

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York,	:
	:
Plaintiff,	:
	:
- against -	:
	:
CONDOR CAPITAL CORPORATION and STEPHEN BARON,	:
	:
Defendants.	:
	:
-and-	:
	:
WELLS FARGO BANK, N.A. as Agent for Certain Financial Institutions as Lenders,	:
	:
Intervenor.	:
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Case No: 14 Civ. 2863 (CM)

**CONSENT OF DEFENDANTS CONDOR CAPITAL CORPORATION
AND STEPHEN BARON**

1. Defendants Condor Capital Corporation (“Condor”) and Stephen Baron (collectively, the “Defendants”) acknowledge having been served with the Complaint in this Action (the “Complaint”), acknowledge having entered general appearances, and admit the Court’s jurisdiction over the Defendants and over the subject matter of this action.

2. The Defendants hereby admit the facts contained in Annex A attached hereto and the allegations in the Complaint as to personal and subject matter jurisdiction and consent to the entry of a final judgment in the form attached hereto (the “Final Consent Judgment”) and incorporated by reference herein, which, among other things:

- (a) requires the Receiver to liquidate Condor’s loan portfolio;

- (b) requires Condor to surrender its New York sales finance company license and its licenses in all other states;
- (c) orders Condor and Stephen Baron to pay a \$3,000,000 civil monetary penalty; and
- (d) orders Condor to make full restitution, plus interest of nine percent per annum, to all customers with positive credit balances.

3. The Defendants agree that they shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to, payment made pursuant to any insurance policy, with regard to any civil penalty amounts that each Defendant pays pursuant to the Final Consent Judgment. The Defendants further agree that they shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state or local tax for any penalty amounts that any of the Defendants pays pursuant to the Final Consent Judgment.

4. The Defendants hereby acknowledge that they have been represented by counsel in this matter.

5. The Defendants hereby acknowledge that they consent to the liquidation of Condor's loan portfolio.

6. The Defendants hereby acknowledge that Condor consents to the surrender of its New York sales finance company license and any other license that permits Condor to make or acquire consumer loans in any state, including Condor's licenses in Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia.

7. The Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

8. The Defendants waive the right, if any, to a jury trial and to appeal from the entry of the Final Consent Judgment.

9. The Defendants enter into this Consent voluntarily and represent that no threats, offers, promises, or inducements of any kind have been made by the Department or any officer, employee, agent, or representative of the Department to induce the Defendants to enter into this Consent.

10. The Defendants agree that this Consent shall be incorporated into the Final Consent Judgment with the same force and effect as if fully set forth therein.

11. The Defendants will not oppose the enforcement of the Final Consent Judgment on the ground, if it exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waive any objection based thereon.

12. The Defendants waive service of the Final Consent Judgment and agree that entry of the Final Consent Judgment by the Court and filing with the Clerk of the Court will constitute notice to the Defendants of its terms and conditions. Within thirty days after the Final Consent Judgment is filed with the Clerk of the Court, Stephen Baron further agrees to provide the Department with an affidavit or declaration stating that he has received and read a copy of the Final Consent Judgment.

13. The Defendants agree that the Department may present the Final Consent Judgment to the Court for signature and entry without further notice.

14. The Defendants agree that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Consent Judgment.

15. All notices and other communications regarding this Consent and the Final Consent Judgment shall be sent to:

If to the Department:

New York State Department of Financial Services
One State Street
New York, New York 10004-1511
Attention: Joy Feigenbaum, Executive Deputy Superintendent

If to Defendants:

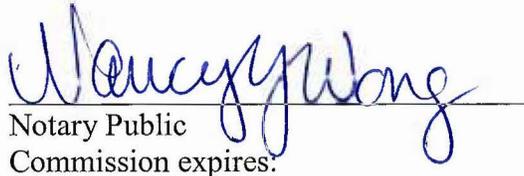
Katten Muchin Rosenman LLP
Attorneys for Defendants
575 Madison Avenue
New York, NY 10022-2585
Attention: Michael Rosensaft

Dated: 12/18/2014



Stephen Baron, individually and on behalf of
Condor Capital Corporation

On December 18 2014, Stephen Baron, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.



Notary Public
Commission expires:

NANCY Y WONG
Notary Public, State of New York
No. 4732209
Qualified in Nassau County
Commission Expires July 31, 2017

ANNEX A

1. Condor engaged in the conduct set forth in the following paragraphs and Stephen Baron provided substantial assistance to Condor's conduct described herein.

Positive Credit Balances

2. By engaging in the conduct described below, Condor concealed from its customers, the Department and the New York State Comptroller the fact that thousands of its customers had refundable positive credit balances (i.e., money owed by Condor to a customer as a result of an overpayment of the customer's account). Condor retained these positive credit balances for itself, and also concealed that fact from its customers, the Department and the New York State Comptroller. Condor maintained a policy of failing to refund positive credit balances except when expressly requested by a customer. Condor did not notify its customers when positive credit balances remained in their accounts at the conclusion of their loans. Furthermore, Condor programmed its website to terminate customers' access to their account information once their loans were terminated, even if the customers had positive credit balances in their accounts.

