

ARTICLE I

COMPTROLLER'S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

(1) From October 2009 to June 2012, the Bank and its vendors marketed and sold identity protection products to Bank customers. These products included public records monitoring, and one product also included credit monitoring and credit report retrieval.

(2) Bank customers who enrolled in the identity protection products were required to provide sufficient personal verification information or authorization before their credit bureau files and public records could be accessed. Customers of the identity protection products were provided the materials necessary to submit this information or authorization, but until the information or authorization was submitted, the customers could not receive the public records monitoring, credit monitoring, and/or credit report retrieval services of the identity protection product in which they were enrolled.

(3) From October 2009 to July 2012, the Bank, through its vendors, billed customers of identity protection products who were not receiving public records monitoring, credit monitoring, and/or credit report retrieval services for the full fee of the product, even though those customers were not receiving all of the benefits of the product.

(4) By reason of the foregoing billing practices for its identity protection products as described in Paragraphs (1) to (3) of this Article, the Bank engaged in unfair practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a)(1).

(5) The Bank's violation of Section 5 of the FTC Act caused substantial consumer injury or was likely to cause substantial consumer injury.

(6) From 2004 to July 2012, the Bank marketed and sold a debt cancellation product, which included cancellation of a portion of a customer's credit card balance upon the occurrence of certain qualifying events, to its credit card customers.

(7) The marketing materials for the debt cancellation product indicated to consumers that the product benefits would cancel their minimum monthly payment upon the occurrence of a qualifying event. In fact, the product benefits were often insufficient to cover the minimum monthly payment for a significant portion of the consumers who enrolled in the product and who claimed benefits.

(8) By reason of the foregoing marketing practices for its debt cancellation product as described in Paragraphs (6) to (7) of this Article, the Bank engaged in deceptive practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a)(1).

(9) The Bank's violations of Section 5 of the FTC Act are part of a pattern of misconduct and resulted in financial gain to the Bank.

(10) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), the Comptroller hereby ORDERS that:

ARTICLE II

COMPLIANCE COMMITTEE

(1) The Board shall maintain its existing Compliance Committee of at least three (3) directors, of which a majority may not be employees or officers of the Bank or any of its subsidiaries or affiliates. In the event of a change in the membership, the names of the members of the Compliance Committee shall be submitted in writing to the Examiner-in-Charge for Large Bank Supervision at the Bank ("Examiner-in-Charge") for a written determination of no supervisory objection. The Compliance Committee shall be responsible for monitoring and

coordinating the Bank's compliance with the provisions of this Order. The Compliance Committee shall meet at least monthly and maintain minutes of its meetings.

(2) Within thirty (30) days from the end of each calendar quarter following the effective date of this Order, the Compliance Committee shall submit a written progress report to the Board setting forth in detail the actions taken to comply with each Article of this Order, and the results and status of those actions.

(3) Within ten (10) days of receiving the Compliance Committee's report, the Board shall forward a copy of the report, with any additional comments by the Board, to the Deputy Comptroller for Large Bank Supervision ("Deputy Comptroller") and the Examiner-in-Charge, unless additional time is granted by the Examiner-in-Charge through a written determination of no supervisory objection.

ARTICLE III

COMPREHENSIVE ACTION PLAN

(1) Within ninety (90) days of this Order, the Bank shall submit to the Deputy Comptroller and Examiner-in-Charge, for review and written determination of no supervisory objection by the Deputy Comptroller, an acceptable plan containing a complete description of the actions that are necessary and appropriate to achieve compliance with Articles IV through XI of this Order ("Action Plan"). In the event the Deputy Comptroller asks the Bank to revise the Action Plan, the Bank shall promptly make necessary and appropriate revisions and resubmit the Action Plan to the Deputy Comptroller and Examiner-in-Charge for review and determination of no supervisory objection by the Deputy Comptroller.

