

**UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU**

ADMINISTRATIVE PROCEEDING

File No. 2024-CFPB-0016

In the Matter of:

Performant Recovery, Inc.

CONSENT ORDER

The Consumer Financial Protection Bureau (Bureau) has reviewed the debt-collection activities of Performant Recovery, Inc. (Respondent, as defined below) and has identified the following violations of law: From 2015 to 2020, when borrowers called Respondent seeking to get their student loans out of default, Respondent delayed many borrowers' loan rehabilitations so that collection costs would be added to their loans. Through these practices, Respondent generated fees for itself while causing individual borrowers to incur thousands of dollars in additional costs added to their loan obligations. Respondent thereby engaged in unfair and abusive acts and practices in violation of the Consumer Financial Protection Act, 12 U.S.C. §§ 5531(c) & (d), 5536(a)(1)(B), and used unfair and unconscionable means to collect or attempt to collect debts in violation of the Fair

Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692f.

Under §§ 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I.

Jurisdiction

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565; and § 808 of the FDCPA, 15 U.S.C. § 1692l(b)(6).

II.

Stipulation

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated December 5, 2024 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

III.

Definitions

3. The following definitions apply to this Consent Order:
 - a. “Affected Consumers” means consumers who:
 - i. defaulted on a Federal Family Education Loan Program (FFELP) Loan between July 1, 2015, and March 13, 2020;
 - ii. called Respondent within 65 days following default;
 - iii. entered into a rehabilitation agreement for that loan between 66 and 95 days following default;
 - iv. completed rehabilitation; and
 - v. incurred collection costs on that rehabilitated loan.
 - b. “Assisting Others” includes, but is not limited to:
 - i. consulting in any form whatsoever;
 - ii. providing administrative support services;
 - iii. performing customer-service functions;
 - iv. performing billing, or payment services of any kind; and
 - v. acting or serving as an owner, officer, director, manager, or principal of any entity.
 - c. “Effective Date” means the date on which the Consent Order is entered on the administrative docket.

- d. “Enforcement Director” means the Enforcement Director of the Division of Enforcement for the Consumer Financial Protection Bureau, or their delegate.
- e. “FFELP Loans” means commercially-held federal student loans made through the Federal Family Education Loan Program.
- f. “Officers” means the individuals holding the titles Chief Executive Officer and Chief Financial Officer for Respondent.
- g. “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 Respondent based on substantially the same facts as described in Section IV of this Consent Order.
- h. “Relevant Period” includes from July 1, 2015, to March 13, 2020.
- i. “Respondent” means Performant Recovery, Inc., formerly known as Diversified Collection Services, Inc., and its successors and assigns.
- j. “Student-Loan Debt” means and includes any obligation or alleged obligation of a consumer to pay money relating to any Federal student loan or private student loan.
- k. “Student-Loan Holder” means any entity or person who holds or owns a student-loan debt or to which a student-loan debt has been assigned

or transferred, including without limitation any creditor, guaranty agency, or debt buyer.

IV.

Bureau Findings and Conclusions

The Bureau finds the following:

4. Respondent is a California corporation headquartered in Plantation, Florida. At all relevant times, Respondent regularly collected on student-loan debt. Accordingly, Respondent offered or provided a consumer-financial product or service and is a “covered person” under the CFPA, 12 U.S.C. §§ 5481(5), (6)(A), (15)(A)(i) & (x).
5. At all relevant times, Respondent was a “debt collector” under the FDCPA. 15 U.S.C. § 1692a(6).

Rehabilitation of Defaulted FFELP Loans

6. Borrowers who have defaulted on FFELP Loans have a one-time right to rehabilitate their loans. 20 U.S.C. § 1078-6(a)(5). By entering into a rehabilitation agreement and making a series of “reasonable and affordable” payments, borrowers can get their loans back into good standing. 20 U.S.C. § 1078-6(a)(1).
7. Once rehabilitated, the loan’s defaulted status is removed from the borrower’s credit history. The borrower regains eligibility for federal student

aid and other benefits such as deferment, income-based repayments, and loan forgiveness. And if the borrower's income-tax refunds were being offset to pay the defaulted loan, these offsets cease upon rehabilitation because the loan is no longer in default.

