



REC'D '23 JAN 11 PM 12:23
NC DEPT OF JUSTICE FSS

JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services
FROM: Kevin L. Anderson, Senior Deputy Attorney General
RE: Deposit Distribution
Turtle Creek Assets, LTD.
DATE: January 11, 2023



Kevin L. Anderson

Pursuant to the Consent Judgment reached in the investigation into Gordon Scott Engle, Turtle Creek Assets, LTD., Turtle Creek Rentals LLC, and Royal Park Holdings, Inc. ("Turtle Creek") checks totaling \$249,018.98 were deposited with Financial Services on into cost center 2140-2185.

Beginning in 2012, Turtle Creek began acquiring charged-off consumer debt from Aaron's, Inc., a nationwide corporation offering consumers rent-to-own sales of household furniture, appliances, and electronics. Since at least sometime in early 2018, Turtle Creek began collecting on that debt in North Carolina. Turtle Creek did so without the required debt collecting permit from the North Carolina Commissioner of Insurance, without the proper certifications and registration with the North Carolina Secretary of State, all while using threatening and abusive language, coercion, unreasonable publication, deceptive representations, and unfair practices, including misusing the North Carolina criminal justice system, to further their illegal debt collection. To settle these allegations, Turtle Creek agreed to:

- Consumer Debt Relief consisting of:
 - Forgiving approximately \$22,934,075.17 in consumer debt for 20,529 consumers
 - Title the property that was subject to the debt over to the consumer, free of any right, title, or interest
 - Clear any negative credit lines at Credit Reporting Agencies
 - Cease any collection efforts on any civil judgments, and affirmatively seek to vacate those judgments
 - Cooperate with consumers, courts, and DAs to get criminal convictions and pending charges expunged
 - Report to the Attorney General compliance with the foregoing and maintain records for 3 years
 - Indemnify and hold harmless any consumer debt a third party may hold or try to collect on
- Monetary Relief
 - Pay consumer restitution in the amount of \$223,018.98 to the Attorney General in two payments: \$13,018.98 (paid 10/5/2022), and \$210,000.00 (paid 1/11/2023)
 - Pay \$20,000.00 to the Attorney General to be used for attorney fees, investigative costs, consumer restitution, consumer protection enforcement, other consumer protection purposes, and other purposes allowed by law, at the discretion of the Attorney General (paid 1/11/2023).

- Pay \$6,000.00 in civil penalties to NC Department of Justice (paid 10/05/2022) for violations of the business registration acts
 - \$125,000.00 in civil penalties to NC Department of Justice, suspended provided defendants comply fully with the Consent Judgment
 - Pay \$1,475.00 for unpaid business registration fees due to the NC Secretary of State (paid 10/5/2022)
-
- Additionally, Turtle Creek agreed to:
 - A permanent ban from collecting debt in NC, violating UDTP laws, or using or benefiting from NC consumer information obtained prior to entry of the Consent Judgment.
 - Each defendant must file the 2019 & 2019 back taxes with North Carolina and pay any associated liabilities.

A copy of the consent judgment and deposits are attached. If you have any questions, please contact Wendy Stevens at 716-6877.

cc: Phil Woods
Melvinna Adams
Wendy Stevens/Turtle Creek Settlement File

RECEIVED
OCT 20 2022
FINANCIAL SERVICES



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

FINANCIAL SERVICES

OCT 20 2022

RECEIVED

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services

FROM: Wendy Stevens, Consumer Protection Finance Administrator

RE: Check Deposit
Turtle Creek

DATE: October 13, 2022

Attached are two cashier's checks totaling \$19,018.98 drawn on Bank of America from Gordon Engle as part of the Turtle Creek settlement.

Check #2895000394 for \$13,018.98
Check #2895000395 for \$6,000.00

Please deposit these funds into cost center 2140-2185 (Turtle Creek) account. If you have any questions, please contact me at 716-6877.

cc: Melvinna Adams

Dep#
490
BC 23600
10-26-2022

BANK OF AMERICA

Cashier's Check

No. 2895000394

VOID AFTER 90 DAYS
NINE

CORNELIUS

0532300

0006

Pay

Thirteen Thousand Eighteen and 08/100 Dollars

To The NORTH CAROLINA DEPARTMENT OF JUSTICE

Order Of

Reunited (Purchased By) GORDON ENGLE

Bank of America, N.A.
SAN ANTONIO TX

BANK OF AMERICA ONE THIRTEEN THOUSAND EIGHTEEN AND 10/100 DOLLARS

\$13,018.98

[Signature]

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

BANK OF AMERICA

Cashier's Check

No. 2895000395

Bank of America - In the front of this check, is a color, multi-layered security watermark and 30-day validity period. All be verified prior to replacement. This check contains no security features.

CORNELIUS

125 -0532380-007

Pay



\$6,000.00

Six Thousand and 00/100 Dollars

To The NORTH CAROLINA DEPARTMENT OF JUSTICE
Order Of

Remitter (Purchased By): GORDON ENGLE

Bank of America, N.A.
SAN ANTONIO, TX

[Signature]
AUTHORIZED SIGNATURE

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

00-53-3364B 06-2019

COPYRAN CAPTURED ANTI-FALSO PROTECTION



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services

FROM: Wendy Stevens, Consumer Protection Finance Administrator

RE: **Check Deposit**
Turtle Creek

DATE: January 11, 2023

Attached is a cashier's checks for \$230,000.00 drawn on Bank of America from Gordon Engle as part of the Turtle Creek settlement.

Please deposit these funds into cost center 2140-2185 (Turtle Creek) account. If you have any questions, please contact me at 716-6877.

cc: Melvinna Adams

BANK OF AMERICA

Cashier's Check

No. 0782019254

No Reciprocity: In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

30-17/1140

Date 01/10/23 02:34:20 PM

NTX

CORNELIUS

0030

0532300

0093

Pay



BANK OF AMERICA

TWO THREE ZERO ZERO ZERO ZERO CTSCTS

****\$230,000.00****

****Two Hundred Thirty Thousand and 00/100 Dollars****

To The NCAG
Order Of

Remitter (Purchased By): GORDON ENGLE

Bank of America, N.A.
SAN ANTONIO, TX

[Handwritten Signature]
AUTHORIZED SIGNATURE

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

October 18, 2022

NC Secretary of State
Attn: Priscilla Roberts
PO Box 29622
Raleigh, NC 27626-0622

RE: Gordon Scott Engle / Turtle Creek Assets Ltd. payment

Ms. Roberts,

Enclosed you will find a Cashier's Check drawn on Bank of America payable to the NC Secretary of State in the amount of \$1,475.00. This is the amount approved by the court in the Consent Judgment that settles our lawsuit against Gordon Scott Engle and his companies Turtle Creek Assets Ltd., Turtle Creek Rentals LLC, and Royal Park Holdings Inc.. These funds represent the registration fees that should have been paid to your office while doing business in NC.

A copy of the consent judgment is attached for your reference.

Please contact Phil Woods, pwoods@ncdoj.gov if you have any questions or concerns.

Thank you,

Wendy Stevens

Budget & Finance Administrator
Consumer Protection Division
wstevens@ncdoj.gov

Enclosures

cc: Phil Woods
Wendy Stevens/Turtle Creek Settlement File

Cashier's Check

No. 2895000396

BANK OF AMERICA

Void After 90 Days

30-1/1140

Date 10/04/22 12:14:22 PM

Notice to Purchaser: In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

CORNELIUS

725 0532300 008

Pay



BANK OF AMERICA

ONE FOUR SEVEN FIVE

SEVEN FIVE

ZERO ZERO

ZERO ZERO

\$1,475.00

One Thousand Four Hundred Seventy Five and 00/100 Dollars

To The Order Of NORTH CAROLINA SECRETARY OF STATE

Remitter (Purchased By): GORDON ENGLE

Bank of America, N.A.
SAN ANTONIO, TX

[Signature]
AUTHORIZED SIGNATURE



THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

FILED

737Z OCT 10 PM 1: 26

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
NO. 19 CVS 9339

STATE OF NORTH CAROLINA *ex rel*)
JOSHUA H. STEIN, Attorney General,)
Plaintiff,)
v.)
TURTLE CREEK ASSETS, LTD.,)
TURTLE CREEK RENTALS LLC,)
ROYAL PARK HOLDINGS, INC., and)
GORDON SCOTT ENGLE,)
Defendants;)

CONSENT JUDGMENT

THIS CAUSE came on to be heard and was heard before the undersigned Wake County Superior Court Judge for entry of a Consent Judgment between Plaintiff, State of North Carolina, by and through its Attorney General ("the State"), and Defendants Turtle Creek Assets, Ltd., Turtle Creek Rentals LLC, Royal Park Holdings, Inc., and Gordon Scott Engle (collectively "Defendants"). All parties are represented by counsel. The Court finds that the parties have resolved the matters in controversy between them and have agreed to the entry of this Consent Judgment by the Court without trial or adjudication of any issue of fact or law, and without finding or admission of wrongdoing or liability of any kind.

I. FINDINGS OF FACT

- 1.1 Plaintiff State of North Carolina is acting through its Attorney General, Joshua H. Stein, pursuant to authority granted in Chapters 75 and 114 of the North Carolina General Statutes.
- 1.2 Defendant Turtle Creek Assets, Ltd. is a Texas limited liability partnership.
- 1.3 Defendant Turtle Creek Rentals LLC ("TCR") is a Texas limited liability company.

1.4 Defendant Royal Park Holdings, Inc., is a Texas corporation.

1.5 Defendant Gordon Scott Engle is a resident of North Carolina and is the President and CEO of Turtle Creek Assets, Ltd., the Manager of Turtle Creek Rentals LLC, and the President of Royal Park Holdings, Inc.

1.6 The State filed this action on July 10, 2019. In its Complaint, the State alleged that Defendants violated the North Carolina Collection Agency Act, N.C. Gen. Stat. §§ 58-70-90, *et seq.*, the North Carolina Unfair and Deceptive Practices Act, N.C. Gen. §§ 75-1.1, *et seq.*, the North Carolina Business Corporation Act, N.C. Gen. Stat. § 55-15-01, the North Carolina Limited Liability Company Act, N.C. Gen. Stat. § 57D-7-01, and the North Carolina Uniform Partnership Act, N.C. Gen. Stat. § 59-91.

1.7 This Court entered a Consent Temporary Restraining Order ("TRO") on July 15, 2019, restraining Defendants, *inter alia*, from (a) engaging in debt collection activities without obtaining the appropriate certifications and registration from the North Carolina Secretary of State and the required permit(s) from the North Carolina Department of Insurance; and (b) engaging in any unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1.

1.8 This Court entered a Preliminary Injunction on July 24, 2019, continuing, clarifying, and amending the terms and conditions of the TRO entered on July 15, 2019.

1.9 Since that time, the Preliminary Injunction has been in effect pending further hearing or order of the Court.

1.10 Defendants deny the State's allegations described in paragraph 1.6 and as contained in the Complaint and any violations of law in the conduct of their business; however, Defendants wish to resolve this controversy without further proceedings and are therefore willing to agree to the entry of this Consent Judgment.

1.11 This Consent Judgment shall apply to all North Carolina consumer debt acquired by Defendants from Aaron's, Inc. since and including January 1, 2012 ("the Consumer Debt"). Defendants acknowledge that Defendants have made the following representations to the State regarding the Consumer Debt: (a) the Consumer Debt, in aggregate, is an amount of no less than Twenty-Two Million Nine Hundred Thirty-Four Thousand Seventy-Five and 17/100 Dollars (\$22,934,075.17), including outstanding principal, interest, fees, and charges; (b) that Defendants are the sole owners of the consumer debt, and that no others have any rights or claims to that debt; and (c) that Defendants have not referred, sold, assigned, or otherwise transferred the consumer debt to any collection agency or other third party.

II. CONCLUSIONS OF LAW

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

2.2 Venue is proper in Wake County.

2.3 The North Carolina Attorney General is the proper party to commence these proceedings under the authority of N.C. Gen. Stat. §§ 75-14 and 75-15, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of North Carolina.

2.4 This Consent Judgment shall be governed by the laws of the State of North Carolina.

2.5 Entry of this Consent Judgment is just and proper and in the public interest.

2.6 The State's Complaint states a cause of action against Defendants upon which relief may be granted; and the Court finds good and sufficient cause to adopt this agreement of the parties, and these findings of fact and conclusions of law, as the Court's determination of the parties' respective rights and obligations, and for entry of this Consent Judgment.

2.7 The parties have agreed to resolve their differences, and the agreement of the parties is just and reasonable with respect to all parties.

2.8 The Court approves the terms of the parties' agreement and adopts them as its own determination of the parties' respective rights and obligations.

III. INJUNCTIVE RELIEF

Based on the foregoing findings of fact and conclusions of law, **IT IS ORDERED, ADJUDGED, AND DECREED** that:

3.1 Defendants, their owner(s), subsidiaries, officers, agents, employees, successors, assigns, and any others acting in concert or under the actual direction or control of Defendants, are hereby permanently restrained and enjoined from:

- (A) acting as a "Collection Agency" as defined in N.C. Gen. Stat. § 58-70-15 or engaging in the collection agency business within the State of North Carolina;
- (B) engaging in any unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, including but not limited to the acts and practices outlined in N.C. Gen. Stat. §§ 58-70-95 through 58-70-115; and
- (C) disclosing, using, or benefitting from North Carolina 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 credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Consent Judgment; except that any Defendant may disclose such information in response to the following: a lawful order of a court of competent jurisdiction or other compulsory process; request from state or federal law enforcement agency; or requests from consumers whose accounts are the subject of this Consent Judgment.

3.2 Within thirty (30) days of the entry of this Consent Judgment, each entity-Defendant (meaning Turtle Creek Assets, Ltd., Turtle Creek Rentals LLC, and Royal Park Holdings, Inc.) shall file all North Carolina tax returns required under the North Carolina Revenue Act for the 2018 and 2019 tax years and shall remit any tax due as set forth therein. Each entity-Defendant shall be responsible for all additional tax, penalties, and interest assessed by the Secretary of Revenue within the statute of limitations, and nothing herein shall be deemed to waive or in any way preclude any examination or enforcement of the Revenue Act under any legal authority granted to the North Carolina Secretary of Revenue.

IV. DEBT RELIEF

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

4.1 The Consumer Debt shall be deemed forgiven, and all outstanding balances on that debt are hereby discharged and cancelled. Defendants shall have no further right to payment on, or to collect upon, such debt, including their associated fees, charges, and interest.

4.2 To avoid all doubt, the property that was the subject of the contracts underlying the Consumer Debt shall be free of any claim of right, title, or interest of Defendants following the entry of this Judgment.

4.3 For any of the Consumer Debt that Defendants reported or caused to be reported to a Consumer Reporting Agency ("CRA") prior to entry of this Consent Judgment, Defendants shall, within 60 days of entry of this Consent Judgment, request that each CRA delete any negative credit entries pertaining to such debt from the consumer's credit reporting file.

4.4 Defendants shall permanently cease collecting on all judgments obtained against any North Carolina consumer related to the Consumer Debt, and within 30 days of entry hereof, Defendants shall move the court of proper jurisdiction in each such instance to vacate the judgment on the basis of this Consent Judgment.

4.5 For any criminal case brought for nonpayment of Consumer Debt in which any Defendant was the complaining witness, Defendants shall cooperate fully with the impacted consumers, Courts, and local District Attorneys to have the matters dismissed or the consumers' records expunged, if requested to do so by the impacted consumer, Courts, or local District Attorneys. This paragraph shall apply to matters pending on the date of entry of this Consent Judgment, and those matters in which the consumer was convicted of a crime prior to entry of this Consent Judgment.

4.6 Defendants shall, within 180 days after entry of this Consent Judgment, provide a signed declaration to the North Carolina Attorney General attesting that they have complied with the requirements of §§ 4.3 through 4.5 herein. Attached to the declaration, Defendants shall provide a list of the following:

4.6.1 The name, account number, last known mailing address, and last known phone number of each consumer whose CRAs received the negative credit deletion request required in § 4.3 above.

4.6.2 The consumer name, account number, last known mailing address, last known phone number, county where filed, and docket number of each case in which Defendants moved to vacate judgment as required by § 4.4 above.

4.6.3 The consumer name, account number, last known mailing address, last known phone number, county where filed, and docket number of each case in which Defendants cooperated fully with the impacted consumers, Courts, and local District Attorneys to have the matters dismissed or the consumers' records expunged, as required by § 4.5 above.

4.7 For a period of at least three years from entry hereof, Defendants shall retain copies of all documents, including but not limited to, all communications with consumers, CRAs, Court

personnel, law enforcement agencies, and District Attorneys' offices related to Defendants' compliance with this Consent Judgment. Defendants shall provide the North Carolina Attorney General with copies of these compliance documents within thirty days of the Attorney General's written request for the documents.

4.8 In the event that a third party attempts to collect on, or asserts any right or claim to, any of the Consumer Debt or property that was the subject of the Consumer Debt's underlying contracts, against any consumer, Defendants shall promptly indemnify and hold those consumers harmless against all such claims.

4.9 Defendants shall fully cooperate with the Attorney General in good faith in providing information and assistance reasonably requested by the Attorney General in responding to consumer inquiries and ensuring that the Defendants' obligations under this Consent Judgment are timely fulfilled.

V. MONETARY RELIEF

5.1 Consumer Restitution. Defendants shall pay the sum of Two Hundred Twenty-Three Thousand Eighteen and 98/100 Dollars (\$223,018.98) to the Attorney General as consumer restitution to be paid by the Attorney General to each consumer who is entitled to a refund of that portion of the Consumer Debt that the consumer paid to Defendants. Defendants shall pay the above sum to the Attorney General via cashier's check or other certified funds made payable to the "North Carolina Department of Justice" as follows: Defendants shall pay the initial sum of Thirteen Thousand Eighteen and 98/100 Dollars (\$13,018.98) on or before the date of entry hereof; and the remaining balance of Two Hundred Ten Thousand Dollars (\$210,000.00) shall be paid within ninety (90) days of entry hereof.

5.2 Attorney Fees and Investigative Costs. Defendants shall pay Twenty Thousand Dollars (\$20,000) to the North Carolina Attorney General. This payment shall be used for attorney

fees, investigative costs, consumer restitution, consumer protection enforcement, other consumer protection purposes, and other purposes allowed by law, at the discretion of the Attorney General. Defendants shall pay said sum to the Attorney General via cashier's check or other certified funds made payable to the "North Carolina Department of Justice" within ninety (90) days of entry hereof.

5.3 Civil Penalties For Violations of Business Registration Acts. On or before the date of entry hereof, Defendants Turtle Creek Assets, Ltd., Turtle Creek Rentals LLC, Royal Park Holdings, Inc. shall each pay civil penalties to the State in the amount of Two Thousand Dollars (\$2,000), comprised of One Thousand dollars (\$1,000) per year, or part thereof, in which it transacted business in this State without having registered in violation of the Business Corporation Act, the North Carolina Limited Liability Company Act, or the North Carolina Uniform Partnership Act, as applicable, pursuant to N.C. Gen. Stat. §§ 55-15-02(d), 57D-702(b), and 59-92(d), respectively (total due from all three entities = \$6,000). Defendants Turtle Creek Assets, Ltd., Turtle Creek Rentals LLC, Royal Park Holdings, Inc. shall pay said sums to the Attorney General via cashier's check or other certified funds made payable to the "North Carolina Department of Justice"

5.4 Civil Penalties for Unfair and Deceptive Trade Practices. Defendants shall pay an additional One Hundred Twenty-Five Thousand Dollars (\$125,000.00) in civil penalties for violations of the Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1; the liability for this payment shall be joint and several. The State's collection of the \$125,000.00 is suspended during the time of Defendants' full compliance with the Consent Judgment. If, at any time, this Court finds that Defendants have violated the terms of this Consent Judgment, this penalty shall be immediately due to the State.

5.5 Registration and Filing Fees.

5.5.1 On or before the date of entry hereof, Defendant Royal Park Holdings, Inc., shall pay business registration fees in the amount of three hundred dollars (\$300), comprised of the Application for Certificate of Authority fee of two hundred fifty dollars (\$250) and the Annual Report filing fee of twenty-five dollars (\$25) per year, or part thereof, in which it transacted business in this State without having registered.

5.5.2 On or before the date of entry hereof, Defendant Turtle Creek Rentals, LLC, shall pay business registration fees in the amount of six hundred fifty dollars (\$650), comprised of the Application for Certificate of Authority fee of two hundred fifty dollars (\$250) and the Annual Report filing fee of two hundred dollars (\$200) per year, or part thereof, in which it transacted business in this State without having registered.

5.5.3 On or before the date of entry hereof, Defendant Turtle Creek Assets, Ltd., shall pay business registration fees in the amount of five hundred twenty-five dollars (\$525), comprised of the Application for Registration as a Foreign Limited Liability Partnership fee of one hundred twenty-five dollars (\$125) and the Annual Report filing fee of two hundred dollars (\$200) per year, or part thereof, in which it transacted business in this State without having registered.

5.5.4 Payment of the Fees provided in ¶¶ 5.5.1 through 5.5.3 (total = One Thousand Four Hundred Seventy-Five Dollars (\$1,475)) shall made to the Attorney General via cashier's check or other certified funds made payable to the "North Carolina Secretary of State" on or before the date of entry hereof, which in turn the Attorney General shall deliver to the North Carolina Secretary of State.

VI. GENERAL PROVISIONS

6.1 Other State Governmental Entities. This Consent Judgment shall not bind any other offices, boards, commissions, or agencies of the State of North Carolina, and nothing in this

Consent Judgment shall in any way preclude any investigation or enforcement under any legal authority granted to the State, for transactions not subject to this action. Notwithstanding the foregoing, nothing herein shall be deemed to waive or in any way preclude any examination or enforcement of the Revenue Act under any legal authority granted to the North Carolina Secretary of Revenue, for any transaction.

6.2 Retention of Jurisdiction. The Court retains jurisdiction over this action to take any further action deemed necessary to enforce this Consent Judgment, including imposition of penalties, and to award the State judgments for any costs, including reasonable attorney's fees, it incurs in the event of material noncompliance by Defendants.

