Generic Settlement that includes: (1) Payment by the NDA Holder to the ANDA Filer; and (2) an agreement by the ANDA Filer not to research, develop, manufacture, market or sell the Subject Drug Product for any period of time,

provided, however, that any agreement entered into by an entity prior to that entity becoming part of the Cephalon Parties is not subject to the terms of this Order;

provided further, however, that the Cephalon Parties may enter into any written agreement that receives the prior approval of the Commission. Within thirty (30) days of receiving a request for prior approval under this paragraph, the Director of the Bureau of Competition (or his or her designee) shall consider the request in good faith and shall notify the requesting party in writing whether Commission staff believes the relevant agreement raises issues under Section 5 of the FTC Act and the reasons for such a belief, or this Order shall be deemed not to preclude the requesting party from entering into the subject written agreement.

B. Nothing in this Order shall prohibit the Cephalon Parties from purchasing, merging with, or otherwise acquiring or being acquired by any party with which a Cephalon Party has entered a Brand/Generic Settlement.

C. In the event of a material change in the law governing the antitrust implications of Brand/Generic Settlements, the Commission will consider, in good faith, modifications to this Order proposed by the Cephalon Parties.

II. Equitable Monetary Relief

IT IS FURTHER ORDERED that

A. The Cephalon Parties shall pay One Billion and Two Hundred Million Dollars (US$ 1,200,000,000) as equitable monetary relief, which shall be used for a settlement fund ("Settlement Fund") in accordance with the terms of this Order, including the Settlement Fund Disbursement Agreement, attached hereto as Exhibit A.

B. Subject to Paragraphs II.C and II.D, no later than the thirtieth day following the date of entry of this Order, the Cephalon Parties shall deposit the Settlement Fund into an escrow account to be designated by the Commission ("Settlement Account") and to be administered by the Commission or its agent. As set forth in the Settlement Fund Disbursement Agreement, the amount of the Settlement Fund that is deposited into the Settlement Account shall be held in trust to satisfy the amount of any settlement or judgment in a Related Case.

C. Any amount that the Cephalon Parties have paid in settlement or judgment in the Related Cases prior to the thirtieth day following the date of entry of this Order shall be credited against the Settlement Fund, and the total amount to be deposited by the Cephalon Parties into the Settlement Account shall be reduced accordingly.

D. If the Cephalon Parties have signed a binding settlement agreement or binding term sheet to resolve a Related Case prior to the thirtieth day following the date of the entry of this Order, the amount agreed to be paid in settlement of such Related Case shall be credited against the Settlement Fund, and the amount to be deposited by the Cephalon Parties into the Settlement Account shall be reduced accordingly. In the event that such a settlement is disapproved by the court or otherwise terminated, the Cephalon Parties shall deposit the amount of any uncommitted settlement funds into the Settlement Account within four (4) months of such

disapproval or termination, unless the Director of the Bureau of Competition or his or her designee determines that, for good cause shown, the monies may continue to be maintained by the Cephalon Parties for settlement of Related Cases for such period as the Director of the Bureau of Competition or his or her designee prescribes.

E. The Cephalon Parties shall submit to the Commission a Verified Accounting of all individual credits against the Settlement Fund under Paragraphs II.C and II.D no later than sixty (60) days after the date of the entry of this Order. The Cephalon Parties shall submit the Verified Accounting to the Secretary of the Commission and send an electronic version of the Verified Accounting to the Compliance Division of the Bureau of Competition at bccompliance@ftc.gov.

F. The payment provided for herein is provided for purposes of settlement only. No portion of the payment shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

III. Reporting Requirements

IT IS FURTHER ORDERED that:

A. The Cephalon Parties shall submit to the Commission a verified written report setting forth in detail the manner and form in which the Cephalon Parties have complied and are complying with this Order:

1. Within sixty (60) days after entry of this Order, and

2. On the first anniversary of entry of this Order, and annually thereafter for nine (9) years.

B. The Cephalon Parties shall include with each verified written report required by this provision, a copy of any additional agreement with a party to a Brand/Generic Settlement to

which a Cephalon Party is also signatory if (i) the relevant Brand/Generic Settlement Agreement includes an agreement by the ANDA Filer not to research, develop, manufacture, market or sell the Subject Drug Product for any period of time, and (ii) the relevant additional agreement is entered within a year of executing the Brand/Generic Settlement Agreement, *provided that,* the Cephalon Parties do not need to submit any additional agreement that they submitted to the Commission with a prior verified written report required by this provision;

C. The Cephalon Parties shall submit each report required under this paragraph to the Secretary of the Commission and shall send an electronic copy of each report to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

D. No information or documents obtained by the means provided in this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

E. This Order does not alter the reporting requirements of the Cephalon Parties pursuant to Section 1112 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

IV. Change of Corporate Control

IT IS FURTHER ORDERED that

A. The Cephalon Parties shall notify the Commission at least thirty (30) days prior to any proposed dissolution, acquisition, merger, or consolidation of Teva that might affect compliance obligations arising out of this Order.

B. The Cephalon Parties shall submit any notice required under this paragraph to the Secretary of the Commission and shall send an electronic copy of the notification to the

Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

C. No information or documents submitted pursuant to this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

V. Access to Information

A. For the purpose of determining or securing compliance with this Order, subject to any legally recognized privilege, and upon written request with reasonable notice to the Cephalon Parties, the Cephalon Parties shall permit any duly authorized representative of the Commission:

1. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy, at the Cephalon Parties' expense, non-privileged books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Cephalon Parties reasonably related to this Order; and

2. Upon reasonable notice to the Cephalon Parties, to interview a reasonable number of officers, directors, or employees of the Cephalon Parties, who may have counsel present, regarding any such matters.

B. No information or documents obtained by the means provided in this Paragraph shall be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

VI. Retention of Jurisdiction

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

VII. Expiration of Order

IT IS FURTHER ORDERED that this Order shall expire ten (10) years after the date it is entered.

VIII. Dismissal and Costs

This action shall be dismissed with prejudice. Each party shall bear its own costs.

SO ORDERED this 17 day of June, 2015.

Hon. Mitchell S. Goldberg
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

_____ Date: _____

Markus H. Meier
Assistant Director
Health Care Division
Bureau of Competition
Federal Trade Commission

FOR CEPHALON, INC.:

_____ Date: 5/22 2015

Name: Siggi Olafsson

Title: President & CEO, Global Generic Medicines

_____ Date: _____

Name:

Title:

_____ Date: _____

James C. Burling
Wilmer Cutler Pickering Hale and Dorr LLP
COUNSEL FOR CEPHALON, INC.

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

Date: 5/22/15

Markus H. Meier
Assistant Director
Health Care Division
Bureau of Competition
Federal Trade Commission

FOR CEPHALON, INC.:

Date: _____

Name:

Title:

LEGAL AFFAIRS BR

Date: 5/21/2015

Name: Ilcliko Mehes

Title: VP & GC, NA Generics

Date: 5/22/2015

James C. Burling
Wilmer Cutler Pickering Hale and Dorr LLP
COUNSEL FOR CEPHALON, INC.

FOR TEVA PHARMACEUTICAL INDUSTRIES LTD.:

_____ Date: 5/21/2015

Name: Eyal Desheh

Title: EVP and CFO

LEGAL AFFAIRS BBR

_____ Date: 5/21/15

Name: **Dov P. Bergwerk**

Title: SVP, General Counsel-Corporate & Company Secretary

_____ Date: 5/21/15

Jay P. Lefkowitz, P.C.
Kirkland & Ellis LLP
COUNSEL FOR TEVA PHARMACEUTICAL INDUSTRIES LTD.

Federal Trade Commission v. Cephalon, Inc., CA 2:08-cv-2141-MSG

Exhibit A to Stipulated Order for Permanent Injunction and Equitable Monetary Relief

SETTLEMENT FUND DISBURSEMENT AGREEMENT

SETTLEMENT FUND DISBURSEMENT AGREEMENT

Plaintiff, the Federal Trade Commission ("Commission"), Cephalon, Inc. ("Cephalon"), and Teva Pharmaceutical Industries, Ltd. ("Teva") hereby enter into this Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order for Permanent Injunction and Equitable Monetary Relief. The Settlement Fund Disbursement Agreement and the Stipulated Order for Permanent Injunction and Equitable Monetary Relief are collectively referred to herein as the "Order."

1. Unless otherwise noted herein, the capitalized terms in this Settlement Fund Disbursement Agreement have the same meaning as in the Stipulated Order for Permanent Injunction and Equitable Monetary Relief.

SETTLEMENT ACCOUNT

2. The Settlement Fund required by the Order (except for monies credited against the Settlement Fund under Paragraph II of the Order) will be held in trust in an escrow account established and maintained by the Commission or its agent ("Settlement Account"). The Commission will provide the Cephalon Parties with instructions for wiring the Settlement Fund into the Settlement Account, as well as any other necessary paperwork or instructions. Disbursement of the proceeds of the Settlement Account shall be made by the Commission in accordance with the requirements of the Order.
3. Any interest earned on amounts deposited into the Settlement Account will remain in the Settlement Account, and will become part of the Settlement Fund.
4. The Commission may use the Settlement Fund to pay reasonable costs necessary to administer the Settlement Account. The Cephalon Parties will not be required to pay any additional monies, over and above the Settlement Fund required to be deposited pursuant

to the Order, to cover any expenses, fees, or other costs associated with the Settlement Account.

5. The Cephalon Parties may, no more frequently than once a month, submit a request to the Commission in writing for a statement of the remaining balance in the Settlement Account, and an itemized list of any disbursements made from the Settlement Account. Any such request shall be submitted to the Secretary of the Commission, and, on the same day, an electronic copy of the request shall be submitted to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov and the Financial Management Office of the Commission at Finance@ftc.gov. The Chief Financial Officer of the Commission or his or her designee will provide the information requested within fifteen (15) business days.

DISBURSEMENT OF FUNDS FROM THE SETTLEMENT ACCOUNT

6. Except as provided for in this Settlement Fund Disbursement Agreement, the Settlement Fund shall be held in trust and used solely to satisfy the amount of any settlement (including associated fees, costs, and expenses) reached by the Cephalon Parties in a Related Case, or the amount of any judgment (including associated fees, costs, and expenses) against the Cephalon Parties in a Related Case, regardless of the date of that settlement or judgment.

7. The Cephalon Parties shall submit a list of Related Cases that have not been settled and for which a judgment has not been entered ("Remaining Cases List") on or up to 30 (thirty) days before the five-year anniversary of the entry of this Order, and each year thereafter, until, in the good faith belief of the Cephalon Parties, settlements have been reached, or final judgments entered, in the relevant Related Cases. The Cephalon Parties

shall submit the Remaining Cases List to the Secretary of the Commission, and, on the same day, transmit an electronic copy of the request to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov. If the Cephalon Parties do not submit a Remaining Cases List as provided in this paragraph, or the term of the Order has expired, any monies remaining in the Settlement Account, less reasonable administrative expenses, shall be paid to the Treasurer of the United States.

8. To obtain disbursement from the Settlement Account as authorized by the Order, the Cephalon Parties shall submit a written request for disbursement with the Commission ("Disbursement Request"). The Disbursement Request shall include:

a. a reference to the Order;

b. contact information, including business address, phone number and email address, for the relevant contact person(s) for the Cephalon Parties ("Cephalon Parties' Contact");

c. the identity of the party or parties threatening or asserting a claim in the relevant Related Case ("Settling Parties");

d. contact information, including business address, phone number, e-mail address, and relationship to the Settling Parties, for the contact person(s) for the Settling Parties in the relevant Related Case ("Settling Parties' Contact");

e. a copy of the settlement or judgment in the Related Case for which disbursement is being sought;

f. the complaint filed in the Related Case or other documents sufficient to show the allegations and relief sought by the Settling Parties;

g. the amount of the settlement or judgment in the Related Case ("Disbursement Amount"); and

h. the information necessary to wire the Disbursement Amount from the Settlement Account to the Settling Parties.

9. The Cephalon Parties shall submit the Disbursement Request to the Secretary of the Commission, and on the same day, send an electronic copy of the request to the Compliance Division of the Bureau of Competition of the Commission at bccompliance@ftc.gov.

10. Within ten (10) business days of receiving the Disbursement Request, the Director of the Bureau of Competition or his or her designee ("BC Director") shall

a. if the Disbursement Request complies with the requirements of the Order, authorize transfer of the Disbursement Amount to the Settling Parties and notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing that the transfer has been authorized; or

b. if the BC Director believes that additional information is required to determine the whether the Disbursement Request complies with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing and identify the additional information required; or

c. if the BC Director believes that the Disbursement Request does not comply with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact and provide a written explanation why the Disbursement Request has been denied and how, in the BC Director's view, the Disbursement Request does not comply with the requirements of the Order.

11. Within ten (10) business days of receiving the information requested under Paragraph 10 above (if such information is requested), the BC Director shall

    a. if the Disbursement Request complies with the requirements of the Order, authorize transfer of the Disbursement Amount to the Settling Parties and notify the Cephalon Parties' Contact and the Settling Parties' Contact in writing that the transfer has been authorized; or

    b. if the BC Director believes that the Disbursement Request does not comply with the requirements of the Order, notify the Cephalon Parties' Contact and the Settling Parties' Contact and provide a written explanation why the Disbursement Request has been denied and how, in the BC Director's view, the Disbursement Request does not comply with the requirements of the Order.

12. If the Commission and the Cephalon Parties cannot agree on whether a Disbursement Request complies with the requirements of the Order, either party may petition the Court for a determination.

13. Any settlement of the Direct Purchaser Class Case or the End Payor Class Case that is approved by the Court complies with the Order, and a Disbursement Request submitted for any such settlement will be approved provided the requirements of Paragraph 8 are met.

14. Disbursement Requests shall be authorized in the order they are submitted to the Commission by the Cephalon Parties.

15. If this Settlement Fund Disbursement Agreement or any of its provisions are ruled invalid or unenforceable, in whole or in part, the Commission and the Cephalon Parties agree to work together on modifications to effectuate the intent of the settlement.

CONFIDENTIALITY

16. Any information submitted under this Settlement Fund Disbursement Agreement shall not be divulged by the Commission to any person other than an authorized representative of the Commission, except in the course of a legal proceeding regarding enforcement or modification of this Order, or as otherwise required by law.