(2) The Action Plan shall specify timelines for completion of each of the requirements of Articles IV through XI of this Order. The timelines in the Action Plan shall be

consistent with any deadlines set forth in this Order, unless modified by written agreement with the Deputy Comptroller.

(3) Upon receiving written notice of no supervisory objection from the Deputy Comptroller, the Board shall ensure that the Bank implements and thereafter adheres to the Action Plan. Following implementation of the Action Plan, the Bank shall not take any action that will cause a significant deviation from, or material change to the Action Plan, unless and until the Bank has received a prior written determination of no supervisory objection from the Deputy Comptroller.

(4) The Board shall ensure that the Bank achieves and thereafter maintains compliance with this Order, including, without limitation, successful implementation of the Action Plan. The Board shall further ensure that, upon implementation of the Action Plan, the Bank achieves and maintains a program to comply with Section 5 of the FTC Act, and its implementing regulations. In each instance in this Order in which the Board is required to ensure adherence to or undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) Require the timely reporting by the Bank management of such actions directed by the Board to be taken under this Order;
- (b) Follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (c) Require corrective action be taken in a timely manner for any non-compliance with such actions.

ARTICLE IV

COMPLIANCE WITH LAW

(1) The Board shall ensure that the Bank, its officers, agents and service providers immediately cease and desist from engaging in violations of Section 5 of the FTC Act, and shall specifically ensure that the Bank take all steps necessary to eliminate violations of Section 5 of the FTC Act and to maintain future compliance with the requirements of that Act.

ARTICLE V

CONSUMER REIMBURSEMENT FOR UNFAIR BILLING PRACTICES

(1) The Bank shall complete full reimbursement, as defined in Paragraph (3) of this Article, in accordance with the Reimbursement Plan required by Article VII of this Order, to all Eligible IP Customers as defined in Paragraph (2) of this Article.

(2) For the purposes of this Order, the following definitions shall apply:

- (a) “Bank Cards” shall include all consumer credit and charge cards issued by the Bank, including Bank-labeled and co-branded cards.
- (b) “Eligible IP Customer” is any Identity Protection Customer who, between October 2009 and July 2012, was enrolled in an Identity Protection Product and who was Unprocessable during any portion of his or her enrollment.
- (c) “Identity Protection Customer” is a Bank customer who enrolled in an Identity Protection Product using a Bank Card.
- (d) “Identity Protection Product” refers to two identity theft protection products, “ID Protect” and “ID Protect Premium,” which were marketed and sold to Bank customers by the Bank or its Identity Protection Vendor.

- (e) “Identity Protection Vendor” refers to any of the Bank’s vendors, including but not limited to the Affinion Group, that provided marketing, sales, delivery, servicing, and/or fulfillment of Identity Protection Products to Bank customers.
- (f) “Product Fees” are the fees charged by the Bank or Identity Protection Vendor for an Identity Protection Product.
- (g) “Reimbursement End Date” is the date on which the Eligible IP Customer’s Unprocessable status ended.
- (h) “Reimbursement Start Date” is the date on which the Eligible IP Customer first entered Unprocessable status.
- (i) “Unprocessable” refers to the status of an Identity Protection Customer who, at a given time, was being billed for an Identity Protection Product but was not receiving the proper public records monitoring, credit monitoring, and/or credit report retrieval benefits of the product.

(3) The reimbursement amount paid to each Eligible IP Customer shall include, as applicable to each Eligible IP Customer:

- (a) The sum of:
 - (i) The full amount of Product Fees paid by an Eligible IP Customer from his or her Reimbursement Start Date through his or her Reimbursement End Date;
 - (ii) The full amount of any overlimit fees paid by an Eligible IP Customer from his or her Reimbursement Start Date through his or her Reimbursement End Date because the amount of the Product

Fees resulted in the Eligible IP Customer exceeding his or her credit limit; and

(iii) The amount of the estimated finance charges, as calculated pursuant to the methodology in the Reimbursement Plan, paid by an Eligible IP Customer on Product Fees from his or her Reimbursement Start Date through his or her Reimbursement End Date.