8. Borrowers who have defaulted on FFELP Loans are generally required to pay “reasonable collection costs,” 20 U.S.C. § 1091a(b)(1), including when they rehabilitate a loan. *See* 20 U.S.C. § 1079-6(a)(1)(D)(i)(II). But if a borrower enters into a loan-rehabilitation agreement within 65 days of defaulting on the loan, the borrower can avoid these significant costs. Generally, debt-collection agencies have not earned fees for loan rehabilitations without added collection costs.

Respondent's Delay of Borrowers' Rehabilitations

9. So, to earn fees on accounts where borrowers called Respondent within 65 days of default (pre-65 borrowers), Respondent used its control over the rehabilitation process to delay these borrowers' entry into loan-rehabilitation agreements until *after* the 65th day—so that collection costs would be imposed, and Respondent would earn fees. Respondent's delay practices occurred at multiple stages.
10. Respondent routed pre-65 borrowers' calls to specialized agents who were instructed to forestall any rehabilitation agreement until after the 65th day.

As a manager explained in an internal email:

We have a special process on dealing with [defaulted borrower] accounts that have not had collection costs added to their accounts yet. . . . The objective is to delay getting these accounts into billing prior to day 65 Again the objective is to delay as much as possible without getting Performant in trouble. If we put the borrower into billing prior to day 65 Performant will not get paid on the rehab.

(“Into billing” meant entry into a rehabilitation agreement.)

11. The same manager said in emails to one of the specialized agents assigned to handle calls from pre-65 borrowers: “Remember we are trying to delay 😊 we don’t want them in billing yet,” and “. . . [W]e really want to delay as much as possible.”
12. Instead of filling out rehabilitation forms electronically over the phone (as Respondent did with other borrowers), Respondent told pre-65 borrowers that they would need to wait to receive blank forms in the mail—which sometimes never arrived. Respondent instructed these pre-65 borrowers to fill out the forms on their own and return them by mail.
13. Respondent typically did not use email, facsimile, or other electronic means to send pre-65 borrowers these documents, even refusing to do so when borrowers asked. As a manager explained to the specialized agents, “I do not want any of you to offer them our fax number [W]e want them to mail

all documents. Remember the whole objective is to DELAY, DELAY, DELAY.”

14. If pre-65 borrowers called in stating that they had waited a week, as instructed, and still had received no forms, agents responded that the form would need to be mailed again and instructed borrowers to wait another week before calling back. In contrast, Respondent used email, facsimile, and other electronic means to convey documents for borrowers seeking rehabilitations after the 65th day.
15. Agents told pre-65 borrowers that after mailing back the completed form, they should wait a week and then call in to make sure their forms had been received. These borrowers could not advance their rehabilitation applications without reaching one of the specialized agents, confirming receipt of mailed paperwork, and receiving additional instructions on next steps.
16. But in a number of instances, pre-65 borrowers who called Respondent after mailing their completed forms could not get through to a specialized agent. Phones were sometimes unanswered, voicemail was sometimes full or inoperative, and agents didn't always respond to voicemails. When specialized agents did respond to voicemails, it was frequently days later, and agents would typically attempt only one call back.
17. For a substantial period, specialized agents did not instruct pre-65 borrowers

to include required supporting documentation—such as income tax returns—when initially returning their completed forms. Only after these borrowers had mailed the completed forms and followed up by phone did specialized agents tell the borrowers that they also needed to mail the supporting documentation.