6.3 No Sanction of Business Practices. Defendants shall not represent directly or indirectly or in any way whatsoever that the Court or the Attorney General has sanctioned, condoned, or approved any part or aspect of Defendants' business operations.

6.4 Release of Claims. This Consent Judgment fully resolves all legal claims and issues raised or that could have been raised in the State's Complaint against Defendants for their activities up to the date of this Consent Judgment. The State's entry into this Consent Judgment is premised on the documents previously produced by Defendants to the State represented by Defendants as accurately summarizing all of the Consumer Debt. Defendants acknowledge that the documents produced and representations made to the State are a material part of the consideration for the Attorney General to enter into this Consent Judgment. If it is discovered that any of the documents or representations are false, the State will be entitled to seek appropriate remedies from the Court, including but not limited to restitution, disgorgement, civil penalties, attorneys' fees, and any other relief allowed by law.

6.5 Private Right of Action. Nothing in this Consent Judgment shall be construed to affect any private right of action that a consumer, person, entity, or any governmental entity may hold against Defendants, nor shall this Consent Judgment confer any rights upon, or be enforceable by, any persons or entities besides the State and the Defendants. The State may not assign or otherwise convey any right to enforce any provision of this Consent Judgment.

6.6 Denial and No Admission. Defendants deny that they and/or their employees, officers, directors, subsidiaries, founders, and/or owners have violated any statute, regulation, decision, or other source of law. Defendants are entering into this Consent Judgment for the purpose of compromising and to avoid the time, expense, burden, and uncertainty associated with continuing litigation, and to address the State's concerns with Defendants' business practices. It is expressly agreed that this Consent Judgment is not admissible in any proceeding (except in a dispute between the State and any Defendant regarding compliance with the Judgment), and it is also expressly agreed and understood that nothing contained in this Consent Judgment may be taken as or construed to be an admission or concession of any liability, wrongdoing, or violation of any source of law, or of any other matter of fact or law. This Consent Judgment is not intended to be used or admissible in any unrelated administrative, civil, or criminal proceedings. Defendants do not waive any defenses they may raise elsewhere in other litigation or matters.

6.7 Regulation of Other Conduct. Nothing in this Consent Judgment is intended to relieve Defendants of their responsibility to comply with all applicable North Carolina laws.

6.8 IRS Reporting. On or before the date of entry hereof, each payor Defendant shall submit a completed NC Sub W-9 Form to the North Carolina Attorney General for use in issuing the Form 1098-F required by the Internal Revenue Service.

19 CUS 9339

SO ORDERED.

This the 10th day of October, 2022.


Superior Court Judge

CONSENTS FOLLOW ON NEXT PAGE

**THE UNDERSIGNED PARTIES HEREBY CONSENT TO THE
TERMS AND CONDITIONS OF THIS CONSENT JUDGMENT AS
SET FORTH ABOVE, AND HEREBY CONSENT TO ENTRY
THEREOF:**

PLAINTIFF:

STATE OF NORTH CAROLINA, *ex rel.* JOSHUA H. STEIN, ATTORNEY GENERAL

[REDACTED]

By Phillip K. Woods Special Deputy Attorney General
NC Bar No. 18439

DEFENDANTS:

[REDACTED]

SEP 26, 2022

By Gordon Scott Engle Individually and in his Capacity as President and CEO of Turtle
Creek Assets, Ltd., Manager of Turtle Creek Rentals, LLC; and President of Royal Park
Holdings, Inc.

COUNSEL FOR DEFENDANTS:

[REDACTED]

By William McKinney
HAYNSWORTH SINKLER BOYD, P.A.
NC Bar No.: 46254
Date: September 26, 2022



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services

FROM: Jasmine McGhee, Senior Deputy Attorney General *Jasmine S. McGhee*

RE: Deposit Distribution
Indivior Inc.

DATE: September 12, 2023

Pursuant to the Stipulated Final Judgment reached in the multi-state antitrust litigation against Indivior plc and Indivior Inc. f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (collectively known as "Indivior"), a wire in the amount of \$2,966,417.42 was deposited with Financial Services on August 29, 2023 into cost center 2140-2193.

In 2016 the States filed a complaint against Indivior Inc. alleging they used illegal means to impede competition from generic equivalents of the brand-name drug Suboxone. In particular, Indivior attempted to switch the Suboxone market from tablets to film and to destroy the market for tablets in order to preserve their drug monopoly.

As a result of the settlement, Indivior agreed to pay \$102,500,000.00 to the States, of which North Carolina received \$2,966,417.42. This payment may be used for any one or more of the following purposes, by the Attorneys General as they, in their sole discretion, see fit: payment of attorneys' fees and expenses; antitrust or consumer protection law enforcement; for deposit into a state antitrust or consumer protection account (e.g. revolving account, trust account), for use in accordance with the state laws regarding that account; for deposit into a fund exclusively dedicated to assisting the state attorneys general enforce the antitrust laws by defray the costs of a) experts, economists, and consultants in multistate antitrust investigations and litigation, b) training or continuing education in antitrust for attorneys in state attorney general offices, or c) information management systems used in multistate antitrust investigations and litigation; or for any other purpose as the Attorneys General deem appropriate, consistent with the various states' laws.

Additionally, Indivior agreed to a number of provisions designed to ensure that they will refrain from engaging in the same kind of conduct alleged.

A copy of the settlement agreement and deposit details are attached. If you have any questions, please contact Wendy Stevens at 716-6877.

cc: Kim D'Arruda
Jessica Sutton
Melvinna Adams
Wendy Stevens/Indivior Inc Settlement File



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Janice Boyce, Financial Services

FROM: Wendy Stevens, Consumer Protection Finance Administrator

RE: Deposit
Indivior Inc. (Suboxone)

DATE: August 29, 2023



Attached is a copy of the wire confirmation in the amount of \$2,966,417.42 received by Financial Services on 8/29/23 relating to the lawsuit against Indivior Inc and the multistate Suboxone investigation.

This represents net settlement proceeds, a return of cost share contributions, and attorneys fees related to the case.

Please deposit the funds into cost center 2140-2193 (Indivior Inc.).

If you have any questions, please contact me at 716-6877.

cc: Melvinna Adams
Jess Sutton
Kim D'Arruda
Wendy Stevens / Indivior Settlement File



Previous Day Composite Report

Standard Previous Day Composite Report

As of 08/28/2023

Company: NC DEPARTMENT OF STATE TREASURER

08/29/2023 07:38 AM ET

Commercial Electronic Office®

Treasury Information Reporting

Currency: USD

WELLS FARGO BANK, N.A.
NORTH CAROLINA DEPARTMENT OF STATE TREASURER

Balances

Closing Ledger Balance	
Closing Collected Balance	
Opening Available Balance	
One Day Float	
Two+ Day Float	
MTD Average Closing Ledger Balance	
MTD Average Closing Collected Balance	
Total Credits	2,966,417.42
Total Debits	2,966,417.42
Total Number Credits	1
Total Number Debits	1

Summaries

Type of Credit	Number of Items	Amount
Total ACH Credits	1	2,966,417.42
Credit Totals	1	2,966,417.42
Type of Debit	Number of Items	Amount
Total ZBA Debits	1	2,966,417.42
Debit Totals	1	2,966,417.42

Credit Transactions

8/28/2023	169 / MISCELLANEOUS ACH CREDIT	Credit Amount:	2,966,417.42
	Cust Ref: 000000000000	Bank Ref: IA000013834050	
	Unique ID: 00000091004559361335		
	STATE OF MAINE ACCTSPAY 230824 202308249368784 NTE*08182023CPT3 *08182023CPT3 *		

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE SUBOXONE (BUPRENORPHINE
HYDROCHLORIDE AND NALOXONE)
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

Wisconsin, et. al. v. Indivior Inc. et. al.

MDL No. 2445

Master File No. 2:13-MD-2445-MSG

Case No. 2:16-cv-5073-MSG

STATE OF WISCONSIN et. al.

Plaintiffs,

v.

Indivior Inc. f/k/a Reckitt Benckiser
Pharmaceuticals, Inc., et. al.

Defendants.

Civ. A. No. 16-cv-5073

**STIPULATED FINAL JUDGMENT
AND DISMISSAL WITH PREJUDICE**

Plaintiff States filed their Complaint in this matter pursuant to 15 U.S.C. §§ 1 and 2, 15 U.S.C. § 26 and their respective state laws. The Plaintiff States and Defendant Indivior Inc., by their respective attorneys, have reached an agreement to resolve this case through settlement, and without trial or final adjudication of any issue of fact or law, and stipulate to entry of this Stipulated Final Judgment and Dismissal with Prejudice (“Order”) to resolve all matters in dispute in this Action.

FINDINGS

1. The Court has jurisdiction over the subject matter and the parties to this Action for the purpose of entering into and enforcing this Order. Jurisdiction is retained by this Court for the purpose of enabling the Plaintiff States or Indivior to enforce this Order.

2. Venue for this matter is proper in this Court under 15 U.S.C. § 22 and 28 U.S.C. § 1391(b) and (c).

3. The Complaint alleges that Indivior engaged in violations of the Sherman Act and violations of the laws of the Plaintiff States, by engaging in anticompetitive activities designed to impede competition from generic equivalents of the brand-name drug Suboxone. Indivior disputes these allegations.

4. This Order does not constitute any evidence against Indivior, or an admission of liability or wrongdoing by Indivior in this case or in other litigation. Rather, the terms of this Order reflect a negotiated compromise, entered into as a means to resolve contested issues without the burdens of litigation. This Order shall not be used in any way, as evidence or otherwise, in any other litigation or proceeding; provided that, nothing in this provision prevents the Plaintiff States or Indivior from using this Order in any proceeding regarding enforcement of this Order or as otherwise required by law.

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

STIPULATIONS

1. Indivior and Plaintiff States, by and through their counsel, have agreed that entry of this Order fully and finally resolves the Released Claims, including all issues between the parties arising from the specific events giving rise to the allegations described in the Complaint, and

precludes further litigation between Plaintiff States and Indivior regarding the Released Claims, except for the purposes of enforcing this Order.

2. Indivior admits the facts necessary to establish personal and subject matter jurisdiction of this Court in this matter.

3. Indivior denies the charges in the Complaint and disputes that the Plaintiff States are entitled to obtain relief.

4. Indivior and Plaintiff States stipulate that they shall comply with the provisions of this Order pending its entry by the Court.

5. Indivior and Plaintiff States stipulate that they will bear their own costs in this matter and shall not make any claims against the other party for attorney's fees or costs.

6. Indivior and Plaintiff States waive all rights to appeal or otherwise challenge or contest the validity of this Order.

7. The obligations set out below relate solely to business operations within the Plaintiff States.

DEFINITIONS

1. “505(b)(2) Application” means an application filed with the United States Food and Drug Administration pursuant to Section 505(b)(2) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(b)(2).

2. “Action” means Civil Action Number 2:16-CV-5073 (MSG), consolidated into MDL No. 13-MD-2445 in the United States District Court for the Eastern District of Pennsylvania.

3. “ANDA” means Abbreviated New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(j) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(j).

4. “Authorized Generic” means a Drug Product that is manufactured pursuant to an NDA and Marketed in the United States under a name other than the proprietary name identified in the NDA.

5. “Citizen Petition” means a public request that the FDA issue, amend, or revoke a regulation or order or take or refrain from taking any other form of administrative action pursuant to 21 C.F.R. § 10.30.

6. “Commerce” has the same definition it has in 15 U.S.C. § 44.

7. “Complaint” means any complaint filed by the Plaintiff States in Civil Action Number 2:16-CV-5073 (MSG), consolidated into MDL No. 13-MD-2445 in the United States District Court for the Eastern District of Pennsylvania, including but not limited to the First Amended Complaint.

8. “Control” or “Controlled” means the holding of more than 50% of the common voting stock or ordinary shares in, or the right to appoint more than 50% of the directors of, or any other arrangement resulting in the right to direct the management of, the said corporation, company, partnership, joint venture, or entity.

9. “Direct Cost” means the variable costs incurred to produce or sell an Original Drug Product or Follow-on Drug Product, including the costs of ingredients and manufacturing, as well as the costs of marketing that product. The term Direct Cost does not include any allocation of overhead costs, administrative costs, research and development costs, or any other fixed costs.

10. “Drug Product” means a finished dosage form (e.g., tablet, capsule, solution, or patch) as defined in 21 C.F.R. § 314.3(b), approved under a single NDA, ANDA, or 505(b)(2) Application, and available by prescription, that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients. Notwithstanding the foregoing, the

term Drug Product, as used in this Order, shall not include products that are predominantly purchased over-the-counter ("OTC") in the United States.

11. "Effective Date" means the day that this Order is entered by the Court.

12. "Effective Price" means the net price paid by a payor for a Drug Product, taking into account all discounts, refunds, reimbursements, and rebates.

13. "FDA" means the U.S. Food and Drug Administration.

14. "Follow-on Drug Product" means a Drug Product a) for which Indivior has submitted an NDA, controls an approved NDA, or has the right to distribute in the United States; b) that contains an active ingredient that is (i) the same as an active ingredient in a previously approved Original Drug Product, or (ii) an isomer, salt form variant, or metabolite of an active ingredient in a previously approved Original Drug Product; and c) that treats the same condition or targets the same patient population as the previously approved Original Drug Product. Notwithstanding the foregoing, for purposes of this Order, the term Follow-on Drug Product shall not include an Authorized Generic version of the Original Drug Product.

15. "Indivior" means Defendant Indivior Inc.

16. "Liaison States" means the States of Wisconsin and the State of Utah. All documentation provided to liaison states should be addressed to:

State of Wisconsin- Office of the Attorney General
Attn: Public Protection Unit (Antitrust)
17 W. Main St.
Madison, WI
Gwendolyn.Cooley@wisconsin.gov

And

State of Utah- Office of the Attorney General
Attn: Antitrust and Data Privacy Section
160 E 300 S, 5th Floor
PO BOX 140830

Salt Lake City, UT 84114-0830
dsonnenreich@agutah.gov
mwmartin@agutah.gov

17. “Market,” “Marketed,” or “Marketing” means the promotion, offering for sale, sale, or distribution of a Drug Product.

18. “Monetary Payment” means the amount that Indivior will pay the States via the method specified in Section III, “MONETARY PAYMENT”.

19. “NDA” means a New Drug Application filed with the United States Food and Drug Administration pursuant to Section 505(b) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(b), including all changes or supplements thereto that do not result in the submission of a new NDA.

20. “Opioids Litigation” means any claims or potential claims related to the subject matter of *In Re: National Prescription Opiate Litigation*, Case No. 1:17-md-2804, MDL 2804 (Northern District of Ohio), in that or any other venue.

21. “Original Drug Product” means a Drug Product that is Marketed in the United States and for which Indivior controls the NDA or has the right to distribute in the United States.

22. “Released Claims” means any and all civil or administrative causes of action or claims whatsoever, in law or equity, that the Plaintiff States had as of the date of the Order, that were or could have been raised in this Action under any statute or common law, related to the facts alleged in the Complaint or alleged anticompetitive conduct related to Suboxone Film, including but not limited to claims for injunctive relief, damages, disgorgement, civil penalties, legal fees, and costs; provided, however that “Released Claims” do not include: (i) claims alleging a violation of this Order; (ii) Opioid Litigation claims; (iii) environmental claims; (iv) claims of political subdivisions to the extent that the Plaintiff States lack legal authority to release such claims; and

(v) claims related to any potential tax liability. Nothing in this Order, however, shall be construed to waive or otherwise limit Indivior's arguments or defenses regarding claims released by the Plaintiff States in other agreements, including but not limited to claims excluded from the definition of Released Claims.

23. "Person" means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, or other business, and any subsidiaries, divisions, groups, or affiliates thereof.

24. "Plaintiff States" means the District, Commonwealth, or State of Wisconsin, Alabama, Alaska, Arkansas, California, Colorado, the District of Columbia, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and West Virginia, who are Plaintiff States in Civ. A. No. 16-CV-5703 (Eastern District of Pennsylvania). Plaintiff States does not mean the Federal government or individual consumers.

25. "Released Entities" means Indivior Inc., Indivior PLC, Indivior Solutions, and any joint venture, subsidiary, division, group, predecessor, successor, or affiliate that could be liable for any acts of the foregoing named entities, along with all directors, officers, employees, and agents of the same.

26. "Status Quo Period" means a period beginning the day Indivior begins Marketing a Follow-on Drug Product in the United States and ends on the earlier of (i) six (6) months after a Third Party begins Marketing a Drug Product approved under an ANDA or 505(b)(2) Application for which the Original Drug Product is the reference listed drug, or (ii) three (3) years after the day

Indivior or a licensee of Indivior begins Marketing the Follow-on Drug Product in the United States.

27. “Third Party” means any Person other than Plaintiff States or Indivior.

I. PROHIBITED ACTIVITY: CITIZEN PETITION PROCESS

If Indivior files a Citizen Petition, Indivior shall simultaneously disclose such filing to both the FDA and the Liaison States:

- A. All studies and data on which the Citizen Petition relies; and
- B. All studies and data within the knowledge or possession of Indivior that address the validity or strength of one or more of the material contentions in the Citizen Petition

II. PROHIBITED ACTIVITY: PRODUCT SWITCHING CONDUCT

A. Indivior shall provide a notification to the Liaison States thirty (30) calendar days after Indivior files an NDA for a Follow-on Drug Product in the United States. This notification shall include, *inter alia*, the following information: (i) a reference to this Order, (ii) the NDA number for the Follow-on Drug Product, and (iii) the associated Original Drug Product and NDA number under which it was approved.

B. Indivior shall provide a second notification to the Liaison States six (6) months before the date specified for FDA approval of the Follow-on Drug Product under the Prescription Drug User Fee Act. This notification shall reference this Order and the previous notification submitted as required in the above Section II.A for the Follow-on Drug Product. Indivior shall submit the following documents and information with the notification:

- 1. Documents sufficient to show the company’s pricing plans for the Original Drug Product and Follow-on Drug Product;

2. Documents sufficient to show the forecasted sales for the Original Drug Product and Follow-on Drug Product;
3. Transcripts of any of the Indivior's investor calls during the prior twelve months that discuss the Follow-on Drug Product;
4. A statement of all claimed benefits of the Follow-on Drug Product compared to the Original Drug Product; and
5. A statement of whether Indivior intends to materially alter the terms on which it sells the Original Drug Product, and, if so, identification of these terms, and all reasons for materially altering them.

C. If, on the date when Indivior or its licensee begins Marketing a Follow-on Drug Product in the United States, a Third Party has submitted an ANDA or 505(b)(2) Application for which the Original Drug Product is the reference listed drug, then during the Status Quo Period, Indivior shall be prohibited from:

1. Destroying inventory or withdrawing from the market any strength or formulation of the associated Original Drug Product; provided, however, Indivior may destroy Drug Product that has passed its Saleable Expiration Date.
2. Failing to fill orders for the Original Drug Product on the same terms and conditions (except for those terms and conditions relating to Effective Price, which are addressed below in Section II.C.3) within the same time frame and with the same convenience as are orders for the Follow-on Drug Product. For the avoidance of doubt, this clause does not prohibit Indivior from offering different terms or conditions for a given Original Drug

Product or Follow-on Drug Product to different customers, so long as each customer is offered the same terms and conditions for the Original Drug Product as for the Follow-on Drug Product.

3. Offering an Effective Price for the associated Original Drug Product to any Customer that is higher than the Effective Price Indivior offers to that Customer for the Follow-on Drug Product;

Provided, however, this prohibition does not apply (a) if the Effective Price of the Original Drug Product is not increased by more than the corresponding increase in the prescription drug price component of the Consumer Price Index at any time during the eighteen (18) months prior to introduction of the Follow-on Drug Product or during the Status Quo Period; or (b) if the difference in Effective Price is attributable solely to a difference in the Direct Costs of the products.

4. Deleting the National Drug Code for the associated Original Drug Product from the National Drug Data File;

Provided, however, that Indivior shall have no obligations under Section II.C with respect to an Original Drug Product: (a) for which the associated Follow-on Drug is no longer Marketed in the United States, or (b) that the FDA has determined should no longer be Marketed in the United States because of safety concerns. Indivior may recall and destroy products consistent with 21 C.F.R. Part 7, Subpart C; may take reasonable steps to protect safety in the event of manufacturing defects; and may take any action that is requested by FDA;

Provided further, for clarity, this Section II.C does not apply to Sublocade because any relevant Status Quo Period with respect to that Drug Product has ended.

III. MONETARY PAYMENT

Indivior will pay to the Plaintiff States a Monetary Payment in the amount of \$102,500,000 (One Hundred Two Million, Five Hundred Thousand Dollars) before the latter of (i) thirty (30) days after the Effective Date or (ii) ten (10) days after receiving complete wire instructions and any related verifications from the Plaintiff States. Such payment shall be made via electronic deposit to the State of Maine, who will distribute such funds to the Plaintiff States. Such Monetary Payment is provided for the purpose of settlement only, and constitutes neither a penalty nor a fine. The payment may be used for any one or more of the following purposes, by the Attorneys General as they, in their sole discretion, see fit:

- A. payment of attorneys' fees and expenses;
- B. antitrust or consumer protection law enforcement;
- C. for deposit into a state antitrust or consumer protection account (e.g., revolving account, trust account), for use in accordance with the state laws governing that account;
- D. for deposit into a fund exclusively dedicated to assisting state attorneys general enforce the antitrust laws by defraying the costs of a) experts, economists, and consultants in multistate antitrust investigations and litigation, b) training or continuing education in antitrust for attorneys in state attorney general offices, or c) information management systems used in multistate antitrust investigations and litigation; or
- E. for any other purpose as the attorneys general deem appropriate, consistent with the various states' laws.

Plaintiff States agree to notify Indivior of the amount of any Monetary Payment paid to class members in MDL No. 13-MD-2445 in the United States District Court for the Eastern District of Pennsylvania, if any.

IV. NOTIFICATION REQUIREMENT

Indivior shall notify the Liaison States within 30 calendar days of starting to Market, either directly or through a licensee, Drug Products in the United States by:

- A. Receiving FDA approval to Market a Drug Product in the United States;
- B. Acquiring Control of a Person that has FDA approval to Market a Drug Product in the United States; or
- C. Acquiring or licensing a Drug Product that, at the time of such acquisition, has FDA approval to be Marketed in the United States.

