

UNITED STATES OF AMERICA  
Before the  
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING  
File No. 2012-CFPB-0004

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| In the Matter of:              | ) | CONSENT ORDER,         |
|                                | ) | ORDER FOR RESTITUTION, |
|                                | ) | AND                    |
| AMERICAN EXPRESS TRAVEL        | ) | ORDER TO PAY           |
| RELATED SERVICES COMPANY, INC. | ) | CIVIL MONEY PENALTY    |
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The Consumer Financial Protection Bureau (“CFPB”) has jurisdiction over American Express Travel Related Services Company, Inc. (“AETRS”) pursuant to sections 1002(6), 1002(26), 1025, and 1053(b) of the Consumer Financial Protection Act (“CFP Act”), 12 U.S.C. §§ 5481(6), 5481(26), 5515, and 5563(b).

**I. OVERVIEW**

The CFPB finds that AETRS has engaged in violations of sections 1031 and 1036 of the CFP Act, 12 U.S.C. §§ 5531 and 5536, for deceptive debt collection practices, and, as a service provider to its subsidiary banks, American Express Centurion Bank (“AECB”) and American Express Bank, FSB (“AEBFSB”) for deceptive debt collection and marketing practices.

## FINDINGS OF FACT

Based on the joint FDIC/Utah Department of Financial Institutions Compliance Report of Examination issued to AECB (“ROE”) dated February 22, 2012, with which the CFPB concurred, the CFPB’s Supervisory Letter issued to AEBFSB (“Supervisory Letter”) dated June 14, 2012, and information collected through the examination of AECB and targeted review of AEBFSB which formed the basis for the ROE and Supervisory Letter, the CFPB finds the following facts and makes the following conclusions of law:

### AETRS Card Portfolio – Deceptive Debt Collection Practices

(1) AETRS has issued charge and/or credit cards to consumers and continues to service and manage the accounts associated with these cards, including accounts for which debt has been charged off.

(2) In connection with the collection of consumer debt:

(a) Unreported Debt shall mean consumer debt that has been in collections or charged off and is no longer being reported by AETRS to consumer reporting agencies. AETRS misrepresented to certain customers that settlement of Unreported Debt would be reflected on the consumers’ credit report and that payment could improve the consumers’ credit score; and

(b) Certain debt settlement letters that stated that after settlement the consumers’ remaining debt would be “waived” or “forgiven” were misleading because AETRS failed to prominently disclose that the consumer must pay the full debt balance before AETRS would process any future credit or charge card application.

(3) These debt collection practices have been described in the Joint Consent Order issued by the CFPB and FDIC to AECB, No. 2012-CFPB-0002 (“AECB Joint Consent Order”), and the Consent Order issued by the CFPB to AEBFSB, No. 2012-CFPB-0003 (“AEBFSB

Consent Order”). The CFPB found that AECB and AEBFSB’s debt collection practices violated sections 1031 and 1036 of the CFP Act in the AECB Joint Consent Order and AEBFSB Consent Order.

(4) By engaging in similar practices with respect to its own card portfolio, AETRS violated sections 1031 and 1036 of the CFP Act.

*AETRS as Service Provider to American Express Banking Subsidiaries AECB and AEBFSB*

(5) AETRS acted as a service provider to American Express banking subsidiaries AECB and AEBFSB.

(6) AETRS marketed, processed, and serviced the card portfolios at AECB and AEBFSB. AETRS also provided compliance, audit, and information technology support to AECB and AEBFSB.

(7) AETRS developed, managed, and administered marketing and promotional programs, including a 2010 marketing campaign regarding a Blue Sky Credit Card at AECB. In the AECB Joint Consent Order the CFPB found the 2010 marketing campaign regarding AECB’s Blue Sky Credit Card to be in violation of sections 1031 and 1036 of the CFP Act.

(8) Since at least 2003, AETRS developed, managed, and administered internal and third party debt collection practices on its own behalf and on behalf of AECB and AEBFSB. The CFPB found certain debt collection practices to be in violation of sections 1031 and 1036 of the CFP Act in the AECB Joint Consent Order and AEBFSB Consent Order.

(9) As a service provider with respect to the deceptive debt collection and deceptive marketing practices described in the AECB Joint Consent Order and in the deceptive debt

collection practices described in the AEBFSB Consent Order, AETRS violated sections 1031 and 1036 of the CFP Act.

### **STIPULATION**

AETRS, by and through its duly elected and currently acting Board, has executed a Stipulation to the Issuance of a Consent Order, Order for Restitution, and Order to Pay Civil Money Penalty (“Stipulation”), dated September 27, 2012, that is accepted by the CFPB. With the Stipulation, AETRS has consented, without admitting or denying any findings of fact or violations of laws or regulations, to the issuance of the Consent Order, Order for Restitution, and Order to Pay Civil Money Penalty (collectively “Orders”) by the CFPB.

Having determined that the requirements for issuance of an order under section 1053(b) of the CFP Act, 12 U.S.C. § 5553(b), have been satisfied, the CFPB, therefore, accepts the Stipulation and issues the following Orders:

### **II. CONSENT ORDER**

#### **CORRECTIONS OF VIOLATIONS OF LAWS**

**IT IS HEREBY ORDERED** that AETRS and its officers, agents, servants and employees immediately cease and desist from engaging in violations of the CFP Act and it is further ordered that AETRS take affirmative actions as of the date of issuance of the Order (“Effective Date”), unless otherwise specified, as follows:

1. AETRS shall correct all violations of law, as described above, and shall implement procedures to prevent their recurrence. AETRS’s actions as required by this paragraph shall be satisfactory to the Regional Director, West Region, of the CFPB (“CFPB Regional Director”) as determined at subsequent examinations and/or visitations.