(b) Less any amount that was a previous refund of the fees and charges described above in section (a) of this paragraph.

ARTICLE VI

CONSUMER REIMBURSEMENT FOR DECEPTIVE SALES AND MARKETING PRACTICES

(1) The Bank shall complete full reimbursement, as defined in Paragraph (3) of this Article, in accordance with the Reimbursement Plan required by Article VII of this Order, to all Eligible DC Customers as defined in Paragraph (2) of this Article.

(2) For the purposes of this Order, the following definitions shall apply:

- (a) “Benefit Shortfall” is the amount by which Product Claim Benefits, paid or credited to a Debt Cancellation Customer’s credit card account, were insufficient to cover that customer’s Minimum Monthly Payment for the applicable billing period.
- (b) “Card Member” shall mean any consumer who has applied or applies for, and received or receives, a Bank Card.
- (c) “Debt Cancellation Customer” is a Card Member who enrolled in a Debt Cancellation Product using a Bank Card.

- (d) “Debt Cancellation Product” refers to a product called Account Protector, which was marketed and sold to Card Members and which benefits included cancellation of a defined portion of a Debt Cancellation Customer’s credit card balance upon the occurrence of certain qualifying events defined in the relevant agreement between the Bank and such customer.
- (e) “Eligible DC Customer” is any Debt Cancellation Customer who enrolled between 2004 and July 2012 in a Debt Cancellation Product, received Product Claim Benefits, and suffered a Benefit Shortfall.
- (f) “Minimum Monthly Payment” refers to the minimum amount the Bank customer is required to pay, as reflected on the Debt Cancellation Customer’s periodic credit card statement (excluding any past due amounts reflected on the statement).
- (g) “Product Claim Benefits” refers to the amount of Debt Cancellation Product benefits as defined in the relevant agreement between the Bank and the Debt Cancellation Customer paid or credited to such customer upon the occurrence of a qualifying event and approval of a benefit claim by that customer.

(3) The reimbursement amount paid to each Eligible DC Customer shall include, as applicable to each Eligible DC Customer:

- (a) The sum of:
 - (i) The full amount of all Benefit Shortfalls suffered by an Eligible DC Customer; and

- (ii) The full amount of the fees (including overlimit fees) and finance charges, as calculated pursuant to the methodology in the Reimbursement Plan, paid by an Eligible DC Customer as a result of Benefit Shortfalls.
- (b) Less any amount that was a previous refund of the fees and charges described above in section (a) of this paragraph.

ARTICLE VII

REIMBURSEMENT PLAN

- (1) Within ninety (90) days of this Order, the Bank shall develop and submit a Board-approved reimbursement plan (“Reimbursement Plan”) to the Deputy Comptroller for prior determination of no supervisory objection. The Reimbursement Plan shall include the following:
 - (a) A description of the methods used and the time necessary to compile a list of potential Eligible IP Customers and Eligible DC Customers (collectively, “Eligible Customers”).
 - (b) A description of the methods used to calculate the amount of reimbursement to be paid to each Eligible Customer as required by Paragraph (1) of Articles V and VI of this Order.
 - (c) A description of the procedures for issuance and tracking of reimbursement payments to Eligible Customers.
 - (d) With regard to Eligible Customers who receive the reimbursement required by Paragraph (1) of Articles V and VI of this Order in the form of a credit to their Bank Card account, a description of procedures for reporting updated current balances following payment of the

reimbursement required by Paragraph (1) of Articles V and VI of this Order, as applicable, to each credit reporting agency to which the Bank had previously furnished balance information for the account.

(e) A description of the procedures for monitoring compliance with the Reimbursement Plan.

(2) The Bank represents that it has completed plans to reimburse Eligible Customers for Product Fees, Benefit Shortfalls, and associated fees and charges that they paid. These plans shall be documented as part of the Reimbursement Plan required by this Article and be subject to the requirements of this Article, and shall include an accounting of amounts the Bank has already reimbursed to Eligible Customers.