V. REPORTING REQUIREMENTS

Indivior shall submit to the Liaison States all reports required under Section V of the Stipulated Order for Permanent Injunction and Equitable Monetary Relief (ECF No. 5) entered in *Federal Trade Commission v. Indivior Inc.*, 1:20-cv-00036-JPJ-PMS (W.D. Va.).

VI. CHANGE OF CORPORATE CONTROL

- A. Indivior shall notify Liaison States at least 30 calendar days prior to:
 - 1. Any proposed dissolution of Indivior;
 - 2. Any proposed acquisition, merger, or consolidation of Indivior; or
 - 3. Any other change in Indivior, including, but not limited to, assignment and the creation, sale or dissolution of subsidiaries, if such change might affect the compliance obligations arising out of this Order.

B. No information or documents obtained by the means provided in Section VI shall be divulged by the Plaintiff States to any person other than an authorized representative of the Plaintiff States, except in the course of a legal proceeding regarding enforcement of this Order, or as otherwise required by law.

C. If any Plaintiff State receives a request to divulge information provided by Indivior under Section VI.A to any person other than an authorized representative of the Plaintiff States (whether pursuant to a Freedom of Information Act, a Sunshine law, a subpoena, or otherwise), the Plaintiff State shall notify Indivior of this request as soon as practicable, consistent with the shorter of 21 days' notice or the notice provided by state law, before any such disclosure is made.

VII. ACCESS TO INFORMATION

A. For the purpose of determining or securing compliance with this Order and subject to any legally recognized privilege or any applicable privacy laws and regulations, Indivior shall, upon reasonable notice and in response to a written request by any of the Plaintiff States:

1. Provide the requesting Plaintiff State with documents and other electronically-stored information in Indivior's possession, custody, or control, that are relevant to compliance under the Order; and
2. Permit the requesting Plaintiff State to interview officers, directors, or employees of Indivior, who may have counsel (representing the Indivior, the individual, or both) present, regarding matters that are relevant to compliance under the Order.

B. No information or documents obtained by the means provided in this Section VII shall be divulged by the Plaintiff States to any person other than an authorized representative of

the Plaintiff States, except in the course of a legal proceeding regarding enforcement of the Order, or as otherwise required by law.

C. If any Plaintiff State receives a request to divulge information provided by Indivior under Section VII.A to any person other than an authorized representative of the Plaintiff States (whether pursuant to a Freedom of Information Act, a Sunshine law, a subpoena, or otherwise), the Plaintiff State shall notify Indivior of this request as soon as practicable, consistent with the shorter of 21 days' notice or the notice provided by state law, before any such disclosure is made.

VIII. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter for purposes of enforcing this Order. Should a Plaintiff State or Indivior have a reasonable basis to believe that a party has engaged in a practice that violates a provision of this Order subsequent to the Effective Date, then such Plaintiff State or Indivior shall notify the party in writing of the specific objection, identify with particularity the provision of this Order that the practice appears to violate, and give the party thirty (30) days to respond to the notification before seeking relief from this Court.

IX. EXPIRATION OF THE ORDER

Unless otherwise specified in this Order, Sections I, II, IV, V, VI, and VII of this Order shall expire upon expiration of the Stipulated Order for Permanent Injunction and Equitable Monetary Relief (ECF No. 5) entered in *Federal Trade Commission v. Indivior Inc.*, 1:20-cv-00036-JPJ-PMS (W.D. Va.).

X. DISMISSAL AND RELEASE OF CLAIMS

This Action and Complaint are hereby dismissed with prejudice and each party shall bear its own costs.

In exchange for the Monetary Payment and agreement to abide by the terms contained in this Order, the Plaintiff States hereby fully and forever release and discharge the Released Entities from the Released Claims.

This Order and legal process to enforce the terms of this Order shall provide the sole and exclusive remedy for any and all Released Claims, and the Plaintiff States shall be forever barred from initiating, asserting, maintaining, or prosecuting any and all Released Claims against Indivior. Plaintiff States expressly waive, solely with respect to the Released Claims, any and all rights and benefits conferred by Section 1542 of the California Civil Code or similar state laws. Plaintiff States may hereafter discover facts other than or different from those which it knows or believes to be true with respect to the Released Claims, but Plaintiff States hereby expressly release any known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

XI. ADDITIONAL PROVISIONS

A. All required notices to the Liaison States under this Order may be made by electronic mail to the addresses set forth in the definition of Liaison States. All required notices to Indivior under this Order shall be made by both regular and electronic mail to the following addresses:

Indivior, Inc.
Attn: Chief Legal Officer
10710 Midlothian Tpke
Suite 125
North Chesterfield, VA 23235
Legal@indivior.com

Both the Plaintiff States and Indivior may change the addresses for notice by providing written notice of the updated addresses to the other party.

B. This Order may be modified or amended only by a written stipulation of the Parties as approved by the Court.

C. Indivior shall not knowingly cause a third party to engage in practices prohibited by this Order on its behalf.

D. Any failure by any party to this Order to insist upon the strict performance by any other party of any of the provisions of this Order shall not be deemed a waiver of any of the provisions of this Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Order.

E. This Order represents the full and complete terms of the settlement entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of this Order and no prior versions of any of its terms that were not entered by the Court in this Order, may be introduced for any purpose whatsoever.

F. This Order may be executed in counterparts, and an electronic signature shall be deemed to be, and shall have the same force and effect as, an original signature.

ORDER

And now on this [13th] day of June 2023, pursuant to and upon consideration of the Stipulated Final Judgment and Dismissal with Prejudice is APPROVED and SO ORDERED.

It is further ORDERED that having resolved all claims against the last remaining Defendant and pursuant to the provisions of Rule 41.1(b) of the Local Rules of Civil Procedure, Civil Action No. 16-cv-5073 is DISMISSED with prejudice, without costs.

BY THE COURT:

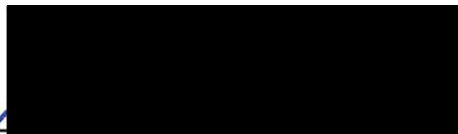
/s/ Mitchell S. Goldberg
Judge Mitchell S. Goldberg

FOR INDIVIOR INC.



Jeff Burris
Director and Secretary
10710 Midlothian Tpke
Suite 125
North Chesterfield, VA 23235

FOR THE STATE OF WISCONSIN
JOSHUA L. KAUL
ATTORNEY GENERAL



By: 
Gwendolyn J. Lindsay Cooley
Assistant Attorney General
17 W. Main St
PO Box 7857
Madison, WI 53707-7857

Wisconsin v. Indivior, Case No. 16-CV-5073

May 26, 2023

STATE OF ALABAMA

STEVE MARSHALL, ATTORNEY GENERAL

By: 

Olivia W. Martin

Assistant Attorney General

Alabama Office of the Attorney General

501 Washington Ave., Montgomery, AL 36103

Wisconsin v. Indivior, Case No. 16-CV-5073
May 31, 2023

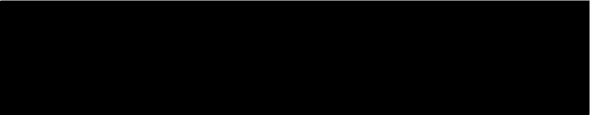
STATE OF ALASKA
TREG TAYLOR, ATTORNEY GENERAL

By: /s/ Ian Engelbeck
Ian R. Engelbeck
Assistant Attorney General
Alaska Department of Law
Special Litigation Section
1031 West 4th Ave., Suite 200
Anchorage, AK 99501

Attorney for Plaintiff State of Alaska

FOR PLAINTIFF STATE OF ARKANSAS:

TIM GRIFFIN
ATTORNEY GENERAL



AMANDA J. WENTZ
Ark. Bar No. 2021066
Assistant Attorney General
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-1178
Amanda.Wentz@ArkansasAG.gov

Attorney for Plaintiff State of Arkansas

1 ROB BONTA
2 Attorney General of California
3 PAULA BLIZZARD
4 Senior Assistant Attorney General

5 */s/ Quyen D. Toland*
6 QUYEN D. TOLAND
7 Deputy Attorney General
8 Office of the Attorney General
9 455 Golden Gate Ave., Suite 11000
10 San Francisco, CA 94102-7004
11 Tel.: (415) 510-3534
12 E-mail: Quyen.Toland@doj.ca.gov

13 *Attorneys for Plaintiff State of California*

FOR PLAINTIFF STATE OF COLORADO:

PHILIP J. WEISER
ATTORNEY GENERAL

/s/ Carla J. Baumel

Carla J. Baumel
Assistant Attorney General
Consumer Protection Section
Colorado Department of Law
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203
Email: Carla.Baumel@coag.gov
Telephone: (720) 508-6235

Attorneys for Plaintiff State of Colorado

FOR PLAINTIFF STATE OF CONNECTICUT

WILLIAM TONG
ATTORNEY GENERAL

/s/ Nicole Demers

Nicole Demers

Deputy Associate Attorney General

Antitrust Section

Connecticut Office of the Attorney General

165 Capitol Ave.

Hartford, CT 06106

Tel.: (860) 808-5030

nicole.demers@ct.gov

Attorneys for Plaintiff State of Connecticut

Wisconsin v. Indivior, Case No. 16-CV-5073

May 31, 2023

STATE OF DELAWARE

KATHLEEN JENNINGS, ATTORNEY GENERAL

By: /s/ Michael A. Undorf

Michael A. Undorf

Deputy Attorney General

Delaware Department of Justice

820 N. French St., 5th Floor

Wilmington, DE 19801

(302) 683-8816

Michael.Undorf@delaware.gov

Attorney for Plaintiff State of Delaware

FOR THE PLAINTIFF STATE THE DISTRICT OF COLUMBIA:

BRIAN L. SCHWALB
ATTORNEY GENERAL

JENNIFER C. JONES
Deputy Attorney General
Public Advocacy Division

BETH MELLEN
WILLIAM F. STEPHENS
Assistant Deputy Attorneys General
Public Advocacy Division

/s/Adam Gitlin
ADAM GITLIN [90004308]
Chief, Antitrust and Nonprofit Enforcement
Section
Public Advocacy Division
ELIZABETH G. ARTHUR [1531185]
Assistant Attorneys General
Public Advocacy Division
400 6th Street NW, 10th Floor
Washington, D.C. 20001
Tel.: 202-442-9864

*Attorneys for Plaintiff State the District of
Columbia*

Wisconsin v. Indivior, Case No. 16-CV-5073

May 31, 2023

STATE OF FLORIDA
ASHLEY MOODY, ATTORNEY GENERAL

By: /s/ Nicholas J. Weilhammer
Nicholas J. Weilhammer (FL Bar No. 479322)
Associate Deputy Attorney General for Enforcement
Lizabeth A. Brady (FL Bar No. 457991)
Director of Antitrust Enforcement
R. Scott Palmer (FL Bar No. 220353)
Special Counsel for Antitrust Enforcement
Rachel S. Brackett (FL Bar No. 109775)
Assistant Attorney General
Florida Office of the Attorney General
Antitrust Division
PL-01, The Capitol
Tallahassee, FL 32399
Telephone: (850) 414-3300
Fax: (850) 488-9134
Email: Nicholas.weilhammer@myfloridalegal.com

Attorneys for the Plaintiff State of Florida

FOR PLAINTIFF STATE OF GEORGIA

/s/Charles Thimmesch

Christopher M. Carr 112505

Attorney General

Margaret K. Eckrote 238709

Deputy Attorney General

Jeffrey W. Stump 690425

Senior Assistant Attorney General

Charles Thimmesch 322197

Assistant Attorney General

Office of the Attorney General

40 Capitol Square, SW

Atlanta, Georgia 30334

(404) 458-3626

cthimmesch@law.ga.gov

Counsel for Georgia

Wisconsin v. Indivior, Case No. 16-CV-5073

May 31, 2023

STATE OF HAWAII
ANNE E. LOPEZ, ATTORNEY GENERAL

By: /s/ Rodney I. Kimura.

Rodney I. Kimura

Deputy Attorney General

Department of the Attorney General

State of Hawaii

425 Queen Street

Honolulu, HI. 96813

Attorneys for Plaintiff State of Hawaii

FOR PLAINTIFF STATE OF IDAHO:

RAÚL R. LABRADOR
ATTORNEY GENERAL

/s/ John K. Olson

John K. Olson, Acting Division Chief
Consumer Protection Division
Office of the Attorney General
954 W. Jefferson Street, 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-2424
john.olson@ag.idaho.gov

Attorneys for Plaintiff State of Idaho

FOR PLAINTIFF STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

By: /s/ Elizabeth L. Maxeiner
Elizabeth L. Maxeiner
Chief, Antitrust Bureau
Office of the Illinois Attorney General
100 W. Randolph St. 11th Fl.
Chicago, Illinois 60601
Elizabeth.maxeiner@ilag.gov

Attorneys for Plaintiff State of Illinois

FOR PLAINTIFF STATE OF IOWA:

BRENNA BIRD
ATTORNEY GENERAL

/s/ Noah Goerlitz

Noah Goerlitz
Assistant Attorney General
Office of the Iowa Attorney General
1305 E. Walnut St.
Des Moines, IA 50319
Telephone: (515) 725-1018
noah.goerlitz@ag.iowa.gov

Attorney for Plaintiff State of Iowa

FOR PLAINTIFF STATE OF KANSAS:

KRIS W. KOBACH
ATTORNEY GENERAL

/s/ Lynette R. Bakker

Lynette R. Bakker
First Assistant Attorney General
Antitrust & Business Organizations
Public Protection Division
Office of the Kansas Attorney General
120 S.W. 10th Avenue, 2nd Floor
Topeka, KS 66612-1597
Telephone: (785) 296-3751
Fax: (785)-291-3699
Email: lynette.bakker@ag.ks.gov

Attorneys for Plaintiff State of Kansas

Office of the Attorney General of Kentucky

s/ Jonathan E. Farmer

Jonathan E. Farmer

Deputy Executive Director of Consumer Protection

Office of the Attorney General of Kentucky

1024 Capital Center Drive, Suite 200

Frankfort, KY 40601

Tel: 502-696-5448

Fax: 502-573-8317

Jonathan.Farmer@ky.gov

ATTORNEY FOR THE STATE OF KENTUCKY

Respectfully submitted,

JEFF LANDRY
ATTORNEY GENERAL
Attorney General of Louisiana

By: /s/ Christopher J. Alderman
Christopher J. Alderman (LA #38652)
Section Chief, Assistant Attorney General
Public Protection Division, Complex Litigation
Unit

1885 N. 3rd St., 4th Floor.
Baton Rouge, LA 70802
Tel: 225.326.6400
Fax: 225.326.6499

AldermanC@ag.Louisiana.gov

FOR PLAINTIFF STATE OF MAINE:

AARON M. FREY
ATTORNEY GENERAL

/s/ Christina M. Moylan

Christina M. Moylan, AAG
Chief, Consumer Protection Division
Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006
Telephone: (207) 626-8800
christina.moylan@maine.gov

Attorneys for Plaintiff State of Maine

Wisconsin v. Indivior, Case No. 16-CV-5073
May 31, 2023

STATE OF MARYLAND
ANTHONY G. BROWN, ATTORNEY GENERAL

By: /s/Schonette J. Walker
Schonette J. Walker
Assistant Attorney General
Chief, Antitrust Division

Gary Honick
Assistant Attorney General
Deputy Chief, Antitrust Division

Byron Warren
Assistant Attorney General
Office of the Maryland Attorney General
200 St. Paul Place
Baltimore, MD 21202

FOR PLAINTIFF COMMONWEALTH OF MASSACHUSETTS:

ANDREA JOY CAMPBELL
Attorney General

/s/ William T. Matlack
WILLIAM T. MATLACK (MA BBO No. 552109)
Assistant Attorney General, Chief, Antitrust Division
Office of the Attorney General One
Ashburton Place, 18th Floor Boston,
MA 02108
Tel: (617) 727-2200
Email: William.Matlack@mass.gov

FOR THE PLAINTIFF STATE OF MICHIGAN:

DANA NESSEL
ATTORNEY GENERAL

/s/ Carl J. Hammaker

Carl J. Hammaker (P81203)

Darrin F. Fowler (P53464)

Assistant Attorneys General

Michigan Dep't of Attorney General

Corporate Oversight Division

P.O. Box 30736

Lansing, MI 48909

Email: HammakerC@michigan.gov

Telephone: (517) 335-7632

Attorneys for Plaintiff State of Michigan

May 31, 2023

KEITH ELLISON
Attorney General
State of Minnesota

JESSICA WHITNEY
Deputy Attorney General

JAMES W. CANADAY
Deputy Attorney General

/s/ Justin Moor
JUSTIN MOOR
Assistant Attorney General
Atty. Reg. No. 0397596

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2130
(651) 724-9627
justin.moor@ag.state.mn.us

ATTORNEYS FOR THE STATE OF MINNESOTA

FOR PLAINTIFF STATE OF MISSISSIPPI

LYNN FITCH, ATTORNEY GENERAL
STATE OF MISSISSIPPI

By: /s/ Hart Martin

Hart Martin (MSB # 106129)
Deputy Director and Special Assistant Attorney General
Consumer Protection Division
Mississippi Attorney General's Office
Post Office Box 220
Jackson, Mississippi 39205
Telephone: 601-359-4223
Fax: 601-359-4231
Hart.martin@ago.ms.gov

FOR THE STATE OF MISSOURI

ANDREW BAILEY
ATTORNEY GENERAL

By: 

Michael Schwalbert
Assistant Attorney General
Consumer Protection Section
Missouri Attorney General's Office
815 Olive Street | Suite 200
Saint Louis, Missouri 63101
michael.schwalbert@ago.mo.gov
Phone: 314-340-7888
Fax: 314-340-7981

FOR PLAINTIFF STATE OF NEBRASKA

MICHAEL T. HILGERS
ATTORNEY GENERAL

/s/ Justin C. McCully

Justin C. McCully
Colin P. Snider
Assistant Attorney General
Consumer Protection Bureau
Nebraska Attorney General's Office
2115 State Capitol
Lincoln, NE 68509-8920
Telephone: (402) 471-2682
Fax: (402) 471-4725
Justin.mccully@nebraska.gov
Colin.snider@nebraska.gov

Attorneys for Plaintiff State of Nebraska

FOR PLAINTIFF STATE OF NEW HAMPSHIRE:

JOHN T. FORMELLA
ATTORNEY GENERAL

/s/ Zachary Frish

Zachary A. Frish

Attorney

Consumer Protection & Antitrust Bureau

New Hampshire Department of Justice | Office of the Attorney General

33 Capitol Street

Concord, NH 03301

(603) 271-2150

zachary.a.frish@doj.nh.gov

Attorney for Plaintiff State of New Hampshire

FOR PLAINTIFF STATE OF NEW MEXICO:

RAÚL TORREZ
ATTORNEY GENERAL

/s/ Nicholas M. Sydow
Nicholas M. Sydow
Deputy Solicitor General
Office of the New Mexico Attorney General
408 Galisteo St.
Santa Fe, NM 87501
Telephone: (505) 490-4060
nsydow@nmag.gov

Attorneys for Plaintiff State of New Mexico

FOR THE STATE OF NEW YORK
LETITIA JAMES
ATTORNEY GENERAL

/s/ Elinor R. Hoffmann

Elinor R. Hoffmann

Chief, Antitrust Bureau

Amy McFarlane

Deputy Chief, Antitrust Bureau

Saami Zain, Assistant Attorney General

28 Liberty Street

New York, NY 10005

FOR PLAINTIFF STATE OF NORTH CAROLINA

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/ Jessica V. Sutton
Jessica V. Sutton
Special Deputy Attorney General
Kimberley D'Arruda
Director, Technology, Healthcare, and Antitrust Section
Consumer Protection Division
North Carolina Department of Justice
P.O. Box 629
Raleigh, NC 27602
Tel.: (919) 716-0998
jsutton2@ncdoj.gov

Attorneys for Plaintiff State of North Carolina

FOR PLAINTIFF STATE OF OHIO:

DAVE YOST
ATTORNEY GENERAL

/s/ Beth A. Finnerty
Beth A. Finnerty
Section Chief, Antitrust Section
Office of the Ohio Attorney General
30 E. Broad St., 26th Floor
Columbus, OH 43215
Telephone: (614) 466-4328
Fax: (614) 995-0266
Email: Beth.Finnerty@OhioAGO.gov

Attorneys for Plaintiff State of Ohio

Date: May 26, 2023

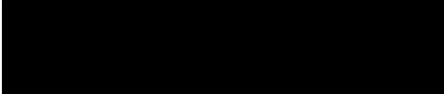
FOR PLAINTIFF STATE OF OKLAHOMA:

GENTNER DRUMMOND
ATTORNEY GENERAL

/s/ Caleb J. Smith

Caleb J. Smith, OBA No. 33613
Assistant Attorney General
Consumer Protection Unit
Office of the Oklahoma Attorney General
15 West 6th Street
Suite 1000
Tulsa, OK 74119
Tel. (918) 581-2230
Fax (918) 938-6348
Email: caleb.smith@oag.ok.gov

Attorney for Plaintiff State of Oklahoma



Brian A. de Haan
Senior Assistant Attorney General
Civil Enforcement Division
Oregon Department of Justice
100 SW Market Street
Portland, OR 97201
Tel. (971) 673-1880
brian.a.dehaan@doj.state.or.us

FOR PLAINTIFF COMMONWEALTH OF PENNSYLVANIA:

MICHELLE A. HENRY
ATTORNEY GENERAL

/s/ Tracy W. Wertz

Tracy W. Wertz

Chief Deputy Attorney General

Antitrust Section

Pennsylvania Office of Attorney General

14th Floor Strawberry Square,

Harrisburg, PA 17120-1410

Telephone: (717) 787-4530

twertz@attorneygeneral.gov

Attorneys for Plaintiff Commonwealth of Pennsylvania

FOR PLAINTIFF STATE OF RHODE ISLAND:

PETER F. NERONHA
ATTORNEY GENERAL

/s/ Adam D. Roach

Adam D. Roach
Special Assistant Attorney General
State of Rhode Island | Office of the Attorney General
150 South Main Street
Providence, RI 02903
Email: aroach@riag.ri.gov
Telephone: (401) 274-4400 x 2490

Attorneys for Plaintiff State of Rhode Island

Wisconsin v. Indivior, Case No. 16-CV-5073

May 31, 2023

STATE OF SOUTH CAROLINA

ALAN WILSON, ATTORNEY GENERAL

By: /s/ Clark Kirkland, Jr.