CLOSING THE SETTLEMENT ACCOUNT

17. The Commission shall close the Settlement Account if the entire Settlement Fund (less any remaining reasonable administrative costs) has been fully disbursed or, in accordance with Paragraph 7, the Commission pays any monies remaining in the Settlement Account (less any remaining reasonable administrative costs) to the Treasurer of the United States. The BC Director shall provide written notice to the Cephalon Parties of the intent to close the Settlement Account no later than thirty (30) days in advance of closing the Settlement Account, and shall provide written notice to the Cephalon Parties when the Settlement Account is closed.

18. The Commission will not close the Settlement Account until all reasonable administrative costs have been paid.

EXHIBIT B

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of May 16, 2016 ("Escrow Agreement"), is entered into by the State of Ohio, through its Attorney General, on behalf of the Plaintiff States, as defined in the Settlement Agreement, and The Huntington National Bank, an Ohio banking corporation, as Escrow Agent hereunder ("Escrow Agent").

RECITAL

A. Plaintiff States and "Cephalon, Inc., Barr Laboratories, Inc., Teva Pharmaceutical Industries Ltd., and Teva Pharmaceuticals USA, Inc.". (hereinafter Cephalon Parties) have entered into a Settlement Agreement (copy of which is attached hereto and the terms and definitions of which are incorporated herein), pursuant to which the Provigil litigation to be filed by the Plaintiff States against the Cephalon Parties will be resolved, upon court approval. The Settlement Agreement provides that the Cephalon Parties shall submit a Disbursement Request to the Federal Trade Commission under Section II of the Settlement Fund Disbursement Agreement, which is Exhibit A to the Stipulated Order For Permanent Injunction and Equitable Monetary Relief (Dkt. 405, *FTC v. Cephalon*, Case No. 08-2141, E.D. Pa., 6/17/15) (attached as Exhibit 1). The Disbursement Request will request disbursement in the total amount of $125,000,000.00 to be paid to the Escrow Agent for the benefit of the Plaintiff States. These monies will be distributed to various Settlement Accounts and otherwise in accordance with the terms of this Agreement.

B. Pursuant to the Settlement Agreement, the Escrow Agent is to establish three accounts, a separate Consumer Compensation Account, the States' Proprietary Compensation Account, and the States' Disgorgement, Cost and Fees Account (the "Settlement Accounts"), into which the monies paid as described in Paragraph A above are to be applied.

C. Counsel for the Plaintiff States have appointed the Escrow Liaison Counsel for Plaintiff States (as defined below) to represent them for all purposes in connection with the settlement.

D. Counsel for the Plaintiff States, by and through the Liaison Counsel for Plaintiff States, agree to appoint Huntington Bank as the Escrow Agent and Huntington Bank is willing to act as Escrow Agent hereunder in accordance with the terms and conditions of this Escrow Agreement. In order to administer the Escrow Funds (as defined below), the Parties hereto have entered into this Escrow Agreement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, for themselves, their successors and assigns, hereby agree to the foregoing and as follows:

1. Definitions.

a. All capitalized terms used herein shall have the same meaning as provided

for in the Settlement Agreement, unless the capitalized term is expressly defined herein.

b. "Written Direction" shall mean a written notification, signed by at least two Liaison Counsel for Plaintiff, in the form attached hereto as Exhibit A. Each Written Direction shall include a certification by Liaison Counsel for Plaintiff States that the instructions in the notification are being made pursuant to the Settlement Agreement and this Escrow Agreement and that such Liaison Counsel is authorized to act on behalf of such State or other authority in accordance with the terms of this Agreement.

c. "Escrow Funds" shall mean the $125,000,000.00 deposited as described in Paragraph A above with the Escrow Agent pursuant to this Escrow Agreement, together with any interest and other income thereon, into the Settlement Accounts. These Escrow Funds will be distributed into the Settlement Accounts in accordance with Section 3 below.

d. "Liaison Counsel for Plaintiff States" shall mean, for purposes of this Escrow Agreement, the designated representatives for the Attorneys General of the States of Ohio, Texas and Vermont described in an incumbency certificate and any other designated representatives about which the Escrow Agent is notified in writing.

2. Appointment of and Acceptance by Escrow Agent. The Liaison Counsel for Plaintiff States hereby appoint Huntington Bank to serve as the Escrow Agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3 below, agrees to hold, invest and disburse the Escrow Funds in accordance with this Escrow Agreement.

3. Creation of the Settlement Accounts. The Escrow Agent shall establish the following accounts ("Settlement Accounts"):

a. Consumer Compensation Account: The Escrow Agent will establish one Consumer Compensation Settlement Account, in the Amount of $35,000,000.00. The Consumer Compensation Account shall be used to fund the Consumer distribution, as described in Section II.A of the Settlement Agreement. The Escrow Agent shall only distribute funds in the Consumer Compensation Account pursuant to a Court-approved Distribution Plan which has become Final within the meaning of Section I paragraph H ("Final Approval Order") and Section II.A(2) of the Settlement Agreement. Any and all interest earned on the Consumer Compensation Account shall accrue to and become a part of the Consumer Compensation Account and shall be used to fund the Consumer.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section II of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account

A/C # 01893320239
FFC Provigil Consumer Compensation Account
A/C # 1087218656

b. States' Proprietary Compensation Account: The States' Proprietary Compensation Account shall be used to fund the compensation to the States, in the Amount of $55,000,000.00, as described in Section II.B of the Settlement Agreement. Any and all interest earned on the States' Compensation Settlement Account shall accrue to and become a part of the States' Proprietary Compensation Settlement Account and shall be apportioned among the Plaintiff States.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section I paragraph H ("Final Approval Order") and Section II.B(2) of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account
A/C # 01893320239
FFC Provigil States' Proprietary Compensation Account
A/C # 10872187109

ii. The States' Proprietary Compensation Account, as established pursuant to this Section, shall be tax-free.

c. States' Disgorgement, Cost & Fees Account: The State" Disgorgement, Cost & Fees Account shall be used to pay the States and fund Settlement Administration Costs, in the total Amount of $35,000,000.00., as described in Section II.C of the Settlement Agreement. Any and all interest earned on the States' Disgorgement, Fees & Costs Account shall accrue to and become part of the States' Disgorgement, Fees & Costs Account and shall be used to pay the States and the Settlement Administration Costs.

i. Cephalon Parties will submit a Disbursement Request to the Federal Trade Commission as described in paragraph A in order to effectuate the transfer the sum they are obligated to pay under Section I paragraph H ("Final Approval Order") and Section II.C(2) of the Settlement Agreement to the Escrow Agent, by wire transfer of immediately available funds, to the following account:

The Huntington National Bank, N.A.
ABA # 044000024
National Settlements Wire Account

A/C # 01893320239
FFC Provigil Disgorgement Account
A/C # 1087218754

ii. If, after final distribution of all funds in the Consumer Compensation Settlement Account and after payment of all incurred, committed or anticipated Settlement Administration Costs, as defined in the Settlement Agreement, there are any unused funds remaining, the Escrow Agent shall pay the remaining funds as directed by Liaison Counsel for Plaintiff States or by order of Court.

4. Disbursement of Escrow Funds. The Escrow Agent shall disburse Escrow Funds, at any time and from time to time, in accordance with the Written Directions from the Liaison Counsel for Plaintiff States or by order of the Court. The Escrow Agent shall not disburse Escrow Funds except pursuant to Written Directions from the Liaison Counsel for Plaintiff States or by order of Court.

5. Termination of Settlement Agreement. If the Settlement Agreement is not approved, all monies paid into the Settlement Accounts shall be refunded to the same Federal Trade Commission fund as described in Paragraph A above, reduced by the amount of actual out-of-pocket costs and expenses incurred in the administration of the Settlement to the date of disapproval. In such case, refund shall occur within ten (10) business days of the Court's decision becoming Final.

6. Investment of Funds. At the Written Direction of Liaison Counsel, the Escrow Agent shall invest the Escrow Funds in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. The Escrow Funds shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds are dispersed pursuant to the Settlement Agreement or upon further order(s) of the Court.

The Escrow Agent shall not bear any risks related to the investment of the Settlement Fund in accordance with the provisions of this Escrow Agreement. The Escrow Agent will be indemnified by the Settlement Fund1, and held harmless against, and with respect to, any and all loss, liability, damage or expense (including, but without limitation, attorneys' fees, costs and disbursements) that the Escrow Agent may suffer or incur in connection with this Escrow Agreement and its performance hereunder or in connection herewith, except to the extent such loss, liability, damage or expense arises from its bad faith, misconduct or negligence as adjudicated by a court of competent jurisdiction.

7. Preparation and Payment of Taxes. The Settlement Accounts shall be treated as being, at all times from and after expiration or waiver of the period within which the Cephalon Parties may void the Settlement under Section IV of the Settlement Agreement, a "qualified

1 The State of Ohio, as well as all Plaintiff States and all Plaintiff States' Attorneys General, shall not be liable for anything with pertaining to this agreement and furthermore, shall not indemnify anyone with respect to this agreement.

settlement fund" within the meaning of Treas. Reg. § 1.468B-1(a). In addition, the claims administrator, A.B. Data, and, as required, settling parties shall jointly and timely make such elections as necessary or advisable to carry out the provisions of Section IV.B of the Settlement Agreement, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)(ii)), back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulation. It shall be the responsibility of the claims administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow Agent. The claims administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Accounts (including without limitation the returns described in Treas. Reg. § 1.468B-2(k and l)). The claims administrator may engage an accounting firm or tax preparer to assist in the preparation of any tax reports or the calculation of any tax due and the expense of such assistance shall be paid from the Settlement Fund. Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Accounts shall be paid out of the Settlement Accounts as provided in Section II. B.(3) of the Settlement Agreement. All taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Accounts, including any taxes that may be imposed upon Cephalon Parties with respect to any income earned by the Settlement Accounts for any period during which the Settlement Accounts do not qualify as a "qualified settlement fund" for federal, state, or local income tax purposes ("Taxes") shall be paid out of the Settlement Accounts and in all events Cephalon Parties and their insurers shall have no liability or responsibility for such Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority in respect of such Taxes. Taxes shall be treated as, and considered to be, a cost of administration of the Settlement Agreement and shall be timely paid by the Escrow Agent out of the Settlement Cost Account without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Plaintiff States any funds necessary to pay such amounts including the establishment for adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l), (2)).

8. Registration and Removal of Escrow Agent. Escrow Agent may resign from the performance of its duties hereunder at any time by giving sixty (60) days prior written notice to the Liaison Counsel for Plaintiff States or may be removed, with or without cause, by the Liaison Counsel for Plaintiff States, by furnishing Written Direction to Escrow Agent, at any time by the giving of thirty (30) days prior written notice to Escrow Agent. Such resignation or removal shall take effect upon the appointment of a successor Escrow Agent as provided herein. Upon any such notice of resignation or removal, the Liaison Counsel for Plaintiff States shall appoint a successor Escrow Agent hereunder. Upon the acceptance in writing of any appointment as Escrow Agent hereunder by a successor Escrow Agent, such successor Escrow Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Escrow Agent, and the retiring Escrow Agent shall be discharged from its duties and obligations under this Escrow Agreement, but shall not be discharged from any liability for

actions taken as Escrow Agent hereunder prior to such succession. The retiring Escrow Agent shall transmit all records pertaining to the Settlement Accounts and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction by and payment to the retiring Escrow Agent (after written notice to Liaison Counsel for Plaintiff States) of all fees and expenses incurred by or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

9. Fees and Expenses of Escrow Agent:

a. Escrow Agent will be compensated in accordance with the terms of Exhibit B. The Escrow Agent is authorized to, and may, disburse to itself from the Escrow Funds, from time to time, the amount of any compensation payable hereunder. Such compensation and reimbursement may be directly disbursed by the Escrow Agent to itself from the Settlement Disgorgement, Fees & Cost Account on a monthly basis, thirty (30) days after giving written notice, consisting of an itemization of compensation earned, to the Liaison Counsel for Plaintiff States.

b. The Escrow Agent understands and agrees that all payments to the Escrow Agent will be made from the Settlement Disgorgement, Fees & Cost Account. The Escrow Agent understands and agrees that neither the Ohio Attorney General nor the State of Ohio are responsible or liable for payments under this Agreement and that the Escrow Agent will look solely to the Settlement Disgorgement, Fees & Cost Account for payment, pursuant to the payment procedures set forth in this Agreement.

10. Reports and Accounting. Escrow Agent will provide monthly reports to the Liaison Counsel for Plaintiff States and to A. B. Data, Ltd., in a form that is acceptable to the Plaintiff States, reflecting income and disbursement activity on the Settlement Accounts for the period and year to date. The Escrow Agent shall further issue a Final Report and Accounting which will summarize the income, expenses, and disbursements associated with the administration of the Settlement Accounts; expenses and disbursements associated with payments to the Plaintiff States; and such other reports as the Liaison Counsel for Plaintiff States may reasonably require from time to time. Reports and the status of all Settlement Accounts shall be accessible to the Liaison Counsel for Plaintiff States on-line. The Escrow Agent will provide the name of the officer who will have principal responsibility of the management of the Settlement Accounts and the Escrow Agent's relationship with the Liaison Counsel for Plaintiff States.

11. Consent to Jurisdiction and Venue. In the event that any party hereto commences a lawsuit or other proceeding relating to or arising from this Escrow Agreement, the Parties hereto agree that the proper court in Ohio shall have the sole and exclusive jurisdiction over any such proceedings. Such Court shall have proper venue for any such lawsuit or judicial proceeding and the Parties hereto waive any objection to such venue. The Parties hereto consent to and agree to submit to the jurisdiction of such Court and agree to accept service of process to vest personal jurisdiction over them in such Court.

12. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been validly served, given or delivered five (5) days after deposit in the United States mails, by certified mail with return receipt requested and postage prepaid, when delivered personally, one (1) day after delivery to any overnight courier, or when transmitted by facsimile transmission facilities, and addressed to the party to be notified as follows:

If to Plaintiff States at:

Office of the Attorney General of Ohio
Chief, Antitrust Section
150 E. Gay St., 22nd Floor
Columbus, OH 43215-3428

Office of the Attorney General of Texas
Chief, Antitrust Section
300 W. 15th St., 7th Floor
Austin, TX 78701

Office of the Attorney General of Vermont
Chief, Antitrust Section
109 State Street
Montpelier, VT 05609

If to Escrow Agent at:

The Huntington National Bank
c/o Susan Brizendine, Trust Officer
7 Easton Oval – EA4E
Columbus, OH 43219

The Huntington National Bank
c/o Christopher Ritchie, Senior Vice President
1150 First Avenue, Suite 501
King of Prussia, PA 19406

If to the Settlement Administrator, A. B. Data, LTD.at:

Thomas R. Glenn
A. B. Data, LTD.
600 A B Data Drive
Milwaukee, WI 53217

or to such other address as each party may designate for itself by like notice.

13. Amendment or Waiver. This Escrow Agreement may be changed, waived,

discharged or terminated only by a writing signed by the Liaison Counsel for Plaintiff States and Escrow Agent. No delay or omission by any party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any future occasion.

14. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

15. Governing Law. This Escrow Agreement shall be construed and interpreted in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

16. Entire Agreement. This Escrow Agreement and the Settlement Agreement constitutes the entire agreement between the Parties relating to the holding, investment and disbursement of the Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Settlement Accounts.

17. Binding Effect. All of the terms of this Escrow Agreement, as amended from time to time, shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective heirs, successors and assigns.

18. Confidentiality. This Escrow Agreement and the Settlement Agreement, which are incorporated herein, should not be disclosed unless, or until, notification is made in writing to Counsel for the Liaison States.

19. Execution in Counterparts. This Escrow Agreement and any Written Direction may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which when so executed shall constitute one and the same agreement or direction.

20. Dealings. Nothing herein shall preclude the Escrow Agent from acting in any other capacity for any party, person or entity referenced herein.

21. Patriot Act Warranties. Section 326 of the USA Patriot Act (Title III or Pub. L 107-56), as amended from time to time (the "Patriot Act"), requires financial institutions to obtain, verify and record information that identifies each person or legal entity that opens an account (the "Identification Information"). The parties to this Escrow Agreement agree that they will provide the Escrow Agent with such Identification Information as the Escrow Agent may request in order for the Escrow Agent to satisfy the requirements of the Patriot Act.

22. This Agreement will become effective upon signature by the Parties and will continue in effect until June 30, 2018. The Parties agree that this Agreement may be renewed as necessary for successive two (2) year terms beginning July 1, 2018.

IN WITNESS WHEREOF, the Parties hereto have caused this Escrow Agreement to be executed under seal as of the date first above written.

PLAINTIFF STATES

MICHAEL DeWINE, Attorney General for the State of Ohio

By: _____
Mitchell L. Gentile

Title: Principal Attorney, General Antitrust

Huntington Bank, as Escrow Agent

By: Christopher W. Ritchie

Title: Senior Vice President

EXHIBIT A

JOINT WRITTEN DIRECTION
EXAMPLE

STATE OF NEW YORK, ET AL V.
CEPHALON PARTIES PHARMACEUTICAL INDUSTRIES LTD, ET AL,
IN RE PROVIGIL ANTITRUST LITIGATION
ESCROW # _____

In accord with the Escrow Agreement, dated May 16, 2016 and the Settlement Agreement referenced in the Escrow Agreement, the Liaison Counsel for Plaintiff States, all of whom are authorized to direct Huntington Bank as the Escrow Agent to take the following action with respect to the Escrow Funds and/or Settlement Accounts. The Escrow Agent shall

_____

_____

DATED: _____, 2016

PLAINTIFF STATES

MICHAEL DeWINE, Attorney General for the
State of Ohio

By: _____

Title: _____

OR

KEN PAXTON, Attorney General for the
State of Texas

By: _____

Title: _____

OR

WILLIAM SORRELL, Attorney General for the State of Vermont

By: _____

Title: _____

Exhibit B

Schedule of Fees and Expenses

Annual Administration Fee:	Waived
Activity Charges:	Fed Wire - Waived Check - Waived Monthly statement – Waived Document handling – Waived On-line access – Waived

Investment Fee:

For Interest-Bearing or Money Market Account: Waived

For all investment management, purchases, sells, custody and safekeeping of Treasury Securities: Waived

EXHIBIT C

Exhibit C
Provigil® Consumer Distribution

Consumers may be eligible to receive a distribution from the States' Consumer Fund, the Class Consumer Fund, or both, as explained below.

Alternative A:

The $35 million in the settlement for consumer distribution after interest and applicable taxes (the "States' Consumer Fund") will be allocated to Eligible Consumers.

An Eligible Consumer will be entitled to recovery for purchases of Provigil® and/or generic versions of Provigil® (modafinil) from [June 24, 2006] through [March 31, 2012] made in the District of Columbia or any state except for California or Louisiana. The Settlement Administrator will determine whether the consumer paid for those drugs in that time period in those locations.

The States' Consumer Fund will be distributed to Eligible Consumers on a *pro rata* basis, based on the size of their payments eligible for recovery and the money available in the States' Consumer Fund. A "Distribution Amount" will be calculated for each Eligible Consumer, which will be the payments by the Eligible Consumer that are eligible for recovery divided by the total amount of payments eligible for recovery for all Eligible Consumers, multiplied by the States' Consumer Fund. An Eligible Consumer will not receive a distribution greater than the payments eligible for recovery made by that Eligible Consumer.

Alternative B:

If a settlement in *In re Modafinil Antitrust Litigation, Vista Health Plan Inc. v. Cephalon Inc. et al.* 2:06-cv-01833 (E.D. Penn.) provides a monetary distribution to consumers represented by the class ("Class Consumer Fund") the Consumer Distribution Plan is expected to be as follows:

Approximately $25 million (assuming that is the net amount to be distributed to consumers in the class) from the Class Consumer Fund,

+

Approximately $35 million from the States' Consumer Fund

Approximately $60 million total available for consumer distribution

Consumers in California and Louisiana will receive money only from the Class Consumer Fund. Consumers in the other states and the District of Columbia represented by the class will receive money from both the Class Consumer Fund and the States' Consumer Fund. Consumers in the states not represented by the class will receive money only from the States' Consumer Fund. In all instances, consumers will receive only one check from a joint settlement administrator and will not receive a distribution greater than the payments eligible for recovery made by that Eligible Consumer.

Method to Be Used to Determine the Amount Consumers Will Receive

Class Consumer Fund Reimbursement Rate Calculation

The Settlement Administrator will calculate a rate for all consumers represented by the class. Assuming the Class Consumer Fund is approximately $25 million, that amount will be divided by the total of all eligible purchases by consumers represented by the class. Using the class's estimate that consumer damages may be as high as $700 million nationwide and if all purchases by consumers within the class are included, maximum damages for consumers in the class would be $466 million. $25 million divided by $466 million gives a Class Reimbursement Rate of 5.36%.

Total Consumer Fund Reimbursement Rate Calculation

The Settlement Administrator will calculate a "Total Reimbursement Rate" for all Consumer Claims in the District of Columbia and all states except California and Louisiana. The approximate recovery for consumers in the class that are not in California or Louisiana is $19 million. Using the class's estimate that consumer damages may be as high as $700 million nationwide, and if all purchases by consumers represented by the states are included, maximum damages for consumers represented by the states would be $609 million. Adding $19 million to the $35 million from the States' Consumer Fund and dividing by $609 million, which is the maximum damages for the consumers represented by the States, the Total Reimbursement Rate is 8.87%.

Illustrations

The following illustrations apply the Total Reimbursement Rate and Class Reimbursement Rate:

#1. If a consumer filled a prescription for Provigil® in New York and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 8.87% (the Total Reimbursement Rate) = $88.70. The check would consist of $53.60 from the Class Consumer Fund and $35.10 from the States' Consumer Fund because a New York consumer is eligible to receive money from both the States' Consumer Fund and the Class Consumer Fund.

#2. If a consumer filled a prescription for Provigil® in Ohio and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 8.87% = $88.70. The entire amount would come from the States' Consumer Fund because an Ohio consumer is eligible to receive money only from the States' Consumer Fund.

#3. If a consumer filled a prescription for Provigil® in California or Louisiana and paid $1,000, that consumer's check would be calculated as follows: $1,000 x 5.36% = $53.60. The entire amount would come from the Class Consumer Fund. California and Louisiana consumers are eligible to receive money only from the Class Consumer Fund because those states are not participating in the States' settlement.

The joint Settlement Administrator will physically merge the two funds (the States' Consumer Fund and the Class Consumer Fund) into the Consumer Distribution Account after determining the amount of each consumer check. Any money from the States' Consumer Fund portion of the distribution payments remaining in the Consumer Distribution Account as a result of un-cashed checks will be returned to the States' Consumer Fund.

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2016 AUG 30 P 3:25

In Re: ROBERT IMMLER) CIVIL DIVISION
) Docket No. 515-8-16 Wncv

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Robert Immler ("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).

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

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).

Respondent's Rental Housing and Lead Compliance Practices

10. Respondent is the owner of two rental properties, containing 6 total rental units, located at 118 High Street (3 units) and 182 High Street (3 units) located in Brattleboro, 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 January 17, 2016, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 118 High Street; on January 25, 2016,

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

Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 182 High Street (hereinafter "EMP Statements").

14. The EMP Statements represent that Respondent performed EMPs at 118 High Street in October 2015, and at 182 High Street on January 18, 2016.

15. The EMP Statements specifically certify that Respondent:

    a. visually inspected exterior and interior surfaces and outbuildings;

    b. stabilized exterior and interior paint; and

    c. did not identify deteriorated paint exceeding 1 square foot on exterior and interior surfaces of the buildings.

16. The EMP Statements were signed by Robert Immler 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 January 25, 2016 and again on March 29, 2016, Vermont Department of Health staff inspected the exterior and interior surfaces of the Properties and documented (via photographs) deteriorated paint exceeding more than 1 square foot on the exterior and interior surfaces of the Properties.

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

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

The State's Allegations

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

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 September 15, 2016, Respondent shall hire, at his expense, an EMP-certified independent contractor to conduct compliance inspections and perform all EMP work of the interior and common areas of 118 High Street, as specified in 18 V.S.A. § 1759. By September 30, 2016, Respondent shall hire, at his expense, an EMP-certified independent contractor to conduct compliance inspections and perform all EMP work of the exterior of 118 High Street and 182 High Street, 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 before the expiration of the above deadlines 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,

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

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 conduct described in this AOD. Payment shall be made as follows:

    a. Within two weeks after entry of this AOD, Respondent shall pay ten thousand dollars ($10,000) by a single check payable to "the State of Vermont" and sent to the Office of the Attorney General at the address listed in paragraph 23; and

    b. Respondent shall expend at least ten thousand dollars ($10,000), 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.

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 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 30th day of August, 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 Brattleboro, VT this 26th day of August, 2016.

ROBERT IMMLER

By: _____

Robert Immler

Approved as to form:

_____

Christopher S. Dugan, Esq.
CADY & DUGAN, P.C.
111 Main Street, 2nd Floor, Suite 2
P.O. Box 2341
Brattleboro, Vermont 05303
Telephone: (802) 251-0099
Attorney for Respondent

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

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2016 AUG 26 P 3:31

IN RE: Ruffalo Noel Levitz, LLC	)	CIVIL DIVISION
	)	Docket No. 508-8-16 Wncv.
	)	

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Ruffalo Noel Levitz, LLC ("Respondent"), hereby agree to this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. §§ 2459 and 2479(b).

REGULATORY FRAMEWORK

1. 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.

2. Vermont's Charitable Solicitations law requires paid fundraisers that have "solicited contributions in this state" to file a financial report "[n]o later than 90 days after a fundraising campaign has been completed, and no later than 90 days after the anniversary of the commencement of a fundraising campaign lasting more than one year." 9 V.S.A. § 2477(a).

3. The requirements for the financial report are detailed in 9 V.S.A. § 2477(b) and Consumer Protection Rule CP 119.06.

4. Under 9 V.S.A. § 2479(a), a violation of the Charitable Solicitations Law is deemed to be a violation of 9 V.S.A. § 2453 of the Vermont Consumer Protection Act.

5. 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 of the Act, and reimbursement for the reasonable value of its services and its expenses in investigating and prosecuting an action.

DEFINITIONS

6. For the purposes of this AOD, the terms "charitable organization," "fundraising campaign," "paid fundraiser," and "solicitation" are defined in the same manner as they are defined in 9 V.S.A. § 2471.

BACKGROUND

7. Respondent Ruffalo Noel Levitz, LLC is a for-profit corporation incorporated under the laws of Delaware, with its principal place of business located at 1025 Kirkwood Parkway, SW, Cedar Rapids, Iowa 52404. Respondent conducts business throughout the State of Vermont as a paid fundraiser for various charitable organizations.

8. At all times relevant to this matter, Respondent has retained an authorized agent to provide services and assistance with regard to the filing requirements under the Act.

9. From at least 2008 to the present, Respondent has solicited contributions by telephone from Vermont residents on behalf of various charitable organizations.

10. One of Respondent's fundraising campaigns was conducted in Vermont from July 5, 2014, to June 30, 2015, for the United States Fund for UNICEF (the "Campaign"), Campaign Identification Number 12395.

11. Pursuant to 9 V.S.A. § 2477(a), Respondent's financial report for the Campaign (the "Financial Report") was due by September 28, 2015, 90 days after the Campaign was completed.

12. On October 28, 2015, the Attorney General's Office informed Respondent, through its authorized agent, that the Financial Report for the Campaign was delinquent.

13. Respondent did not file the Financial Report for the Campaign until December 3, 2015. As of that date, the Financial Report was over two months overdue.

14. Respondent admits the truth of all facts set forth in the Background section.

15. The Attorney General alleges that the above conduct demonstrates violations of 9 V.S.A. §§ 2477(a), and further alleges that any such violation would constitute unfair and deceptive acts and practices under 9 V.S.A. § 2453.

AGREEMENT

Future Compliance

16. It is hereby AGREED that Respondent Ruffalo Noel Levitz, LLC:

a. Shall comply with all provisions of the Vermont Consumer Protection Act, including but not limited to provisions in 9 V.S.A. chapter 63, subchapters 1 and 2, Consumer Protection Rule 119, and all other applicable Vermont laws; and

b. Shall file all financial reports required under 9 V.S.A. § 2477(a) by the date they are due pursuant to that statute.

