

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CONSUMER FINANCIAL
PROTECTION BUREAU,

Plaintiff,

v.

UNION WORKERS CREDIT
SERVICES, INC.,

Defendant.

Case No. 3:14-cv-04410-L

**STIPULATED FINAL JUDGMENT
AND ORDER**

The Consumer Financial Protection Bureau (Bureau) commenced this civil action on December 17, 2014, to obtain injunctive relief, civil penalties, and other relief, from Union Workers Credit Services, Inc. (UWCS). The Complaint alleges violations of sections 1031(a) and 1036(a)(1) of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531(a), 5536(a), which prohibit unfair, deceptive, and abusive acts or practices, in connection with UWCS's offering of credit. The Complaint also alleges violations of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681m(d); and its implementing regulation, Regulation V, 12 C.F.R. § 1022.54(c), in connection with UWCS's offers of credit.

The Parties, by and through respective counsel, have requested that the Court enter this Stipulated Final Judgment and Order (Order).

FINDINGS

1. This Court has jurisdiction over the parties and the subject matter of this action.

2. The Parties agree to entry of this Order, without adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the conduct alleged in the Complaint.
3. Defendant neither admits nor denies any allegations in the Complaint, except as specifically stated in this Order. For the purposes of this Order, Defendant admits the facts necessary to establish the Court's jurisdiction over it and the subject matter of this action.
4. The Bureau releases and discharges Defendant from all potential liability for law violations that the Bureau has or might have asserted based on the practices alleged in the Complaint, to the extent such practices occurred before the effective date of this Order and the Bureau knows about them as of the effective date of this Order. Notwithstanding this release, the Bureau may use the practices alleged in the Complaint in future enforcement actions against the Defendant or its affiliates 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. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Order, or to seek penalties for any violations of the Order.
5. Defendant waives service under Rule 4(d) of the Federal Rules of Civil Procedure and waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant also waives any claim it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each party will bear its own costs and expenses, including, without limitation, attorneys' fees.

6. Entry of this Order is in the public interest.

DEFINITIONS

The following definitions apply to this Order:

7. “Affected Consumers” includes any consumer who paid a Membership Fee to UWCS on or after December 15, 2011.
8. “Consumer Financial Product or Service” has the same meaning as set forth in the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5481(5).
9. “Consumer Report” means that term as it is used in the FCRA, 15 U.S.C. § 1681a(d).
10. “Credit” has the same meaning as set forth in the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5481(7).
11. “Effective Date” means the date on which the Order is entered by the court.
12. “Enforcement Director” means the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau, or his or her delegee.
13. “Membership Fee” means any fee paid to UWCS, to apply for or maintain a membership with UWCS that entitles the consumer to credit or that is referred to as a “Platinum Card” membership.
14. “Related Consumer Action” means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Defendant based on substantially the same facts as alleged in the Complaint.
15. “Service Provider” has the same meaning as set forth in the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5481(26).

16. “UWCS” or “Defendant” means Union Workers Credit Services, Inc. and its successors and assigns.

ORDER

I.

BAN ON OFFERING OR PROVIDING CREDIT

IT IS THEREFORE ORDERED that,

17. Defendant, whether acting directly or indirectly, is permanently restrained and enjoined from:

- a. advertising, marketing, offering for sale, selling, assisting in the sale of, or providing credit; or
- b. receiving any monies or consideration from, holding any ownership interest in, providing services to, or working in any capacity for any person engaged in or assisting in the advertising, marketing, offering for sale, selling, or providing of credit.

Nothing in this Order shall be read as an exception to this Paragraph.

II.

ADDITIONAL CONDUCT PROHIBITIONS

IT IS FURTHER ORDERED that,

18. In connection with advertising, marketing, promoting, offering for sale, assisting in the sale of, selling, or providing any Consumer Financial Product or Service, UWCS, its officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of the above persons who have actual notice of this Order, whether acting directly or indirectly or by assisting others, are permanently enjoined and restrained from:

- a. misrepresenting any material aspect of the product or service, including but not limited to:
 - i. misrepresenting that a consumer will receive a general-use credit card; or
 - ii. misrepresenting that UWCS, or the product or service, is affiliated or associated with labor unions, including but not limited to by using union-related words or images;
- b. violating the FCRA, 15 U.S.C. § 1681m(d), and Regulation V, 12 C.F.R. § 1022.54, including but not limited to by:
 - i. using a Consumer Report relating to a consumer without that consumer's consent and in connection with a credit transaction that is not initiated by that consumer; and
 - ii. failing to provide the notices that Regulation V, 12 C.F.R. § 1022.54(c)(1) and (c)(2), requires.

19. Defendant is permanently enjoined and restrained from charging any consumer, including Affected Consumers, new or renewal Membership Fees.

III.

CIVIL MONEY PENALTIES

IT IS FURTHER ORDERED that,

20. Defendant must pay a civil money penalty of \$70,000 to the Bureau.

21. Within 90 days of the Effective Date, Defendant must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.

22. The civil money penalty paid under this Order will be deposited in the Civil Penalty Fund of the Bureau as required by Section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

23. Defendant must treat the civil money penalty paid under this Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Defendant may not:

- a. claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Order; or**
- b. seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Order.**

24. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Defendant may not argue that it is entitled to, nor may Defendant benefit by, any offset or reduction of any monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action (Penalty Offset). If the court in any Related Consumer Action grants such a Penalty Offset, Defendant must, within 30 days after entry of a final order granting the Penalty Offset, notify the Bureau, and pay the amount of the Penalty Offset to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.

25. In the event of any default on Defendant's obligations to make payment under this Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on

any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.

26. Defendant must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Defendant.

27. Under 31 U.S.C. § 7701, Defendant, unless it already has done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

28. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Defendant must notify the Enforcement Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Defendant paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

IV.