2. AETRS shall not take any actions which interfere with AECB or AEBFSB taking all action necessary to comply with the AECB Joint Consent Order and AEBFSB Consent Order.

3. AETRS shall take all action necessary to eliminate its violations of Sections 1031 and 1036 and shall take appropriate steps to effect and maintain future compliance with Sections 1031 and 1036 as described more particularly herein.

4. When collecting debt on its own behalf, AETRS shall follow the Debt Collection Practices described in the AECB Joint Consent Order and AEBFSB Consent Order.

### **III. ORDER FOR RESTITUTION**

#### **RESTITUTION PLAN FOR COLLECTION OF UNREPORTED DEBT AND DEBT FORGIVENESS SOLICITATIONS**

5. Within 30 days from the Effective Date, AETRS shall prepare a comprehensive Restitution Plan for Deceptive Debt Collection Activities (“Restitution Plan”) for consumers affected by its deceptive debt collection practices. The plan shall include the applicable requirements of the Restitution Plans for Collection of Unreported Debt and the Restitution Plans for Debt Forgiveness Solicitations as described in AECB Joint Consent Order and AEBFSB Consent Order. AETRS shall submit the Restitution Plan to the CFPB Regional Director for review, comment, and non-objection prior to implementation.

#### **MAILING REFUNDS**

6. Within 30 days from the effective date of the Order for Restitution, AETRS shall submit to the CFPB Regional Director for review a plan for mailing refunds, including the proposed text of letters that shall be sent to Eligible Consumers regarding restitution checks or account credits. The plan for mailing refunds shall be consistent with the applicable provisions

of the Mailing Refunds requirements described in the AECB Joint Consent Order and AEBFSB Consent Order.

#### **INDEPENDENT CERTIFIED ACCOUNTING FIRM**

7. Within 45 days from the Effective Date, AETRS shall retain, at its expense, an independent certified accounting firm ("Firm") acceptable to the CFPB Regional Director to determine compliance with the Restitution Plan and consistent with the applicable Independent Certified Accounting Firm requirements described in the AECB Joint Consent Order and AEBFSB Consent Order. The Firm shall submit the report regarding the Restitution Plan as required by this order to the CFPB Regional Director. The report regarding the Restitution Plan shall be consistent with the applicable requirements of the Reports on Unreported Debt Restitution and Reports on Debt Forgiveness Restitution described in the AECB Joint Consent Order and AEBFSB Consent Order.

#### **IV. ORDER TO PAY CIVIL MONEY PENALTY**

8. **IT IS FURTHER ORDERED** that by reason of the alleged violations of law and other activity as set forth in the Agency Findings of Fact, and after taking into account the Stipulation, the appropriateness of the penalty with respect to the financial resources and good faith of AETRS, the gravity of the conduct by AETRS, the severity of the risks to and losses of consumers, the history of previous conduct by AETRS, and such other matters as justice may require, pursuant to section 1055(c) of the CFP Act, 12 U.S.C. § 5565(c): AETRS shall pay a total civil money penalty of \$9,000,000 in accordance with section 1017(d) of the CFP Act, 12 U.S.C. § 5497(d). AETRS shall pay such civil money penalty itself and is prohibited from seeking or accepting indemnification from such payment from any third party.

## **V. NOTIFICATION AND REPORTING REQUIREMENTS**

### **PROGRESS REPORTS AND CERTIFICATIONS OF COMPLIANCE**

9. Within 30 days from the end of each calendar quarter following the Effective Date, AETRS shall provide written progress reports addressing each provision of the Orders and detailing the form, manner, results and dates of any actions taken to secure compliance with the provisions of the Orders to the CFPB Regional Director. All progress reports and other written responses to the Orders shall be reviewed by the Board of Directors of AETRS ("Board") and made a part of the Board minutes. The progress reports shall be true and accurate and accompanied by a certification of compliance by the Chairman of the Board of AETRS and the AETRS President. The certification of compliance shall include the following:

- (a) A statement confirming that AETRS is in compliance with all provisions of the Orders; or
- (b) If AETRS is not in compliance with all provisions of the Orders, AETRS must provide:
  - (i) A list of the provisions with which AETRS is not yet in compliance, an explanation of why AETRS is not yet in compliance with each specific provision, and a description of the actions AETRS has taken to comply with the provision; and
  - (ii) A statement describing when AETRS will be in full compliance with the Orders.

## **VI. SAVINGS CLAUSE AND EFFECTIVE DATE OF THE ORDERS**

10. The provisions of the Orders shall not bar, estop, or otherwise prevent the CFPB or any other federal or state agency or department from taking any other action against AETRS.

11. The Orders shall be effective on the date of issuance.

12. Calculation of time limitations for compliance with the terms of the Orders shall be based on calendar days, unless otherwise noted.

13. The provisions of the Orders shall be binding on AETRS and their officers, agents, servants, employees, and any successors and assigns thereof.

14. The provisions of the Orders shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside by the CFPB.

15. Any violation of the Orders may result in the imposition by the CFPB of the maximum amount of civil money penalties allowed under section 1055(c) of the CFP Act, 12 U.S.C. §5565(c).

Issued this 1<sup>st</sup> day of October, 2012.



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Richard Cordray  
Director  
Consumer Financial Protection Bureau