17. It is hereby AGREED that the parties have compromised and settled all potential claims regarding alleged violations of 9 V.S.A. §§ 2477(a) described in the background section of this AOD, up to February 12, 2016.

Monetary Relief

18. As part of this negotiated settlement, it is hereby AGREED that Respondent Ruffalo Noel Levitz, LLC shall pay six thousand dollars ($6,000) in two installments, as described below. 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 Shannon Salembier, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

a. Within ten (10) days of both parties signing this AOD, Respondent shall pay five thousand dollars ($5,000) as a civil penalty to the State of Vermont.

b. Within forty (40) days of both parties signing this AOD, Respondent shall pay the remaining one-thousand dollars ($1,000) to the State of Vermont for the State's fees and costs of investigation in connection with this matter.

OTHER TERMS

19. Respondent Ruffalo Noel Levitz, LLC agrees that the terms of this AOD shall be binding on Ruffalo Noel Levitz, LLC, and its successors and assigns.

20. The Attorney General hereby releases and discharges its claims arising under the 9 V.S.A. § 2477(a) that it may have against Respondent for the conduct described in the Background section up to February 12, 2016.

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 Ruffalo Noel Levitz, LLC to be in violation of this AOD, then the parties agree that penalties to be assessed by the Court are as follows:

a. For failure to file a financial report referenced in paragraph 16(b) of this AOD within ten (10) business days of receipt of a notice of delinquency from the Attorney General, the penalty shall be $1,000 per business day that any one of the Delinquent Financial Reports is late, up to a maximum of $10,000 per report.

SIGNATURE

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

DATED at Cedar Rapids, IA, this 23rd day of August, 2016.

RESPONDENT RUFFALO NOEL LEVITZ, LLC

By: _____
Its Authorized Agent

By: Rick Gross, CFO
Name and Title of Authorized Agent

Approved Legal RR 8-15-16

ACCEPTED on behalf of the Vermont Attorney General:

DATED at Montpelier, Vermont, this 25 day of August, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____

Shannon Salembier
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, Vermont 05609
shannon.salembier@vermont.gov
(802) 828-5621

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: Rymes Heating Oils, Inc.

) CIVIL DIVISION
) Docket No. _____

ASSURANCE OF DISCONTINUANCE

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

Background

Rymes Propane

1. Rymes Heating Oils, Inc. is a corporation with its principal place of business at 802 Soucook Lane, Pembroke, NH 03275.
2. Rymes' operations include retail marketing, sale, and distribution of propane to residential, commercial, and industrial customers in Vermont. Since 2010, Rymes has provided propane service to approximately 2,600 customers in Vermont.

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 liquefied petroleum gas ("propane"). Since 1986, Vermont Consumer Protection Rule 111 ("CP 111" or "Propane Rule") has

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governed the business practices of propane service providers in Vermont and is enforced by the Office of the Attorney General. The Rule was amended in 2009, effective on January 1, 2010, and amended again in 2011, effective on January 1, 2012 (reference to "CP 111" or the "Propane Rule" refers to the most recent version as amended).

5. CP 111.03 & 111.09(a)(2) require disclosure of all fees on a Fee Disclosure Form ("FDF"), including the amount and duration of all fees. The FDF is a standardized form mandated by CP 111 to provide consumers with advance notice of fees charged by a propane seller, and with the means to compare the fees charged by different sellers. CP 111 provides for an Initial FDF to be used with a potential consumer upon inquiry or when establishing service, and an Existing Customer FDF to provide consumers with at least 60 days' notice of new or increased fees. *See* CP 111.03.
6. A violation of CP 111 constitutes an unfair and deceptive trade act and practice in commerce under Vermont's Consumer Protection Act, 9 V.S.A. § 2453(a). CP 111.01.
7. In addition, Vermont law requires that all retail charge agreements meet certain requirements, including: providing notices to the consumer regarding payments for goods and services as required by 9 V.S.A. § 2406(a), providing notice to any co-borrower as required by 9 V.S.A. § 102, and limiting the finance charges to a maximum of 21% per annum as set forth in 9 V.S.A. § 41(b)(9).
8. 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).

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Rymes' Propane Practices

9. The Vermont Attorney General's Consumer Assistance Program received consumer complaints about Rymes' propane practices. In investigating those complaints, Rymes acknowledged its practices as follows.

10. Since 2010, Rymes has collected $15,287 in fees from 187 consumers without prior disclosure of these fees in an FDF.

11. Since 2010, Rymes has charged 140 customers a 24% per annum finance charge in its Credit Application and Charge Agreement, for a total amount of approximately $16,662 in overcharges above the legal limit of 21% per annum. Rymes' Credit Application and Charge Agreement also did not contain the notices required by Vermont law (described in ¶ 7).

12. In response to the Attorney General's investigation of the above, Rymes provided prompt and compliant responses, and immediately changed its practices to disclose all fees in FDFs and revised its retail charge agreement.

13. Rymes admits the truth of the facts described in ¶¶ 1-2; 10-12.

The State's Allegations

14. The Vermont Attorney General's Office alleges that:

    a. charging consumers fees without disclosure on an FDF violates the Vermont Consumer Protection Act and Propane Rule; and

    b. charging consumers a 24% annual finance charge and failing to include required notices in a retail charge agreement violates 9 V.S.A. § 2406(a), 9 V.S.A. § 102, and 9 V.S.A. § 41(b)(9).

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15. 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 litigation, the Attorney General and Rymes are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter. Agreeing to the terms of this Assurance of Discontinuance for purpose of settlement does not constitute an admission by Rymes to a violation of any law, rule, or regulation. Accordingly, the parties agree as follows:

16. Rymes 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.
17. Rymes shall immediately provide Initial or Existing Customer FDFs to all potential or existing customers before collecting any fees as required by CP 111.03 & 111.09.
18. Rymes shall immediately revise the terms and notices of its Credit Application and Charge Agreement to comply with 9 V.S.A. § 2406(a), 9 V.S.A. § 102, and 9 V.S.A. § 41(b)(9).
19. Within 30 days of entry of this AOD, Rymes shall refund all 187 consumers identified in ¶ 10 the fees that were improperly collected, totaling $15,287 in restitution. Rymes shall mail a check to all former customers along with any explanatory letter in an envelope provided by the Attorney General's Office. For current customers, Rymes, at its election, may mail a check or offer a credit to their account or a reduction of any outstanding balance.
20. Within 30 days of entry of this AOD, Rymes shall pay all 140 consumers identified in ¶ 11 the difference between the 24% finance charge and the 21% legal limit, totaling $16,662 as restitution. Rymes shall mail a check to all former customers along with any

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explanatory letter in an envelope provided by the Attorney General's Office. For current customers, Rymes may, at its election, mail a check or offer a credit to their account or a reduction of any outstanding balance.

21. Within 30 days of signing this AOD, Rymes 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.

Other Terms

22. 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.
23. This AOD shall be binding on Rymes, all of its affiliate companies doing business in Vermont, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of Rymes 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.
24. This AOD resolves all existing claims the State of Vermont may have against Rymes stemming from the conduct described in this document, as of December 1, 2015.
25. 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 any of the parties hereto

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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. Communications related to this AOD shall be given to Rymes at:

    a. Robert H. Miller (rmiller@sheehan.com), Sheehan Phinney Bass & Green P.A. 1000 Elm Street 17th Floor, Manchester, New Hampshire 03105.

27. Communications and notices related to this AOD shall be given to the Attorney General's Office to the undersigned Assistant Attorney General.

Violations and Stipulated Penalties

28. In the event that Rymes violates any of the terms of this AOD, the Attorney General may pursue any remedies available under 9 V.S.A. Chapter 63, and the Attorney General shall not have waived any of its rights to assert and prove any violations of law by Rymes unrelated to the conduct described in this AOD.

29. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Rymes 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 Assurance of Discontinuance shall be $5,000. For purposes of this paragraph 29, it shall not apply to a *de minimis* violation and the term "each act" shall mean: (i) collecting a fee without prior disclosure in an FDF; (ii) imposing a retail finance charge higher than that allowed by Vermont law; and (iii) failing to provide the required notices for retail charge agreements under Vermont law.

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SIGNATURES APPEAR ON NEXT PAGE

DATED at Montpelier, Vermont this 9th 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

DATED at Pembroke, New Hampshire this 8th day of March, 2016.

Rymes Heating Oils, Inc.

By: _____
Its Authorized Agent

Thomas J. Rymes, Manager
Name and Title of Authorized Agent

APPROVED AS TO FORM:

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

For the State of Vermont

_____
Robert H. Miller
Sheehan Phinney Bass & Green P.A.
100 Elm Street
17th Floor
Manchester, NH 03105

For Rymes Heating Oils, Inc.

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

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re: SHIRES HOUSING, INC.) CIVIL DIVISION
) Docket No. 354-5-16 Wncv

ASSURANCE OF DISCONTINUANCE

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

Shires Housing, Inc.

1. Shires is a not-for-profit corporation with its principal place of business at 302 South Street, P.O. Box 1247, Bennington, Vermont 05201. Shires provides affordable housing for limited income residents in Bennington County, Vermont.
2. Shires is the owner of five rental properties, containing 23 total rental units, located at: 233 School Street (5 units), 119-121 Pleasant Street (4 units), 50 Carrigan Lane (7 units), 100 Carrigan Lane (2 units), and 316 Safford Street (5 units), all located in Bennington, Vermont (collectively, "the Properties").
3. 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.

Regulatory Framework

4. 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.

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5. 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).
6. 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).
7. The lead law requires that essential maintenance practices ("EMPs") specified in 18 V.S.A. § 1759 be performed at all pre-1978 rental housing.
8. 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).
9. 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).
10. 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).
11. 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.

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12. 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

13. Shires is the owner of the Properties which it has in the past and continues presently to rent and offer for rent.

14. On August 17, 2015, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for each of the Properties (hereinafter "EMP Statements").

15. The EMP Statements represent that Respondent performed EMPs at the Properties on July 30, 2015.

16. 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 one square foot on exterior surfaces of the buildings.

17. The EMP Statements were signed by Bernard McDonald 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."

18. On October 15, 2015, Vermont Department of Health staff inspected the exterior surfaces of the Properties and documented (via photographs) deteriorated paint exceeding more than one square foot on all of the exterior surfaces of the Properties.

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19. Respondent admits the truth of the facts described in ¶¶ 1-3; 13-18.

20. Respondent admits that Mr. McDonald falsely certified by signing the EMP statements and allege that Mr. McDonald's actions in certifying compliance were actions that he took on his own initiative, without the knowledge or approval of his employers at Shires Housing. Respondent alleges that the conduct of Mr. McDonald represents an isolated incident not in keeping with the standards of Shires Housing.

The State's Allegations

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

    a. Submitting false EMP Statements and inaccurately representing that the Properties were in compliance with the lead law.

22. 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 Respondents, the Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459. Accordingly, the parties agree as follows:

23. Respondent shall fully and timely comply with the requirements of the Vermont lead law, 18 V.S.A., Chapter 38, as long as it maintains 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.

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24. By May 31, 2016, Respondent shall hire, at its 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.

25. 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.

26. 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.

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27. 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 shall be sent within 15 days of the entry of this AOD 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. 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.
29. 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.
30. This AOD shall not affect marketability of title.
31. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
32. 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.

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 Bennington, Vermont this 28th day of April, 2016.

SHIRES HOUSING, INC.

By: _____
Its Authorized Agent

Stephanie Lane, Exec. Director
Name and Title of Authorized Agent

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

2016 JUL 18 A 9:56

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

IN RE: TRIBUTES, INC.) CIVIL DIVISION 426-7-16 Wncv
)
)

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Tributes, 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 Tributes is a for-profit corporation incorporated under the laws of Delaware, with its principal place of business located at 745 Atlantic Avenue, Boston, Massachusetts 02111.

6. On May 23, 2013, Tributes 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 Tribute'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 Tribute'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, Tributes received 4% of any donation amount made using the Givalike Plugin placed in an obituary appearing on Tribute's website.

9. Tributes 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 and informed a charity of its insertion only 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 Tributes 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 $16,961.35 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 $1,311.03 in fees.

14. Tributes 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 three hundred eleven dollars ($15,311.00) 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
Tributes, Inc.

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: Clark R Clark

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

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2016 NOV 18 P 2:37

IN RE: UNITED ADVISORS GROUP LLC	)	CIVIL DIVISION
	)	Docket No. 684-11-16 Wncv
	)	

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and United Advisors Group LLC ("UAG" or "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 "[u]nfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce." 9 V.S.A. § 2453.

2. Vermont's law on debt adjusters, 8 V.S.A. § 2751, contains the following definition of "Debt adjustment":

> "Debt adjustment" means making an agreement with a debtor whereby the debt adjuster agrees to distribute, supervise, coordinate, negotiate, or control the distribution of money or evidences thereof among one or more of the debtor's creditors in full or partial payment of obligations of the debtor and includes services as an intermediary between a debtor and one or more of the debtor's creditors for the purpose of obtaining concessions. Debt adjustment also includes any program or strategy in which the debt adjuster furnishes services to a debtor which includes a proposed or actual payment or schedule of payments to be made by or on behalf of the debtor and is used to pay debt owed by the debtor. For purposes of this chapter, engaging in debt adjustment in this State shall include:
>
> (A) soliciting debt adjustment business from within this State, whether by mail, by telephone, by electronic means, or by other means regardless of whether the debtor resides within this State or outside this State;
>
> (B) soliciting debt adjustment business with an individual residing in this State, whether by mail, by telephone, by electronic means, or by other means;
>
> (C) entering into, or succeeding to, a debt adjustment contract with an individual residing in this State; or

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

(D) providing, offering to provide, or agreeing to provide debt adjustment services directly or through others.

3. It is illegal to operate as a debt adjuster in Vermont without a license under the Vermont Debt Adjusters Act. 8 V.S.A. §§ 2751-2768.

4. Violation of the Vermont Debt Adjusters Act e may be enforced by the Vermont Attorney General. 8 V.S.A. § 2764(e).

BACKGROUND

5. United Advisors Group LLC ("UAG") is a California limited liability corporation with offices located at 16808 Armstrong Ave. #225, Irvine, CA 92606. UAG is a private company that purported to initiate and complete through the Dept. of Education a Federal student loan consolidation/restructure, a principal reduction, an interest rate reduction, loan payment deferment or forbearance, and/or a reduced payment option.

