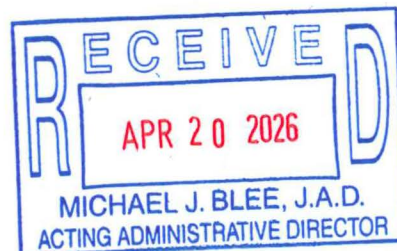


April 16, 2026

*Via Overnight Mail*

The Honorable Michael J. Blee, J.A.D.  
Administrative Director of the Courts  
Administrative Office of the Courts of the State of New Jersey  
Richard J. Hughes Justice Complex  
25 W. Market Street  
Trenton, New Jersey 08625



**Re: Application Pursuant to R. 4:38A to Designate  
In re LVNV Funding LLC Licensing Litigation as a Multicounty Litigation  
for Centralized Management**

Dear Judge Blee:

The undersigned counsel respectfully submits this letter application on behalf of sixty-six (66) plaintiffs and counterclaimants who have cases filed or pending in the Superior Court of New Jersey challenging LVNV Funding LLC's attempts to collect consumer debts voided under the New Jersey Consumer Finance Licensing Act ("NJCFLA"), N.J.S.A. 17:11C-1 *et seq.* We request the designation of a Multicounty Litigation ("MCL") for centralized management pursuant to Rule 4:38A. MCL designation is both appropriate and urgently necessary to reduce the likelihood of inconsistent results, eliminate delay, conserve judicial resources, and ensure efficiency in managing this rapidly growing and highly complex litigation.<sup>1</sup>

## 1 BACKGROUND

This application addresses sixty-six cases currently filed or pending in the Superior Court alleging that LVNV Funding LLC violated the Fair Debt Collection Practices Act ("FDCPA"), the New Jersey Consumer Fraud Act ("CFA"), and state common law by attempting to by attempting to enforce consumer debts that are legally void.

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<sup>1</sup> Pursuant to Directive #02-19, notice has been provided to all parties involved in the case by filing this application on eCourts in all sixty-six cases. Further notice is hereby given that this application will appear in the Notice to the Bar and in the New Jersey Law Journal and in the Multicounty Litigation Information Center on the Judiciary's Internet website, which will provide information on where and within what time period comments/objections to the application may be made.

Under the NJCFLA, no person or entity may engage in the “consumer loan business” without first obtaining the requisite license from the state. The statute expressly defines the “consumer loan business” as the business of making, soliciting, negotiating, arranging, buying, or discounting loans of \$50,000 or less that are intended primarily for personal, family, or household purposes.<sup>2</sup>

The NJCFLA imposes statutory penalties to deter unauthorized and predatory lending. Any entity that violates the licensing requirements is guilty of a crime of the fourth degree. Furthermore, the statute explicitly mandates that any loan contract associated with such an unlicensed offense “shall be void and the lender shall have no right to collect or receive any principal, interest or charges.” N.J.S.A. 17:11C-33(b).

In the context of these sixty-six cases, the consumers argue that the underlying funding, structured finance, and initial collection of their accounts were executed by entities actively engaging in the “consumer loan business” without holding the mandatory statutory licenses required by the state. Because these originating entities operated in direct violation of the NJCFLA, the resulting debts are statutorily void.

Consequently, the consumers allege that LVNV Funding LLC possesses no legal right to collect the principal, interest, or any associated charges. These cases posit that LVNV Funding LLC’s subsequent efforts to collect on these legally invalidated obligations constitute deceptive and unlawful practices under the FDCPA and the CFA. All sixty-six cases are identified in the Schedule of Actions attached as **Exhibit A**.

### **1.1 The New Jersey Consumer Finance Licensing Act’s Comprehensive Licensing Requirements**

The New Jersey Consumer Finance Licensing Act, N.J.S.A. 17:11C-1 *et seq.*, establishes a comprehensive regulatory framework that extends far beyond mere loan origination or collection activities. The Act mandates that “[n]o person shall engage in business as a consumer lender or

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<sup>2</sup> “Consumer loan business” means the business of making loans of money, credit, goods or things in action, which are to be used primarily for personal, family or household purposes, in the amount or value of \$50,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this act and without first obtaining a license from the commissioner. Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$50,000 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$50,000 or less, or in the business of buying, discounting or endorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of \$50,000 or less, shall be deemed to be engaging in the consumer loan business.” N.J.S.A § 17:11C-2.

sales finance company without first obtaining a license or licenses under this act.” N.J.S.A. 17:11C-3(a).