18. If there were any errors or omissions in the forms submitted by a pre-65 borrower, or if any of the documentation was missing, specialized agents sometimes took no action on the rehabilitations unless the borrower called in, asked what corrections, additional information, or documentation was needed, and subsequently mailed it all in. Specialized agents sometimes provided little or no assistance to borrowers in gathering the required supporting documentation or explaining what forms were needed— for example, if borrowers didn't have tax returns as proof of income.
19. A further impediment for borrowers was the manner in which Respondent offered rehabilitation payment amounts. Respondent sometimes wouldn't offer these borrowers the lowest payment amounts until *after* the 65th day. Under Department of Education regulations, borrowers are entitled to make income-driven, “reasonable and affordable” rehabilitation payments. But if a borrower objects to a payment option based on discretionary income (known as “Option 1”), 34 C.F.R. § 682.405(b)(1)(iii), the borrower is entitled to pay

an amount that takes into account certain monthly expenses (known as “Option 2”), *see* 34 C.F.R. § 682.405(b)(1)(vii). The Option 2 amount is almost always lower than the Option 1 amount. However, Respondent sometimes offered pre-65 borrowers only the Option 1 amount, waiting until after the 65th day to offer a lower Option 2 amount.

20. Some pre-65 borrowers’ rehabilitations were also delayed at the audit stage. After these borrowers had sent in the required documentation, Respondent would not automatically forward these documents to the audit department, but instead waited for borrowers to call back, reach an agent, and confirm receipt. Specialized agents would instruct these borrowers to call back (again) in a few days to obtain the approved payment amount following the audit.
21. And even after a pre-65 borrower had completed all required forms and supplied all required documentation and the borrower’s payment-amount had passed the audit, Respondent would sometimes still hold up the loan with the auditor if it was close to the 65th day. For example, a manager instructed an auditor to sit on account at day 58: “[T]his is a Pre 65 day account please don’t put the borrower into payment until day 65 has past [sic].”
22. In contrast to this drawn-out process for pre-65 borrowers, after an account

had passed the 65th day and was subject to collection costs, Respondent assigned a dedicated collection agent to each account who then contacted and promptly assisted the borrower in entering a rehabilitation agreement if eligible. These agents could complete the rehabilitation paperwork over the phone with the borrower in one or two phone calls—including filling out forms electronically, helping the borrower track down and email required supporting documentation, and having the borrower sign forms electronically.

Impacts of Respondent's Delay Practices on Borrowers Seeking Rehabilitations

23. As a result of Respondent's delay practices, a significant number of borrowers who called Performant within 65 days of default were unable to enter into rehabilitation agreements until more than 65 days following default. Respondent's unlawful acts and practices thereby harmed these Affected Consumers by causing them to incur collection costs—amounting to 16% of the loans' outstanding principal and interest at the time of rehabilitation—which were added to their loan balances. *See* 20 U.S.C. §§ 1078-6(a)(1)(D)(i)(II)(aa), (a)(1)(E)(i).
24. As a result of this 16% increase to Affected Consumers' loan balances, they also incurred additional interest charges.
25. Respondent's practices further injured Affected Consumers by postponing

the benefits of loan rehabilitation, including the restoration of federal-student-aid eligibility, the cessation of federal withholdings of tax refunds and benefits, and the updating of credit-reporting information to reflect that the loans were no longer in default.

26. Affected Consumers could not avoid Respondent's practices. They were not able to switch to a different debt-collection agency, could not typically enter into a rehabilitation agreement directly with the loan holder, and could not otherwise rehabilitate their loans on their own.

*Respondent's Violation of the CFPB's Prohibition against
Unfair and Abusive Acts and Practices*

27. Section 1036(a)(1)(B) of the CFPB prohibits "unfair, deceptive, or abusive acts or practices." 12 U.S.C. § 5536(a)(1)(B). An act or practice is unfair if it causes or is likely to cause consumers substantial injury that is not reasonably avoidable and if the substantial injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c).
28. As described in Paragraphs 4 through 26, in connection with the collection of defaulted student loans, in numerous instances, when Affected Consumers called Respondent within 65 days of default to resolve their loans, Respondent delayed these consumers to prevent them from entering rehabilitation agreements until after the 65th day so that collection costs

would be imposed. Respondent's practices thereby caused or were likely to cause Affected Consumers the substantial injuries detailed above in Paragraphs 23 through 25.