(3) Upon receipt of a determination of no supervisory objection to the Reimbursement Plan, the Board shall ensure that the Bank implements or has implemented and adheres to the Reimbursement Plan. Any proposed changes to or deviations from the approved Reimbursement Plan shall be submitted in writing to the Deputy Comptroller for prior supervisory review and non-objection.

ARTICLE VIII

ASSESSMENT OF REIMBURSEMENT

(1) Within ninety (90) days from the completion of reimbursement under the Reimbursement Plan, as detailed in Article VII, or receipt of a determination of no supervisory objection to the Reimbursement Plan, whichever is later, the Bank's Internal Audit shall review and assess compliance with the terms of the Reimbursement Plan ("Reimbursement Review").

(2) The Reimbursement Review shall include an assessment of the Reimbursement Plan and the methodology used to determine the population of Eligible Customers, the amount of

reimbursement for each Eligible Customer, the procedures used to issue and track reimbursement payments, the procedures used for reporting and requesting the reporting of updated balances to the credit reporting agencies, and the work of any independent consultants that the Bank has used to assist and review its execution of the Reimbursement Plan.

(3) The Reimbursement Review shall be completed and summarized in a written report (the “Reimbursement Review Report”), which shall be completed within sixty (60) days of completion of the Reimbursement Review. Within ten (10) days of its completion, the Reimbursement Review Report shall be submitted to the Deputy Comptroller, Examiner-in-Charge, and the Board.

(4) Any (including all draft and finalized) communications, workpapers, or work product related to the Reimbursement Review shall be made available to the OCC immediately upon request of the Examiner-in-Charge.

ARTICLE IX

BANK VENDOR MANAGEMENT

(1) For the purposes of this Article and this Order, “Bank Vendor” refers to any third-party vendor that provides marketing, sales, delivery, servicing, and/or fulfillment of services for Bank Card Add-on Products. For purposes of this Order “Bank Card Add-on Products” shall include consumer products offered, pursuant to a contractual obligation to the Bank, as optional add-on products to any Bank Card.

(2) Within ninety (90) days of this Order, the Bank shall submit a written policy governing the management of Bank Vendors (“Bank Vendor Management Policy”). The Board shall approve and cause the Bank to submit this Bank Vendor Management Policy to the Examiner-in-Charge for prior determination of no supervisory objection. At a minimum, the Bank Vendor Management Policy shall require:

- (a) An analysis, to be conducted by the Bank's Corporate Compliance function prior to the Bank entering into a contract with the Bank Vendor, of the ability of the Bank Vendor to perform the marketing, sales, delivery, servicing, and fulfillment of services for the product(s) in compliance with all applicable consumer protection laws and Bank policies and procedures.
- (b) For new and renewed contracts, a written contract between the Bank and the Bank Vendor, which sets forth the responsibilities of each party, especially:
 - (i) The Bank Vendor's specific performance responsibilities and duty to maintain adequate internal controls over the marketing, sales, delivery, servicing, and fulfillment of services for the products;
 - (ii) The Bank Vendor's responsibilities and duty to provide adequate training on applicable consumer protection laws and Bank policies and procedures to all Bank Vendor employees or agents engaged in the marketing, sales, delivery, servicing, and fulfillment of services for the product(s);
 - (iii) Granting the Bank the authority to conduct periodic onsite reviews of the Bank Vendor's controls, performance, and information systems as they relate to the marketing, sales, delivery, servicing, and fulfillment of services for the product(s); and

(iv) The Bank's right to terminate the contract if the Bank Vendor materially fails to comply with the terms specified in the contract, including the terms required by this paragraph.

(c) Periodic onsite review by the Bank of the Bank Vendor's controls, performance, and information systems.

(3) Upon receipt of a determination of no supervisory objection to the Bank Vendor Management Policy submitted pursuant to Paragraph (2) of this Article, the Board shall ensure that the Bank implements and adheres to the Bank Vendor Management Policy.