Critically, the NJCFLA’s licensing requirements encompass the full spectrum of consumer finance activities, including not only the “making or collection of” loans, but also “negotiating or arranging or aiding the borrower or lender in procuring or making such loans” and also “buying, discounting or endorsing notes, or of furnishing, or procuring guarantee or security.” N.J.S.A. 17:11C-2. The Act’s broad definition of “consumer loan business” captures any entity that participates in the consumer finance ecosystem through purchase, assignment, funding, acquiring or arranging for the acquisition of retail charge accounts, or other financial participation in consumer credit transactions.

### ***1.1.1 Statutory Violations and Void Contract Consequences***<sup>3</sup>

The NJCFLA provides clear and unambiguous consequences for violations: when any act in the “making or collection” of a loan constitutes a crime under the licensing provisions, the “contract of a loan... shall be void and the lender shall have no right to collect or receive any principal, interest or charges . . . .” N.J.S.A. 17:11C-33(b). This voiding provision applies when unlicensed entities engage in any aspect of the consumer loan business, including the sophisticated structured finance arrangements employed by the Sherman enterprise as explained in more detail below.

The Act further provides that each violation “shall constitute a separate offense” and that “each violation which constitutes a knowing violation shall be considered a crime of the third degree.” N.J.S.A. 17:11C-18(i).

## **1.2 The “Sherman Enterprise” Scheme: The Intricate Relationship Between Credit One Bank, MHC, FNBM, and Credit Asset Sales**

The core legal issue is identical across all cases: when entities in a debt origination and assignment chain engage in the “consumer loan business” without proper licensing under N.J.S.A. 17:11C-3, the debt becomes void pursuant to N.J.S.A. 17:11C-33(b). N.J.S.A. 17:11C-33(b) unambiguously provides that “[a] contract of a loan . . . in the making or collection of which any act shall have been done which constitutes a crime of the fourth degree under this section, shall be void and the lender shall have no right to collect or receive any principal, interest or charges . . . .” The consumers allege that LVNV’s attempts to collect these void

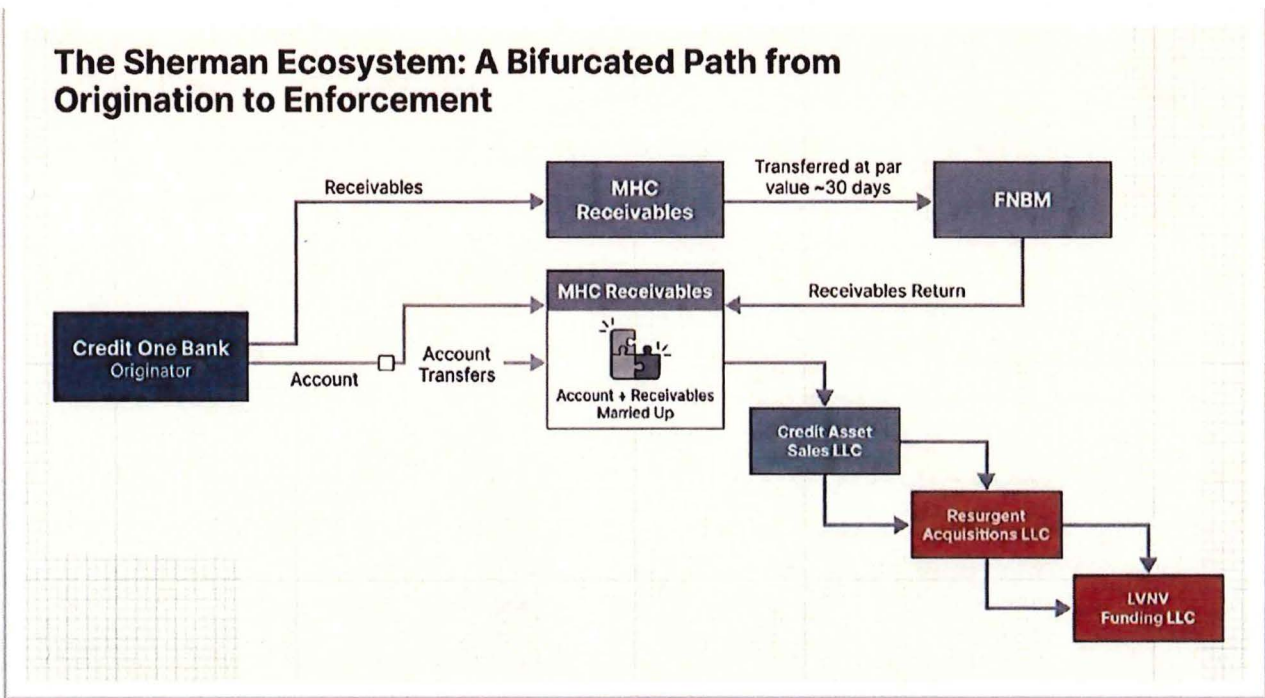
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<sup>3</sup> There is a pending appeal before the New Jersey Supreme Court, *Diana v. LVNV Funding LLC*, 260 N.J. 313 (2025), addressing whether the New Jersey Consumer Finance Licensing Act (“NJCFLA”), N.J.S.A. 17:11C-1 to -49, provides a private right of action. Supplemental briefing was completed on October 14, 2025, and oral argument was held on January 6, 2026. This provides an additional compelling basis for centralized management, as the governing legal framework in these cases may materially change once *Diana* is decided.