29. These substantial injuries were not reasonably avoidable. When Affected Consumers called Respondent within 65 days of default seeking a resolution of their defaults, Respondent delayed their entry into rehabilitation agreements until after the 65th day so that collection costs would be added. Affected Consumers had to rely on Respondent to enter into rehabilitation agreements covering their defaulted loans. Affected Consumers were not able to choose a different debt-collection agency, were typically unable to enter into a rehabilitation agreement directly with the loan holder, and could not otherwise rehabilitate their loans on their own.
30. The injuries to Affected Consumers were not outweighed by countervailing benefits to consumers or competition. The practices did not benefit Affected Consumers, whose rehabilitations were delayed until their loans became subject to collection costs. Nor did Respondent's practices benefit competition in the market.
31. Thus, Respondent engaged in unfair acts and practices in violation of §§ 1036(a)(1)(B) and 1031(c)(1) of the CFPA. 12 U.S.C. §§ 5536(a)(1)(B), 5531(c)(1).

32. An act or practice is abusive under of the CFPA if it takes unreasonable advantage of consumers' inability to protect their interests in using a financial product or service. 12 U.S.C. § 5531(d)(2)(B).
33. As described in Paragraphs 4 through 26, Affected Consumers relied on Respondent to enter into rehabilitation agreements covering their defaulted student loans.
34. As further described in Paragraphs 4 through 26, in connection with the servicing and collection of defaulted student loans, Respondent used this control over the rehabilitation process to delay Affected Consumers' entry into rehabilitation agreements until after the 65th day—so that collection costs would be added and Respondent would earn fees.
35. Respondent thereby took unreasonable advantage of Affected Consumers' inability to protect their interests when seeking to resolve their defaulted student loans and thus engaged in abusive acts and practices in violation of §§ 1036(a)(1)(B) and 1031(d)(2)(B) of the CFPA. 12 U.S.C. §§ 5536(a)(1)(B), 5531(d)(2)(B).

Respondent's Violation of the FDCPA's Prohibition against

Using Unfair or Unconscionable Means to Collect a Debt

36. Section 808 of the FDCPA prohibits debt collectors, such as Respondent, from using any unfair or unconscionable means to collect or attempt to

collect any debt. 15 U.S.C. § 1692f. A debt collector engages in unfair or unconscionable means if it uses practices that give it an unfair advantage over the debtor or are inherently abusive, unscrupulous, or unethical.

37. As described in Paragraphs 4 through 26, Affected Consumers relied on Respondent to enter into a rehabilitation agreement covering their defaulted student loans.

38. And as further described Paragraphs 4 through 26, in connection with the servicing and collection of defaulted student loans, Respondent used this control over Affected Consumers' access to loan rehabilitations to delay many borrowers who called in within 65 days of default from entering into rehabilitation agreements until after the 65th day—so that collection costs would be added and Respondent would earn fees.

39. Thus, Respondent used unfair or unconscionable means to collect or attempt to collect debts in violation of § 808 of the FDCPA. 15 U.S.C. § 1692f.

V.

Conduct Provisions

Ban on Servicing, Collecting, Selling, or Buying Student-Loan Debt

IT IS ORDERED, under §§ 1053 and 1055 of the CFPB, that:

40. Respondent, whether acting directly or indirectly, is restrained from:
- a. Servicing or collecting on Student-Loan Debt;

- b. Performing any of the following functions in connection with the servicing or collection of Student-Loan Debt: consulting, providing administrative support services, performing customer-service functions, or performing billing or payment services for any borrower, debt-collection agency, servicer, or Student-Loan Holder;
- c. Holding a controlling interest in another company that services or collects Student-Loan Debt;
- d. Receiving any remuneration or other consideration in exchange for the servicing or collection of Student-Loan Debt, *provided that* Respondent may receive remuneration or other consideration from another entity whose business includes the servicing or collection of Student-Loan Debt if:
 - i. Respondent does not own or control that entity; and
 - ii. the remuneration or other consideration received by Respondent is not directly from the servicing or collection of Student-Loan Debt;or
- e. Participating in or Assisting Others in advertising, marketing, promoting, offering for sale, selling, or buying any Student-Loan Debt or any information regarding a consumer relating to a Student-Loan Debt.