Clark Kirkland, Jr.

Assistant Attorney General

Office of the Attorney General

State of South Carolina

P.O. Box 11549

Columbia, SC 29211

FOR PLAINTIFF STATE OF TENNESSEE

JONATHAN SKRMETTI
ATTORNEY GENERAL

/s/ J. Tate Ball

J. Tate Ball

Assistant Attorney General

Consumer Protection Division

Office of the Tennessee Attorney General

P.O. Box 20207

Nashville, Tennessee 37202

Email: Tate.Ball@ag.tn.gov

Telephone: (615)741-8091

Attorneys for the Plaintiff State of Tennessee

Wisconsin v. Indivior, Case No. 16-CV-5073
May 31, 2023

STATE OF UTAH
SEAN D. REYES, ATTORNEY GENERAL

DAVID SONNENREICH
Deputy Attorney General
Antitrust and Data Privacy Section Director

By: /s/ Marie W.L. Martin
Marie W.L. Martin
Assistant Attorney General
Utah Office of the Attorney General
Antitrust and Data Privacy Section
160 E 300 S, 5th Floor
P.O. Box 140830
Salt Lake City, UT 84114-0830
(801)366-0260
mwmartin@agutah.gov

Attorneys for Plaintiff State of Utah

FOR PLAINTIFF STATE OF VERMONT

CHARITY R. CLARK
ATTORNEY GENERAL

By: /s/ Jill S. Abrams .

Jill S. Abrams

Assistant Attorney General

Director, Consumer Protection and Antitrust Unit

109 State Street

Montpelier, VT 05609

Attorneys for Plaintiff State of Vermont

FOR PLAINTIFF COMMONWEALTH OF VIRGINIA

JASON S. MIYARES
ATTORNEY GENERAL

By: /s/ Tyler T. Henry
Tyler T. Henry
Assistant Attorney General/Unit Manager
Antitrust Unit
Office of the Virginia Attorney General
202 North 9th Street
Richmond, Virginia 23219
THenry@oag.state.va.us

Attorneys for Plaintiff Commonwealth of Virginia

FOR PLAINTIFF STATE OF WASHINGTON:

ROBERT W. FERGUSON
Attorney General

s/ 

LUMINITA NODIT
Lumi.Nodit@atg.wa.gov
Assistant Attorney General, Antitrust Division
Washington State Office of the Attorney General
800 Fifth Ave., Suite 2000
Seattle, WA 98104
Tel: (206) 254-0568

Attorneys for Plaintiff State of Washington

FOR PLAINTIFF STATE OF WEST VIRGINIA:

PATRICK MORRISEY
ATTORNEY GENERAL

/s/ Douglas L. Davis
Douglas L. Davis, Senior Assistant Attorney General
Consumer Protection and Antitrust Division
Office of the Attorney General
1900 Kanawha Boulevard East
Building 6, Suite 401
Charleston, WV 25305
Telephone: (304) 558-8986
douglas.l.davis@wvago.gov

Attorneys for Plaintiff State of West Virginia

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2023, I electronically filed the [Proposed] Stipulated Final Judgment and Dismissal with Prejudice using the Court's CM/ECF system, which will automatically send email notification of such filing to all attorneys of record. Unredacted copies were sent to the Court via U.S. Mail and were served on all parties via electronic mail.

/s Gwendolyn J. Lindsay Cooley
GWENDOLYN J. COOLEY
Assistant Attorney General
State Bar #1053856
Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 261-5810
(608) 266-2250 (Fax)
cooleygj@doj.state.wi.us

RECEIVED
NOV 30 2023
FINANCIAL SERVICES



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services

FROM: Jasmine S. McGhee, Senior Deputy Attorney General

RE: Deposit Distribution
Blackbaud, Inc.

DATE: November 30, 2023

Pursuant to the settlement agreement signed September 28, 2023 with Blackbaud, Inc. ("Blackbaud"), a wire in the amount of \$1,181,270.00 was deposited with Financial Services on November 29, 2023 into Budget fund 202266, Natural Account 45500000, AMU 21402198 Blackbaud.

This agreement resolves the multistate investigation into allegations that Blackbaud violated state consumer protection laws, breach notification laws, and HIPAA by failing to implement reasonable data security and remediate known security gaps, which allowed unauthorized access to their network, and then failed to notify its customers in a timely manner. As a result, customers whose personal information was exposed were notified late or not at all. The 2020 data breach impacted more than 13,000 Blackbaud customers and millions of their respective consumer constituents.

As a result of the settlement, Blackbaud agreed to pay \$49,500,000.00 to the Attorneys General, of which North Carolina received \$1,181,270.00 to be used as and for attorneys' fees and other costs of investigation and litigation, or be placed in, or applied to, the consumer protection enforcement fund, including future consumer protection enforcement, consumer education, litigation, or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorney General.

Additionally, Blackbaud agreed to a number of provisions designed to strengthen its data security and breach notification practices going forward

- Not misrepresenting how it processes, stores, and safeguards personal information.
- Implementing and maintaining incident and breach response plans.
- Providing appropriate assistance to its customers and supporting customers' compliance with applicable breach notification requirements.
- Internal reporting and employee training requirements and setting aside appropriate resources and support for cybersecurity.
- Safeguarding personal information with total database encryption and dark web monitoring.



Previous Day Composite Report

Standard Previous Day Composite Report

As of 11/29/2023

Company: NC DEPARTMENT OF STATE TREASURER

11/30/2023 10:18 AM ET

Commercial Electronic Office®

Treasury Information Reporting

Currency: USD

WELLS FARGO BANK, N.A.
NORTH CAROLINA DEPARTMENT OF STATE TREASURER

Balances

Closing Ledger Balance
Closing Collected Balance
Opening Available Balance
One Day Float
Two+ Day Float
MTD Average Closing Ledger Balance
MTD Average Closing Collected Balance

Total Credits
Total Debits
Total Number Credits
Total Number Debits

1,181,270.00
1,181,270.00
1
1

Dep't
505
BC 23600

Summaries

Type of Credit

Number of Items

Amount

Total Wire Transfer Credits	1	1,181,270.00
-----------------------------	---	--------------

Credit Totals

1

1,181,270.00

Type of Debit

Number of Items

Amount

Total ZBA Debits	1	1,181,270.00
------------------	---	--------------

Debit Totals

1

1,181,270.00

Credit Transactions

11/29/2023	195 / INCOMING MONEY TRANSFER Cust Ref: 000000000000 Unique ID: RG231129176676 WT FED#05769 PNC BANK, N.A. /ORG=BB US SIS LLC SRF# 23BTK26382V277TR TRN#231129176676 RFB# 202311950531	Credit Amount: Bank Ref: IA009903583264	1,181,270.00
------------	---	--	--------------

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”)¹ is entered into by the Attorney General of North Carolina (the “State”)² and Blackbaud, Inc., including all of its United States subsidiaries, affiliates, agents, representatives, employees, successors, and assigns (“Blackbaud”, and together with the State, the “Parties”) to resolve the investigation of the Attorneys General of the **Breach** first publicly announced by Blackbaud on July 16, 2020. The investigation examined the facts and circumstances surrounding the **Breach** and whether Blackbaud complied with the State’s unfair or deceptive acts and practices law (“**Consumer Protection Law**”), personal information protection law (“**Personal Information Protection Law**”), and data breach notification law (“**Data Breach Notification Law**”), as well as the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.1936, as amended by the Health Information Technology for Economic and Clinical Health Act Pub. L. No. 111-5, 123 Stat. 226 (“**HIPAA**”) (collectively, the “**Relevant Laws**”). In consideration of their mutual agreements to the terms of this Agreement,

¹ This Settlement Agreement shall, for all necessary purposes, also be considered and Assurance of Voluntary Compliance or an Assurance of Discontinuance.

² Blackbaud is simultaneously entering into similar agreements with the Attorneys General of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. For ease of reference, this entire group will be referred to collectively herein as the “Attorneys General” or individually as “Attorney General.” Such designations, however, as they pertain to Connecticut, shall refer to the Attorney General, both acting on his own behalf and as authorized by the Commissioner of the Department of Consumer Protection. Such designations, as they pertain to Hawaii, shall refer to both the Attorney General and the Executive Director of the State of Hawaii Office of Consumer Protection. Such designations, as they pertain to Maryland, shall refer to the Consumer Protection Division of the Office of the Attorney General of Maryland, which has authority to enter into this Agreement pursuant to Md. Code Ann., Com. Law § 13-402. Each State’s Agreement incorporates the substantive terms included herein. To the extent there are differences, those differences arise from the requirements of local rules and state laws.

and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the Parties hereby enter this Agreement and agree as follows:

I. PARTIES AND JURISDICTION

1. The North Carolina Attorney General is charged with enforcement of the **Relevant Laws** of this State, and pursuant to 42 U.S.C. § 1320d-5(d), may also enforce **HIPAA**.

2. Blackbaud, a Delaware corporation headquartered in Charleston, South Carolina, provides donor relationship management software to various organizations, including charities, higher education institutions, K-12 schools, healthcare organizations, religious organizations, and cultural organizations.

3. At all relevant times, Blackbaud was engaged in trade and commerce affecting consumers in the State insofar as Blackbaud provides software and related services to **Blackbaud Customers**, which **Blackbaud Customers** use to connect with donors in the State. Blackbaud also stored the **Personal Information** and/or **Protected Health Information** of North Carolina residents to the extent **Blackbaud Customers** decide to store such **Personal Information** and/or **Protected Health Information** in connection with **Blackbaud Customers'** use of Blackbaud's products and services.

4. Insofar as Blackbaud provided or provides products or services to **Blackbaud Customers** that are **Covered Entities** and to the extent **Blackbaud Customers** that are **Covered Entities** decide to store **Protected Health Information** in connection with such **Blackbaud Customers'** use of Blackbaud's products and services, Blackbaud is a **Business Associate** subject to the requirements of **HIPAA**.

II. ATTORNEY GENERAL FINDINGS

5. Blackbaud provides software that organizations use to connect with donors and

manage data about their donors, including identifying information, donation history, and financial information. On May 14, 2020, Blackbaud discovered a ransomware attack that resulted in the unauthorized access and exfiltration of sensitive donor information. On July 16, 2020, Blackbaud publicly announced the incident and began notifying impacted customers. Thereafter, Blackbaud's customers notified impacted donors across the United States, including North Carolina residents, of the **2020 Data Breach**. The **2020 Data Breach** affected over a million files related to over 13,000, or roughly a quarter, of Blackbaud's customers.

III. DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

6. “**2020 Data Breach**” shall mean the **Security Incident**, first publicly announced by Blackbaud on July 16, 2020, in which a person or persons gained unauthorized access to the **Blackbaud Network**.

7. “**Blackbaud User**” shall mean any employee, representative, contractor, subcontractor or agent of Blackbaud for whom Blackbaud has created a user account and credentials to access the **Blackbaud Network**.

8. “**Blackbaud Customer**” shall mean any entity that has contracted with Blackbaud to receive Blackbaud products and/or services and has stored **Personal Information** and/or **Protected Health Information** in connection with the use of such products and/or services.

9. “**Blackbaud Network**” shall mean all networking equipment, technical infrastructure relating to on-prem, cloud-based, and/or colo databases or data stores, applications, servers, and endpoints that: (a) are capable of using and sharing software, data, and hardware resources; (b) are owned, operated, and/or controlled by Blackbaud; and (c) process, store, or have access to **Personal Information** and/or **Protected Health Information** of **Consumers** who reside

in the United States.

10. “**Business Associate**” shall be defined in accordance with 45 C.F.R. § 160.103.

11. “**Clearly and Conspicuously**” shall mean that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by **Blackbaud Customers**, including in all of the following ways:

- a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a video, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made through only one means.
- b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
- c. An audible disclosure, including by telephone or video, must be delivered in a volume, speed, and cadence sufficient for representatives of **Blackbaud Customers** to easily hear and understand it.
- d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable (hard to miss).
- e. The disclosure must use understandable language, diction, and syntax.
- f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

- g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

12. “**Compensating Controls**” shall mean alternative mechanisms that are put in place to satisfy the requirement for a security measure that is determined by the **Chief Information Security Officer** or his or her designee to be impractical or unreasonable to implement at the applicable time due to legitimate technical or business constraints. Such alternative mechanisms must: (a) meet the intent and rigor of the original stated requirement; (b) provide a similar level of security as the original stated requirement; (c) be materially and substantively up-to-date with current industry accepted security protocols; and (d) be commensurate with the additional risk imposed by not adhering to the original stated requirement. The determination to implement such alternative mechanisms must be accompanied by written documentation demonstrating that a risk analysis was performed indicating the gap between the original security measure and the proposed alternative measure, that the risk was determined to be acceptable, and that the **Chief Information Security Officer** or his or her designee agrees with both the risk analysis and the determination that the risk is acceptable. **Compensating Controls** shall not be utilized as permanent alternative security measures and shall be reevaluated for security effectiveness at least every ninety (90) days to determine whether to retain the **Compensating Control** as the appropriate security measure or to implement an alternative as the permanent security measure. Written security effectiveness documentation shall be prepared and reviewed by the **Chief Information Security Officer** or his or her designee and shall be kept for a period of one (1) year following the termination of usage of any such alternative mechanism.

13. “**Consumer**” shall mean any individual whose **Personal Information** and/or **Protected Health Information** is processed, stored, or otherwise made accessible on behalf of

Blackbaud Customers on the **Blackbaud Network**. This definition excludes (i) Blackbaud employees, directors, representatives, contractors, subcontractors, agents and their dependents as well as (ii) the business contact information of **Blackbaud Customer** employees or authorized agents that is stored on Blackbaud corporate systems.

14. “**Consumer Protection Law**” shall mean the North Carolina citation(s) set forth in Exhibit A.

15. “**Covered Entity**” shall be defined in accordance with 45 C.F.R. § 160.103.

16. “**Data Breach Notification Law**” shall mean the North Carolina citation(s) set forth in Exhibit A.

17. “**Effective Date**” shall be November 6, 2023, except as otherwise noted in the Agreement.

18. “**Encrypt**”, “**Encrypted**” or “**Encryption**” shall mean encoding data into ciphertext—at rest or in transit—rendering it unusable, unreadable, or indecipherable without converting the ciphertext to plaintext, through the use of a reasonable confidential process and key, leveraging a security technology, methodology, or encryption algorithm commensurate with the sensitivity of the data at issue.

19. “**Governance Process**” shall mean any written policy, standard, procedure, or process (or any combination thereof) designed to achieve a control objective with respect to the **Blackbaud Network**.

20. “**Personal Information**” or “**PI**” shall mean information regarding a **Consumer** residing in North Carolina that falls within one of the following categories:

- a. A first name or first initial and last name in combination with any one or more of the following data elements that relate to such individual: (i) Social Security

number; (ii) driver's license number; (iii) state- or federally-issued identification card number; or (iv) financial account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to the consumer's financial account;

- b. Biometric information, meaning data generated by electronic measurements of an individual's unique physical characteristics, such as a fingerprint, voice print, retina or iris image, or other unique physical characteristics or digital representation thereof;
- c. A user name or e-mail address in combination with a password or security question and answer that would permit access to an online account; or
- d. Any category of personal information found in the definition set forth in the **Data Breach Notification Law** and/or **Personal Information Protection Law**.

21. “**Personal Information Protection Law**” shall mean the North Carolina citation(s) set forth in Exhibit A.

22. “**Protected Health Information**” or “**PHI**” shall mean the Protected Health Information or PHI, as defined in accordance with 45 C.F.R. § 160.103, of a **Consumer**.

23. “**Security Incident**” shall mean any compromise, or imminent threat of a compromise to the confidentiality, integrity, or availability of **PI** or **PHI** stored within, accessed, or transmitted through the **Blackbaud Network**, by unauthorized access or inadvertent disclosure, including but not limited to an incident for which notification may be required under the **Data Breach Notification Law** or **HIPAA**. For purposes of this definition, “availability” shall not include an intentional limitation on the availability of **PI** or **PHI**, such as for purposes of performing maintenance on the **Blackbaud Network**.

IV. INJUNCTIVE RELIEF

24. The duties, responsibilities, burdens, and obligations undertaken in connection with this Agreement shall apply to Blackbaud and its directors, officers, and employees.

25. The injunctive terms contained in this Agreement are entered pursuant to N.C. Gen. Stat. § 75-14.

A. COMPLIANCE WITH LAW

26. Blackbaud shall comply with the **Consumer Protection Law** [and **Personal Information Protection Law**] in connection with its processing, storing and safeguarding of **PI** and/or **PHI**.

27. Blackbaud shall comply with the **Data Breach Notification Law**, as applicable.

28. Blackbaud shall comply with **HIPAA**, as applicable, including the Privacy Rule (45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E) and Security Rule (45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and C), and shall implement all Administrative, Technical, and Physical Safeguards required by **HIPAA**. “Administrative Safeguards”, “Technical Safeguards” and “Physical Safeguards” shall be defined in accordance with 45 C.F.R. §§ 164.304, 164.308, 164.310, 164.312.

29. Blackbaud shall not make a misrepresentation which is capable of misleading **Blackbaud Customers or Consumers**, or fail to state a material fact if that failure is capable of misleading **Blackbaud Customers or Consumers**, regarding the extent to which Blackbaud maintains and/or protects the privacy, security, confidentiality, or integrity of **PI** or **PHI** of **Consumers**.

30. Blackbaud shall not make a misrepresentation which is capable of misleading **Blackbaud Customers or Consumers**, or fail to state a material fact if that failure is capable of

misleading **Blackbaud Customers** or **Consumers**, regarding the likelihood that **PI** or **PHI** affected by a **Security Incident** may be subject to further unauthorized access, disclosure or other misuse.

31. Blackbaud shall not misrepresent to **Blackbaud Customers** the notification requirements of the **Data Breach Notification Law** or **HIPAA**.

B. INCIDENT RESPONSE PLAN

32. Blackbaud shall implement and maintain written incident response plan(s) to prepare for and respond to **Security Incidents** (“**Incident Response Plan**”). Blackbaud shall investigate **Security Incidents**. Blackbaud shall maintain documentation sufficient to show the investigative and responsive actions taken in connection with each **Security Incident** and the determination as to whether notification under the **Data Breach Notification Law** or **HIPAA** is required. Blackbaud shall also assess whether there are reasonably feasible training or technical measures, in addition to those already in place, that would materially decrease the risk of the same type of Security Incident from reoccurring. Blackbaud shall revise and update the **Incident Response Plan**, as necessary, to adapt to any changes to the **Blackbaud Network**. Such a plan shall, at a minimum, identify and describe the following phases:

- a. Preparation;
- b. Detection and Analysis;
- c. Containment;
- d. Eradication;
- e. Recovery; and
- f. Post-Incident Analysis and Remediation.

33. Blackbaud shall conduct, at a minimum, exercises (“table-top exercises”) twice a year to test and assess its preparedness to respond to a **Security Incident**.

C. BREACH RESPONSE AND NOTIFICATION

34. Blackbaud shall implement and maintain a **Breach** (as defined below) response plan that contains policies and procedures for (a) notification and coordination with law enforcement, as appropriate, and **Blackbaud Customers**; (b) affected **Blackbaud Customer** response (including consideration of appropriate staffing levels, training, and written materials); and (c) regulator notification, as applicable.

35. Blackbaud shall conduct, at a minimum, exercises (“table-top exercises”) twice a year to test and assess its preparedness to respond to a **Breach**. These exercises shall include the following, as appropriate:

- a. Planning for sufficient staffing levels to handle a high volume of questions from affected **Blackbaud Customers** and to provide **Blackbaud Customers** with information in a reasonable amount of time;
- b. Planning employee training to provide relevant, useful, and accurate information to **Blackbaud Customers**;
- c. Preparing written materials to provide to **Blackbaud Customers** that **Clearly and Conspicuously** disclose relevant information.

36. In determining whether notification to **Blackbaud Customers** under the **Data Breach Notification Law** or **HIPAA** is required, Blackbaud shall consider information stored by affected **Blackbaud Customers**, including information stored in fields not intended for **PI** and/or **PHI** in the affected Blackbaud products. Blackbaud shall also offer **Blackbaud Customers** reasonable guidance, cooperation and/or assistance, including with respect to instructions on how

to run queries and reports of **Blackbaud Customer** databases affected by the **Security Incident** so that **Blackbaud Customers** can determine whether they must provide notification to **Consumers** in time to allow such notification in accordance with the **Data Breach Notification Law** or **HIPAA**. If after a **Blackbaud Customer** has sought and received such guidance, cooperation and/or assistance, the **Blackbaud Customer** is unable to run such queries and reports itself, Blackbaud shall reasonably run such queries and reports for the **Blackbaud Customers** at no cost, if requested by the **Blackbaud Customer**.

37. If Blackbaud determines that a **Security Incident** does not require notification under the **Data Breach Notification Law** or **HIPAA**, Blackbaud shall create documentation that includes a description of the **Security Incident** and Blackbaud's response to that **Security Incident** ("**Security Incident Report**"). Blackbaud shall make any **Security Incident Report** available to the Attorneys General upon written request.

38. In the case that a **Security Incident** requires notification under the **Data Breach Notification Law** or **HIPAA** ("**Breach**"), Blackbaud shall do the following:

- a. Blackbaud shall timely notify affected **Blackbaud Customers** in accordance with the **Data Breach Notification Law**, **HIPAA**, and any applicable contracts with **Blackbaud Customers**.
- b. Consistent with Blackbaud's obligations set forth in Paragraphs 36 and 38(c), Blackbaud shall **Clearly and Conspicuously** provide affected **Blackbaud Customers** with such information that each **Blackbaud Customer** requires to provide timely notice to affected **Consumers** and the Attorneys General in accordance with the **Data Breach Notification Law** and **HIPAA**, as applicable.