debts—which are the product of an intricate, deliberate structured-finance scheme engineered by the Sherman family of companies—constitute violations of the FDCPA, CFA, and common law doctrines of fraud and fraudulent inducement.

In *Nowicki v. LVNV Funding LLC*, BER-L-1-26 (N.J. Super. Ct. Law Div.), the assignment chain for plaintiff’s Credit One Bank account exactly as described: Credit One Bank originated the account on November 18, 2022; Credit One immediately transferred the receivables to MHC within approximately 30 days of origination; MHC immediately transferred the receivables to FNBM at par value; FNBM held the receivables while the account was performing; upon charge-off, the receivable was transferred back to MHC by FNBM, and the account was transferred to MHC by Credit One Bank; MHC then sold the “married up” account and receivable to Credit Asset Sales LLC; and on July 18, 2024, Credit Asset Sales LLC sold the account to Resurgent Acquisitions LLC, which subsequently transferred it to LVNV Funding LLC. (See *Nowicki* Compl. ¶ 34; Ex. E, Cert. of Proof and Ownership).

To put it into picture, the illustration below shows the intimate relationship between the entities described above.



To further understand why MCL designation is vital, the Court must understand the highly complex, systematic business model driving every single one of these 66 cases, including *Nowicki*. The predominant pattern involves credit card debts ostensibly originated by Credit One Bank, N.A., a Competitive Equality Banking Act (“CEBA”) credit card bank headquartered in

Nevada. (See Ex. F, OCC CRA Eval. 2025, at 4, *Nowicki v. LVNV Funding LLC*, No. BER-L-000001-26 (N.J. Super. Ct. Law Div. Dec. 31, 2025)).<sup>4</sup>

However, Credit One Bank is merely the outward-facing front for a sophisticated shell game operated by its affiliated enterprise. After obtaining CEBA status in March 2005, Credit One established a business model whereby it began “selling all but a very small portion of its receivables on a daily basis.” (See Ex. G, OCC CRA Eval. 2007, at 3). Sherman Financial Group, LLC (“Sherman”) is an integrated financial services company engaged in originating, purchasing, and servicing credit card receivables through numerous asset-holding entities. *Id.* MHC Receivables, LLC (“MHC”), FNBM, LLC (“FNBM”), and Credit Asset Sales LLC (“Credit Asset Sales”) are all indirect, wholly-owned subsidiaries of Sherman Capital, L.L.C.—the same entity that owns and controls Sherman Financial Group, LLC—placing all of these entities under the exact same ultimate ownership umbrella. (See Ex. A, Corporate Ownership Statement at 2; Ex. I, Securities Purchase Agreement by & between Radian Guaranty Inc. & Sherman Financial Group LLC, at 2 (May 3, 2010)).

Through discovery in bankruptcy proceedings from *Anderson v. Credit One Bank, N.A. (In re Anderson)*, Adv. Pro. No. 15-08214 (Bankr. S.D.N.Y.) (See Ex. C, Deposition of George Hughes, Credit One VP of Finance; Ex. D, Credit One Discovery Responses), the true nature of this structure has been revealed. Credit One Bank does not actually fund the loans it originates. Instead, the Sherman enterprise utilizes unlicensed entities to provide the capital, effectively acting as unlicensed consumer lenders in New Jersey, through the following systematic assignment chain.

### ***1.2.1 MHC Receivables, LLC’s Role Acting as the Conduit***

MHC Receivables, LLC systematically violated the NJCFLA by engaging in unlicensed consumer finance activities. According to discovery testimony, MHC purchases consumer receivables at “par value” immediately upon Credit One Bank’s origination of consumer credit accounts. (Ex. C, Deposition of George Hughes, Credit One VP of Finance at 58-61). Credit One makes zero profit on this transfer. (Ex. C, Deposition of George Hughes, Credit One VP of Finance at 62). This immediate purchase arrangement constitutes “aiding” in the making of consumer loans within the meaning of the NJCFLA, as MHC provides essential financing that enables Credit One’s consumer lending operations.