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

Prohibited Conduct

IT IS ORDERED, under §§ 1053 and 1055 of the CFPA, that:

41. Respondent and its officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with them who receive actual notice of this Consent Order, whether acting directly or indirectly, in connection with the servicing or collecting of debt, may not violate sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531 and 5536, or section 808 of the FDCPA, 15 U.S.C. § 1692f, and are prohibited from:
 - a. Attempting to service or collect on any Student-Loan Debt that is the subject of the Consent Order, including but not limited to making any request for payment or initiating or maintaining any collection action;
or
 - b. Selling or transferring for remuneration any Student-Loan Debt that is the subject of the Consent Order.

VI.

Customer Information

IT IS FURTHER ORDERED that:

42. Respondent, and its officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with them who receive actual notice of this Consent Order, whether acting directly or indirectly,

may not disclose, use, or benefit from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Respondent obtained before the Effective Date in connection with servicing or collecting on Student-Loan Debt; or attempt to collect, sell, assign, or otherwise transfer any right to collect payment from any consumer who had Student-Loan Debt serviced or collected on by Respondent. However, customer information may be disclosed if requested by a government agency or required by law, regulation, or court order.

VII.

Role of Officers

IT IS FURTHER ORDERED that:

43. Respondent's Officers have the ultimate responsibility for ensuring that Respondent complies with this Consent Order.
44. Respondent's Officers must review all plans and reports required by this Consent Order, and any submissions to the Bureau prior to such submission.
45. One year after the Effective Date, Respondent must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report) that has been approved by Respondent's Officers, the

accuracy of which is sworn to under penalty of perjury, and which, at a minimum:

- a. Describes the steps that Respondent's Officers have taken to reasonably assess whether Respondent is complying with each applicable paragraph and subparagraph of the Order;
- b. Describes in detail whether and how Respondent has complied with each applicable paragraph and subparagraph of the Order, including the manner of verification of such compliance and any corrective actions taken to remedy potential non-compliance with the applicable requirement, paragraph, or subparagraph; and
- c. Attaches a copy of each order acknowledgment obtained under Section X, unless previously submitted to the Bureau.

46. Respondent's Officers must:

- a. Authorize whatever actions are necessary for Respondent to assess whether Respondent is complying with each applicable paragraph and subparagraph of the Order;
- b. Authorize whatever actions, including corrective actions, are necessary for Respondent to fully comply with each applicable paragraph and subparagraph of the Order; and
- c. Require timely reporting by management to Respondent's Officers on

the status of compliance obligations.

MONETARY PROVISIONS

VIII.

Order to Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

47. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, Respondent must pay a civil money penalty of \$700,000 to the Bureau.
48. Within 10 days of the Effective Date, Respondent 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.
49. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by § 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
50. Respondent, for all purposes, must treat the civil money penalty paid under this Consent Order as a penalty paid to the government. Regardless of how the Bureau ultimately uses those funds, Respondent 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 Consent 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 Consent Order.

51. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondent may not argue that Respondent is entitled to, nor may Respondent benefit by, any offset or reduction of any compensatory monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action or because of any payment that the Bureau makes from the Civil Penalty Fund. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Respondent based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, Respondent must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau, and pay the amount of the offset or reduction 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.
52. In the event of any default on Respondent's obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the

Effective Date to the date of payment, and will immediately become due and payable.

53. Respondent 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 Respondent.
54. Respondent acknowledges that its Taxpayer Identification Number (Social Security Number or Employer Identification Number), which Respondent previously submitted to the Bureau, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
55. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent 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 Respondent 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.

COMPLIANCE PROVISIONS

IX.