- c. To the extent possible and consistent with the mutually agreed roles and responsibilities under the applicable contract between Blackbaud and a **Blackbaud Customer**, if the identity of affected **Consumers** cannot be determined by a **Blackbaud Customer** following Blackbaud's provision of the guidance and/or assistance set forth in Paragraph 36 of this Agreement, Blackbaud shall assist **Blackbaud Customers** in determining the names of affected **Consumers** in such **Blackbaud Customer's** affected databases.
- d. Blackbaud shall specify in any new contracts entered into with **Blackbaud Customers** after the **Effective Date** the roles and responsibilities to be undertaken by Blackbaud and the **Blackbaud Customer** in the event of a **Breach**, specifically for providing notice to affected **Consumers** and the Attorneys General, as required by the **Data Breach Notification Law** or **HIPAA**, as appropriate.

D. INFORMATION SECURITY PROGRAM

39. Blackbaud may satisfy the requirements to implement and maintain a comprehensive information security program ("**Information Security Program**"), including the written incident response plan and other specific information security requirements noted below and elsewhere herein, through review, maintenance, and as necessary, updating of Blackbaud's existing information security program and related safeguards, provided that such program and safeguards meet the requirements of this Agreement. Unless otherwise specified herein, within ninety (90) days after the **Effective Date**, Blackbaud shall implement, maintain, periodically review and revise, and comply with an **Information Security Program** the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of **PI** and **PHI** on the **Blackbaud Network**. Blackbaud's **Information Security Program** shall be documented

in the **Governance Processes** and shall contain administrative, technical, and physical safeguards appropriate to:

- a. The size and complexity of Blackbaud's operations;
- b. The nature and scope of Blackbaud's activities; and
- c. The sensitivity of the **PI** and **PHI** on the **Blackbaud Network**.

The **Information Security Program** required by this Agreement shall include the requirements of Paragraphs 40 through 72 in this Agreement. Should Blackbaud acquire any other entity and/or product, Blackbaud shall perform cybersecurity due diligence to assess such entity's/product's compliance with this Agreement. Blackbaud shall evaluate the requirements that must be met before the entity and/or product is integrated into the **Blackbaud Network**, including an assessment of whether the entity and/or product meets the requirements of this Agreement and all deficiencies requiring remediation, and Blackbaud shall develop an integration plan reflecting this analysis. After Blackbaud has assured itself of such entity's/product's compliance, and not later than two (2) years after the closing of such acquisition, the acquired entity/product shall be incorporated into the **Information Security Program** herein. Blackbaud shall document the cybersecurity due diligence required by this Paragraph for each acquisition, which shall be provided to the Attorneys General upon request.

40. Blackbaud shall implement appropriate access controls, including without limitation, least privilege access to only allow authorized users access to necessary resources on the **Blackbaud Network** for the organization's business needs, consistent with NIST Special Publication 800-53 (page 36-39, AC-6), and zero-trust architecture, consistent with NIST Special Publication 800-207, where technically feasible and commercially reasonable.

41. Blackbaud shall reasonably oversee its third-party vendors who have access to the **Blackbaud Network** or who hold or store **PI** or **PHI** on Blackbaud's behalf by maintaining and periodically reviewing and revising, as needed, a **Governance Process** for assessing vendor compliance in accordance with Blackbaud's **Information Security Program** including whether the vendor's security safeguards are appropriate for that business. That **Governance Process** shall require vendors in contracts entered into or renewed beginning ninety (90) days after the **Effective Date** to implement and maintain appropriate safeguards, and further require Blackbaud to make commercially reasonable efforts to require vendors to notify Blackbaud within seventy-two (72) hours of discovering any security incident that may give rise to a **Breach** (a "**Third-Party Reported Incident**"). At a minimum, the Governance Process shall require vendors in contracts entered into or renewed beginning ninety (90) days after the **Effective Date** to notify Blackbaud within five (5) business days of discovering any **Third-Party Reported Incident**.

42. Blackbaud shall employ an individual who shall be responsible for implementation of Blackbaud **Governance Processes** relating to compliance with privacy laws, including the **Data Breach Notification Law**, **Personal Information Protection Law**, and **HIPAA** (hereinafter referred to as the "**Chief Privacy Officer**"). The **Chief Privacy Officer** shall:

- a. Have the education, qualifications, and experience appropriate to the level, size, and complexity of his or her role, and possess a fundamental understanding of state and federal privacy and data security laws;
- b. Assist Blackbaud in complying with **Data Breach Notification Law**, **Personal Information Protection Law**, and **HIPAA**; matters related to Blackbaud's privacy compliance assessments; and coordination with Blackbaud executives and officers

as it relates to business operations affecting the privacy, confidentiality, integrity, and security of **PI** and **PHI** in the **Blackbaud Network**; and

- c. Provide reports as necessary to the Office of General Counsel, which shall provide reports as necessary to the Chief Executive Officer, and as necessary, to the Board of Directors.

43. Blackbaud shall employ an executive or officer who shall be responsible for implementing, maintaining, and monitoring the **Information Security Program** (hereinafter referred to as the “**Chief Information Security Officer**”). The **Chief Information Security Officer** shall:

- a. Have the education, qualifications, and experience appropriate to the level, size, and complexity of his or her role in implementing, maintaining, and monitoring the **Information Security Program**;
- b. Provide an annual report to the Blackbaud Board of Directors on the adequacy of Blackbaud’s **Information Security Program**;
- c. At any meeting of the Board of Directors concerning the security posture or security risks faced by Blackbaud, provide reports to Blackbaud’s Board of Directors, and shall inform, advise, and update the Board of Directors regarding Blackbaud’s security posture and the security risks faced by Blackbaud; and
- d. Notify the Chief Executive Officer of any **Security Incident** or **Third-Party Reported Incident** involving over ten (10) **Blackbaud Customers** within forty-eight (48) hours of discovery, as well as notify a member of Blackbaud’s Board of Directors, in the event that the Chief Executive Officer is not a member of the Board of Directors within seventy-two (72) hours of discovery.

44. Blackbaud shall employ one or more individuals to serve as liaison between areas of Blackbaud business and the office of the **Chief Information Security Officer** regarding implementation, maintenance, and monitoring of the **Information Security Program** for the area of Blackbaud business (hereinafter referred to as a “**Business Information Security Officer**”). Each **Business Information Security Officer** shall:

- a. Have the education, qualifications, and experience appropriate to the level, size, and complexity of the **Business Information Security Officer**’s role in implementing, maintaining and monitoring the **Information Security Program**; and
- b. Be responsible for regularly informing, advising, and updating the **Chief Information Security Officer** or his or her designee regarding the security posture of the areas of Blackbaud business for which he or she is responsible for liaising; the security risks faced by the relevant area of Blackbaud business; and the implications of any decision the **Business Information Security Officer** makes that may materially impact the security posture of the area of Blackbaud business.

45. Blackbaud shall employ one or more individuals who shall be responsible for developing, maintaining, and monitoring the information technology needs and requirements of Blackbaud’s staff, operations, network, and devices (hereinafter may be referred to as the “**Chief Technology Officer**”). Such individuals shall:

- a. Have the education, qualifications, and experience appropriate to the level, size, and complexity of his or her role in developing, maintaining, and monitoring the information technology needs and requirements of Blackbaud’s staff, operations, network, and devices;

- b. Develop and execute the company's strategy for utilizing technological resources, with the goal of ensuring that all Blackbaud technological resources are up-to-date and patched accordingly, and supervise the **Patch Supervisor**; and
 - c. Provide reports as necessary to the Chief Executive Officer and coordinate with the **Chief Privacy Officer and Cybersecurity Counsel** and **Chief Information Security Officer**, to take steps to ensure Blackbaud's information technology, information security, and privacy programs are cohesive and aligned.
46. Blackbaud shall provide the **Chief Privacy Officer, Chief Information Security Officer, Business Information Security Officers, Chief Technology Officer, Information Security Program** and corresponding cybersecurity staff with the resources and support reasonably necessary so that the **Information Security Program** functions as required by this Agreement.
47. Without limiting the foregoing, Blackbaud may fulfill the specified governance roles and responsibilities in this Agreement with individuals with titles that do not directly correspond to the defined terms in this Agreement; provided that Blackbaud meets the functional requirements of Paragraphs 42-46.

E. TRAINING REQUIREMENTS

48. Employees who are responsible for implementing, maintaining, or monitoring the **Information Security Program**, including but not limited to the **Chief Information Security Officer** and **Business Information Security Officers**, shall receive specialized training to help effectuate Blackbaud's compliance with the terms of this Agreement. Blackbaud shall provide the training required under this Paragraph to all such employees within ninety (90) days of the **Effective Date** of this Agreement or prior to an employee starting their responsibilities for

implementing, maintaining, or monitoring the **Information Security Program**. Blackbaud shall document the trainings, including the date(s) upon which they were provided and to whom.

49. Blackbaud shall provide training on safeguarding and protecting **PI** and **PHI** to its employees who handle **PI** or **PHI**, and its employees responsible for implementing, maintaining, or monitoring the **Information Security Program**. Such training shall be appropriate to employees' job responsibilities and functions and shall occur on an annual basis, or more frequently if appropriate, beginning within ninety (90) days of the **Effective Date** of this Agreement or prior to an employee handling **PI** or **PHI** or starting their responsibilities for implementing, maintaining, or monitoring the **Information Security Program**. Blackbaud shall document the trainings, including the date(s) upon which they were provided and to whom.

50. Blackbaud shall provide specialized technology and cybersecurity training, ongoing education, and product training to relevant information technology and information security personnel.

**F. PERSONAL AND PROTECTED HEALTH INFORMATION
SAFEGUARDS AND CONTROLS**

51. Blackbaud shall maintain and comply with a **Governance Process** establishing that Blackbaud **Customer** database backup files containing **PI** and **PHI** will be stored to the minimum extent necessary to accomplish Blackbaud's intended legitimate business purpose(s) in storing the information in such database backup files on behalf of **Blackbaud Customers**. With respect to **PHI**, the **Governance Process** shall be consistent with the Minimum Necessary Standard, which shall refer to the requirements of the Privacy Rule that, when using, disclosing, or requesting **PHI**, a **Covered Entity** or **Business Associate** must make reasonable efforts to limit **PHI** to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request as defined in 45 C.F.R. § 164.502(b) and § 164.514(d).

52. Blackbaud shall maintain, regularly review and revise as necessary, and comply with a **Governance Process** to appropriately protect **PI** and **PHI** from unauthorized access whether the information is transmitted electronically from the **Blackbaud Network** or stored in the **Blackbaud Network**. Any such **Governance Process** shall include at a minimum, total database encryption of all databases that contain **Blackbaud Customer** data. Where appropriate, and until total database encryption of all databases is completed, field-level encryption of data fields that may include **PI** and/or **PHI** shall continue. Blackbaud shall also require all third-party data storage or cloud providers to apply equal to or greater encryption protocols to any **Blackbaud Network** data.

53. Blackbaud shall maintain, regularly review and revise as necessary, and comply with a **Governance Process** that provides for the secure disposal, on a periodic basis, of **Blackbaud Customer** database backup files within Blackbaud's control in accordance with written retention schedules.

54. Blackbaud shall invest in and utilize a solution for searching, monitoring, and tracking the dark web for **Blackbaud Network** data, including **Blackbaud Customer** data if there is a **Breach**. If **Blackbaud Network** data or a threat to **Blackbaud Network** data is discovered on the dark web, Blackbaud shall notify the **Chief Privacy Officer** and **Chief Information Security Officer**, who shall then notify the Office of General Counsel and Chief Executive Officer, and if applicable, any **Blackbaud Customers** whose data may be affected.

G. SPECIFIC TECHNICAL SAFEGUARDS AND CONTROLS

55. Network Segmentation:

- a. Blackbaud shall maintain, regularly review and revise as necessary, and comply with network segmentation protocols and related policies that are reasonably

designed to properly segment the **Blackbaud Network** or otherwise implement **Compensating Controls**, which shall, at a minimum, comply with NIST CSF controls related to network segmentation.

- b. Blackbaud shall regularly evaluate, and, as appropriate, restrict and/or disable any unnecessary ports on the **Blackbaud Network**.
- c. Blackbaud shall logically separate its development, production and non-production environments in the **Blackbaud Network**.
- d. Blackbaud shall employ microsegmentation and/or access control security principles in the **Blackbaud Network** at the following levels: (1) application; (2) database; (3) and user. The requirements of this Paragraph shall commence upon one hundred and eighty (180) days after the Effective Date.

56. **Risk Assessment:** Blackbaud shall maintain and regularly review and revise as necessary a risk-assessment program designed to identify and assess risks to the **Blackbaud Network**. Risk assessments shall follow the NIST Cybersecurity Framework, or where required and deemed appropriate, another established industry standard cybersecurity framework and be performed annually under the direction of the **Chief Information Security Officer** and Blackbaud's General Counsel and shall be documented. In cases where Blackbaud deems a risk to be acceptable, Blackbaud shall generate and retain for at least seven (7) years a record stating why Blackbaud deems the risk to be acceptable and demonstrating how such risk is to be managed in consideration of cost or difficulty in implementing effective countermeasures. All reports shall be maintained by the **Chief Information Security Officer** or his or her designee and be available for inspection by the **Third-Party Assessor** described in Paragraph 70 of this Agreement when the **Third-Party Assessor** is conducting its **Third-Party Assessments**.

57. Penetration and Security Testing:

- a. Within one hundred and eighty (180) days of the Effective Date, Blackbaud shall implement and maintain a risk-based security-testing program reasonably designed to identify, assess, and remediate security vulnerabilities within the **Blackbaud Network**. This program shall include: (i) testing for security vulnerabilities for Blackbaud developed applications before deployment to any public-facing webserver using static and dynamic application testing for production releases; (ii) at least one annual penetration test of all Blackbaud products; (iii) vulnerability scans of all systems in the **Blackbaud Network** occurring at least weekly; and (iv) vulnerability scans of the production environment of the **Blackbaud Network** within twenty-four (24) hours after any material modifications. All results shall be documented and maintained for two (2) years.
- b. Blackbaud shall rate and rank the criticality of all vulnerabilities identified as a result of any vulnerability scanning or penetration testing that it performs on the **Blackbaud Network** in alignment with an established industry-standard framework (e.g., NVD, CVSS, or equivalent standard). For each vulnerability that is ranked as most critical, Blackbaud shall commence remediation planning within seventy-two (72) hours after the identification of the vulnerability and shall apply the remediation within fifteen (15) days after the identification of the vulnerability. If the remediation cannot be applied within fifteen (15) days after the identification of the vulnerability, Blackbaud shall identify existing or implement new **Compensating Controls** designed to protect **PI** and **PHI** as soon as practicable but

no later than fifteen (15) days after the identification of the vulnerability. All results shall be documented and maintained for three (3) years.

58. Access Control and Account Management:

- a. Blackbaud shall implement and maintain appropriate controls to manage access to, and use of, all **Blackbaud User** accounts with access to **Blackbaud Customer** databases that store **Consumer** data, including, without limitation, individual accounts, administrator accounts, service accounts, and vendor accounts.
- b. To the extent that Blackbaud maintains accounts requiring passwords:
 - i. Such controls shall be consistent with the requirements of NIST or another established industry standard cybersecurity framework, including reasonable password confidentiality and password-rotation policies; or multi-factor authentication, tokens, or any other equal or greater authentication protocol. For purposes of this Paragraph, any administrative-level passwords shall be **Encrypted** or secured using a reasonable password vault, privilege access monitoring, or other **Compensating Control**; and
 - ii. Blackbaud shall implement and maintain appropriate policies for the secure storage of **Blackbaud Network** account passwords based on industry accepted security practices; for example, hashing and salting passwords stored online using an appropriate hashing algorithm that is not vulnerable to a collision attack together with an appropriate salting policy, or other equivalent or stronger protections.

- c. Blackbaud shall implement and maintain appropriate access controls, processes, and procedures, the purpose of which shall be to grant access to the **Blackbaud Network** only after the **Blackbaud User**, or **Blackbaud Customer** user, as applicable, has been properly identified and authenticated.
- d. For **Blackbaud Users** that are employees or independent contractors of Blackbaud, Blackbaud shall as soon as practicable and (i) within one (1) business day of the termination of the **Blackbaud User**'s employment or contract with Blackbaud for **Privileged Accounts**, or (ii) within three (3) business days of the termination of the **Blackbaud User**'s employment or contract with Blackbaud for standard accounts, terminate access for all such terminated **Blackbaud Users**. **Blackbaud User** accounts issued to a third party will be set to automatically expire whenever technically feasible for a period not to exceed one hundred and eighty (180) days from when the account was created. For purposes of this subsection, the date of termination shall be the date recorded by Blackbaud's Human Resources Department. "**Privileged Accounts**" shall mean accounts that provide the ability to make system and software configuration changes, perform administrative tasks, and create or modify **Blackbaud User** accounts. All access terminations shall be documented and maintained for five (5) years.
- e. Blackbaud shall limit the access of **Blackbaud Users** to **Blackbaud Customer** databases that store **Consumer** data on a least-privileged basis.
- f. Blackbaud shall regularly inventory the **Blackbaud Users** who have access to the **Blackbaud Network** in order to review and determine whether or not such access remains necessary or appropriate. Blackbaud shall compare termination lists to

Blackbaud User accounts to determine whether access privileges have been appropriately terminated. At a minimum, such review shall compare termination lists to **Blackbaud User** accounts to determine whether access privileges have been appropriately terminated on a quarterly basis. The requirements of this subsection shall commence upon one hundred and eighty (180) days after the Effective Date.

- g. Within one hundred and eighty (180) days of the Effective Date, Blackbaud shall implement Privileged Access Management (PAM) administration processes and procedures to store and monitor the account credentials and access privileges of **Blackbaud Users** who have **Privileged Accounts**, administrator accounts, and/or accounts, active or available, to design, maintain, operate, and update the **Blackbaud Network**.
- h. Blackbaud shall implement and maintain controls to detect anomalous activity by unauthorized devices and prevent unauthorized devices from accessing the **Blackbaud Network**.

59. File Integrity Monitoring: Blackbaud shall maintain controls designed to provide near real-time notification of unauthorized or malicious modifications to **Blackbaud Customer** database servers in the **Blackbaud Network**. The notification shall include information available about the modification including, where available, the date of the modification, the source of the modification, the type of modification, and the method used to make the modification.

60. Unauthorized or Malicious Applications: Blackbaud shall maintain controls designed to identify and protect against the execution or installation of unauthorized or malicious applications on the **Blackbaud Network**.

61. Logging and Monitoring:

- a. Within one hundred and eighty (180) days of the Effective Date, Blackbaud shall implement reasonable controls to centralize monitoring, logging, and operational activities on the **Blackbaud Network**; to report anomalous activity through the use of appropriate platforms; and to require that tools used to perform these tasks be appropriately monitored and tested to assess proper configuration and maintenance.
- b. All **Security Incidents** shall promptly be reported to the **Chief Information Security Officer** and the Office of the **Chief Privacy Officer** consistent with the timeframes specified in the Blackbaud Incident Response Plan which, to the extent applicable, shall be aligned to NIST 800-61r2 and include processes for communicating **Security Incidents** to the appropriate leaders, executives, and committees to appropriately manage the risk. Any critical vulnerability that is associated with a **Security Incident** shall be remediated within twenty-four (24) hours of the identification of such vulnerability. If that vulnerability cannot be remediated as indicated above, then Blackbaud shall within twenty-four (24) hours of the identification of such vulnerability: (a) implement **Compensating Controls**; or (b) take the application or functionality of the application affected by such vulnerability offline until such vulnerability is remediated or **Compensating Controls** have been successfully applied.
- c. Blackbaud shall monitor on a daily basis, and shall test on at least a monthly basis, any tool used to monitor the **Blackbaud Network** for the occurrence of a **Security Incident**, and properly configure, regularly update, and maintain the tool, so that the **Blackbaud Network** is appropriately monitored.

62. Change Control: Blackbaud shall maintain, regularly review and revise as necessary, and comply with a **Governance Process** established to manage and document changes to the **Blackbaud Network**. At a minimum:

- a. Blackbaud shall define the roles and responsibilities for those involved in the change control process, including a board responsible for reviewing changes (hereinafter referred to as the “**Change Advisory Board**”). The **Change Advisory Board** shall include stakeholders from the appropriate business and informational technology units. The **Change Advisory Board**’s responsibilities shall include: managing overall change control policies and procedures; providing guidance regarding the overall change control policies and procedures; conducting an annual audit of change requests so that changes to the **Blackbaud Network** are properly analyzed and prioritized; and reviewing, approving, evaluating, and scheduling requests for changes to the **Blackbaud Network**.
- b. The change control policies and procedures shall address the process to: request a change to the **Blackbaud Network**; determine the priority of the change; determine the change’s impact on the **Blackbaud Network**, the security of **PI** and **PHI** on the **Blackbaud Network**, and Blackbaud’s ongoing business operations; obtain the appropriate approvals from required personnel (e.g., change requester, area of Blackbaud business, **Change Advisory Board**); develop, test, and implement the change; and review and test the impact of the change on the security of the **Blackbaud Network**, in each case as appropriate, based on the risk.
- c. The change control policies and procedures required by this Paragraph shall require that any architectural changes to the **Blackbaud Network** be evaluated regarding

potential risks, and that all such changes receive appropriate (i) analysis, (ii) approvals from required personnel, and (iii) testing, as appropriate, based on the risk.

- d. Any action with respect to any changes to the **Blackbaud Network** (requesting, analyzing, approving, developing, implementing, and reviewing) shall be documented and retained, with the documentation appropriately secured and stored in repositories that are scoped to an application, area of Blackbaud business, and/or geography and are accessible to appropriate security personnel.

63. Asset Inventory: Blackbaud shall utilize processes and, where practicable, automated tool(s) to regularly inventory and classify, and issue reports on, all assets that comprise the **Blackbaud Network**. The asset inventory as well as applicable configuration and change management systems shall, at a minimum, collectively identify: (a) the name of the asset; (b) the version of the asset; (c) the owner of the asset; (d) the asset's location within the **Blackbaud Network**; (e) the asset's criticality rating; (f) the potential risks and vulnerabilities associated with each asset; and (g) whether the asset processes or stores **PI** or **PHI** of **Consumers**. For purposes of this Paragraph, "assets" shall mean network components, data stores, physical devices, systems, software platforms, and applications within the **Blackbaud Network**. The requirements of this Paragraph shall commence upon one hundred and eighty (180) days after the Effective Date.