(4) The Bank's Internal Audit department shall periodically conduct an assessment of the Bank's adherence to the Bank Vendor Management Policy in the marketing, sales, delivery, servicing, and fulfillment of services for Bank Card Add-on Products. The initial assessment shall occur within one hundred eighty (180) days after the Bank's receipt of a determination of no supervisory objection to the Bank Vendor Management Policy, and subsequent assessments shall occur periodically but at least annually thereafter, and the findings shall be memorialized in writing. Within ten (10) days of completing each assessment, Internal Audit shall provide its written findings to the Audit Committee, the Deputy Comptroller, and the Examiner-in-Charge.

(5) The Board shall ensure that there is oversight of the Bank Vendor Management Policy required by this Article by the Bank's senior risk managers and senior management with respect to the marketing, sales, delivery, servicing, and fulfillment of services for Bank Card Add-on Products.

ARTICLE X

RISK MANAGEMENT PROGRAM AND OVERSIGHT

(1) Within ninety (90) days of this Order, the Bank shall submit a written risk management program (“Risk Management Program”) for any Bank Card Add-on Products offered by the Bank or through Bank Vendors to the Bank’s customers. The Board shall approve and cause the Bank to submit this Risk Management Program to the Examiner-in-Charge for prior determination of no supervisory objection. At a minimum, the Risk Management Program shall require:

- (a) A written comprehensive assessment, to be conducted on an annual basis, of the unfair and deceptive practices (“UDAP”) risk for these products and for changes to these products, including, but not limited to the UDAP risk of the governance, control, marketing, sales, delivery, servicing, and fulfillment of services for new products and existing products, including the UDAP risk of marketing and sales practices.
- (b) The development and implementation of written policies and procedures to effectively manage, prevent, detect, and mitigate, on an on-going basis, the risks identified in the written assessment required by Paragraph (1)(a) of this Article.
- (c) The recording of all telephone calls in which products are marketed or sold by the Bank or through a Bank Vendor to Bank customers, which recordings shall be retained for a period of at least twenty-five (25) months from the date of the call.

- (d) The recording of all telephone calls in which a Bank customer enrolled in a product marketed or sold by the Bank or through a Bank Vendor indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the product, which recordings shall be retained for a period of at least twenty-five (25) months from the date of the call.
- (e) Comprehensive written procedures for providing appropriate training on applicable consumer protection laws and Bank policies and procedures, including but not limited to unfair or deceptive practices, to appropriate Bank employees and Bank Vendor call agents who market or sell products during in-bound or out-bound telephone calls or who engage in retention efforts during telephone calls in which a Bank customer indicates that he or she did not authorize, does not want, does not need, or wishes to cancel the product.
- (f) Comprehensive written procedures for providing appropriate training on applicable consumer protection laws and Bank policies and procedures, including, but not limited to, the FTC Act, to appropriate Bank employees and Bank Vendor employees or agents monitoring telephone calls.
- (g) Comprehensive written policies and procedures for identifying and reporting any violation of applicable consumer protection laws and Bank policies and procedures by Bank employees and Bank Vendor employees or agents, in a timely manner, to a specified executive risk manager at the Bank. The manager to whom such reports are made shall be independent of the unit overseeing the sales and marketing of the products.

- (h) Development of an independent telephone call monitoring process that is regularly performed by qualified personnel who have training in identifying and reporting violations of applicable consumer protection laws and Bank policies and procedures, including, but not limited to, the FTC Act.
- (i) Reporting, on at least a monthly basis by the independent unit responsible for conducting the monitoring required by Paragraph (1)(h) of this Article, of its findings from the telephone call monitoring to a specified executive risk manager who is independent of the unit overseeing the sales and marketing of these products.
- (j) Written policies and procedures to ensure that risk management, internal audit, and corporate compliance programs have the requisite authority and status within the Bank so that appropriate reviews of products marketed or sold by the Bank or through Bank Vendors may occur and deficiencies are identified and properly remedied.