6. UAG is the result of a merger between Student Loan Advisors Group and Student Loan Managers on March 10, 2014. Student Loan Managers began doing business in Vermont in or around September 2012.

7. UAG or its antecedents have entered into contracts with twelve Vermont consumers to provide assistance in completing and submitting paperwork required to obtain Federal Direct Consolidation Loans from the U.S. Department of Education and selecting and entering into repayment plans for the Direct Consolidation Loans. As of June 2015, these consumers had paid to UAG approximately $5,022.14 in fees which takes into account $3,073.24 of refunds provided to consumers.

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8. The Attorney General finds that the business of UAG falls within the definition of "debt adjustment" under 8 V.S.A. § 2751(2) and is thus subject to licensure under the Vermont Debt Adjusters Act, 8 V.S.A. §§ 2751-2768.

9. At no time relevant to this AOD did UAG possess a Vermont Debt Adjuster license per 8 V.S.A. § 2752 or pay the fees or obtain the bond referenced in 8 V.S.A. §§ 2754 and 2755.

10. UAG entered Vermont consumers into debt deferral programs, collected fees and payments without paying those amounts to any program, and caused consumers to amass interest while believing the debts to be in payment, without disclosing either the inaction or consequence to consumers.

11. UAG collected fees from Vermont consumers prior to their loans being altered.

12. The Attorney General finds that the above-described practices violated the Vermont Consumer Protection Act's prohibition on unfair and deceptive trade practices, 9. V.S.A. § 2453(a).

13. UAG does not admit to any violation of state or federal law.

14. The Attorney General and UAG are willing to accept this AOD pursuant to 9 V.S.A. § 2459.

INJUNCTIVE RELIEF

15. Within thirty (60) days of the filing of this AOD with the Washington Superior Court (the "Effective Date"), Respondents will cease to engage in any activity in commerce in Vermont.

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16. Within thirty (30) days of the "Effective Date", UAG shall send to Ryan Kriger, Assistant Attorney General, Office of the Vermont Attorney General, 109 State Street, Montpelier, VT 05609, checks payable to each consumer, and the last known address for each consumer listed on Schedule A, totaling $5022.14. The Office will send the checks to consumers and will inform UAG of any checks returned as undeliverable, at which point UAG shall make all reasonable efforts to find a valid mailing address for the consumer in question and shall within 15 business days provide the new address to the Office.

17. No later than 90 days after the Effective Date, UAG shall send to Ryan Kriger:

a. a single check or by wire transfer, payable to "Vermont State Treasurer," and indicating the company's federal tax identification number, of the total dollar amount of all refunds that were returned or, in the case of checks, that went uncashed, to be treated as unclaimed funds; and

b. a list, in electronic Excel format on a compact disc or via electronic mail, of the consumers whose refunds were returned or, in the case of checks, 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.

18. Within thirty (30) days of the Effective Date, UAG shall transition each active Vermont client to a properly licensed loan consolidation service or shall transfer all credentials and necessary information and authorizations back to the Vermont client, and confirm each transfer to the Office of the Attorney General indicating whether the

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transfer was to the Vermont client or providing the name of the licensed loan consolidation service to which the account was transferred.

19. UAG shall pay to the State of Vermont, in care of the Vermont Attorney General's Office at the address of the undersigned below, the sum of six thousand, five hundred dollars ($6,500.00) as a civil penalty within ten (10) days of signing this AOD.

20. All officers, managers, and employees of UAG shall be trained as appropriate to their roles and responsibilities in ensuring that UAG complies with this AOD.

OTHER TERMS

21. This AOD shall be binding on UAG, its officers, directors, owners, managers, successors and assigns. The undersigned authorized agent of UAG shall promptly take reasonable steps to ensure that copies of this document are provide to all officers, directors, owners, and managers of the company.

22. The Attorney General hereby releases and discharges any and all claims arising under the Vermont Debt Adjusters Act, 8 V.S.A. §§ 2751-2768, and the Vermont Consumer Protection Act, 9 V.S.A. §§ 2451-2480, that it may have against UAG for the conduct described in the Background section between the dates of September 2012 and the Effective Date.

23. 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.

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24. 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.

25. 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.

NOTICE

26. Respondent may be located at:

16808 Armstrong Ave. #225, Irvine, CA 92606 with copy to Greenspoon Marder. P.A. c/o Robby Birnbaum, Esq, Trade Centre South, Suite 700, 100 W. Cypress Creek Road, Ft. Lauderdale, FL 33309.

27. Respondent shall notify the Office of the Attorney General of any change in its address for the next 3 years.

28. In the event that UAG or any of its officers or directors possesses any ownership or managerial interest in a business that engages in activities similar to those described in paragraph 5 and does business with Vermont consumers, Respondent shall notify the Attorney General of the name and address of the business.

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SIGNATURE

In lieu of instituting an action or proceeding against UAG, 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 Irvine,CA, this 9 day of November, 2016.

ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 18th day of November, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

Ryan Kriger
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, Vermont 05609
ryan.kriger@vermont.gov
(802) 828-3170

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

EXHIBIT A

Consumer	Restitution Amount
1	$1,440.28
2	$260.00
3	$490.90
4	$196.23
5	$1,265.72
6	$260.00
7	$391.09
8	$717.92
	$5,022.14

PRIVILEGED AND CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY
AUGUST 29, 2016

In the Matter of

USA Discounters, Ltd. (d/b/a USA Living and Fletcher's Jewelers)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between (1) USA Discounters, Ltd. (d/b/a USA Living and Fletcher's Jewelers); USA Discounters Holding Company, Inc.; USA Discounters Credit, LLC; and their respective divisions and subsidiaries (referred to collectively as "USA Discounters" or "the Company"); and (2) the States of Arkansas, California, Delaware, Florida, Georgia, Hawaii,[1] Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, the District of Columbia, and any other state (except Colorado) that subsequently agrees to join in and be bound by the terms of this Agreement on or before the Effective Date (collectively referred to as the "States," or individually, a "State"), acting through their respective Attorneys General, Departments of Justice, or Offices of Consumer Protection (the "Attorneys General"), to fully and finally settle allegations by the Attorneys General that USA Discounters' conduct has violated various state and federal Consumer Protection statutes and

[1] Hawaii is being represented in this matter by its Attorney General in his own official capacity and by its Office of Consumer Protection, an agency which is not part of the Hawaii Attorney General's Office, but which is statutorily authorized to undertake Consumer Protection functions, including legal representation of the State of Hawaii. For simplicity, the entire group will be referred to as the "Attorneys General," and such designation, as it includes Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.

regulations that the Attorneys General have or may have authority to enforce including, but not limited to, the following: the Military Lending Act (10 U.S.C. § 987), the Truth in Lending Act (15 U.S.C. §§ 1601–67f) and its implementing regulations (*e.g.*, Regulation Z 12 C.F.R. § 1026), the Fair Debt Collection Practices Act (15 U.S.C. §§ 1692–92p), the Fair Credit Reporting Act (15 U.S.C. §§ 1681–81x), the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. §§ 5311–5641), and the States' respective Consumer Protection laws relating to unfair and deceptive business acts and practices.[2] The signatories hereto are referred to collectively as the "Parties" or each individually as a "Party." The Parties have agreed to execute this Agreement for the purposes of settlement only.

BACKGROUND AND THE MULTISTATE INVESTIGATION

1. USA Discounters was founded in May 1991 in Norfolk, Virginia, under the name USA Furniture Discounters, Ltd. The Company's retail business sold brand-name consumer products, including furniture, appliances, televisions, computers, smartphones, jewelry, and other consumer goods. These goods were sold through two groups of stores — one group of specialty

[2] *See generally* Ark. Code Ann. §§ 4-88-101 to 4-88-905; Cal. Civ. Code § 1750, *et seq.*; Del. Code Ann. tit. 6, 2511 to 2527; D.C. Code § 28-3901, *et seq.* (2001); Fla. Stat. §§ 501.201 to 501.213; Ga. Code Ann. §§ 10-1-390 to 10-1-407; Haw. Rev. Stat. §§ 480-1 to 480-24; 815 Ill. Comp. Stat. 505/1 to 505/12; Ind. Code §§ 24-5-0.5-0.1 to 24-5-0.5-12; Iowa Code §§ 714.16 to 714.16A; Kan. Stat. Ann. §§ 50-623 to 50-679a; La. Rev. Stat. Ann. §§ 51:1401 to 51:1427; Md. Code Ann., Com. Law §§ 13-101 to 13-501 (West); Mass. Gen. Laws Ann. ch. 93A, §§ 1 to 11; Mich. Comp. Laws §§ 445.901 to 445.922; Mo. Rev. Stat. §§ 407.010 to 407.1500; Neb. Rev. Stat. §§ 59-1601 to 59-1623 and §§ 87-301 to 87-306; Nev. Rev. Stat. §§ 598.0903 to 598.0999; N.H. Rev. Stat. Ann. 358-A; N.Y. Gen. Bus. Law §§ 349 and 350; N.C. Gen. Stat. §§ 75-1.1 to 75-16.2, §§ 75-50 to 75-56; Ohio Rev. Code Ann. §§ 1345.01 to 1345.13 (West); Okla. Stat. tit. 15 §§ 751, *et seq.*; 73 Pa. Stat. Ann. §§ 201-1 to 201-9.3 (West); R.I. Gen. Laws §§ 6-13.1-1 to 6-13.1-29; S.C. Code Ann. §§ 39-5-10, *et seq.*; Tenn. Code Ann. §§ 47-18-101 to 47-18-130; Tex. Bus. & Com. Code Ann. §§ 17.41 to 17.63 (West); Utah Code Ann. §§ 13-11-1 through 23; Vt. Stat. Ann. tit. 9, §§ 2451 to 2481x; Va. Code Ann. §§ 59.1-196, *et seq.*; Wash. Rev. Code Ann. §§ 19.86.010, *et seq.*

retail stores operating under the "USA Discounters" brand (later, "USA Living"), typically in standalone locations, and seven additional retail stores operating under the "Fletcher's Jewelers" brand, typically in major shopping malls.

2. While it was operating, USA Discounters sold products principally on credit through revolving or retail installment sales contracts. The installment contracts typically had a term of up to 30 months, a fixed monthly payment, and included reference to a security interest in the merchandise purchased by the consumer. USA Discounters also offered warranty and debt cancellation plans.

3. On August 24, 2015, USA Discounters, Ltd.; USA Discounters Holding Company, Inc.; and USA Discounters Credit, LLC each filed a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), thereby commencing the bankruptcy cases styled as *In re USA Discounters, Ltd., et al*., Case No. 15-11755 (CSS) (Bankr. D. Del.) (the "Bankruptcy Cases") before the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). Those chapter 11 cases remain pending.

4. The primary stakeholders in the Bankruptcy Cases are (1) the agent and secured lenders (collectively, "the Secured Lenders") under the prepetition financing documents as described in the Order of the Bankruptcy Court entered on September 17, 2015 in the Bankruptcy Cases at Docket Number 133, and (2) creditors holding general unsecured claims and represented by an official committee appointed by the Office of the United States Trustee in the Bankruptcy Cases.

5. All of the "USA Living" stores closed in the summer of 2015, before the commencement of the Bankruptcy Cases.

6. In December 2015, USA Discounters closed its seven "Fletcher's Jewelers" stores.

7. Because of the length of its typical retail installment contracts and the typical repayment periods on revolving contracts, USA Discounters still has accounts receivable on which it continues to collect.

8. On July 6, 2015, the Tennessee Attorney General's Office, on behalf of a group of States, which now includes the States listed above, issued a Request for Information to USA Discounters.

9. The Attorneys General assert that USA Discounters violated and continue to violate numerous state and federal Consumer Protection laws under which the Attorneys General assert they are empowered to seek both legal and equitable relief, including injunctive relief, restitution, damages, penalties, and costs from any person or entity who has committed violations of law.

10. Specifically, the Attorneys General allege that USA Discounters engaged in the following actions they believe were unfair, abusive, false, deceptive, and/or in violation of state and federal law:

a. Failing to disclose material terms of transactions clearly and conspicuously;

b. Making misleading statements about the total price or the cost of a good;

c. Attempting to evade state usury laws;

d. Using misleading disclaimers regarding the characteristics, availability, source, or quality of goods;

e. Failing to clearly and conspicuously disclose delivery terms;

f. Failing to clearly and conspicuously disclose the terms of gift incentive offers;

g. Holding itself out as a discount store when it was not;

h. Deceptively and unfairly representing that consumers would receive an extension of credit with no interest for twelve months;

i. Failing to honor its debt cancellation program;

j. Failing to register as an insurance provider in states that require registration for debt cancellation products;

k. Failing to register as an insurance provider for a consumer guaranty contract in the state(s) it was required to do so;

l. Selling warranties in violation of state law;

m. Unlawfully contacting third parties, including servicemembers' chain of command, as part of its debt collection practice;

n. Unlawfully garnishing consumers' wages in several states;

o. Failing to provide accurate truth-in-lending disclosures to consumers;

p. Suing consumers in forums other than in the locality in which a contract was signed by the consumer or in the locality where the consumer resided;

q. Failing to properly refund unearned premiums on warranties;

r. Violating the Military Lending Act, 10 U.S.C. § 987, by, *inter alia*, requiring servicemembers to pay indebtedness by allotment and by having effective interest rates in excess of 36%;

s. Violating the Truth in Lending Act, 15 U.S.C. § 1601, et seq., 12 C.F.R. § 226, by deceptively advertising finance charges and interest rates; and

t. Violating state Consumer Protection statutes. *See generally* supra at n.2.

11. USA Discounters cooperated with the Attorneys General and participated in mediation over June 1, 2, and 3, 2016, in an effort to address the Attorneys General's Consumer

Protection concerns and reach a resolution acceptable to the Attorneys General and USA Discounters.

12. USA Discounters denies wrongdoing of any kind (including, but not limited to, the allegations of wrongdoing set forth in paragraph 10 of this Agreement) and asserts that it has fully complied with all federal and state laws that govern its business activities, has not violated any applicable state or federal law, and has voluntarily agreed to the relief set forth in this Agreement solely to resolve the disputed claims.