64. Digital Certificates: Blackbaud shall implement and maintain a **Governance Process** to manage the life cycle of all digital certificates that expire longer than a week after their creation and that are used to authenticate servers and systems in the **Blackbaud Network**, including whether to issue, cancel, renew, reissue, or revoke a digital certificate. The **Governance Process** required by this Paragraph shall track the expiration date of any such digital certificate

and require notification of such expiration to the custodian of the certificate key thirty days (30) prior to expiration, ten days (10) prior to expiration, and on the date the digital certificate expires. Digital certificate for purposes of this Paragraph shall include a security token, biometric identifier, or a cryptographic key used to protect externally-facing systems and applications.

65. Endpoint Detection and Response (“EDR”): Blackbaud shall acquire, configure, and utilize, an EDR solution to incorporate real-time threat detection and analysis across the **Blackbaud Network** and Blackbaud owned and/or managed devices. Blackbaud shall operationally staff and manage such EDR solution with the necessary and qualified information security personnel and analyst technicians needed to operate and manage the solution. In addition to any in-house information security personnel and analyst technicians, Blackbaud shall also retain as part of any solution configuration, EDR solution professional services to assist with near real-time threat detection and monitoring.

66. Intrusion Detection and Prevention Tools (“IDS/IPS”): Blackbaud shall implement, maintain, and update intrusion detection and prevention tools including but not limited to host-based firewalls, antivirus/antimalware software, and logging on all internal servers and employee computers on the **Blackbaud Network** to detect and prevent malicious activity.

67. Threat Management: Blackbaud shall establish a threat management program which shall include the use of automated tools to continuously monitor the **Blackbaud Network** for active threats. Blackbaud shall continuously monitor, and assess on at least a monthly basis, whether any monitoring tool used pursuant to this Paragraph is appropriately configured, tested, and updated.

68. Updates and Patch Management: Within one hundred and eighty (180) days of the Effective Date, Blackbaud shall maintain, keep updated, and support the software on the

Blackbaud Network, taking into consideration the impact a software update will have on data security in the context of the **Blackbaud Network** and its ongoing business and network operations, and the scope of the resources required to maintain, update, and support the software.

At a minimum, Blackbaud shall also do the following:

- a. For any software that will no longer be supported by its manufacturer or a third party, Blackbaud shall commence the evaluation and planning to replace the software or to maintain the software with appropriate **Compensating Controls** the later of one (1) year prior to the date on which the manufacturer's or third party's support will cease, or ninety (90) days from the date the manufacturer or third party announces that it is no longer supporting the software if such period is less than one (1) year. If Blackbaud is unable to commence the evaluation and planning in the timeframe required by this subparagraph, it shall prepare and maintain a written exception that shall include:
 - i. A description of why the exception is appropriate, e.g., what business need or circumstance supports the exception;
 - ii. An assessment of the potential risk posed by the exception; and
 - iii. A description of the schedule that will be used to evaluate and plan for the replacement of the software or addition of any **Compensating Controls**.
- b. Blackbaud shall maintain reasonable controls to address the potential impact security updates and security patches may have on the **Blackbaud Network** and shall:

- i. Maintain a patch management solution(s) to manage software patches that includes the use of standardized patch management distribution tool(s), including automation-assisted processes, whenever appropriate; and
- ii. Maintain a tool that includes an automated Common Vulnerabilities and Exposures (CVE) feed. The CVE tool required by this subparagraph shall provide Blackbaud regular updates, including daily updates to the extent available, regarding known CVEs for vendor-purchased software applications in use within the **Blackbaud Network**. Blackbaud may satisfy its obligations under this subparagraph by using an industry-standard vulnerability scanning tool. The CVE tool required by this subparagraph shall also:
 - a) Identify, confirm, and enhance discovery of the parts of the **Blackbaud Network** that may be subject to CVE events and/or incidents;
 - b) Scan the **Blackbaud Network** for CVEs; and
 - c) Scan the **Blackbaud Network** to determine whether scheduled security updates and patches have been successfully installed, including whether any security updates or patches rated as critical have been installed consistent with the requirement of this Agreement.
- c. Blackbaud shall appoint one or more individuals responsible for patch management relating to the **Blackbaud Network** (“**Patch Management Group**”) Blackbaud shall appoint one or more individuals who shall be responsible for

overseeing the **Patch Management Group** (“**Patch Supervisor**”). The **Patch Supervisor** and the members of the **Patch Management Group** shall include persons with appropriate experience and qualifications. The **Patch Management Group** shall be responsible for:

- i. Monitoring software and application security updates and security patch management, including but not limited to, receiving notifications from the tools installed pursuant to subparagraph (b) and completing appropriate and timely application of all relevant security updates and/or security patches;
 - ii. Monitoring compliance with policies and procedures regarding ownership, supervision, evaluation, and coordination of the maintenance, management, and application of all security patches and software and application security updates by appropriate information technology (IT) application and system owners;
 - iii. Supervising, evaluating, and coordinating any system patch management tool(s) such as those identified in subparagraph (b); and
 - iv. A training requirement for individuals responsible for implementing and maintaining Blackbaud’s patch management policies.
- d. Blackbaud shall use the inventory created pursuant to Paragraph 63 in its regular operations to assist in identifying assets within the **Blackbaud Network** for purposes of applying security updates or security patches that have been released.
- e. Blackbaud shall employ processes, procedures, and technology for the timely scheduling and installation of any security update and security patch relevant to the **Blackbaud Network**. Security update and security patch scheduling and

installation shall be based upon priority of threat level, services storing **PI** and/or **PHI**, and public/external facing services that are processing **PI** and/or **PHI**. Blackbaud shall also consider NIST SP 800-40r4 (“Guide to Enterprise Patch Management Planning”) and any relevant severity ratings, security alerts, and advisory notices disseminated by software and application vendors, the Cybersecurity and Infrastructure Security Agency (CISA), and/or an equivalent United States Department of Homeland Security (DHS) agency designated as responsible for cybersecurity. Blackbaud may adjust the severity rating of the security update or security patch using a risk-based approach that is documented with written explanation. If Blackbaud is unable to schedule and install the security update or security patch in accordance with the applicable severity or risk-based rating, Blackbaud shall identify the assets to which it applies, and create a written explanation that shall include:

- i. A description of why the action is appropriate, e.g., what business need or circumstance exists that supports the rating;
- ii. A description of the alternatives that were considered, and why they were not appropriate;
- iii. An assessment of the potential risks posed by the action;
- iv. The anticipated length of time for the action, if the action is temporary; and
- v. To the extent applicable, a plan for managing or mitigating those risks identified in subparagraph (e)(iii) (e.g., **Compensating Controls**, alternative approaches, methods). The written explanation required

by this subparagraph shall be prepared within forty-eight (48) hours of its determination to apply an exception.

- f. Blackbaud shall, within a time period appropriate to the risk to the **Blackbaud Network**, but not later than forty-eight (48) hours of rating any security update or patch as critical or critical zero-day, either: (1) apply such update or patch to the **Blackbaud Network**; (2) apply **Compensating Controls**; or (3) if Blackbaud is unable to timely update or patch the **Blackbaud Network**, or apply **Compensating Controls**, Blackbaud will take the identified application or affected functionality of the identified application offline until the update or patch or **Compensating Controls** has been successfully applied. If Blackbaud chooses not to apply such update or patch to the **Blackbaud Network** and instead to implement **Compensating Controls**, it shall prepare and maintain a written exception that shall include:
 - i. A description of why the exception is appropriate, e.g., what business need or circumstance supports the exception;
 - ii. An assessment of the potential risk posed by the exception; and
 - iii. A description of the schedule that will be used to evaluate and plan for the application of the security update or patch or addition of any **Compensating Controls**.
- g. In connection with the scheduling and installation of any critical patch and/or update, Blackbaud shall verify that the patch and/or update was applied and installed successfully throughout the **Blackbaud Network**. For each security update or security patch rated as critical, Blackbaud shall maintain records

identifying: (1) each critical patch or update that has been applied; (2) the date(s) each patch or update was applied; (3) the assets to which each patch or update was applied; and (4) whether each patch or update was applied and installed successfully (the “**Critical Patch Management Records**”). Modifications to the **Critical Patch Management Records** shall be reviewed on a weekly basis by the **Patch Management Group**.

- h. On a monthly basis, Blackbaud shall perform an internal assessment of its management and implementation of security updates and patches for the **Blackbaud Network**. This assessment shall identify (i) all known vulnerabilities to the **Blackbaud Network** and (ii) the updates or patches applied to address each vulnerability. The assessment will be formally identified, documented, and reviewed by the **Patch Management Group**.

69. Implementation Benchmarks: Blackbaud shall maintain a cybersecurity capability roadmap, conduct appropriate planning designed to assist Blackbaud in achieving the cybersecurity capabilities specified on the roadmap, and document progress and completion of projects establishing those cybersecurity capabilities.

H. ASSESSMENT AND REPORTING REQUIREMENTS

70. Third-Party Assessments of Information Security Program: Blackbaud shall engage an independent third party (“**Third-Party Assessor**”) to conduct assessments of its general data security practices, which includes a risk assessment that complies with **HIPAA**, as well as its compliance with the terms of this Agreement (“**Third-Party Assessments**”), as follows:

- a. The **Third-Party Assessor** shall be a Certified Information Systems Security Professional (CISSP) or a Certified Information Systems Auditor (CISA), or a

similarly qualified person or organization and have at least three (3) years of experience evaluating the effectiveness of computer system security or information system security.

- b. The reporting period for the **Third-Party Assessments** must cover: (1) the first one hundred and eighty (180) days after the **Effective Date** for the initial **Third-Party Assessment**; and (2) every other year thereafter for seven (7) years, for a total of four (4) **Third-Party Assessments** completed in the first, third, fifth, and seventh years after the **Effective Date**.
- c. The **Third-Party Assessments** shall:
 - i. Follow a NIST Cybersecurity Framework or another established industry standard cybersecurity framework;
 - ii. Identify the specific administrative, technical, and physical safeguards maintained by Blackbaud's **Information Security Program**;
 - iii. Document the extent to which the identified administrative, technical and physical safeguards are appropriate considering Blackbaud's size and complexity, the nature and scope of Blackbaud's activities, and the sensitivity of the **PI** and **PHI** maintained on the **Blackbaud Network**; and
 - iv. Assess the extent to which the administrative, technical, and physical safeguards that have been implemented by Blackbaud meet the requirements of the **Information Security Program** and **HIPAA**.
- d. Following each such assessment, the **Third-Party Assessor** shall prepare a report including its findings and recommendations to cover the requirements under subparagraphs 70(c)(i)-(iv) ("**Security Report**"), and provide a copy of the

Security Report to Blackbaud. A copy of the **Security Report** shall be provided to the Indiana Attorney General within thirty (30) days of the completion of the **Security Report**. The Indiana Attorney General may provide a copy of the **Security Report** to the states identified in Footnote 2 upon request.

- e. Within ninety (90) days of its receipt of each **Security Report**, Blackbaud shall review and, to the extent necessary, revise its current policies and procedures based on the findings of the **Security Report**. Within one hundred eighty (180) days of Blackbaud's receipt of each **Security Report**, Blackbaud shall forward to the Indiana Attorney General a description of any action they take and, if no action is taken, a detailed description of why no action is necessary, in response to each **Security Report**. The Indiana Attorney General may provide a copy of Blackbaud's response as indicated in the foregoing sentence to each **Security Report** to the states identified in Footnote 2 upon request.
- f. Any **Security Report** provided pursuant to this Paragraph and all information contained therein, to the extent permitted by the laws of North Carolina shall be treated by the North Carolina Attorney General as confidential; shall not be shared or disclosed except as permitted by subpart (d) of this Paragraph; and shall be treated by the North Carolina Attorney General as exempt from disclosure under the relevant public records laws of the North Carolina. In the event that the North Carolina Attorney General receives any request from the public for any **Security Report** provided pursuant to this Paragraph or other confidential documents provided to the North Carolina Attorney General under this Agreement, and believes that such information is subject to disclosure under the relevant public records laws, the North Carolina Attorney General agrees to provide Blackbaud with at least ten (10) days advance notice before

producing the information, to the extent permitted by state law (and with any required lesser advance notice), so that Blackbaud may take appropriate action to defend against the disclosure of such information. The notice under this Paragraph shall be provided consistent with the notice requirements contained in Paragraph 93. Nothing contained in this subparagraph shall alter or limit the obligations of the North Carolina Attorney General that may be imposed by the relevant public records laws of the North Carolina, or by order of any court, regarding the maintenance or disclosure of documents and information supplied to the North Carolina Attorney General except with respect to the obligation to notify Blackbaud of any potential disclosure.

71. In the event that any audit or other third-party report pertaining to cybersecurity is materially amended or withdrawn, Blackbaud shall immediately notify any **Blackbaud Customer** or governmental agency with which it has shared the report.

V. DOCUMENT RETENTION

72. Unless otherwise provided herein, Blackbaud shall retain and maintain any documentation required by Paragraphs 12 and 32-71 for a period of no less than seven (7) years. In no way does this or any other provision in this Agreement waive any applicable privilege or protection over any Blackbaud document or communication.

VI. PAYMENT TO THE STATES

73. Within thirty (30) days of the **Effective Date**, Blackbaud shall pay a total of Forty-Nine Million, Five Hundred Thousand Dollars (\$49,500,000) to the Attorneys General, to be divided among the Attorneys General at their discretion. The amount apportioned to the North Carolina Attorney General is to be paid by Blackbaud directly to the North Carolina Attorney General in an amount designated by the Attorneys General and communicated to Blackbaud.

74. Out of the total amount, Blackbaud shall pay \$1,181,270.00 to North Carolina.

North Carolina's portion of said payment shall be used by the State of North Carolina as and for attorneys' fees and other costs of investigation and litigation, or be placed in, or applied to, the consumer protection enforcement fund, including future consumer protection enforcement, consumer education, litigation, or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the North Carolina Attorney General.

VII. RELEASE

75. Following full payment of the amounts due under this Agreement, the North Carolina Attorney General shall release and discharge Blackbaud from all civil or administrative claims that the North Carolina Attorney General could have brought under the **Relevant Laws** based on Blackbaud's conduct related to the **2020 Data Breach**. Nothing contained in this Paragraph shall be construed to limit the ability of the North Carolina Attorney General to enforce the obligations that Blackbaud has under this Agreement. Further, nothing in this Agreement shall be construed to (a) create, waive, or limit any private right of action; or (b) excuse or exempt Blackbaud from complying with any state or federal law, rule, or regulation in the future. For clarity, the execution of this Agreement terminates the tolling agreement between Blackbaud and the North Carolina Attorney General.

76. Notwithstanding any term of this Agreement, any and all of the following forms of liability are specifically excluded from the release in Paragraph 75 above as to any entity or person, including Blackbaud:

- a. Any criminal liability that any person or entity, including Blackbaud, has or may have to the States; and
- b. Any civil liability or administrative liability that any person or entity, including

Blackbaud, has or may have to the States under any statute, regulation, or rule not expressly covered by the release in Paragraph 75 above, including but not limited to, any and all of the following claims: (i) State or federal antitrust violations; (ii) State or federal securities violations; (iii) State insurance law violations; or (iv) State or federal tax claims.

77. This Agreement is not intended, and shall not be deemed, to constitute evidence or precedent of any kind except in: (a) any action or proceeding by one of the Parties to enforce, rescind, or otherwise implement or affirm any or all terms of this Agreement; or (b) any action or proceeding involving a claim covered by the release to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion, or similar defense.

VIII. GENERAL PROVISIONS

78. Nothing in this Agreement shall be construed to limit the authority or ability of the North Carolina Attorney General to protect the interests of North Carolina or the people of North Carolina. This Agreement shall not bar the North Carolina Attorney General or any other governmental entity from enforcing laws, regulations, or rules against Blackbaud for conduct subsequent to or otherwise not covered by this Agreement. Further, nothing in this Agreement shall be construed to limit the ability of the North Carolina Attorney General to enforce the obligations that Blackbaud has under this Agreement.

79. The requirements of the Agreement are in addition to, and not in lieu of, any other requirements of state or federal law. Nothing in this Agreement shall be construed as relieving Blackbaud of the obligation to comply with all state and federal laws, rules, and regulations, nor shall any of the provisions of this Agreement be deemed to be permission to engage in any acts or practices prohibited by such laws, rules, and regulations.

80. Any failure of the State to exercise any of its rights under this Agreement shall not constitute a waiver of any rights hereunder.

81. The Parties agree that should Blackbaud resolve allegations concerning Blackbaud's conduct related to the **2020 Data Breach** with Attorneys General of other States and, within sixty (60) days, if the North Carolina Attorney General determines that the injunctive terms of such resolution(s), taken as a whole, are materially more favorable than those contained in this Agreement, then the North Carolina Attorney General shall notify Blackbaud in writing within fifteen (15) days regarding its position that another State's terms are materially more favorable and the North Carolina Attorney General and Blackbaud shall meet and confer regarding whether and how favorable the injunctive terms of such resolution(s) are compared to those contained in this Agreement. Within ten (10) days after the meet and confer, Blackbaud shall notify the North Carolina in writing whether it, in whole or in part, agrees with the North Carolina's proposal or contests the applicability of this provision in good faith. The Parties shall promptly commence negotiation over the relevant terms. Once the North Carolina Attorney General and Blackbaud have mutually agreed that certain injunctive terms of such resolution are materially more favorable than those contained in this Agreement, this Agreement shall be amended accordingly. This Paragraph shall expire one (1) year after the Effective Date. Notwithstanding the foregoing, this Paragraph shall not apply to the differences in resolutions with the States that have agreed to this Agreement as part of the multi-state.

82. Nothing contained in this Agreement is intended to be, and shall not in any event be construed or deemed to be, an admission or concession or evidence of any liability or wrongdoing whatsoever on the part of Blackbaud or of any fact or violation of law, rule, or regulation. This Agreement is made without trial or adjudication of any alleged issue of fact or law

and without any finding of liability or wrongdoing of any kind. Blackbaud enters into this Agreement for settlement purposes only.

83. Blackbaud shall not participate in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited by this Agreement or for any other purpose that would otherwise circumvent any term of this Agreement. Blackbaud shall not knowingly cause, permit, or encourage any other persons or entities acting on its behalf, to engage in practices prohibited by this Agreement.

84. In states where this Agreement must be filed with and/or approved by a court, Blackbaud consents to the filing of this Agreement and its approval by the court, and authorizes the Attorneys General in such states to represent that Blackbaud does not object to court approval of the Agreement. Blackbaud further consents to the jurisdiction of each such court for the purpose of approving, modifying, or enforcing the Agreement. Blackbaud shall pay all court costs associated with the filing of this Agreement, as applicable.

85. Blackbaud agrees that this Agreement does not entitle it to seek or to obtain attorneys' fees under any statute, regulation, or rule, and Blackbaud further waives any right to attorneys' fees that may arise under such statute, regulation, or rule.

86. This Agreement shall not be construed to waive any claims of sovereign immunity that North Carolina may have in any action or proceeding.

87. Blackbaud shall deliver a copy of this Agreement to, and otherwise fully apprise, its Chief Executive Officer, General Counsel, **Chief Privacy Officer, Chief Information Security Officer, Business Information Security Officers, Chief Technology Officer,** and Board of Directors within thirty (30) days of the **Effective Date**. To the extent Blackbaud replaces any of the above-listed officers, counsel, or directors, Blackbaud shall deliver a copy of this

Agreement to their replacements within thirty (30) days from the date on which such person assumes his or her position with Blackbaud.

88. If any portion of this Agreement is held invalid or unenforceable, the remaining terms of this Agreement shall not be affected and shall remain in full force and effect.

89. No modification of the terms of this Agreement shall be valid or binding unless made in writing, signed by the Parties, and approved by the Court in which the Agreement is filed, as applicable, and then only to the extent specifically set forth in such Agreement. However, the Parties may agree in writing, through counsel, to an extension of any time period specified in this Agreement without a court order.

90. Nothing in this Agreement shall provide any rights to or permit any person or entity not a party hereto, including any state or attorney general not a party hereto, to enforce any provision of this Agreement. No person or entity not a signatory hereto is a third-party beneficiary of this Agreement. Nothing in this Agreement shall be construed to create, affect, alter, or assist any private right of action that a **Consumer** or other third-party may hold against Blackbaud.

91. The Parties hereby acknowledge that their undersigned representative or representatives are authorized to enter into and execute this Agreement. Blackbaud is and has been represented by legal counsel and has been advised by its legal counsel of the meaning and legal effect of this Agreement.

92. Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall be considered one and the same Agreement.

IX. NOTICES

93. Any notices or other documents required to be sent to the Parties pursuant to the Agreement shall be sent by United States Mail, Certified Return Receipt Requested, or other nationally recognized courier service that provides tracking services and identification of the person signing for the documents. Any notices or other documents sent pursuant to the Agreement shall be sent to:

For the NORTH CAROLINA ATTORNEY GENERAL:

Kim D'Arruda
Special Deputy Attorney General
NC Department of Justice
Consumer Protection Division
114 W. Edenton Street
Raleigh, NC 27603
P.O. Box 629
Raleigh, NC 27602-0629
kdarruda@ncdoj.gov

For BLACKBAUD:

Robert J. Mittman
1271 Avenue of the Americas
New York, NY 10020

Sharon R. Klein
4 Park Plaza, Suite 450
Irvine, CA 92614

Paul H. Tzur
444 West Lake Street, Suite 1650
Chicago, IL 60606


A Party may update its designee or address by sending written notice to the other Party informing them of the change.

APPROVED:

FOR THE STATE OF NORTH CAROLINA

JOSHUA H. STEIN,
North Carolina Attorney General

By:


KIMBERLEY A. D'ARRUDA
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
(919) 716-6000
kdarruda@ncdoj.gov
State Bar No. 25271

Date:

9-28-2023

[Additional approvals on subsequent pages]

APPROVED:

BLACKBAUD, INC.