(2) Upon receipt of a determination of no supervisory objection to the Risk Management Program submitted pursuant to Paragraph (1) of this Article, the Board shall ensure that the Bank implements and adheres to the Risk Management Program. Any proposed changes to or deviations from the approved Risk Management Program shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection.

(3) The Bank's Internal Audit department shall periodically conduct an assessment of the Bank's compliance with the Risk Management Program in the marketing, sales, delivery, servicing, and fulfillment of services for Bank Card Add-on Products. The initial assessment

shall occur within one hundred eighty (180) days after the Bank's receipt of a determination of no supervisory objection to the Risk Management Program, and subsequent assessments shall occur periodically but at least annually thereafter, and the findings shall be memorialized in writing. Within ten (10) days of completing each assessment, Internal Audit shall provide its written findings to the Audit Committee, the Deputy Comptroller, and the Examiner-in-Charge.

(4) Within ninety (90) days of this Order, the Bank shall submit training materials relating to identifying and responding to unfair and deceptive practices and incorporate the new training materials into the existing annual compliance training for appropriate employees involved in the marketing, sales, delivery, servicing, and fulfillment of services for Bank Card Add-on Products.

(5) The Board shall ensure that there is oversight of the Risk Management Program required by this Article by the Bank's senior risk managers and senior management with respect to the marketing, sales, delivery, servicing, and fulfillment of services for Bank Card Add-on Products.

ARTICLE XI

ADD-ON PRODUCT REVIEW

(1) On the timetable set forth in the Add-on Product Review Plan (as defined below), the Bank shall review and assess each Bank Card Add-on Product offered by the Bank or through Bank Vendors to Bank customers for compliance with Section 5 of the FTC Act, 15 U.S.C. § 45(a)(1) (with the exception of ID Protect, ID Protect Premium, and Account Protector) ("Add-on Product Review").

(2) Within sixty (60) days of this Order, the Board shall approve and cause the Bank to submit an add-on product review plan ("Add-on Product Review Plan") to the Examiner-in-

Charge for prior determination of no supervisory objection. At a minimum, the Add-on Product Review Plan shall:

- (a) Identify all products and groups of products for which the Bank will conduct an Add-on Product Review; and
- (b) Provide a schedule and timeline for the Add-on Product Reviews.

(3) Upon receipt of a determination of no supervisory objection to the Add-on Product Review Plan submitted pursuant to Paragraph (2) of this Article, the Board shall ensure that the Bank implements and adheres to the Add-on Product Review Plan. Any proposed changes to or deviations from the approved Add-on Product Review Plan shall be submitted in writing to the Examiner-in-Charge for prior supervisory review and non-objection.

(4) The Bank shall describe the findings of each Add on Product Review(s) in a written report(s), which the Board shall review at the next Board meeting following receipt of the report(s). Within fifteen (15) days of the Board's review of each written report, the Bank shall submit a copy of the report to the Examiner-in-Charge.

(5) If any Add-on Product Review reveals circumstances that warrant remediation in the form of consumer reimbursement or measures to correct process, control, or other program weaknesses, the Bank shall promptly implement such remediation.

(6) Within ninety (90) days from the completion of remediation described in paragraph (5) of this Article, the Bank's Internal Audit shall review and assess such remediation ("Add-on Remediation Assessment"). Within thirty (30) days of completion of each Add-on Remediation Assessment, the assessment shall be summarized in a written report and submitted to the Deputy Comptroller, Examiner-in-Charge, and the Board.

(7) Any (including all draft and finalized) communications, workpapers, or work product related to any Add-On Product Review and/or any Add-on Remediation Assessment shall be made available to the OCC immediately upon request of the Examiner-in-Charge.