MHC’s role extends beyond passive investment. The entity serves as the central hub for *both* the funding of performing receivables and the collection-phase activities for defaulted accounts. When accounts charge off, the receivable is transferred back to MHC by FNBM, and the account is transferred to MHC by Credit One. MHC then sells the recombined account and receivable for sale to downstream collection entities. This systematic recombination and transfer of defaulted

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<sup>4</sup> All referenced exhibits are exhibits attached to the *Nowicki* complaint.

consumer accounts for collection purposes constitutes engaging in the “collection” of consumer loans under N.J.S.A. 17:11C-33(b).

### ***1.2.2 FNBM, LLC’s Role Acting as the Unlicensed Financing Vehicle***

FNBM is not a bank; it is an unlicensed entity. Yet, according to Credit One’s own VP of Finance, FNBM, LLC operates as what Credit One’s own executives described as “the financing vehicle.” (Ex. C, Deposition of George Hughes, Credit One VP of Finance at 77). It operates as an “asset-backed borrowing facility” set up as a “bankruptcy-remote entity” to actually fund these consumer loans. (Ex. C, Deposition of George Hughes, Credit One VP of Finance at 78-81). While the account is performing, Credit One retains nominal ownership of the “account” (and servicing rights), but FNBM holds the actual financial receivable. (Ex. D, Credit One Discovery Responses at 4<sup>5</sup>). FNBM’s systematic purchase and holding of consumer receivables as collateral for structured finance arrangements constitutes engaging in the consumer loan business under the NJCFLA.

The NJCFLA’s licensing requirements extend to entities that are also in the business of “negotiating or arranging or aiding the borrower or lender in procuring or making such loans”—regardless of whether they directly interface with consumers. FNBM’s role as the actual funding source for consumer receivables—while Credit One maintains only nominal ownership of accounts—demonstrates unlicensed participation in the consumer loan business prohibited by N.J.S.A. 17:11C-3.

### ***1.2.3 Credit Asset Sales LLC’s Role of Buying***

Once a New Jersey consumer defaults and the account is charged-off, the Sherman entities initiate the collection phase of their scheme. FNBM transfers the defaulted receivable back to MHC, and Credit One simultaneously transfers the account to MHC. (Ex. D, Credit One

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<sup>5</sup> Credit One’s discovery response stated in part: “Credit One further states that following the time Credit One originates credit card accounts, by virtue of an ongoing process on the day each receivable is created through use of the card, Credit One Bank sells all right, title and interest in the receivables to another entity, MHC Receivables, LLC, who in turn sells its interest in the receivables to FNBM, LLC. Despite the sale of the receivable, Credit One Bank retains ownership of and servicing rights for the account while the account is performing and in good standing. See Credit One 79-101 (Amended and Restated Receivables Purchase Agreement by and between MHC Receivables, LLC and Credit One Bank, NA, dated May 11, 2011). While Credit One Bank does retain ownership of the Account until charge off, there are no economic rights associated with that ownership, other than revenue the bank receives after sale of the receivable is as Servicer. At the time of charge off, however, Credit One Bank transfers all remaining right, title and interest in the account to MHC Receivables, LLC. See Credit One 089 3.8. At the time of charge off, FNBM, LLC, also transfers all right, title and interest in the defaulted receivable to MHC Receivables, LLC. See Credit One 102-146 (Amended and Restated Receivables Purchase Agreement dated November 25, 2009 between MHC Receivables, LLC and FNBM, LLC). In turn, MCH Receivables, LLC conveys all right, title and interest in the recombined account and receivable to its affiliate, Sherman Originator III, LLC.”

Discovery Responses at 4). MHC then recombines the account and the receivable and sells the entire bundle to Credit Asset Sales LLC. (*Id.*).

Credit Asset Sales then funnels the debt to Resurgent Acquisitions, LLC, which places it with LVNV Funding LLC for aggressive litigation in New Jersey courts. (See Ex. E, Cert of Proof and Ownership).

This systematic purchasing and transfer of charged-off consumer accounts for collection constitutes engaging in the “collection” aspect of consumer loans under the NJCFLA.

Credit Asset Sales’ business model of “buying” defaulted consumer debt for collection purposes falls within the NJCFLA’s broad definition of consumer finance activities requiring licensing. The Act’s licensing requirements are not limited to original lenders but extend to any person engaging in the consumer loan business, which includes the systematic acquisition and collection of consumer debt. *See* N.J.S.A. 17:11C-2.

#### *1.2.4 Systematic Nature of NJCFLA Violations*

Simply put, Credit One Bank retains the servicing rights, while the Sherman entities hold the legal title to the money.