By: _____

Name: Anthony W. Boor

Title: Chief Financial Officer

Date: 9/25/2023

APPROVED:

COUNSEL FOR BLACKBAUD, INC.
BLANK ROME, LLP

By: _____

Name: Robert J. Mittman

Title: Partner

Date: 9/25/2023

BLACKBAUD MULTISTATE APPENDIX - EXHIBIT A

STATE	CONSUMER PROTECTION LAWS	DATA BREACH NOTIFICATION & PERSONAL INFORMATION PROTECTION LAWS
AK - ALASKA	Unfair Trade Practices Act, Alaska Stat. 45.50.471, et seq.	Alaska Stat. 45.48.010, et seq.
AL - ALABAMA	Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1, et seq.	Data Breach Notification Act of 2018, Ala. Code § 8-38-1, et seq.
AR - ARKANSAS	Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101, et seq.	Arkansas Personal Information Protection Act, Ark. Code Ann. § 4-110-101, et seq.
AZ - ARIZONA	Arizona Consumer Fraud Act, Ariz. Rev. Stat. §§ 44-1521, et seq.	Ariz. Rev. Stat. §§ 18-551 and 18-552
CO - COLORADO	Colorado Consumer Protection Act, C.R.S. §§ 6-1-101 et seq.	C.R.S. § 6-1-716 and C.R.S. § 6-1-713.5
CT- CONNECTICUT	Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110b, et seq.	Breach of Security, Conn. Gen. Stat. § 36a-701b; Safeguarding of Personal Information, Conn. Gen. Stat. § 42-471
DC - DISTRICT OF COLUMBIA	Consumer Protection Procedures Act, D.C. Code §§ 28-3901, et seq.	District of Columbia Consumer Security Breach Notification Act, D.C. Code §§ 28-3851, et seq.
DE - DELAWARE	Consumer Fraud Act, 6 Del. C. §§ 2511 et seq.	Delaware Data Breach Notification Law, 6 Del. C. § 12B-100 et seq.
FL - FLORIDA	Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes	Florida Information Protection Act, Section 501.171, Florida Statutes
GA - GEORGIA	Georgia Fair Business Practices Act, O.C.G.A. §§ 10-1-390 through 408	Georgia Personal Identity Protection Act, O.C.G.A. §§ 10-1-910 through 915
HI - HAWAII	Uniform Deceptive Trade Practice Act, Haw. Rev. Stat. ch. 481A and Haw. Rev. Stat. § 480-2	Haw. Rev. Stat. ch. 487J and Haw. Rev. Stat. ch. 487N
IA - IOWA	Iowa Consumer Fraud Act, Iowa Code § 714.16	Personal Information Security Breach Protection Act, Iowa Code Chapter 715C
ID - IDAHO	Idaho Consumer Protection Act, Idaho Code §§ 48-601, et seq.	Idaho Code, Title 28, Chapter 51
IL - ILLINOIS	Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et seq.	Illinois Personal Information Protection Act, 815 ILCS 530/1 et seq.
IN - INDIANA	Deceptive Consumer Sales Act, Ind. Code §§ 24-5-0.5 et seq.	Disclosure of Security Breach Act, Ind. Code §§ 24-4.9 et seq.
KS - KANSAS	Kansas Consumer Protection Act, K.S.A. §§ 50-623 et seq.	Security Breach Notification Act, K.S.A. §§ 50-7a01, et seq.; The Wayne Owen Act, K.S.A. § 50-6,139b

BLACKBAUD MULTISTATE APPENDIX - EXHIBIT A

KY - KENTUCKY	Kentucky Consumer Protection Act, KRS §§ 367.110-.300, 367.990	KRS 365.732
LA - LOUISIANA	Unfair Trade Practices and Consumer Protection Law, La. R.S. §§ 51:1401, et seq.	Database Security Breach Notification Law, La. R.S. §§ 51:3071, et seq.
MA - MASSACHUSETTS	Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A	Mass. Gen. Laws ch. 93H; 201 Code Mass. Regs. 17.00 et seq.
MD - MARYLAND	Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101, et seq.	Maryland Personal Information Protection Act, Md. Code Ann., Com. Law §§ 14-3501, et seq.
ME - MAINE	Maine Unfair Trade Practices Act, 5 M.R.S.A. §§ 205-A, et seq.	Maine Notice of Risk to Personal Data Act, 10 M.R.S.A. §§ 1346, et seq.
MI - MICHIGAN	Michigan Consumer Protection Act, MCL 445.901 et seq.	Identity Theft Protection Act, MCL 445.61, et seq.
MN - MINNESOTA	Uniform Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43–48; Consumer Fraud Act, Minn. Stat. §§ 325F.68-.694	Minnesota Data Breach Notification Statute, Minn. Stat. § 325E.61 and Minnesota Health Records Act, Minn. Stat. § 144.291-144.34
MO - MISSOURI	Mo. Rev. Stat. §§ 407.010, et seq.	Mo. Rev. Stat. § 407.1500
MS - MISSISSIPPI	Mississippi Consumer Protection Act, Miss. Code §§ 75-24-1, et seq.	Miss. Code Ann. § 75-24-29
MT - MONTANA	Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann. §§ 30-14-101 et seq.	Mont. Code Ann. §§ 30-14-1701 et seq.
NC - NORTH CAROLINA	North Carolina Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1, et seq.	Identity Theft Protection Act, N.C.G.S. §§ 75-60, et seq.
ND - NORTH DAKOTA	Unlawful Sales or Advertising Practices, N.D.C.C. §§ 51-15-01 et seq.	Notice of Security Breach for Personal Information N.D.C.C. §§ 51-30-01 et seq.
NE - NEBRASKA	Nebraska Consumer Protection Act, Neb. Rev. Stat. §§ 59-1601 et seq.	Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006, Neb. Rev. Stat. § 87-801 et seq.
NH - NEW HAMPSHIRE	New Hampshire Consumer Protection Act, N.H. Rev. Stat. Ann § 358-A:1, et seq.	N.H. Rev. Stat. Ann § 359-C: 19-21
NJ - NEW JERSEY	New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.	New Jersey Identity Theft Prevention Act, N.J.S.A. 56:8-161 to -166
NM - NEW MEXICO	New Mexico Unfair Practices Act, NMSA 1978, §§ 57-12-1 et seq.	Data Breach Notifications Act, NMSA 1978, Sections 57-12C-1 et seq.

BLACKBAUD MULTISTATE APPENDIX - EXHIBIT A

NV - NEVADA	Nevada Deceptive Trade Practices Act, Nev. Rev. Stat. §§ 598.0903 et seq.	Nev. Rev. Stat. §§ 603A.010-603A.290
NY - NEW YORK	Executive Law 63(12), General Business Law 349/350	General Business Law 899-aa and 899-bb
OH - OHIO	Ohio Consumer Sales Practices Act, R.C. § 1345.01, et seq.	R.C. § 1349.19, et seq.
OK - OKLAHOMA	Oklahoma Consumer Protection Act, 15 O.S. Section 751, et seq.	Oklahoma Security Breach Notification Act, 24 O.S. Section 161, et seq.
OR - OREGON	Oregon Unlawful Trade Practices Act, ORS 646.605, et seq.	Oregon Consumer Information Protection Act, ORS 646A.600, et seq.
PA - PENNSYLVANIA	Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1, et seq.	Breach of Personal Information Notification Act, 73 P.S. §§ 2301, et seq.
RI - RHODE ISLAND	Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws §§ 6-13.1-1, et seq.	Rhode Island Identity Theft Protection Act R.I. Gen. Laws §§ 11-49.3-1, et seq.
SC - SOUTH CAROLINA	South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10, et seq.	South Carolina Data Breach Notification Law, S.C. Code Ann. § 39-1-90
SD - SOUTH DAKOTA	SDCL Chapter 37-24	SDCL Chapter 22-40
TN - TENNESSEE	Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101 to -135	Tennessee Identify Theft Deterrence Act of 1999, Tenn. Code Ann. §§ 47-18-2101 to -2111
TX - TEXAS	Texas Deceptive Trade Practices – Consumer Protection Act, Tex. Bus. & Com. Code Ann. §§ 17.41 – 17.63	Identity Theft Enforcement and Protection Act, Tex. Bus. & Com. Code Ann. § 521.001 – 152
UT - UTAH	Utah Consumer Sales Practices Act Utah Code §§ 13-11-1, et. seq.	Utah Protection of Personal Information Act, Utah Code §§ 13-44-101, et seq.
VA - VIRGINIA	Virginia Consumer Protection Act, Virginia Code §§ 59.1-196 through 59.1- 207	Virginia Breach of Personal Information Notification Law, Virginia Code § 18.2-186.6
VT - VERMONT	Vermont Consumer Protection Act, 9 V.S.A. §§ 2451 et seq.	9 V.S.A §§ 2430, 2431, and 2435
WA - WASHINGTON	Washington Consumer Protection Act, RCW 19.86 et seq.	Washington Data Breach Notification Law, RCW 19.255 et seq.
WI - WISCONSIN	Wis. Stat. § 100.18(1)	Wis. Stat. § 134.98
WV - WEST VIRGINIA	W. Va. Code §§ 46A-1-101, et seq.	W. Va. Code §§ 46A-2A-101 et seq.
WY - WYOMING	Wyoming Consumer Protection Act, W.S. §§ 40-12-101 et seq.	W.S. §§ 40-12-501 et seq.



REC'D 23 OCT 10 PM 3:26
NC DEPT OF JUSTICE F55

JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

CONSUMER PROTECTION
TOLL-FREE IN NC: (877) 566-7226
OUTSIDE OF NC: (919) 716-6000
FAX: (919) 716-6050

MEMORANDUM

TO: Financial Services

FROM: Jasmine McGhee, Senior Deputy Attorney General

RE: Deposit Distribution
Adore Me, Inc.

DATE: October 10, 2023

Jasmine McGhee

Pursuant to the Settlement Agreement reached in the multi-state investigation into Adore Me, Inc. ("Adore Me"), a wire in the amount of \$79,832.63 was received by Financial Services on October 6, 2023 and will be deposited into cost center 2140-2191.

This settlement agreement settles claims that the company deceptively marketed its VIP Membership Program and then made it difficult for consumers to cancel their membership.

As a result, Adore Me agreed to a total settlement of \$2,350,000.00 to the Attorneys General, of which North Carolina received \$79,832.63 to be used as attorneys' fees and other costs of investigation and litigation, or be placed in, or applied to, consumer protection enforcement including future consumer protection enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for any lawful purpose, at the sole discretion of the North Carolina Attorney General.

In addition, 27,780 North Carolinian consumers may be eligible for more than \$700,000.00 in refunds. Adore Me also agreed to several provisions designed to eliminate the alleged confusing or misleading business practices.

A copy of the settlement agreement and wire details are attached. If you have any questions, please contact Wendy Stevens at 716-6877.

cc: Phil Woods
Mercedes Restucha
Melvinna Adams
Wendy Stevens / Adore Me Inc. Settlement File



Previous Day Composite Report

Custom

As of 10/06/2023

Company: NC DEPARTMENT OF STATE TREASURER

10/09/2023 08:11 AM ET

Commercial Electronic Office®

Treasury Information Reporting

Currency: USD

WELLS FARGO BANK, N.A.
NORTH CAROLINA DEPARTMENT OF STATE TREA

Balances

Closing Ledger Balance
Closing Collected Balance
Opening Available Balance
One Day Float
Two+ Day Float
MTD Average Closing Ledger Balance
MTD Average Closing Collected Balance

Total Credits
Total Debits
Total Number Credits
Total Number Debits

Dep't 354
2023600
10-6-2023

79,832.63
79,832.63
1
1

Summaries

Type of Credit

Total Wire Transfer Credits

Credit Totals

Type of Debit

Total ZBA Debits

Debit Totals

Credit Transactions

10/6/2023

195 / INCOMING MONEY TRANSFER

Cust Ref: 000000000000

Unique ID: RG231006135972

WT FED#05312 CITY NATIONAL BANK /ORG=HOLMES, ATHEY, COWAN & SRF# 2023100500010935

TRN#231006135972 RFB#

Credit Amount:
Bank Ref: IA009987300764

79,832.63

**IN THE MATTER OF
ADOREME, INC.**

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by and between Adore Me, Inc. ("Adore Me") and North Carolina Attorney General Joshua H. Stein ("the Attorney General"), pursuant to his powers under Chapters 75 and 114 of the North Carolina General Statutes (the aforesaid persons and entities shall collectively be referred to as the "Parties") to resolve alleged violations of North Carolina's consumer protection laws without trial or adjudication on any issue of fact or law, and without admission of any wrongdoing or violation of law. In consideration of their mutual agreements to the terms of this Settlement Agreement, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows.

PARTIES

1. The Attorney General is responsible for the enforcement of North Carolina's consumer protection laws.

2. Adore Me, Inc. is a New York corporation with its principal place of business at 401 Broadway Floor 12, New York City, NY 10013. Adore Me is a direct-to-consumer women's intimate apparel brand which offers its customers, via the internet and its retail stores, the choice of buying a product at full price or of buying the same product at a substantial discount by joining a membership program. The membership program allows a consumer to enter into an agreement with Adore Me for the provision of benefits, goods, or services for which the consumer is charged a recurring charge. Adore Me products are sold online and in stores located in certain states, including North Carolina, from which benefits, goods, or services could be purchased by consumers residing in North Carolina.

DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

3. “Adore Me” means Adore Me, Inc., and all of its past, present, and future officers, directors, employees, agents, affiliates, subsidiaries, operating companies, predecessors, assigns, and successors. For the sake of clarity, “Adore Me” shall not include Victoria’s Secret & Co. and all of its past, present, and future parents, subsidiaries (other than Adore Me), affiliates, operating companies, predecessors, successors, and assigns, as well as each of their respective past, present, and future officers, directors, employees, agents, representatives, and contractors.

4. “Clear and Conspicuous” or “Clearly and Conspicuously” means that a statement is difficult to miss (i.e., easily noticeable) and easily understandable, including in all of the following ways:

- a. In any communication that is solely visual or solely audible, the statement must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the statement must be presented in Close Proximity in both the visual and audible portions of the communication even if the representation requiring the statement is made in only one means.
- b. A visual statement, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
- c. An audible statement, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for consumers to easily hear and understand it.
- d. In any communication using an interactive electronic medium, such as the

Internet or software, the statement must be "Unavoidable," meaning that a statement must be presented in such a manner that consumers will be exposed to the statement in the course of communication without having to take affirmative actions, such as scrolling down a page, clicking on a link to other pages, activating a pop-up window, or entering a search term to view the statement.

- e. The statement must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the statement appears.
- f. The statement must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- g. The statement must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
- h. If a statement is necessary as a modification, explanation, or clarification of other information with which it is presented, such that its omission could mislead or deceive consumers, it must be presented in Close Proximity to the information it modifies, explains, or clarifies in a manner so as to be readily noticed or heard and understood.

5. "Close Proximity" means immediately adjacent. In the case of advertisements disseminated verbally or through audible means, the disclosure shall be made as near in time as practicable to the statement necessitating the disclosure.

6. "Effective Date" shall mean June 27, 2023

7. “Express Informed Consent” means an affirmative act or statement giving unambiguous assent to be charged for, or enrolled into, a Membership Program that is made by a consumer after being provided a Clear and Conspicuous disclosure of the material terms of the Membership Program.

8. “Membership Program” shall mean any program in which a consumer enters into an agreement with Adore Me for the provision of benefits, goods, or services for which the consumer will be charged a Recurring Charge.

9. “Membership Terms” as used in this Agreement shall mean: (a) the fact that the consumer will be enrolled in a Membership Program; (b) the existence, amount, and frequency of a Recurring Charge or any fee required to join or participate in the Membership Program; (c) the deadline by which a consumer may choose to Skip, if applicable; and (d) the consumer’s right to cancel his or her enrollment in the Membership Program.

10. “Recurring Charge” shall mean one or more charges placed on a consumer’s account after the consumer’s initial purchase that is made without further authorization from the consumer, and which is charged unless the consumer takes an affirmative step to prevent the charge.

11. “Pay As You Go” shall mean the purchase option whereby the consumer pays the listed price, subject to promotions or savings, without any future obligation on the part of the consumer.

12. “Payment Vacation” shall mean a feature of the Membership Program that allows the consumer to remain enrolled in the Membership Program without requiring the consumer to pay the monthly Recurring Charge for a certain period of time (which period is and shall be set by Adore Me).

13. “Save the Sale” means the process, or the result of a process, utilized by Adore Me

for the purpose of retaining a consumer who contacts Adore Me to cancel a membership.

14. “Skip” means an Adore Me feature which requires the customer to affirmatively elect to avoid a Recurring Charge according to the Membership Program.

PROSPECTIVE RELIEF

General Business Practices

15. Adore Me shall comply with all applicable federal and state laws in connection with its marketing and sales of products or services to North Carolina consumers.

16. Adore Me shall not make express or implied misrepresentations or omissions that have the capacity, tendency, or effect of deceiving or misleading consumers in connection with the offer or sale of products or services to North Carolina consumers.

17. When advertising a discount, price, benefit, incentive, or other offer that is available only to consumers who enroll in a Membership Program, Adore Me shall Clearly and Conspicuously disclose that fact and the amount and frequency of the associated Recurring Charge in Close Proximity to the discount, price, benefit, incentive, or other offer. The requirements in this paragraph are in addition to the requirements for Express Informed Consent set forth in paragraph 19 below.

18. Adore Me shall, prior to the place or time that it obtains a consumer’s Express Informed Consent to be enrolled in a Membership Program pursuant to paragraph 19 of this Agreement, Clearly and Conspicuously disclose all fees, costs, and material terms and conditions, limitations, and restrictions applicable to the Membership Program, including, but not limited to:

- a. The dollar amount of the first Recurring Charge and when it will be charged, withdrawn, or become due; the dates or frequency of all subsequent Recurring Charges, and the dollar amount or range of costs of all subsequent Recurring Charges;

- b. To the extent Adore Me charges a Recurring Charge on a monthly basis, the fact that Adore Me will charge a Recurring Charge every month unless the consumer takes affirmative action each month to avoid the Recurring Charge (such as by shopping, Skipping, or going on a Payment Vacation), and a description of how a consumer can take such affirmative action, and the date or time period by which a consumer must act to avoid a Recurring Charge; and
- c. The steps and means by which a cancellation request must be submitted and the date or time period by which a cancellation request must be received to avoid a Recurring Charge.

19. Adore Me shall, prior to enrolling any consumer in a Membership Program, obtain the consumer's Express Informed Consent as follows:

- a. For all written offers (including over the Internet or other web-based applications or services), consent may be obtained through a check box, signature, or other substantially similar method that the consumer must affirmatively select (i.e., it cannot be pre-checked). In Close Proximity to such check box, signature, or other method that the consumer must affirmatively select, Adore Me shall Clearly and Conspicuously disclose the costs associated with enrollment in the Membership Program, that the consumer is agreeing to pay such costs, the length of any trial period, and the affirmative steps that consumers can take (e.g., Skip, go on a Payment Vacation, or cancel his or her membership) to avoid being charged. This disclosure shall contain no additional information, and cannot be used to satisfy, in isolation, the disclosure requirements in paragraph 18 of this Agreement.
- b. For all oral offers (if applicable), make a recording of the entire transaction,

including the sales representations, evidencing the consumer's agreement to the Membership Program that includes a Recurring Charge. The recording must demonstrate that the consumer has provided billing information, such as the last four (4) digits of the account to be charged, specifically for the purpose of participating in the Membership Program that includes a Recurring Charge and that Adore Me has disclosed to the consumer all costs associated with the Membership Program, that the consumer is agreeing to pay such costs, the length of any trial period, and the affirmative steps that consumers can take (*e.g.*, Skip, go on a Payment Vacation, or cancel his or her membership) to avoid being charged.

20. Adore Me shall retain, for at least two (2) years after any North Carolina consumer terminates a Membership Program, proof of the Express Informed Consent required by paragraph 19, including the date that the consent was provided, the email address of the consumer, a recording of the telephone call, if applicable, and, if such consent is provided online, the IP address of the consumer and technical documentation of the consent, and shall, upon written request, make such proof available to the North Carolina Attorney General and to any consumer who disputes his or her enrollment in a Membership Program. Adore Me shall also retain, for at least two (2) years after the Effective Date of this Agreement, exemplars of its Expressed Inform Consent required by paragraph 19, and shall, upon written request, make such exemplars available to the North Carolina Attorney General.

21. Adore Me shall send an invoice to consumers for each shipment containing products delivered to consumers enrolled in a Membership Program. The invoice shall Clearly and Conspicuously disclose the Membership Terms, and include with the statement a link to a secure webpage where consumers can access and manage the account information associated with the

consumer's Membership Program (the "Account Management page"), and if Adore Me offers the ability to cancel enrollment in a Membership Program by telephone, the telephone number for consumers to call to cancel their membership. Adore Me shall also Clearly and Conspicuously include a link on its website and mobile application to its return and exchange policy.

22. Adore Me shall Clearly and Conspicuously disclose under what circumstances store credit is issued and all material limitations on how or when the credit can be used or refunded, including, but not limited to, any time period by which consumers must request a refund of a credit.

23. Adore Me shall not represent, in its offer or sale of Membership Programs, that a Recurring Charge is a "credit" or "store credit," unless such a representation coincides with a Clear and Conspicuous disclosure, if true, that the consumer will be charged the Membership Program's Recurring Charge, which creates the issuance of credit that will be stored in the consumer's account.

24. Adore Me shall promptly and thoroughly investigate consumer complaints and designate a person to act as a direct contact for the North Carolina Attorney General for resolution of consumer complaints. Within thirty (30) days of the Effective Date of this Agreement, Adore Me shall provide the North Carolina Attorney General with the name and address of the direct contact designated to handle consumer complaints filed with the North Carolina Attorney General.

25. Within thirty (30) days of the Effective Date of this Agreement, Adore Me shall retain a compliance officer or designate an employee with specific responsibility for ensuring that Adore Me complies with the terms of this Agreement.

26. Adore Me shall Clearly and Conspicuously disclose any mandatory arbitration clause in its contracts with North Carolina consumers or in its Terms & Conditions.