DEFINITIONS

13. "Affected Consumer" means any consumer who executed a financing agreement with USA Discounters and (a) as shown on the records of USA Discounters, resides, as of the Effective Date, in any state that is represented by one of the Attorneys General, as defined herein who has signed this Agreement, or (b) made an In-Store Purchase from any store located in any such state. Notwithstanding the foregoing, "Affected Consumer" shall not mean consumers (a) whose In-Store Purchase or Mail Order Purchase was from one of USA Discounters' Colorado stores (Stores 440 and 840), unless such consumer made a Mail Order Purchase from a non-Colorado store while living in Colorado; or (b) who, as shown on the records of USA Discounters, filed for bankruptcy on or before the Effective Date.

14. "Affected Servicemember" means any Affected Consumer who was an active duty member of the United States Armed Services, as shown on the records of USA Discounters, at the time of purchase. If an Affected Consumer is later identified on or before the Effective Date to

have been an active duty member of the United States Armed Services at the time of purchase, such consumer shall be considered an Affected Servicemember.

15. "Approval Order" means an order of the Bankruptcy Court granting the 9019 Motion.

16. "Assets" means the assets of USA Discounters, whether owned in its own name or administered by any third party without limitation, consolidated in the USA Discounters bankruptcy estate and yielded to the Bankruptcy Court for administration of this Agreement. For the avoidance of doubt, the Assets shall include any USA Discounters Contract.

17. "Consumer Lending" means (1) granting a consumer the right, for primarily personal, family, or household purposes, to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchases, and/or (2) purchasing accounts or debts generated as described in subsection (1) above. Consumer Lending shall not include any act or omission related to the granting or collection of any receivable owed to a business, person, or other entity whose primary business or personal purpose is not to engage in Consumer Lending.

18. "Consumer Protection," when used herein with reference to any statute, law, rule or regulation, means the statutes listed in n.2; the state and federal statutes listed in paragraph 56; and any other federal or state civil statute or common law cause of action which gives a state Attorney General authority to file suit or take any other enforcement action against a retail merchant, such as USA Discounters, or any individual associated with such merchant, for any

unfair, deceptive, fraudulent, misleading, unconscionable or abusive practices that occur in connection with a Consumer Transaction. "Consumer Transaction" means (a) the sale, lease, offering for sale, financing, or advertising of goods or services that are sold to individuals for personal, family, or household purposes, (b) the collection of such accounts, or (c) the performance by such merchant in connection with any agreement related to such sale, financing or collection. "Consumer Protection," when used herein with reference to any claim, obligation, suit, governmental enforcement action, right, controversy, damage, remedy, cause of action, liability, concern, function, matter, or investigation, means such of the foregoing (*i.e.*, claim, obligation, etc.) as may arise under, pursuant to or in connection with any Consumer Protection statute, law, rule or regulation.

19. "CRAs" means the three major Credit Reporting Agencies: Equifax, Experian, and TransUnion.

20. "Debt Collection" means collection on any USA Discounters Contract or, if obtained, resulting judgment, whether such collection is done by USA Discounters or an individual or entity collecting on behalf of USA Discounters.

21. "Designated Forum" means a forum that is in: (i) the city or county where the consumer resides at the time the action is filed; or (ii) subject to applicable state rules or laws relating to venue, the state where the consumer was physically present when the contract on which the action is based was signed by the consumer.

22. "Effective Date" means the date on which the Approval Order becomes a Final

Order. Within three (3) calendar days after the occurrence of the Effective Date, USA Discounters shall file a notice on the docket of the Bankruptcy Cases indicating the specific day of the Effective Date.

23. "Final Order" means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and no appeal or petition for certiorari is pending or has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or has otherwise been dismissed with prejudice.

24. "In-Store Purchase" means a purchase where the consumer was physically present in the store at the time of purchase.

25. "Local Forum Military Judgment" means a judgment that is both (a) not an Out-of-State Judgment and (b) taken against an Affected Servicemember.

26. "Mail Order Purchase" means a purchase where the consumer was not physically present in the store at the time of purchase and the merchandise was shipped to the consumer.

27. "Out-of-State Judgment" means a judgment obtained in a state other than (i) the state of the store that made the sales transaction with the consumer who is the subject of the judgment, or (ii) the state of the consumer's residence at the time the lawsuit was filed. This term is defined solely for the purposes of this Agreement.

28. "Outstanding USA Discounters Contracts" means USA Discounters Contracts with a positive balance, as shown on the books of USA Discounters as of the Effective Date.

29. "Parties" means, collectively the Attorneys General and USA Discounters, as defined herein.

30. "USA Discounters" shall mean USA Discounters, Ltd.; USA Discounters Holding Company, Inc.; USA Discounters Credit, LLC; and their respective divisions and subsidiaries.

31. "USA Discounters Active Accounts" means all Outstanding USA Discounters Contracts that were entered into after June 1, 2012, and which have not been reduced to an Out-of-State Judgment or Local Forum Military Judgment as of the Effective Date.

32. "USA Discounters Contract(s)" means financing agreements between USA Discounters and Affected Consumers, whether performing or not, originated, generated, purchased, or otherwise owned by, assigned to, or serviced by USA Discounters, including the financing agreements that are part of the Assets.

33. "USA Discounters Inactive Accounts" means all Outstanding USA Discounters Contracts that were entered into on or before June 1, 2012.

34. "9019 Motion" means a motion filed under Federal Rule of Bankruptcy Procedure 9019 seeking Bankruptcy Court approval of the Agreement.

RELIEF

WHEREAS, the Attorneys General assert that USA Discounters violated multiple state and

federal Consumer Protection laws under which the Attorneys General assert they are empowered to seek both legal and equitable relief, including injunctive relief, restitution, damages, penalties, and costs from any person or entity who has committed violations of law; and

WHEREAS, the USA Discounters Contracts have been the subject of a bona fide dispute with the Attorneys General, which dispute this Agreement settles and resolves; and

WHEREAS, USA Discounters denies any such violation and maintains that it fully complied with all federal and state laws; and

WHEREAS, the Secured Lenders have consented to the relief granted in paragraphs 35–38 and 44, which relief directly impacts the Assets comprising the collateral securing the obligations owing to the Secured Lenders; and

WHEREAS, the Attorneys General are willing to accept the terms of this Agreement, provide the release set forth in this Agreement, and discontinue their investigation; and

WHEREAS, the balance of this Agreement contains the relief agreed to by the Parties; and

WHEREAS, the Parties each believe the obligations imposed by this Agreement represent the fairest and most efficient method for resolving the Consumer Protection matters that have been or could be raised by the Attorneys General;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties that:

I. Affirmative Obligations and Prohibitions

35. Within 30 days following the Effective Date, USA Discounters shall deem satisfied, and permanently cease and desist from collecting on all USA Discounters Inactive Accounts, as

shown by the records of USA Discounters. Thereafter, at its next regularly scheduled monthly submission to the CRAs, but no later than 45 days after the Effective Date, USA Discounters shall submit to the CRAs a credit reporting file that marks for deletion the trade lines for these accounts. Any amounts paid after the Effective Date shall be remitted back to the Affected Consumer via check within 35 days of receipt of such payment.

36. Within 30 days following the Effective Date, USA Discounters shall apply a credit of One Hundred Dollars ($100.00) to all USA Discounters Active Accounts. This $100 credit shall be applied to the balance owed as of the Effective Date, as shown by the records of USA Discounters. If the amount of the credit would extinguish the current balance, USA Discounters shall apply only such amount as will reduce the balance to zero and no refund shall be due. Thereafter, at its next regularly scheduled monthly submission to the CRAs, but no later than 45 days after the Effective Date, the adjusted balances following application of such credits (including zero balances, where they occur) shall be reported by USA Discounters to the CRAs. The application of the $100 credits as specified in this paragraph does not operate to change the scheduled monthly payment amounts that customers are contractually obligated to make (*e.g.*, if an Affected Consumer is obligated to make monthly payments of $300 on the first of each month, he/she must continue to make monthly payments of $300 on the first of each month following such credit, except that such monthly payments are applied against a balance that is $100 less than that which existed before the credit). Any amounts paid after the Effective Date by those whose accounts are reduced to a zero balance shall be remitted back to the Affected Consumer via check

within 35 days of receipt of such payment.

37. Within 30 days following the Effective Date, USA Discounters shall deem satisfied, and permanently cease and desist from collecting on all Out-of-State Judgments that exist as of the Effective Date, as shown by the records of USA Discounters. Thereafter, at its next regularly scheduled monthly submission to the CRAs, but no later than 45 days after the Effective Date, USA Discounters shall submit to the CRAs a credit reporting file that marks for deletion the trade lines for these accounts. Any amounts paid after the Effective Date shall be remitted back to the Affected Consumer via check within 35 days of receipt of such payment.

38. Within 30 days following the Effective Date, USA Discounters, for all Local Forum Military Judgments in existence on the Effective Date, shall deem such judgment credited in an amount equal to fifty percent (50%) of the original judgment amount, as shown by the records of USA Discounters. If the amount of this debt relief would extinguish the current legal balance, USA Discounters shall apply only such amount as will reduce the balance to zero, and no refund shall be due. Thereafter, at its next regularly scheduled monthly submission to the CRAs, but no later than 45 days after the Effective Date, the adjusted balances (including zero balances, where they occur) shall be reported by USA Discounters to the CRAs. Any amounts paid after the Effective Date by those whose accounts are reduced to a zero balance shall be remitted back to the Affected Consumer via check within 35 days of receipt of such payment.

39. Any USA Discounters Contracts, Out-of-State Judgments, or Local Forum Military Judgments deemed satisfied, in whole or in part, and pursuant to approval by the Bankruptcy Court,

shall not be considered abandoned from the bankruptcy estate and the disposition of any contracts or judgments shall constitute administration of estate property.

40. As an interim measure, between (i) Monday, August 1, 2016, and (ii) the Effective Date, USA Discounters shall use its best efforts to refrain from actively calling, contacting or making an attempt to collect further payments on USA Discounters Inactive Accounts and Out-of-State Judgments. Any funds received on such accounts and existing judgments on or before the Effective Date shall be subject to the Cash Collateral Order entered by the Bankruptcy Court. In the event the Effective Date does not occur, then the obligations arising from this interim measure shall terminate.

41. USA Discounters shall not sell any Local Forum Military Judgments or USA Discounters Active Accounts unless the relief required by paragraphs 36 and 38 has first been applied and the purchaser of such judgments or accounts agrees in writing to adhere to the provisions contained in paragraph 44 of this Agreement with respect to such accounts. USA Discounters shall provide Attorneys General with a copy of the purchaser's signed acknowledgement within ten (10) business days following the sale, along with the name and contact information of the purchaser and/or the representative of the purchaser.

42. In addition, within 30 days of the Effective Date, USA Discounters shall send notice to all Affected Consumers whose accounts will be extinguished by this Agreement. That notice shall be sent to such Affected Consumers' last mail address or last email address and shall state that the validity of the Affected Consumer's financing agreement was in bona fide dispute as

asserted by the Attorneys General, which dispute has been resolved by deeming them satisfied. USA Discounters shall use its reasonable best efforts to ensure that the mail address last known to USA Discounters or email address last known to USA Discounters is used.

43. Starting not later than 30 days after the Effective Date, at such time as USA Discounters communicates to or with any other Affected Consumer regarding the balance of his or her account, USA Discounters shall communicate the balance reflecting the credit provided by this Agreement.

44. As of the Effective Date, USA Discounters, and all persons acting in concert therewith, shall permanently cease and desist from, and agree to be permanently enjoined from:

a. suing any Affected Consumers unless the actions are filed in a Designated Forum and in accordance with all applicable statutes of limitations;

b. garnishing the wages of any Affected Consumer residing in a state which prohibits garnishing wages for consumer debts of such Affected Consumer;

c. in attempting to collect a debt, contacting any person or entity besides the Affected Consumer for any purpose other than ascertaining the Affected Consumer's contact information or requesting that the Affected Consumer contact USA Discounters. For purposes of this subparagraph:

    i. "Affected Consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, administrator, the consumer's attorney, and any person the consumer expressly requests be contacted, unless that contact is prohibited by state law;

    ii. "contact information" means the Affected Consumer's address, phone numbers, and place of employment;

    iii. the contact must not:

        1. disclose that the Affected Consumer owes any debt;

2. disclose that the communication relates to the collection of a debt; or

3. occur more than once to the same third party unless requested by that party or unless USA Discounters reasonably believes that the earlier response of that person is erroneous or incomplete and that the person now has correct or complete contact information;

iv. USA Discounters may not contact an Affected Servicemember's chain-of-command to discuss the consumer's debt;

v. USA Discounters may not contact an Affected Consumer's employer to discuss the consumer's debt; and

vi. the limitations of this subparagraph do not apply to contacts made by order of a court of competent jurisdiction or as reasonably necessary to effectuate a post-judgment judicial remedy;

d. collecting, selling, or transferring for collection any portion of the debt that is refunded or credited under this Agreement;

e. violating any applicable state or federal Consumer Protection law, including but not limited to, the Truth in Lending Act, the Dodd-Frank Act, and the applicable state statutes (*see supra* at n.2); and

f. violating Tex. Fin. Code § 392.001-404.

Persons acting in concert with USA Discounters, for purposes of the injunctive relief provided by this paragraph shall include: (i) USA Discounters, Ltd.; USA Discounters Holding Company, Inc.; USA Discounters Credit, LLC, and their divisions and subsidiaries, and (ii) each of their respective advisors, agents, assigns, attorneys, consultants, directors, employees, managers, officers, officials, professional persons, representatives, shareholders, and successors, whether past or present, in each case solely in their capacity as such.

45. As an interim measure, between (i) Monday, August 1, 2016, and (ii) the Effective Date, USA Discounters shall use its best efforts to cease and desist from engaging in any of the

activities that shall, as of the Effective Date, be permanently prohibited under paragraph 44 (a) through (c), or (e). In the event the Effective Date does not occur, then the obligations arising from this interim measure shall terminate.

46. The Parties agree that USA Discounters (but not its directors, employees, managers, and officers unless acting in concert with USA Discounters or on its behalf), whether acting directly or indirectly, shall permanently cease and desist from any new Consumer Lending in any Attorneys General jurisdiction. This paragraph shall not be construed to limit or otherwise affect USA Discounters' actions with respect to accounts receivable existing as of the Effective Date, which actions may include, without limitation, deferring, restructuring, modifying, collecting, enforcing, transferring or selling any or all of the debts constituting such accounts receivable, regardless of whether such actions are performed by USA Discounters or a third party servicing or collecting the accounts receivable. Any such transfer or sale shall be in conformity with paragraph 41.