The Sherman enterprise’s violations are not isolated incidents but represent a systematic business model designed to circumvent consumer finance licensing requirements. The discovery evidence from *Anderson v. Credit One Bank, N.A.* demonstrates that this structured finance arrangement applies uniformly across Credit One’s entire consumer lending operation, affecting hundreds of thousands of consumer accounts.

Each entity in the assignment chain—MHC, FNBM, and Credit Asset Sales—operates as an integral component of an integrated financing enterprise that squarely triggers the NJCFLA’s licensing requirements. Under N.J.S.A. 17:11C-2, these entities are actively engaging in the “consumer loan business” by:

1. **“Aiding the . . . lender in procuring or making such loans”**: By pre-arranging to immediately purchase receivables at par value, MHC and FNBM act as the actual funding vehicles that capitalize Credit One’s origination of consumer credit.
2. **“Buying, discounting or endorsing notes”**: The entities systematically purchase, hold, and traffic in consumer receivables and charged-off accounts—an activity explicitly defined as “consumer loan business” under the Act.
3. **Indirectly “soliciting or taking applications”**: Through their structured finance arrangements, these entities provide the necessary liquidity that makes the underlying extension of sub-\$50,000 consumer loans possible in New Jersey.
4. **Engaging in the “Collection” of Void Debts**: By acquiring defaulted accounts for the sole economic purpose of extracting payments from New Jersey consumers, the entities engage in collection activities strictly prohibited without a license under N.J.S.A. 17:11C-33(b).

None of these Sherman subsidiaries obtained the requisite New Jersey licenses under N.J.S.A. 17:11C-3. Consequently, pursuant to N.J.S.A. 17:11C-33(b), the underlying debts are completely void, precluding LVNV—the ultimate assignee in this enterprise—from legally collecting any principal, interest, or charges.

## **2 CENTRALIZED MANAGEMENT IS APPROPRIATE**

Rule 4:38A and the Multicounty Litigation Guidelines (Directive #02-19) support centralized management of these civil actions. As the New Jersey Supreme Court has emphasized, “[o]ne of the reasons for joining together so many cases before a single judge is to gain the benefits of administrative efficiency.” *In re Accutane Litig.*, 235 N.J. 229, 263 (2018). “Applying a single standard . . . will ensure predictable and uniform results rather than disparate outcomes among similarly situated plaintiffs . . .” *Id.*

All of the factors to determine designation favor coordination of these matters in a single Vicinage or designating these suits as a Multicounty Litigation. It is indisputable that these actions raise substantially similar legal and factual issues, including without limitation, determinations regarding liability, damages, and injunctive relief. Without centralized management, the courts and the parties face the risk of duplicative discovery, inconsistent rulings at the trial court level, multiplicity of appeals, and the unnecessary expenditure of resources.

### **2.1 The Litigation Involves a Large Number of Parties**

Sixty-six cases are currently pending where this firm represents the consumers in New Jersey Superior Court challenging LVNV’s collection of void debts. These cases are dispersed across twelve counties. Because this structured finance scheme applies universally to the Credit One/Sherman enterprise business model, this number is expected to increase significantly as LVNV continues to file collection actions on debts.

The parties are geographically dispersed, with plaintiffs and counterclaimants residing throughout New Jersey and, in some cases, neighboring states. LVNV Funding LLC maintains its principal place of business in Greenville, South Carolina. Counsel for the parties are similarly dispersed, with plaintiffs’ counsel based in New Jersey and LVNV’s counsel including out-of-state firms.

### **2.2 The Litigation Involves Claims with Common, Recurrent Issues of Law and Fact**

All cases involve the same defendant—LVNV Funding LLC—and present nearly identical legal and factual issues. The threshold legal question in every case is whether entities in the debt assignment chain engaged in the “consumer loan business” without proper licensing under N.J.S.A. 17:11C-3, thereby voiding the debts pursuant to N.J.S.A. 17:11C-33(b).

Common recurrent issues of law include:

- the interpretation and application of N.J.S.A. 17:11C-2's definition of "consumer loan business";
- whether the unlicensed entities engaged in the consumer loan business;
- whether N.J.S.A. 17:11C-33(b) voids the debts;
- whether LVNV's attempts to collect void debts violate the FDCPA sections 15 U.S.C. §§ 1692e, and 1692f;
- whether such collection attempts constitute unconscionable commercial practices under the CFA at N.J.S.A. 56:8-2;
- whether LVNV's conduct constitutes common law fraud and fraudulent inducement; and the availability of treble damages, statutory damages, punitive damages, and injunctive relief.