3. Pursuant to the New York Abandoned Property Law § 301, Condor is required to submit an annual report to the New York State Comptroller's Office of Unclaimed Funds identifying unclaimed property belonging to New York residents as well as residents of other states. Unclaimed and un-refunded positive credit balances belonging to Condor's customers constitute unclaimed property that Condor must report pursuant to the New York Abandoned Property Law. Despite the fact that Condor's customers had positive credit balances, Condor filed negative unclaimed property reports with the Comptroller and, after April 2011, has filed no reports thus representing to the New York State Comptroller that Condor has no unclaimed property.

4. Pursuant to the New York Abandoned Property Law §§ 302 and 303, Condor is required to deliver to the Comptroller, or escheat, all unclaimed funds on or before the tenth of November of each calendar year. Condor is further required to report the name, account number, and last known address for the escheated funds. Despite the fact that Condor's customers had positive credit balances, Condor has never escheated unclaimed funds to the Comptroller.

5. Condor's acts and omissions detailed in paragraphs 1 through 4, *supra*, constitute unfair, deceptive, and abusive practices in violation of Sections 1031 and 1036 of Dodd-Frank, 12 U.S.C. §§ 5531, 5536.

Misrepresentations in Connection with the Provision of a Financial Product or Service

6. The conduct described in paragraphs 1 through 5, *supra*, also constitutes misrepresentations to customers and the Department in violation of Section 408 of the New York Financial Services Law and Section 499 of the New York Banking Law.

Endangerment of Customer Data and Information

7. Condor failed to employ reasonable and appropriate measures to protect the private and confidential personal and financial information of its customers. Condor left customers' hard-copy loan files, which contain consumers' personally identifiable information and confidential information about the consumers' income, expenses, savings, assets, debts, and contact information for personal references, piled openly around its offices. Condor stored thousands of customers' hard-copy loan files in open boxes or bins on the shelves and floor of a garage attached to its office that was in use and not routinely secured.

8. Condor's mishandling of confidential personal and financial information of its customers constitutes an unfair, deceptive, and abusive act or practice in violation of Sections 1031 and 1036(a)(1) of Dodd-Frank, 12 U.S.C. §§ 5531 and 5536(a)(1)(B).

TILA and Reg Z Violations

9. TILA and Reg Z prohibit a creditor from charging a consumer an annual percentage rate (“APR”) greater than one one-eighth of one percent more than the APR disclosed in the consumer’s loan documents. Condor calculated the interest it charged its customers based on a 360-day year (*i.e.*, by dividing the annual interest rate specified in Condor’s contract with a customer, by 360) and applied the resulting daily interest rate to its customers’ loan accounts each of the 365 days during the year (or 366 days in a leap year). The application of a daily interest rate calculated based on a 360-day year, to a 365 day-year, resulted in an APR in excess of the one-eighth of one percent tolerance permitted under TILA and Reg Z for all loans with an interest rate greater than nine percent. Condor typically does not originate loans with an interest rate of less than twelve percent, and the average interest rate of a Condor loan is fifteen and one half percent.

10. In June 2013, after Condor changed to a 365-day year to calculate interest, Condor added one-eighth of one percent interest to all of its loans. In August 2013, after the Maryland Office of the Commissioner of Financial Regulation discovered this practice and informed Condor that it was improper, Condor removed the one-eighth of one percent interest from its loans to Maryland consumers but continued to apply the additional one-eighth of one percent interest to all of its other loans. On January 27, 2014, Condor removed the one-eighth of one percent interest from all of its loans. However, on January 29, 2014, Condor again added the one-eighth of one percent interest to all of its loans to New York consumers that had terminated prior to December 10, 2013.

11. Condor’s practice of calculating its customers’ daily interest rate based on a 360-day year rather than the actual number of days in a year resulted in Condor’s customers paying

greater than one-eighth of one percent more than the APR disclosed in their loan documents in violation of TILA, 15 U.S.C. § 1606(c) and Reg Z, 12 C.F.R. § 226.14(a).

Substantial Assistance of Unfair, Deceptive, and Abusive Practices

12. Stephen Baron, as the Chief Executive Officer and President of Condor, and, further, as the person responsible for oversight of Condor's operations and for setting and effectuating policies, has knowingly or recklessly provided substantial assistance to Condor in its policy of retaining for itself positive credit balances belonging to Condor's customers, and endangering the safety and security of its customers' confidential personal and financial information. Furthermore, as the person responsible for the oversight of Condor's operations and for setting and effectuating policies, Stephen Baron has knowingly or recklessly provided substantial assistance to Condor in its failure to employ reasonable and appropriate measures to protect private and confidential financial and personal information of its customers. Moreover, Stephen Baron failed to correct misleading representations on Condor's website suggesting that customers' information had been protected by such measures.

13. Stephen Baron has thus violated Section 1036(a)(3) of Dodd-Frank, 12 U.S.C. § 5536(a)(3), by providing substantial assistance to Condor's violations of Section 1031 of Dodd-Frank, 12 U.S.C. § 5531.