47. Following the collection or other disposition of all accounts receivable existing as of the Effective Date, USA Discounters, or any successors in interest created solely for the purpose of receiving and collecting USA Discounters accounts receivables, shall take steps to cause the business entities' statuses to be dissolved, and shall not restore or operate any more business entities or activities.

48. USA Discounters further agrees that, except as may be necessary or helpful in the collection of accounts receivable, or in a sale, assignment, or transfer in conformity with paragraph

41 above, it shall not sell, transfer, or otherwise provide to any other person, its corporate and brand names, copyrights, trademarks, customer telephone numbers and addresses, methods of doing business, promotional and operational systems and coding, text, and designs.

49. Nothing contained herein shall be construed to release, waive or otherwise bar any claim of any individual consumer or class of consumers; however, it is not the intention of the Parties to allow for the possibility of a double or duplicative recovery by any consumer. To the extent that any Affected Consumer hereafter obtains any monetary relief against USA Discounters in connection with any such claim, the relief obtained by that Affected Consumer under this Agreement shall be set off against such monetary relief.

50. USA Discounters shall communicate to the CRAs the information required by paragraphs 35–38, but shall not be responsible for any failure by the CRAs to adjust their records accordingly.

51. USA Discounters, to the extent that any relief provided under this agreement extinguishes or deems satisfied a judgment or lien against any Affected Consumer, shall duly notify any relevant agency or tribunal, or clerk's office of the satisfaction of such debt, and shall provide a copy of such notice to the Affected Consumer.

II. Allowed Penalty Claim

52. On the Effective Date, the Attorneys General are hereby allowed a subordinated penalty claim against the bankruptcy estate of USA Discounters, Ltd. in the aggregate amount of Forty Million Dollars ($40,000,000.00) (the "Allowed Penalty Claim"), the amount of which Allowed Penalty Claim shall be allocated among the Attorneys General as set forth on **Schedule**

1 to this Agreement. The Allowed Penalty Claim shall be (i) deemed allowed and hence not be subject to objection, disallowance, offset, or defense by USA Discounters or by any other party in interest in the Bankruptcy Cases; (ii) subordinated in all respects to all secured, administrative, priority, and general unsecured claims that are allowed in the Bankruptcy Cases; and (iii) the sole and exclusive right to payment that the Attorneys General shall have to any distribution or recovery in the Bankruptcy Cases. On the Effective Date, each of the Attorneys General (i) agrees that all the proof(s) of claim set forth on **Schedule 2** shall be deemed withdrawn with prejudice and that the claims register in the Bankruptcy Cases may be revised to reflect the withdrawal of such claims in the Bankruptcy Cases other than the allocated portion of the Allowed Penalty Claim and (ii) agrees not to file, assert, or otherwise pursue against USA Discounters any further Consumer Protection claims or causes of action in or in connection with the Bankruptcy Cases or in any other forum (regardless whether such claims or causes of action are unsecured, secured, priority, administrative, seek money damages, seek injunctive or non-monetary relief, or otherwise). The Attorneys General assert that this civil penalty is designed to assure that the business model shall not be revived, propagated, or reinstituted.

III. Release and Covenant

53. For purposes of this Agreement, the term "Released Parties" shall mean (i) USA Discounters, Ltd.; USA Discounters Holding Company, Inc.; USA Discounters Credit, LLC, and their divisions and subsidiaries, and the Secured Lenders, and (ii) each of their respective advisors, agents, assigns, attorneys, bankers, consultants, directors, employees, managers, officers, officials,

professional persons, representatives, shareholders, and successors, whether past or present, in each case solely in their capacity as such.

54. Each of the Attorneys General signing this Agreement, on behalf of his/her respective State, hereby releases, waives, and forever discharges each of the Released Parties from the following (individually and collectively, "Claims"): any and all civil Consumer Protection claims, obligations, suits, governmental enforcement actions, rights, controversies, damages, remedies, causes of action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing which relate to Consumer Protection law, in law, equity, or otherwise, that the Attorney General of that State, and to the extent allowed by law, the Consumer Protection agency (or similar agency) of that State, or any other agency or office deriving its power from that State and authorized to bring a Consumer Protection claim could have asserted under (i) any civil Consumer Protection statute, regulation, rule, common law or other law of that State that relate to Consumer Protection, or (ii) any federal statute, regulation, rule, common law or other federal law, relating to Consumer Protection, for any act or omission arising out of, relating to, or in connection with USA Discounters and/or the activities of USA Discounters on or before the Effective Date (regardless of the name under which such act or omission occurred, and specifically including the names "USA Living" and "Fletcher's Jewelers"). The acts and omissions subject to this release include, but are not limited to, any act or omission arising out of, relating to, or in connection with USA Discounters and/or USA Discounters' (i) sale and financing of products, debt cancellation agreements, warranties, and

credit insurance, (ii) collection of accounts, including the collection of accounts by litigation, (iii) advertising of products, and (iv) obtaining or failure to obtain licenses, registrations or certifications to the extent that the obtaining or failure to do so would result in liability under Consumer Protection laws.

55. Each of the Attorneys General signing this Agreement hereby covenants not to sue, or otherwise commence or maintain any Claim or any Consumer Protection action or proceeding against any of the Released Parties, before any local, state, federal or other court, tribunal, or agency, based in whole or in part on any act or omission occurring in connection with the activities of USA Discounters on or before the Effective Date. This covenant shall be binding on the Attorney General of each State signing this Agreement, and to the extent allowed by law, the Consumer Protection agency (or similar agency) of that State, and on any other agency or office deriving its power from that State and authorized to bring a Consumer Protection claim, and shall apply to such Claims, Consumer Protection suits, actions, and proceedings brought in the name of the State, the Attorney General or other authority, as well as such Claims, Consumer Protection suits, actions, and proceedings brought in a *parens patriae* or other capacity.

56. Claims shall include, but not be limited to, any and all Consumer Protection claims arising from the following federal and state statutes and regulations: the Military Lending Act (10 U.S.C. § 987), the Truth in Lending Act (15 U.S.C. §§ 1601–67f) and its implementing regulations (*e.g.*, Regulation Z, 12 C.F.R. § 1026), the Fair Debt Collection Practices Act (15 U.S.C. §§ 1692–92p), the Fair Credit Reporting Act (15 U.S.C. §§ 1681–81x), the Dodd-Frank Wall Street Reform

and Consumer Protection Act (12 U.S.C. §§ 5311–5641), state Consumer Protection statutes, statutes regulating unfair and deceptive acts and practices, statutes regulating the collection of debts, statutes regulating credit repair agencies, statutes regulating the advertising and sale of warranties, debt cancellation agreements and credit insurance, garnishment statutes, Washington State statutes ARCW § 48.110.010 *et* seq., Texas Finance Code § 392.001-.404, and regulations, rules, or policies implementing any of the foregoing. Claims shall also include all claims arising out of any acts or omissions alleged by the Attorneys General in paragraph 10 of this Agreement. Claims shall not include any claims based on asserted tax liability.

57. The Parties expressly acknowledge and agree that the releases set forth herein are intended to extinguish civil Consumer Protection claims known and unknown and suspected and unsuspected, even if those claims may materially affect the undersigned's decision to enter into the release. This Agreement involves full and final releases for any civil claims arising under Consumer Protection laws and the Parties expressly, voluntarily, and knowingly waive and relinquish any and all rights and benefits which they have or may have (a) under California Civil Code section 1542, which provides as follows:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

or, (b) under any similar law of any State. The Parties are aware that they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, but it is their intention fully, finally, and forever to settle

and release any and all of the Consumer Protection claims referred to herein upon the Effective Date.

58. The terms of this release and covenant are to be broadly construed so as to effectuate a global resolution of all civil Consumer Protection claims that might otherwise be brought, in whole or in part, based on any acts or omissions of USA Discounters before the Effective Date.

59. This release shall not preclude or affect any right of the Attorneys General to ensure compliance with the terms and provisions of the Agreement, or to seek any and all remedies for any violations of this Agreement. Nor shall this release preclude or affect the right of the Attorneys General to take any action regarding any future violation of any law which they have the authority to enforce. For purposes of determining whether a future violation of law has occurred, all USA Discounters Active Accounts shall, after application of the credits required by paragraphs 36 and 38, be deemed valid for purposes of any Attorney General enforcement action and shall be collectible through means that satisfy the requirements of applicable law and this Agreement.

60. The Agreement (including, without limitation, the jurisdictional and enforcement provisions of paragraph 66) shall remain in full force and effect notwithstanding any dismissal or conversion of the Bankruptcy Cases.

61. Nothing contained in this Agreement shall be construed to diminish (a) the post-investigation confidentiality obligations set forth in the Confidentiality Agreement dated December 8, 2015 (as shown by signature of USA Discounters), or (b) or the Parties'

confidentiality obligations contained in the Agreement to Mediate dated June 1, 2016. Said obligations shall survive the execution of this Agreement and shall continue to be in effect. In addition, said confidentiality obligations (including but not limited to related notice obligations) shall inure to the benefit of the following individuals as third party beneficiaries, who shall have standing to enforce said confidentiality obligations: former and current officers and directors of USA Discounters and individuals deposed by any Attorney General's office during the course of investigating USA Discounters (collectively, "Interested Individuals"). For so long as USA Discounters has a registered agent in the Commonwealth of Virginia, the obligation to provide notice to any Interested Individual shall be deemed satisfied if notice directed to USA Discounters is served upon such registered agent. At such time as USA Discounters does not have a registered agent in the Commonwealth of Virginia, the obligation to provide notice to any Interested Individual shall be satisfied by serving notice upon such persons, who shall be no more than three in number, as the registered agent may have designated in writing for that purpose. Any person designated to receive such notice may provide written notice of a successor designee. Any such written designations shall be provided to the Attorneys General pursuant to the provisions of paragraph 83. Nothing contained herein shall be construed to diminish any confidentiality obligations arising under state law with respect to materials or information obtained during the course of said investigation. Nothing contained herein shall be construed to require that this Agreement be kept confidential.

IV. Bankruptcy Court Approval Process

USA Discounters and the Attorneys General agree to the following process regarding approval and consummation of this Agreement:

62. This Agreement must be submitted to the Bankruptcy Court for final approval after notice and a hearing in accordance with Federal Rule of Bankruptcy Procedure 9019 and other applicable bankruptcy law. USA Discounters agrees (i) to file a 9019 Motion with the form and substance agreed to by the Attorneys General, within five (5) calendar days after the date on which the Agreement has been executed by all the Parties; (ii) not to withdraw the 9019 Motion after it has been filed; and (iii) not to file any other motion, application, pleading, or request that is in any respect inconsistent with the 9019 Motion, or that would threaten, hinder, or prevent the relief requested in the 9019 Motion.

63. Except with respect to applicable provisions of Part IV and Part V of this Agreement and the interim measures described in paragraphs 40 and 45, none of the terms or provisions of this Agreement shall be effective and binding on any of the Parties or any other creditors and parties in interest until the Effective Date.

64. Upon execution of this Agreement, in order to provide the Parties an opportunity to obtain the Approval Order, the Attorneys General shall suspend all pending Consumer Protection investigatory or other proceedings relating to Consumer Protection and not commence any Consumer Protection litigation in any forum, as it relates to USA Discounters and the Claims.

65. If the Bankruptcy Court declines to approve this Agreement despite the reasonable

efforts of the Parties to obtain such approval, then (i) this Agreement shall be null and void and of no force or effect (other than with respect to the evidentiary stipulations in paragraphs 67 and 72 of this Agreement) and (ii) the Parties' respective rights and remedies with respect to all matters addressed by this Agreement shall be fully reserved and the Parties shall be restored to their respective positions, *status quo ante*, as of the date on which the Agreement was executed by all the Parties.

V. Miscellaneous

66. By its execution and delivery of this Agreement, each of the Parties hereby irrevocably and unconditionally agrees that any dispute regarding the interpretation or enforcement of, or otherwise relating to, this Agreement shall be resolved by the Bankruptcy Court, which shall have and retain jurisdiction and judicial power to enforce all the provisions of this Agreement (which shall be imposed and binding on the Parties through the Approval Order as a judgment and consent decree), including the injunctive relief contained herein, and to resolve any disputes with respect to and enforce this Agreement as a "core" matter under 28 U.S.C. § 157(b); provided, however, that if the Bankruptcy Court declines to exercise jurisdiction or upon the closing of the Bankruptcy Cases, then any dispute regarding the interpretation or enforcement of, or otherwise relating to, this Agreement will be resolved by any state court of competent jurisdiction in the state of the Attorney General who is party to such action. Any such court in which an action is brought pursuant to this paragraph shall have concurrent jurisdiction to interpret this Agreement and enforce any of its provisions. Any violation of this Agreement may result in the imposition of any

legal or equitable relief allowable under applicable law. If any future action by USA Discounters is both a violation of this Agreement and a violation of applicable law, the Attorney General taking enforcement action may either (i) enforce the Agreement as provided in this paragraph or (ii) take enforcement action in any court having jurisdiction with respect to such violation of law.

67. USA Discounters represents and warrants, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement is duly authorized. Nothing in this paragraph affects USA Discounters' (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorneys General are not a party. This Agreement is not intended for use by any third party in any other civil or administrative proceeding, court, arbitration, or other tribunal, and is not intended, and should not be construed, as any concession, as evidence of or an admission of wrongdoing or liability by USA Discounters except to the extent allowed in a state court proceeding by Tenn. Code Ann. § 47–18–109. The Parties agree that nothing in this Agreement shall create any private rights, causes of action, third party rights, or remedies for any individual or entity against USA Discounters. The Parties further agree that nothing in this Agreement shall be construed to create, waive, or limit any private right of action. This Agreement is not intended to permit, nor do the Attorneys General intend to provide, an avenue for consumers to obtain more than single restitution for any identical allegation resolved in this Agreement.

68. Any future practice of the conduct described in this Agreement may be utilized by the Attorneys General in future enforcement actions against USA Discounters and its affiliates,

including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty, however, this shall not prejudice the right of USA Discounters to maintain that such practice or conduct is lawful.