Common recurrent issues of fact include:

- LVNV's systematic business practices in purchasing and collecting defaulted consumer debts; the role and licensing status of various entities in debt assignment chains, including MHC Receivables LLC, FNBM LLC, Credit Asset Sales LLC, and various financial entities;
- whether unlicensed entities actively participated in soliciting, servicing, financing, or collecting accounts; the systematic nature of original creditors' receivables transfer structure in which unlicensed financial entities functions as a "pass-through mechanism" or "financing vehicle";
- LVNV's knowledge of licensing deficiencies in its debt portfolios; and the damages suffered by consumers who were sued or dunned on void debts;
- The uniform corporate structure and interrelated operations of the Sherman Financial Group entities (Credit One, MHC, FNBM, Credit Asset, Resurgent, LVNV);
- The identical, systematic chain of assignment utilized for every Credit One account;
- LVNV's knowledge of the licensing deficiencies within its own affiliated corporate family.

### **2.3 There is Value Interdependence Between Different Claims**

Because the core legal issue in every single case is identical, there is a profound value interdependence between the different claims. A ruling on the voidness of the debt under N.J.S.A. 17:11C-33(b) in one county will inherently dictate the settlement value, liability, and viability of the claims in all other cases. Stated plainly, if the debt structure is declared void and a violation of the NJCFLA in Bergen County, that same exact debt structure cannot be legally enforceable in Middlesex or Sussex County. Centralization ensures these highly interdependent claims are valued and adjudicated consistently.

## **2.4 There is A High Degree of Commonality of Injury or Damages Among Plaintiffs**

There is a high degree of commonality of injury and damages among the plaintiffs. As illustrated in the *Nowicki* Complaint, all sixty-six consumers are suffering identical, systematic harms: they are facing unlawful collection lawsuits, default judgments, and executed wage garnishments on debts that are legally void ab initio. The damages models across the board are identical, seeking statutory and actual damages under the FDCPA, as well as treble damages and attorneys' fees under the CFA for the unlawful extraction of funds on void contracts.

## **2.5 Coordinated Discovery Would be Advantageous**

Overlapping discovery will be extensive. All cases will require production of debt purchase agreements, chain of assignment documentation, master receivables trust documents, licensing records, LVNV's business practices and policies, corporate structure and governance documents for Sherman entities and other intermediaries, regulatory filings and OCC examinations regarding Credit One's business model, Bills of Sale and Assignments documenting the systematic transfer structure, and evidence of collection activities. Expert testimony on industry practices, the debt-buying business model, and the CEBA banking regulatory framework will be common across cases.

Coordinating this discovery under a single judge will prevent duplicative requests, inconsistent protective orders, and wasteful litigation over the same documents in multiple courtrooms. Centralization is highly appropriate where "the same documents, the same records . . . and the same expert testimony must necessarily be used to substantiate both causes of action." *N.J. Mfrs. Ins. Co. v. Gng Car Serv. LLC*, 2020 N.J. Super. Unpub. LEXIS 3095, at \*6 (Law Div. June 19, 2020) (citation omitted). Centralizing this litigation "could best accommodate the overlap of proofs" regarding market factors, complex financing models, and the methods used by the Sherman enterprise. *Union County Imp. Authority v. Artaki, LLC*, 392 N.J. Super. 141, 156 (App. Div. 2007).

## **2.6 There is a High Degree of Remoteness Between the Court and Actual Decision-Makers**

Furthermore, the Court must consider the high degree of "remoteness" between the local trial courts and the actual corporate decision-makers possessing ultimate settlement authority. In this complex, multi-tiered litigation involving the Sherman Financial Group enterprise, the executives holding the authority to resolve these claims are located out-of-state in South Carolina and Nevada, insulated by layers of corporate subsidiaries and national defense counsel. With sixty-six cases currently fractured and dispersed across twelve distinct New Jersey counties, compelling these remote corporate principals to engage meaningfully in scattered, localized settlement conferences on a case-by-case basis is practically impossible. Centralization in a single vicinage establishes an authoritative judicial forum that commands the immediate

attention of LVNV's national coordinating counsel and Sherman enterprise executives, thereby facilitating global, meaningful settlement dialogues.

## **2.7 Centralized Management is Fair and Convenient**

MCL designation will conserve judicial resources and ensure consistency across substantially identical cases. Without centralization, judges across multiple counties would be required to develop the same specialized knowledge regarding the NJCFLA's licensing requirements, the structure of debt assignment chains involving the systematic receivables sale business model, and the debt-buying industry's business practices. This duplication of effort wastes valuable judicial resources.