Cancellations and Refunds

27. Adore Me shall provide a simple online mechanism for consumers to cancel their

membership, and shall promptly accept and process any request by a consumer to cancel his or her membership and stop billing and collecting payments for any Recurring Charge. The online mechanism must not be difficult, costly, confusing, or time consuming. For purposes of this provision, a one-click way to cancel Recurring Charges associated with enrollment in a Membership Program is a sufficiently simple mechanism. Nothing in this paragraph shall diminish Adore Me's ability to attempt to Save the Sale.

28. Adore Me shall include on its website a link to the Account Management page. Adore Me shall Clearly and Conspicuously display, on the Account Management page, a hyperlink or button labeled "Cancel My Account," or words of similar import, that directs the consumer to the simple online mechanism to cancel. If Adore Me provides consumers the ability to cancel their membership via telephone, the telephone number for consumers to call to cancel shall also be listed on the Account Management page.

29. Adore Me shall include in all transactional emails concerning the customer's membership in the Membership Program (*e.g.*, emails confirming the joining of a Membership Program and emails confirming the processing of a Recurring Charge) sent to consumers enrolled in a Membership Program with a Recurring Charge a Clear and Conspicuous statement that consumers may cancel their membership at any time without penalty and include a link to the Account Management page.

30. If Adore Me's Customer Relationship team, or any other Adore Me employee or agent whose job duties include customer service, receives a cancellation request via email, telephone, or other means, then Adore Me shall promptly, but no later than five (5) business days: (a) cancel the consumer's membership or (b) provide the consumer a link or web address to the simple online mechanism to cancel. Adore Me shall train any employees that receive, or may receive, consumer cancellation requests via email, telephone, or other means, to provide

consumers with a link to Adore Me's simple online mechanism as part of a response to a request to cancel.

31. Adore Me shall promptly honor consumer cancellation requests, including requests from consumers who are on a Payment Vacation from a Membership Program, and Adore Me shall cease further billing.

32. Adore Me shall not require consumers to complete an online quiz or survey in order to cancel their Membership Program and shall not make more than one attempt to Save the Sale once a consumer has indicated an intent to cancel. Nothing in this section shall preclude Adore Me from asking consumers the reason(s) for cancellation during the cancellation process, provided that such a process is quick, simple, and not burdensome to consumers. For purposes of this Agreement, a web page with radio buttons that asks consumers their reason(s) for cancelling, during the cancellation user flow, does not violate this paragraph.

33. Adore Me shall, in any attempt to Save the Sale, Clearly and Conspicuously disclose the Membership Terms.

34. Adore Me shall, in any attempt to Save the Sale that involves offering a consumer a Payment Vacation, Clearly and Conspicuously disclose the length of time during which Recurring Charges would be suspended, and the date on which the Recurring Charges would recommence.

35. Adore Me shall provide all consumers the opportunity to request and obtain a refund of any Recurring Charge balance accrued within the preceding thirty (30) days via an electronic one-click refund option.

36. Adore Me shall provide all consumers the opportunity to request and obtain a refund of any Recurring Charge balance accrued within the prior year, but outside the preceding

thirty (30) days, to the extent not already refunded, via a simple mechanism accessible over the Internet or through such other web-based application or service. This simple mechanism shall be labeled "Request a Refund," or words of similar import, and shall generate an electronic claims form allowing the consumer to request a refund of any such amounts based on the month accrued. Any refund requested under this paragraph shall be processed by Adore Me and paid to the consumer within five (5) business days. For purposes of this paragraph, when a consumer redeems a recurring charge for merchandise, Adore Me shall credit the consumer as having redeemed the oldest recurring charge in the consumer's account, by the date accrued.

Prohibited Practices

37. Adore Me shall cease making Recurring Charges to any consumer enrolled in a Membership Program who has accumulated twelve (12) months of store credit via Recurring Charges.

38. Adore Me shall not enroll consumers in a Membership Program without Clearly and Conspicuously disclosing that consumers have the option to choose the Pay As You Go (or any other) program that does not include a Recurring Charge.

39. Adore Me shall not misrepresent, either orally or in writing, expressly or by implication, any material fact in connection with the marketing or sale of any Adore Me Membership Program, including, but not limited to:

- a. misrepresenting that a good, product, program, or service is "free" or requires "no commitment," or words of similar import, denoting or implying the absence of an obligation on the part of the recipient of the offer to affirmatively act in order to avoid a charge including where a charge will be assessed pursuant to the offer unless the consumer takes affirmative action to prevent or stop such a charge;

- b. misrepresenting the purpose for which a consumer's credit or debit card billing information will be used; and
- c. misrepresenting the material terms and conditions of any policies and practices regarding cancellations and refunds.

40. Adore Me shall not cause consumers to lose unused Recurring Charges when consumers cancel their enrollment in the Membership Program.

Compliance and Monitoring

41. Twelve (12) months after the Effective Date of this Agreement, Adore Me shall file with the North Carolina Attorney General a report, under penalty of perjury, setting forth in detail the manner and form in which it has complied with this Agreement and include representative exemplars of its advertising. Adore Me shall, upon request by the North Carolina Attorney General, provide the North Carolina Attorney General with copies of records and documents sufficient to demonstrate Adore Me's compliance with the requirements of this Agreement.

RELIEF TO CONSUMERS

Refunds for Consumers with Outstanding Recurring Charge Balances

42. Prior to the Effective Date of this Agreement, the parties shall jointly agree to the notice that shall be sent to all consumers who, as of the Effective Date of this Agreement, have a Recurring Charge balance. This notice will notify those consumers that they have an opportunity to obtain a refund of outstanding Recurring Charges. No later than fifteen (15) days after the Effective Date of this Agreement, Adore Me shall send this notice to all North Carolina consumers who, as of the Effective Date of this Agreement, have a Recurring Charge balance, notifying those consumers that they have an opportunity to obtain a refund of outstanding Recurring Charges. The notice shall be sent to these North Carolina consumers by electronic mail. Adore Me shall promptly

provide a full refund to consumers who request refunds pursuant to the notice required by this paragraph. For consumers who respond to the Adore Me email address for redress inquiries or Adore Me phone number for redress inquiries included in the notice required by this paragraph, Adore Me shall not require the consumers to provide any information other than that required to confirm their membership and to process their refund, and shall not promote any goods or services.

Other Consumers Entitled to Receive a Full Refund

43. Within six (6) months of the Effective Date of this Agreement, Adore Me shall provide a full refund of the total amount of all store credits accumulated during enrollment in the Membership Program that have not already been refunded or that cannot be refunded pursuant to Adore Me's regular 12 month refund policy to each consumer who filed a complaint with the North Carolina Attorney General about Adore Me prior to the Effective Date of this Agreement in which the consumer indicates, in the sole discretion of the North Carolina Attorney General, that the consumer was not aware or did not knowingly consent to be enrolled in a Membership Program. These consumers are hereinafter referred to as the "North Carolina Attorney General Refund Consumers."

44. No later than one hundred twenty (120) days after Adore Me has complied with the procedures set forth above Adore Me shall do the following:

- a. deliver to the North Carolina Attorney General a list of all consumers who did not deposit or otherwise cash a refund check; and
- b. implement a recordkeeping process for funds from payments to consumers subject to paragraphs 42-43 who did not deposit or otherwise cash a refund check, and remit such funds in accordance with North Carolina's unclaimed property laws, and, within sixty (60) days of any final disposition of such funds, if any, provide to the North Carolina Attorney General a final report on

the disposition of those funds.

45. No later than four hundred fifty-five (455) days after the Effective Date of this Agreement, upon written request from the North Carolina Attorney General prior to one hundred eighty (180) days after the Effective Date, Adore Me shall do the following:

- a. deliver to the North Carolina Attorney General lists of all consumers to whom notices were sent pursuant to paragraph 42;
- b. deliver to the North Carolina Attorney General a list with the name and contact information of each consumer that requested a refund by responding to the notice required by paragraph 42 and indicating the amount of the refund requested, and the amount of refund granted; and
- c. deliver to the North Carolina Attorney General information confirming all payments made pursuant to paragraphs 42-43.

46. Any Consumer Personally Identifiable Information ("PII") provided to the Office of the North Carolina Attorney General by Adore Me in connection with this settlement will be kept confidential to the full extent provided by all applicable state and federal laws and regulations, including but not limited to all state and federal public records acts. The North Carolina Attorney General shall only use any PII provided by Adore Me solely for its own investigative purposes in connection with this settlement. Disclosure of such confidential or proprietary information could cause substantial injury to Adore Me and the Office of the North Carolina Attorney General affirmatively acknowledges the importance of maintaining confidentiality of any PII provided by Adore Me in connection with this settlement. Should disclosure be required in order to comply with federal or state law, the North Carolina Attorney General will provide sufficient advance notice to Adore Me prior to disclosing the PII to provide Adore Me an opportunity to object or seek an appropriate order preventing disclosure.

PAYMENT TO THE STATE

47. In consideration of the making and execution of this AVC, Adore Me agrees that it will pay by wire transfer, certified check, or bank check a total amount of \$2,350,000.00 no later than 90 days after the Effective Date. The Parties acknowledge that the payments described herein are not a fine, penalty, or payment in lieu thereof.

48. Of the total amount, North Carolina will receive a total amount of \$79,832.63. Said payment shall be used by the North Carolina Attorney General as attorneys' fees and other costs of investigation and litigation, or to be placed in, or applied to, consumer protection enforcement including future consumer protection enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for any lawful purpose, at the sole discretion of the North Carolina Attorney General. Payment shall be made according to the payment instructions provided by North Carolina.

49. If payment is made by check, it shall be payable to the North Carolina Attorney General and delivered to the North Carolina Department of Justice, Consumer Protection Division, 114 West Edenton Street, Raleigh, North Carolina 27603 and addressed to the attention of Wendy Stevens, Division Finance Administrator.

RELEASE

50. By execution of this Agreement, and following a full and complete payment to the Attorney General of the amount required under Paragraph 48, the Attorney General terminates its investigation of the Membership Program and releases and discharges, to the fullest extent permitted by law, Adore Me and its past, present, and future officers, directors, employees, agents, affiliates, subsidiaries, operating companies, predecessors, assigns, and successors from any and all civil causes of action, claims, damages, restitution, costs, civil fines, attorney's fees, or penalties the Attorney General has asserted or could have asserted under the North Carolina Unfair and

Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et. seq* including all civil consumer protection or unfair trade practice claims – whether statutory, equitable, parens patriae or common law – that may have existed prior to or on the Effective Date, (collectively, the “Released Claims”).

51. Notwithstanding this Agreement, the following do not comprise Released Claims:
- a. Private rights of action, including any claims consumers have or may have on an individual or class basis under state consumer protection laws against any person or entity, including Adore Me;
 - b. Claims of environmental or tax liability;
 - c. Criminal liability;
 - d. Claims alleging violations of state or federal securities laws;
 - e. Claims alleging violations of state or federal antitrust laws;
 - f. Any claims against Adore Me by any other agency or subdivision of the State of North Carolina; and
 - g. Any obligations created under this Agreement.

MISCELLANEOUS

52. The North Carolina Attorney General has agreed to the terms of this Agreement based on, among other things, the representations made to the North Carolina Attorney General by Adore Me and its counsel and the North Carolina Attorney General’s own factual investigation as set forth above. To the extent that any material representations made to the North Carolina Attorney General by Adore Me or its counsel during this investigation and the negotiation of this agreement are later found to be inaccurate or misleading, this Agreement is voidable by the North Carolina Attorney General in its sole discretion.

53. If the Agreement is voided or breached, Adore Me agrees that any statute of limitations or other time-related defenses applicable to the subject of the Agreement and any claims

arising from or relating thereto are tolled from and after the date of this Agreement. In the event the Agreement is voided or breached, Adore Me expressly agrees and acknowledges that this Agreement shall in no way bar or otherwise preclude the North Carolina Attorney General from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Agreement, against Adore Me, or from using in any way any statements, documents or other materials produced or provided by Adore Me prior to or after the date of this Agreement.

54. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Agreement has been made to or relied upon by Adore Me in agreeing to this Agreement.

55. Adore Me represents and warrants, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement is duly authorized. Adore Me shall not take any action or make any statement denying, directly or indirectly, the propriety of this Agreement, or expressing the view that this Agreement is without factual basis. Nothing in this paragraph affects Adore Me's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the North Carolina Attorney General is not a party. This Agreement should not be construed as an admission of liability by Adore Me.

56. This Agreement may not be amended except by an instrument in writing signed on behalf of all the parties to this Agreement.

57. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their respective successors and assigns, provided that no party may assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.

58. This Agreement shall apply to Adore Me, whether acting through its respective directors, officers, employees, representatives, agents, assigns, successors, affiliates, subsidiaries, or other businesspersons or business entities whose acts, practices, policies are directed, formulated, or controlled by Adore Me.

59. Adore Me shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Agreement or for the purpose of circumventing any part of this Agreement.

60. Adore Me shall not cause or encourage third parties, or knowingly permit third parties acting on its behalf, to engage in practices from which Adore Me is prohibited by this Agreement.

61. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

62. The allegations set forth in this Agreement shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the North Carolina Attorney General to enforce its rights to any payment or money judgment owed pursuant to this Agreement, including, but not limited to a non-dischargeability complaint in bankruptcy court.

63. Nothing in this Agreement shall (a) be used, cited, or be admissible in any civil litigation or arbitration not pursued by the Office of the North Carolina Attorney General, or (b) create or eliminate any private rights, causes of action, third party rights or remedies of any individual or entity other than the North Carolina Attorney General against Adore Me or any of its

affiliates, to the extent such authority exists under applicable law.

64. To the extent not already provided under this Agreement, Adore Me shall, upon request by the North Carolina Attorney General, provide all documentation and information necessary for the North Carolina Attorney General to verify compliance with this Agreement.

65. All notices, reports, requests, and other communications to any party pursuant to this Agreement shall be in writing and shall be directed as follows:

If to the North Carolina Attorney General:

North Carolina Department of Justice
Attorney General Office
Consumer Protection Division
114 W. Edenton Street
Raleigh, NC 27603
Attn: Phillip K. Woods
Special Deputy Attorney General

If to Adore Me:

Adore Me, Inc.
401 Broadway
12th Floor
New York, NY 10013
Attn: Charlotte Morgan
General Counsel

66. Acceptance of this Agreement by the North Carolina Attorney General shall not be deemed approval by the North Carolina Attorney General of any of the practices or procedures referenced herein, and Adore Me shall make no representation to the contrary.

67. Pursuant to North Carolina state law, evidence of a violation of this Agreement shall constitute *prima facie* proof of violation of the applicable law in any action or proceeding thereafter commenced by the North Carolina Attorney General against Adore Me.

68. If a court of competent jurisdiction determines that Adore Me has breached this Agreement, Adore Me shall pay to the North Carolina Attorney General the cost, if any, of such determination and of enforcing this Agreement, including without limitation legal fees, expenses,

and court costs.

69. This Agreement shall be governed by the laws of the State of North Carolina without regard to any conflict of laws principles.

70. This Agreement may be executed in multiple counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

71. Any failure by any Party to this Agreement to insist upon the strict performance by any other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement.

72. Nothing in this Agreement shall be construed as relieving Adore Me of the obligation to comply with all state and federal laws, regulations, or rules, nor shall any of the provisions of this Agreement be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

73. Within thirty (30) days of the Effective Date, Adore Me shall share any relevant section of this Agreement with each of its current principals, officers, and directors having decision-making authority with respect to the subject matter of this Agreement. For five (5) years following the execution of this Agreement, Adore Me shall share any relevant section of this Agreement with any such future personnel within thirty (30) days of their employment by Adore Me.

74. For the purposes of 26 U.S.C. § 162(f) and its associated regulations, none of the settlement payment made by shall be considered by North Carolina as restitution, remediation, or cost of compliance with the law. North Carolina agrees that, in accordance with 26 U.S.C. § 6050X and its associated regulations, North Carolina shall furnish a written statement or a copy of Form 1098-F to Adore Me as required by law and North Carolina shall file an information return with the Internal Revenue Service utilizing Form 1098-F or any successor form. For this filing, Adore

Me designates the following entity as the payer: AdoreMe, Inc., 401 Broadway, 12th Floor, New York, NY 10013, FEIN: xx-xxx7763. North Carolina agrees to cooperate with any questions or requests for a copy of this settlement agreement or other documents made by the Internal Revenue Service, and North Carolina agrees to notify Adore Me as soon as practicable of any such requests made by the Internal Revenue Service. North Carolina takes no position on whether the Internal Revenue Service will allow any deduction by Adore Me of any amounts paid under this settlement agreement. Adore Me agrees that it is fully responsible for the payment of all applicable taxes, including in the event any deductions for amounts paid under this settlement agreement are disallowed, as well as any fines or penalties imposed by the Internal Revenue Service. Adore Me agrees that it shall comply fully with this settlement agreement and not seek any modification regardless of the treatment by the Internal Revenue Service of amounts paid.

75. Adore Me agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Agreement, whether required prior to, contemporaneous with, or subsequent to the Effective Date.

THE UNDERSIGNED, WHO HAVE THE AUTHORITY TO CONSENT AND SIGN ON BEHALF OF THE PARTIES IN THIS ACTION, HEREBY CONSENT TO THE FORM AND CONTENT OF THE FOREGOING SETTLEMENT AGREEMENT.

ADOREME, INC.


By:


Charlotte Morgan
General Counsel

Dated: 6/8/2023

STATE OF NORTH CAROLINA
ex. rel. JOSHUA H. STEIN
ATTORNEY GENERAL

By:


Phillip K. Woods
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, NC 27602
(919) 716-6030
State Bar No. 18439
pwoods@ncdoj.gov

Dated: 6/9/2023

APPROVED AS TO FORM:

Holmes, Athey, Cowan & Mermelstein LLP

By:


MARK MERMELSTEIN
Attorneys for ADORE ME, INC.



JOSH STEIN
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

SETH DEARMIN
CHIEF OF STAFF

May 2, 2024

North Carolina Senate President Pro Tempore Phil Berger
North Carolina House of Representatives Speaker Tim Moore
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Danny Earl Britt, Jr.
Senator Warren Daniel
Representative Ted Davis, Jr.
Representative Dudley Greene
Representative Charles W. Miller
Representative Carson Smith
Co-Chairs, Appropriations Subcommittee on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: N.C.G.S. §§ 114-2.4A and §114-2.5; Report on Settlements

Dear Members:

Adore Me, Inc.

This settlement agreement resolved the multi-state allegations that Adore Me, Inc. deceptively marketed its VIP Membership Program and then made it difficult for consumers to cancel their membership. Adore Me agreed to a total settlement of \$2,350,000.00 with the Attorneys' General, of which North Carolina received \$79,832.63 to be used as attorneys' fees and other costs of investigation and litigation, or applied to consumer protection enforcement including future consumer protection enforcement, consumer education, litigation or local consumer aid fund, used to defray the costs of the inquiry leading hereto, or for any lawful purpose, at the discretion of the North Carolina Attorney General. Additionally, Adore Me agreed to several provisions designed to eliminate the alleged confusion or misleading business practices.

Blackbaud, Inc.

This settlement agreement resolved the multistate investigation into allegations that Blackbaud violated state consumer protection laws, breach notification laws, and HIPAA by failing to implement reasonable data security and remediate known security gaps, which allowed unauthorized access to their network that impacted more than 13,000 Blackbaud customers and millions of their respective consumer constituents. Blackbaud agreed to pay \$49,500,000.00 to the Attorneys General, of which North Carolina received \$1,181,270.00 to be used as and for attorneys' fees and other costs of investigation and litigation, or be placed in, or applied to, the consumer protection enforcement fund, including future consumer protection enforcement, consumer education, litigation, or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the discretion of the Attorney General. Additionally, Blackbaud agreed to a number of provisions designed to strengthen its data security and breach notifications going forward.

Indivior

This stipulated final judgment resolved the multi-state antitrust litigation against Indivior PLC and Indivior Inc. f/k/a Reckitt Benckiser Pharmaceuticals, Inc ("Indivior") that alleged Indivior was using illegal means to impede competition from generic equivalents of the brand-name drug Suboxone in order to preserve their drug monopoly. As a result of the settlement, Indivior agreed to pay \$102,500,000.00 to the States, of which North Carolina received \$2,966,417.42 to be used for attorneys' fees and expenses; antitrust or consumer protection law enforcement; for deposit into a state antitrust or consumer protection account; for deposit into a fund exclusively dedicated to assisting the state attorneys general enforcement of antitrust laws or for any other consistent with the law at the discretion of the Attorney General. Additionally, Indivior agreed to a number of provisions designed to ensure that they will refrain from engaging in the same kind of conduct alleged.

Turtle Creek

This consent judgment resolves allegations that Gordon Scott Engle, Turtle Creek Assets, LTD, Turtle Creek Rentals LLC, and Royal Park Holdings, Inc ("Turtle Creek") collected charged-off consumer debt without the required permits, certifications, or registrations needed. They were also accused of using threatening and abusive language, coercion, and unfair practices to further their illegal debt collection. As part of the judgment, Turtle Creek agreed to pay \$223,018.98 for consumer-specific restitution, \$6,000.00 in civil penalties for violations of the business registration acts, \$1,475.00 for unpaid fees to the Secretary of State, and \$20,000.00 to be used for attorney fees, investigative costs, consumer restitution, consumer protection enforcement, other consumer protection purposes, and other purposes allowed by law, at the discretion of the Attorney General. Turtle Creek also agreed to forgive \$22,934,075.17 in consumer debt for 20,529 consumers, to take a number of steps to clear negative credit reports, cease collection efforts, and provide title to the property that was subject to the debt. Additionally, Turtle Creek agreed to a permanent ban from collecting debt in NC, from violating UDTP laws, from using or benefiting from NC

May 2, 2024

Page 3

Consumer information obtained prior to the judgment, and to file back taxes and pay any associated liabilities to North Carolina.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Seth Dearmin', with a stylized flourish extending to the right.

Seth Dearmin
Chief of Staff

SD:ml

cc: Sean Hamel, NCGA Fiscal Research Division
Mark White, NCGA Fiscal Research Division
Morgan Weiss, NCGA Fiscal Research Division