CUSTOMER INFORMATION

IT IS FURTHER ORDERED that,

29. Defendant and its officers, agents, servants, employees, attorneys, and all persons who are in active concert or participation with any of the above persons who have actual notice of this Order, whether acting directly or indirectly, may not disclose, use, or benefit from consumer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a consumer's account (including a credit card, bank account, or other financial account), that

Defendant obtained before the Effective Date in connection with UWCS's services. However, information about a particular consumer may be disclosed to the Bureau or if requested by a government agency or required by law, regulation, or court order.

V.

REPORTING REQUIREMENTS

IT IS FURTHER ORDERED that,

30. Defendant must notify the Bureau of any development that may affect compliance obligations arising under this Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of any bankruptcy or insolvency proceeding by or against Defendant; or a change in Defendant's name or address. Defendant must provide this notice at least 30 days before the development or as soon as practicable after the learning about the development, whichever is sooner.
31. Within 7 days of the Effective Date, Defendant must designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with the Defendant. Defendant must also designate someone, providing a name, email, and physical address, who will accept service of process for Defendant.
32. Defendant must report any change in the information required to be submitted under Paragraph 30 at least 30 days before the change or as soon as practicable after learning about the change, whichever is sooner.

33. Within 90 days of the Effective Date, and again one year after the Effective Date, Defendant must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report), which, at a minimum:
- a. describes in detail the manner and form in which Defendant has complied with this Order; and
 - b. attaches a copy of each Order Acknowledgment obtained under Section VI, unless previously submitted to the Bureau.
34. After the one-year period, Defendant must submit to the Enforcement Director additional Compliance Reports within 14 days of receiving a written request from the Bureau.

VI.

ORDER DISTRIBUTION AND ACKNOWLEDGMENT

IT IS FURTHER ORDERED that,

35. Within 7 days of the Effective Date, Defendant must submit to the Enforcement Director an acknowledgment of receipt of this Order, sworn under penalty of perjury.
36. Within 60 days of the Effective Date, Defendant must deliver a copy of this Order to its owner and any other board members and executive officers, as well as to any managers, employees, Service Providers, or other agents and representatives who have responsibilities related to the subject matter of this Order or have had any such responsibilities since January 1, 2014, including but not limited to entities that provide or provided the following to UWCS:
- a. market research;
 - b. marketing services;

- c. drafting of marketing materials, including Defendant's website;
- d. processing of data or payments related to Membership Fees;
- e. mailing lists or list management services;
- f. processing or storage of data regarding Affected Consumers;
- g. intake of or response to consumer inquiries or complaints regarding Membership Fees; or
- h. Consumer Report information.

37. For 5 years from the Effective Date, Defendant must deliver a copy of this Order to any business entity resulting from any change in structure referred to in Section V, any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of the Order before they assume their responsibilities.

38. Defendant must secure a signed and dated statement acknowledging receipt of a copy of this Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 et seq., within 30 days of delivery, from all persons receiving a copy of this Order under this Section.

VII.

RECORDKEEPING

IT IS FURTHER ORDERED that,

39. Defendant must preserve and create, for at least 5 years from the Effective Date, the following business records:

- a. all documents and records necessary to demonstrate full compliance with each provision of this Order, as well as all submissions to the Bureau.

- b. copies of all sales scripts, training materials, advertisements, websites, and other marketing materials, including any such materials used or created by a third party on behalf of Defendant;
- c. for each individual Affected Consumer and his or her enrollment as a UWCS member, copies of any record of the consumer's name; address; phone number; email address; Membership Fees paid; the date on which any Membership Fee was paid; any refund of the Membership Fee provided; the date and method of any such refund; and the reason that any refund was provided.

40. Defendant must retain the documents identified in Paragraph 38 for at least 5 years.

41. Defendant must make the documents identified in Paragraph 38 available to the Bureau within 14 days of receiving a request from the Bureau.

VIII.

NOTICES

IT IS FURTHER ORDERED that,

42. Unless otherwise directed in writing by the Bureau, Defendant must provide all submissions, requests, communications, or other documents relating to this Order in writing, with the subject line, "Consumer Financial Protection Bureau v. Union Workers Credit Services, Inc., Case No. 2013-0628-02," and send them either:

- a. by overnight courier (not the U.S. Postal Service), as follows:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
1625 Eye Street NW
ATTN: Office of Enforcement
Washington, DC 20006; or

- b. by first class mail to the below address and contemporaneously by email to:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
1700 G Street, NW
ATTN: Office of Enforcement
Washington, DC 20552

Enforcement_Compliance@cfpb.gov.

IX.

COOPERATION WITH THE BUREAU

IT IS FURTHER ORDERED that,

43. Defendant must preserve consumer records and cooperate fully – including by making requests to Defendant’s bank or other vendors or Service Providers for records related to Defendant, as necessary – to help the Bureau determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. Defendant must provide such information in its or its agents’ possession or control within 14 days of receiving a written request from the Bureau.
44. Defendant must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in the Complaint. Defendant must provide truthful and complete information, evidence, and testimony. Defendant must appear and must cause its officers, employees,

representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

X.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, to monitor Defendant's compliance with this Order,

45. Within 14 days of receipt of a written request from the Bureau, Defendant must submit additional compliance reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
46. Defendant must permit Bureau representatives to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.
47. Nothing in this Order will limit the Bureau's lawful use of compulsory process, under 12 C.F.R. § 1080.6 or otherwise.

XI.

RETENTION OF JURISDICTION

The Court will retain jurisdiction of this matter for purposes of construction,

modification, and enforcement of this Order.

IT IS SO ORDERED.

DATED this ____ day of _____, 2015.

United States District Court Judge