Centralization will not unreasonably delay progress, increase expenses, or prejudice LVNV Funding LLC. To the contrary, LVNV relies on uniform, automated collection processes regardless of venue, and centralized management will streamline their defense rather than complicate it. Transferring and consolidating these cases for coordinated management will allow for efficient management of discovery, consistent rulings on recurring legal issues, and fair treatment of all parties. Furthermore, without centralized management, there is a substantial risk of inconsistent rulings on threshold legal questions that will affect all cases and create unnecessary and piecemeal appeals.

Furthermore, without centralized management, multiple judges may reach different conclusions on whether MHC, FNBM, Credit Asset Sales, and other entities engaged in the "consumer loan business," whether the original creditors' systematic receivables transfer structure constitutes activities broadly defined under the NJCFLA, whether debts should be properly voided, and whether LVNV's collection activities violate the statutory law. As the Supreme Court noted regarding dispersed multicounty litigation, failing to centralize such repetitive, complex claims is a "wholly unworkable scheme. It would lead to more errors and more appeals, and therefore greater delays in resolving cases." *In re Accutane Litig.*, 235 N.J. at 264. Such inconsistency would be fundamentally unfair to both plaintiffs/counterclaimants and defendant/defendant on counterclaim and would undermine public confidence in the judicial system.

## **3 ESSEX OR BERGEN IS THE MOST APPROPRIATE VENUE**

The Court's Multicounty Litigation Guidelines call for the Court to examine "issues of fairness, geographical location of the parties and attorneys . . ." The case distribution strongly supports assignment to one of these counties; fourteen cases are currently pending in Bergen County and twelve cases in Essex County. The remaining forty cases are scattered across ten additional counties throughout the state. Additionally, our firm is located in Bergen County.

#### 4 CONCLUSION

The LVNV Funding Licensing Litigation satisfies all criteria for MCL designation under Rule 4:38A and Directive #02-19. These cases involve a substantial and growing number of parties, present common recurrent issues of law and fact, and require coordinated discovery and consistent judicial oversight. In the interests of judicial economy, fairness to all parties, and efficient administration of justice, we respectfully request that the New Jersey Supreme Court designate *In re LVNV Funding LLC Licensing Litigation* as a Multicounty Litigation for Centralized Management, or in the alternative, transfer all cases to one judge.

Thank you for your consideration of this matter.

Very truly yours,

/s/ Yongmoon Kim

Yongmoon Kim, Esq.

KIM LAW FIRM LLC

YK/jy

Enclosures

cc: All Assigned Judges (*via eCourts*)  
All Counsel of Record (*via eCourts*)

**EXHIBIT A**

## Schedule of In re LVNV Funding LLC Licensing Litigation Cases

<b>No.</b>	<b>County</b>	<b>Case Name</b>	<b>Docket No.</b>	<b>LVNV Funding LLC's Counsel</b>
1	Bergen	Kenneth Bailey v. LVNV Funding LLC	BER-L-4441-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
2	Bergen	Veronica C. Sain v. LVNV Funding LLC	BER-L-8407-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
3	Bergen	Lorena Oliva v. LVNV Funding, LLC	BER-L-5138-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
4	Bergen	Kim Pierce v. LVNV Funding LLC	BER-L-5249-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
5	Bergen	Christopher Bernard v. LVNV Funding LLC	BER-L-5188-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
6	Bergen	Jenifer Devine v. LVNV Funding LLC	BER-L-6061-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
7	Bergen	Kate Nowicki v. LVNV Funding LLC	BER-L-5919-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
8	Bergen	Luis Felipe v. LVNV Funding, LLC	BER-L-5920-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
9	Bergen	Kate Nowicki v. LVNV Funding LLC	BER-L-1-26	LVNV Funding, LLC (via CMRRR and First Class Mail)
10	Bergen	Luis Felipe v. LVNV Funding LLC	BER-L-4945-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
11	Bergen	Jenifer Devine v. LVNV Funding LLC	BER-L-6107-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
12	Bergen	LVNV Funding LLC v. Miguel Santos	BER-DC-24389-25 & BER-L-8619-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
13	Bergen	Wisam Mubasher v. LVNV Funding LLC	BER-L-29-26	LVNV Funding, LLC (via CMRRR and First Class Mail)
14	Bergen	Miguel I. Santos v. LVNV Funding, LLC	BER-L-2565-26	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
15	Burlington	LVNV Funding LLC v. Jonathan Espinal	BUR-L-399-25	Daniel J. Santucci, Esq. -- Pressler, Felt & Warshaw, LLP Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
16	Burlington	LVNV Funding LLC v. Andre Alexander	BUR-DC-13288-24	David A. Faloni, Esq. -- Faloni Law Group, LLC
17	Burlington	LVNV Funding LLC v. Jeremy Outlaw	BUR-L-1170-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Theologia