Reporting Requirements

IT IS FURTHER ORDERED that:

56. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent 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 Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. Respondent must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.
57. Within 7 days of the Effective Date, Respondent must:
 - a. Designate at least one telephone number and email, physical, and postal addresses as points of contact that the Bureau may use to communicate with Respondent;
 - b. Identify all businesses for which Respondent is the majority owner, or that Respondent directly or indirectly controls, by all of their names,

telephone numbers, and physical, postal, email, and Internet addresses; and

- c. Describe the activities of each such business, including the products and services offered, and the means of advertising, marketing, and sales.
58. Respondent must report any change in the information required to be submitted under Paragraph 57 at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.

X.

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

59. Within 7 days of the Effective Date, Respondent must submit to the Enforcement Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
60. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its 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 the Consent Order.
61. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure

referred to in Section IX, 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 Consent Order before they assume their responsibilities.

62. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.
63. Ninety days from the Effective Date, Respondent must submit to the Bureau a list of all persons and their titles to whom this Consent Order has been delivered under the Section of this Order titled “Order Distribution and Acknowledgment” and a copy of all signed and dated statements acknowledging receipt of this Consent Order under Paragraph 62.

XI.

Recordkeeping

IT IS FURTHER ORDERED that:

64. Respondent must create and retain the following business records:
 - a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, and including all submissions to the Bureau; and
 - b. All consumer complaints related to the subject matter of the Consent

Order (whether received directly or indirectly, such as through a third party), and any responses to those complaints or requests.

65. All documents and records must be maintained in their original electronic format. Data should be maintained in such a way that access, retrieval, auditing, and production are not hindered.
66. Respondent must make the documents identified in Paragraph 65 available to the Bureau upon the Bureau's request.

XII.

Notices

IT IS FURTHER ORDERED that:

67. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re Performant Recovery, Inc.*, File No. 2024-CFPB-0016," and send them to the following email: Enforcement_Compliance@cfpb.gov addressed as follows:

ATTN: Enforcement Director
Consumer Financial Protection Bureau
Division of Enforcement

XIII.

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

68. Respondent must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. Respondent must provide such information in its or its agents' possession or control within 14 days of receiving a written request from the Bureau, including account-level and borrower-level data meeting characteristics specified by the Bureau.
69. Respondent must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the servicing or collection of FFELP Loans. Respondent must provide truthful and complete information, evidence, and testimony. Respondent must cause Respondent's current officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 10 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.
70. Respondent must remain registered for the Bureau's Company Portal and in connection with responding to consumer complaints and inquiries on the

Company Portal, must comply with the timely response requirements set forth in §1034(b)(1)-(3) of the CFPA, 12 U.S.C. § 5534(b).

XIV.

Compliance Monitoring

IT IS FURTHER ORDERED that:

71. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
72. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview regarding: (a) this matter; (b) anything related to or associated with the conduct described in Section IV; or (c) compliance with the Consent Order. The person interviewed may have counsel present.
73. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XV.

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

74. Respondent may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Enforcement Director.
75. The Enforcement Director may, in their discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if they determine good cause justifies the modification. Any such modification by the Enforcement Director must be in writing.

XVI.

ADMINISTRATIVE PROVISIONS

IT IS FURTHER ORDERED that:

76. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau from taking any other action against Respondent, except as described in Paragraph 77. Further, for the avoidance of doubt, the provisions of this Consent Order do not bar, estop, or otherwise prevent any other person or governmental agency from taking any action against Respondent.

77. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent 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. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.
78. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under § 1053 of the CFPB, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
79. This Consent Order will terminate on the later of 5 years from the Effective Date or 5 years from the most recent date that the Bureau initiates an action alleging any violation of the Consent Order by Respondent if such action is initiated within 5 years of the Effective Date. If such action is dismissed or the relevant adjudicative body rules that Respondent did not violate any

provision of the Consent Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Consent Order will terminate as though the action had never been filed. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.

80. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
81. Should Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, Respondent must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.
82. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under §1055(c) of the CFPA, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondent wherever Respondent may be found and Respondent may not contest that court's personal jurisdiction over Respondent.
83. This Consent Order and the accompanying Stipulation contain the complete

agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.

84. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing Respondent, its executives, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 9th day of December, 2024.

Rohit Chopra

Rohit Chopra
Director
Consumer Financial Protection Bureau