ARTICLE XII

APPROVAL, IMPLEMENTATION, AND REPORTS

(1) The Bank shall submit the written plans, programs, policies, and procedures required by this Order for review and determination of no supervisory objection to the Deputy Comptroller or the Examiner-in-Charge within the applicable time periods set forth in Articles IV through XI. The Board shall ensure that the Bank submits the plans, programs, policies, and procedures to the Deputy Comptroller or Examiner-in-Charge for prior written determination of no supervisory objection. In the event the Deputy Comptroller or Examiner-in-Charge asks the Bank to revise the plans, programs, policies, or procedures, the Bank shall promptly make necessary and appropriate revisions and resubmit the materials to the Deputy Comptroller or Examiner-in-Charge for review and determination of no supervisory objection. Upon receiving written notice of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge, the Board shall ensure that the Bank implements and thereafter adheres to the plans, programs, policies, and procedures.

(2) During the term of this Order, the required plans, programs, policies, and procedures shall not be amended or rescinded in any material respect without a prior written determination of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge.

(3) During the term of this Order, the Bank shall revise the required plans, programs, policies, and procedures as necessary to incorporate new, or changes to, applicable legal requirements and supervisory guidelines.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plans, programs, policies, and procedures required by this Order.

(5) Within thirty (30) days from the end of each calendar quarter following the effective date of this Order, the Bank shall submit to the OCC a written progress report detailing the form and manner of all actions taken to secure compliance with the provisions of this Order and the results thereof. The progress report shall include information sufficient to validate compliance with this Order. The OCC may, in writing, discontinue the requirement for progress reports or modify the reporting schedule.

(6) All communication regarding this Order shall be sent to:

- (a) Ron A. Pasch
Deputy Comptroller
Large Bank Supervision
Office of the Comptroller of the Currency
400 7th Street S.W.
Washington, DC 20219
- (b) Eugene A. Jacobi, Jr.
Examiner-in-Charge
National Bank Examiners
200 Vesey Street Room 4-200
New York, NY 10285

or such other individuals or addresses as directed by the OCC.

ARTICLE XIII

OTHER PROVISIONS

(1) Although this Order requires the Bank to submit certain actions, plans, programs, and policies for the review or prior written determination of no supervisory objection by the Deputy Comptroller or the Examiner-in-Charge, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) This Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the Comptroller, based on the practices and violations of law described in the Comptroller's Findings set forth in Article I of this Order. The Comptroller releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the Comptroller based on the practices and violations described in the Comptroller's Findings set forth in Article I of this Order, to the extent known to the Comptroller as of the effective date of this Order. Provided, however, that nothing in the Stipulation or this Order shall prevent the Comptroller from instituting other enforcement actions against the Bank or any of its institution-affiliated parties based on the findings set forth in this Order, or any other findings, and nothing in the Stipulation or this Order shall preclude or affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of the Stipulation or this Order.

(4) This Order is and shall become effective upon its execution by the Comptroller, through his authorized representative whose hand appears below. The Order shall remain effective and enforceable, except to the extent that, and until such time as, any provision of this Order shall be amended, suspended, waived, or terminated in writing by the Comptroller or his authorized representative.

(5) Any time limitations imposed by this Order shall begin to run from the effective date of this Order, as shown below, unless the Order specifies otherwise. The time limitations

may be extended in writing by the Deputy Comptroller for good cause upon written application by the Board. Any request to extend any time limitation shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with the time limitation, and shall be accompanied by relevant supporting documentation. The Deputy Comptroller's decision regarding the request is final and not subject to further review.

(6) The terms and provisions of this Order apply to the Bank and its subsidiaries, even though those subsidiaries are not named as parties to this Order. The Bank shall integrate any activities done by a subsidiary into its plans, policies, programs, and processes required by this Order. The Bank shall ensure that its subsidiaries comply with all terms and provisions of this Order.

(7) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding the Comptroller or the United States. Without limiting the foregoing, nothing in this Order shall affect any action against the Bank or its institution-affiliated parties by a bank regulatory agency, the United States Department of Justice, or any other law enforcement agency.