69. The Parties hereby represent and warrant that they have not assigned or otherwise transferred any Consumer Protection claim that they may have had against the other, or asserted any such claims in any other action or proceeding.

70. If for any reason, any provision of this Agreement is determined to be invalid or unenforceable, such provision shall be automatically reformed to embody the essence of that provision to the maximum extent permitted by law. In the event that such reformation of the invalid or unenforceable provision is not feasible, then such invalidity or unenforceability shall not affect any other provision of this Agreement.

71. To the extent not already provided under this Agreement, USA Discounters shall, upon request by the Attorneys General, provide all documentation and information reasonably necessary for the Attorneys General to verify compliance with this Agreement.

72. This Agreement constitutes a compromise of the Parties' disputes. Nothing contained herein shall constitute or be deemed to be an admission or concession by any Party as to any matter. All pre-execution drafts of this Agreement and all communications among counsel for the Parties regarding this Agreement and the exhibits or schedules hereto (collectively, the "Negotiation Materials") constitute settlement discussions pursuant to Federal Rule of Evidence 408 and any other applicable rules of similar import. The Negotiation Materials, and any

documents or statements referred to therein, shall not be admissible in evidence against any Party in any litigation, matter, or proceeding between the Parties or involving any other parties.

73. Notwithstanding anything in this Agreement, if compliance by USA Discounters with any provision of this Agreement would render compliance with any existing or future provision of state or federal laws or regulations relating to the same subject matter impossible or unlawful, then compliance with such provision of state or federal law or regulation shall be deemed compliance with the relevant provision of this Agreement. USA Discounters shall provide written notice to the Attorneys General within fifteen (15) days of its determination that state or federal law or regulation renders compliance with a provision of this Agreement impossible or unlawful.

74. This Agreement is the product of good faith negotiations between the Parties and their respective counsel. There shall be no presumption that any ambiguity in this Agreement is to be construed against any one of the Parties.

75. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. Copies of executed counterparts transmitted by telecopy, PDF images, or other method of electronic transmission shall be considered original executed counterparts provided that receipt of copies of such counterparts is confirmed.

76. Each Party shall bear its own fees and expenses, including all attorneys' and accounting fees, incurred in connection with the matters that are the subject of this Agreement.

77. Nothing in this Agreement shall be construed as allowing USA Discounters to

violate any law, rule, or regulation.

78. Subject to Bankruptcy Court approval, after notice and a hearing as provided for by 11 U.S.C. § 102, each person executing this Agreement on behalf of an entity represents and warrants to the others that he/she has authority to execute this Agreement on behalf of and to bind the entity thereto.

79. Starting 30 days after the Effective Date and continuing until such time as the relief and obligations in paragraphs 35–38 of this Agreement are distributed, applied, or otherwise completed, USA Discounters shall provide to the Attorneys General a status report every thirty days. Such report shall include, but is not limited to, which accounts have been deemed satisfied, credited, or otherwise affected; the extent to which such accounts have been deemed satisfied, credited, or otherwise affected; and any other information that USA Discounters deems relevant to the report. Nothing in this paragraph shall be construed to limit the applicability of paragraph 71.

80. This Agreement shall be binding upon, and shall inure to the benefit of, the predecessors, successors, heirs, receivers, and assigns of the Parties, and each of them. The Released Parties not otherwise Parties to this Agreement are intended third-party beneficiaries of paragraphs 53-59 of this Agreement, and, as such, shall be entitled to enforce and rely on such provisions.

81. This Agreement shall be binding on and inure to the benefit of any subsequently appointed Chapter 11 or Chapter 7 Trustee, other estate representative, or administrator under a

Chapter 11 plan.

82. Except as set forth in paragraph 61, this Agreement constitutes the entire agreement between the Attorneys General and USA Discounters and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Agreement, including, without limitation, any prior term sheets. No Party has entered into this Agreement in reliance on any other Party's prior representation, promise, or warranty (oral or otherwise) except for those that may be set forth expressly herein.

83. All notices, requests, and other communications to any Party pursuant to this Agreement shall be in writing and shall be directed as follows:

If to the Attorneys General to:

Stephen J. Sovinsky
Assistant Attorney General
Office of the Attorney General of Virginia
202 North 9th Street
Richmond, Virginia 23219
E-mail: SSovinsky@oag.state.va.us

Deputy Attorney General
Consumer Protection and Advocate Division
Tennessee Office of the Attorney General
315 Deaderick Street, 20th Floor
Nashville, Tennessee 37201
Email: travis.brown@ag.tn.gov

Laura M. Tucker, Deputy Attorney General
Office of the Nevada Attorney General
Bureau of Consumer Protection
100 North Carson Street
Carson City, Nevada 89701
E-mail: LMTucker@ag.nv.gov

Or to other such representative of the Attorneys General as the Virginia Attorney General's Office, Tennessee Attorney General's Office, or Nevada Attorney General's Office may, in writing, hereafter identify.

If to USA Discounters to:

Siran S. Faulders
Troutman Sanders LLP
1001 Haxall Point
Richmond, Virginia 23219
Tel: (804) 697-1200
Fax: (804) 698-6058
Email: siran.faulders@troutmansanders.com

Lee R. Bogdanoff
Klee, Tuchin, Bogdanoff & Stern LLP
1999 Avenue of the Stars, 39th Floor
Los Angeles, California 90067
Tel: (310) 407-4000
Fax: (310) 407-9090
Email: lbogdanoff@ktbslaw.com

Or to such other persons as USA Discounters may, in writing, hereafter identify.

84. This Agreement shall be presented to the Bankruptcy Court for approval when signed by USA Discounters and the Attorneys General of all the States listed on page one of the Agreement; however, USA Discounters may, in its sole discretion, elect to proceed with this Agreement without the signature of any Attorney General, in which event this Agreement shall have no force or effect with respect to such non-signing Attorney General unless such non-signing Attorney General later signs the Agreement on or before the Effective Date.

In the Matter of:
USA Discounters, Ltd. (d/b/a USA Living)

Settlement Agreement

Dated: August ____, 2016

USA DISCOUNTERS, LTD.

By: _____
SIRAN S. FAULDERS
Troutman Sanders LLP
Counsel for USA Discounters, Ltd.

USA DISCOUNTERS HOLDING COMPANY, INC.

By: _____

USA DISCOUNTERS CREDIT, LLC

By: _____

In the Matter of:
USA Discounters, Ltd. (d/b/a USA Living)

Settlement Agreement

Dated:_____

(Insert Name)
Attorney General

By: _____

(Signature Block)

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

2018 SEP 27

In Re: WILLIAM JENNISON	)	CIVIL DIVISION
	)	Docket No. 532-9-18 Wncv

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and William Jennison ("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).

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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, containing 15 total rental units, located at 118 Lower Main West Street (4 units), 77 Railroad Street (5 units), 93 Riverview Drive (6 units), all located in Johnson, 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 March 11, 2016, Respondent filed with the Vermont Department of Health an "EMP Rental Property Compliance Statement" for 118 Lower Main West Street.

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14. The EMP Statement represented that Respondent performed EMPs at 118 Lower Main West Street on March 2, 2016.

15. The EMP Statement specifically certified 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 Statement was signed by William Jennison 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 March 9, 2016, Vermont Department of Health staff inspected the exterior surface of 118 Lower Main West Street and 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 a false EMP Compliance Statement and inaccurately representing that the property was 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

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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 he maintains any ownership or property management interest in the Properties and in any other pre-1978 rental housing in which he currently has, or later acquires, an ownership interest.
22. By December 20, 2016, Respondent shall hire, at his expense, an EMP-certified independent contractor to conduct compliance inspections and perform all EMP work 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 before the expiration of the above deadline and provide justification for any extension. For exterior work of the Properties, Respondent may continue to perform such work past December 20 and throughout the winter of 2016-2017. Respondent shall update the Attorney General's Office on all progress of such winter work (and no less than once a month).
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.*

Office of the ATTORNEY GENERAL 109 State Street Montpelier, VT 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 $10,000 in civil penalties and costs for the filing of a false EMP compliance statement. Payment shall be made as follows:

    a. Within 30 days after entry of this AOD, Respondent shall pay two thousand dollars ($2,000); within 60 days after entry of this AOD, Respondent shall pay fifteen hundred dollars ($1,500); and within 90 days after entry of this AOD, Respondent shall pay fifteen hundred dollars ($1,500). 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 23; and

    b. Respondent shall expend at least five thousand dollars ($5,000), 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.

26. Respondent shall pay the costs of any follow-up compliance inspections as determined by the Attorney General's Office.

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Other Terms

27. 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.
28. 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.
29. This AOD shall not affect marketability of title.
30. Nothing in this AOD in any way affects Respondent's other obligations under state, local, or federal law.
31. 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 27th day of September, 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 Johnson, VT this 26 day of September, 2016.

WILLIAM JENNISON

By: _____

William Jennison

STATE OF VERMONT

2016 JUL 26 A 9:53

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
Docket No. 456-7-15 Wncv.

In Re: ZENVESCO, INC.
d/b/a E.A. CAREY'S SMOKESHOP

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Zenvesco, Inc., d/b/a E.A. Carey's Smokeshop ("Respondent") hereby agree to this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Background

1. Respondent Zenvesco, Inc., d/b/a E.A. Carey's Smokeshop, is an online retailer of tobacco products with a physical address at 7090 Whipple Avenue W, North Canton, Ohio. It held a tobacco wholesale dealer's license from the Vermont Department of Taxes from August 11, 2010, through September 30, 2015.

Regulatory Framework

2. In Vermont, tobacco products may only be sold to individual consumers in face-to-face retail transactions. Vermont's tobacco delivery sales statute, 7 V.S.A. § 1010 (b), provides that "[n]o person shall cause cigarettes, roll-your-own tobacco, little cigars, or snuff, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network, to be shipped to anyone other than a licensed wholesale dealer, distributor, or retail dealer in this state." This provision is known as "the delivery sales ban."

3. A person who violates 7 V.S.A. § 1010 engages in an unfair and deceptive trade practice in violation of the state's Consumer Protection Act, 9 V.S.A. §§ 2451-2466. 7 V.S.A. § 1010(d)(5).

4. The State of Vermont, through Attorney General William H. Sorrell, is charged, inter alia, with the enforcement of the Vermont Consumer Protection Act, 9 V.S.A §§ 2451-66, and Vermont's delivery sales ban, 7 V.S.A. § 1010.

5. Violations of Vermont's delivery sales ban are subject to civil penalties of up to $5,000.00 per violation in addition to any other remedy provided by law. 7 V.S.A. § 1010 (d)(2).

6. 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).

7. The Attorney General may also seek injunctive relief under both the tobacco law, and under the Consumer Protection Act. 7 V.S.A. § 1010(d)(3); 9 V.S.A. § 2458(a).

Respondent's Actions

8. Respondent Zenvesco, Inc., d/b/a E.A. Carey's Smokeshop, during seventeen months between the years of 2010 and 2014, shipped roll-your-own tobacco ordered from its website on at least seventeen separate occasions to individual consumers in Vermont.

9. Respondent admits the truth of all facts set forth in paragraphs 1 and 8 above.

The State's Allegations

10. The Attorney General alleges that the above conduct violated Vermont's tobacco delivery sales ban, 7 V.S.A. § 1010, and Vermont's Consumer Protection Act, 9 V.S.A. §§ 2451-2466.

Assurances and Relief

11. In lieu of instituting an action or litigation, the Attorney General and Respondent are willing to accept this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459 as a just resolution of this matter. The parties agree as follows:

Injunctive Relief

12. Respondent, its agents, employees, and all other person and entities, corporate or otherwise, acting in concert or in participation with any of them, is permanently restrained and enjoined from engaging, directly or through any third party, in any conduct which violates Vermont's tobacco products delivery sales ban, 7 V.S.A. §1010.

13. Respondent, its agents, employees, and all other persons and entities, corporate or otherwise, in concert or participation with any of them, is permanently restrained and enjoined from engaging in unfair and deceptive conduct in violation of 9 V.S.A. §§ 2451-2466.

14. Respondent shall notify the Office of the Attorney General should Respondent obtain a wholesale dealer's license from the Vermont Department of Taxes.

Payment to the State of Vermont

15. Within ten (10) days of signing this Assurance of Discontinuance, Respondent shall commence payment of a total of $34,000.00 (thirty-four thousand dollars) to the State of Vermont, as civil penalties and costs. Payments shall be made in eleven monthly installments of $ 2,833.34 (two thousand eight hundred thirty-three dollars and thirty-four cents) and one monthly installment of $2,833.26 (two thousand eight hundred thirty-three dollars and twenty-six cents), to be paid on the first of each month, commencing July 15, 2016, and ending June 15, 2017. Payment shall be made to the "State of Vermont" and shall be sent to the Vermont

Attorney General's Office at the following address: Helen E. Wagner, Assistant Attorney General, 109 State Street, Montpelier, VT 05609.

Other Terms

16. Respondent agrees that this AOD shall be binding on Respondent and its successors and assigns.

17. This AOD resolves all existing claims under 7 V.S.A. § 1010 and 9 V.S.A. §§ 2451-2466 that the State of Vermont may have against Respondent, its directors, officers, and employees stemming from the specific conduct described in this document.

18. 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 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 push violations of its provisions.

19. 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 representations to that effect.

Violations and Stipulated Penalties

20. 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 of each act in violation of this Assurance of Discontinuance shall be $10,000.00. For purposes of this section, the term "each act" shall mean each sale of tobacco products into Vermont in violation of 7 V.S.A. § 1010.

21. In the event that the Attorney General alleges that Respondent 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 Respondent, and that the Attorney General shall not have waived any of its rights to assert and prove any violations of law by Respondent.

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 Montpelier, VT, this 20th day of July, 2016.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____

Helen E. Wagner
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001
Telephone: 802-828-2508
helen.wagner@vermont.gov

DATED this 15 day of July, 2016

Zenvesco, Inc., d/b/a E.A. Carey's Smokeshop

By: _____
Its Authorized Agent

WILLIAM MILLER PRESIDENT
Name and Title of Authorized Agent

APPROVED AS TO FORM:

Helen E. Wagner
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001
Telephone: 802-828-2508

Brooke Dingledine, Esq.
Valsangiacomo, Detora & McQuesten P.C.
172 North Main St., Suite 301
Barre, VT 05641
For Respondent