(8) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

(9) The Bank entered into a Supervisory Agreement with the Office of Thrift Supervision ("OTS") dated August 6, 2010 ("2010 Supervisory Agreement"). This Order replaces the 2010 Supervisory Agreement in its entirety and, therefore, the 2010 Supervisory Agreement is hereby terminated. Provided, however, no provision in this Order shall bar or

otherwise limit any enforcement action the OCC may choose to initiate, in its discretion, against the Bank or its institution-affiliated parties for any failure to comply with the 2010 Supervisory Agreement while it was effective.

(10) The Bank entered into a Consent Order with the OCC dated October 1, 2012 (“2012 Order”). This Order replaces the 2012 Order in its entirety and, therefore, the 2012 Order is terminated. Provided, however, no provision in this Order shall bar or otherwise limit any enforcement action the OCC may choose to initiate, in its discretion, against the Bank or its institution-affiliated parties for any failure to comply with the 2012 Order while it was effective.

IT IS SO ORDERED, this 19 day of December, 2013.

_____/s/_____
Ron A. Pasch
Deputy Comptroller
Large Bank Supervision

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of:)	
)	
American Express Bank, F.S.B.)	AA-EC-2013-68
Salt Lake City, Utah)	
)	

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to issue a cease and desist order to American Express Bank, F.S.B., Salt Lake City, Utah (“Bank”), pursuant to 12 U.S.C. § 1818(b), for the Bank’s violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), related to billing practices with regard to identity theft protection products and marketing practices with regard to debt cancellation products;

WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Board of Directors (“Board”), has agreed to execute this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by the Bank that:

ARTICLE I

JURISDICTION

(1) The Bank is a Federal savings association which was chartered and examined by the Office of Thrift Supervision (“OTS”) pursuant to the Home Owners’ Loan Act, as amended, 12 U.S.C. § 1461 et seq.

(2) Pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010), all functions of the OTS related to Federal savings associations were transferred to the Comptroller.¹

(3) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(4) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

(5) For purposes of, and within the meaning of, 12 C.F.R. § 163.555, the Consent Order shall not be construed to be a “cease and desist order” or “consent order,” unless the Comptroller informs the Bank otherwise in writing.

ARTICLE II

CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order by the Comptroller.

(2) The terms and provisions of the Consent Order apply to American Express Bank, F.S.B., Salt Lake City, Utah, and all its subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.

¹ See Dodd-Frank Act § 312(b), 12 U.S.C. § 5412.

(3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the Comptroller through his authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Consent Order and/or execute this Stipulation.

(6) The Bank expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

(7) The Consent Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the Comptroller, based on the practices and violations of law described in the Comptroller’s Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the Comptroller based on the practices and

violations described in the Comptroller's Findings set forth in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Provided, however, that nothing in this Stipulation or the Consent Order shall prevent the Comptroller from instituting other enforcement actions against the Bank or any of its institution-affiliated parties based on the findings set forth in the Consent Order, or any other findings. The practices and violations described in Article I of the Consent Order may be utilized by the Comptroller in other future enforcement actions against the Bank or its institution-affiliated parties, including, without limitation, to establish a pattern or practice of violations or unsafe or unsound practices or the continuation of a pattern or practice of violations or unsafe or unsound practices. This release shall not preclude or affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

ARTICLE III

WAIVERS

- (1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:
 - (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
 - (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (h), 12 C.F.R. Part 109;
 - (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;

- (e) Any and all claims for fees, costs, or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;
- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

ARTICLE IV

CLOSING

(1) The provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this Stipulation or the Consent Order constitutes, nor shall the Bank contend that it constitutes, a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions that may be or have been brought by any other representative of the United

States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

Accepted by:

THE COMPTROLLER OF THE CURRENCY

/s/

12/19/2013

By:

Ron A. Pasch
Deputy Comptroller
Large Bank Supervision

Date