<b>No.</b>	<b>County</b>	<b>Case Name</b>	<b>Docket No.</b>	<b>LVNV Funding LLC's Counsel</b>
				Papadelia, Esq. -- Pressler, Felt & Warshaw, LLP
18	Camden	LVNV Funding LLC v. Clifort Betance	CAM-DC-14711-25	David A. Faloni, Esq -- Faloni Law Group, LLC
19	Camden	Clifort Betance v. LVNV Funding LLC	CAM-L-926-26	LVNV Funding, LLC (via CMRRR and First Class Mail)
20	Camden	LVNV Funding LLC v. Narvis Morine	CAM-DC-19040-25	Christopher P. Odogbili, Esq. -- Pressler, Felt & Warshaw LLP
21	Camden	LVNV Funding LLC v. Anthony Deacon	CAM-DC-25050-25	Steven C. Boc, Esq. -- Tengalia & Hunt, P. A.
22	Camden	Narvis Morine v. LVNV Funding LLC	CAM-L-1307-26	LVNV Funding, LLC (via CMRRR and First Class Mail)
23	Cape May	LVNV Funding LLC v. Kevin Kilroy	CPM-L-230-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Christopher P. Odogbili, Esq. -- Pressler, Felt & Warshaw, LLP
24	Essex	LVNV Funding LLC v. Tanya Robinson	ESX-L-2630-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
25	Essex	LVNV Funding LLC v. Jacqueline DeBose	ESX-L-3262-25	Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
26	Essex	Frank Jeetan v. LVNV Funding LLC	ESX-L-1131-25 / ESX-L-2631-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
27	Essex	LVNV Funding LLC v. Kim Pierce	ESX-L-3132-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
28	Essex	LVNV Funding LLC v. Sybrina Blissett	ESX-L-001485-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
29	Essex	LVNV Funding, LLC v. Oliva Lorena	ESX-DC-12635-25	David A. Faloni, Esq. -- Faloni Law Group, LLC
30	Essex	LVNV Funding LLC v. Christopher Bernard	ESX-DC-12132-25	Francesca N. Mendola, Esq. -- Rubin & Rothman, LLC Austin P. O'Brien, Esq. -- J Robbin Law, PLLC
31	Essex	LVNV Funding LLC v. Peter Abishai	ESX-DC-23412-25	David J. Levine, Esq. -- Fein, Such, Kahn & Shepard, P.C.
32	Essex	LVNV Funding LLC v. William Horace	ESX-DC-25138-25	David A. Faloni, Esq. -- Faloni Law Group, LLC
33	Essex	LVNV Funding LLC v. Keisha Stanley	ESX-L-432-26	David A. Faloni, Esq. -- Faloni Law Group, LLC

<b>No.</b>	<b>County</b>	<b>Case Name</b>	<b>Docket No.</b>	<b>LVNV Funding LLC's Counsel</b>
34	Essex	LVNV Funding LLC v. Patrick Warner	ESX-DC-32219-25 & ESX-L-9663-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
35	Essex	LVNV Funding LLC v. Emanuel Galvez	ESX-L-1182-26	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
36	Hudson	LVNV Funding LLC v. Jennifer Batista	HUD-L-3081-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
37	Hudson	LVNV Funding LLC v. Joseph Musser	HUD-L-1272-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Austin P. O'Brien, Esq. -- J Robbin Law, PLLC
38	Hudson	LVNV Funding LLC v. Susan Davis	HUD-DC-21294-24	Stephen E. Lundy, Esq. -- Pressler, Felt & Warshaw, LLP
39	Hudson	LVNV Funding LLC v. Damien Hall	HUD-DC-16416-25	Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
40	Hudson	LVNV Funding LLC v. Vinit Barot	HUD-L-4059-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
41	Hudson	LVNV Funding LLC v. Kadia Paddy	HUD-DC-26445-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
42	Mercer	LVNV Funding LLC v. Kate Nowicki	MER-DC-5643-25	Stephen E. Lundy, Esq. -- Pressler, Felt & Warshaw, LLP
43	Mercer	LVNV Funding LLC v. Kate Nowicki	MER-DC-10566-24	Mordechai Wolowitsch, Esq. — Rubin & Rothman, LLC
44	Mercer	LVNV Funding LLC v. John Rupp	MER-DC-8138-25	David J. Levine, Esq. -- Fein, Such, Kahn & Shepard, P.C.
45	Middlesex	LVNV Funding LLC v. Joannette Reeves	MID-L-981-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
46	Middlesex	LVNV Funding LLC v. Jared Singer	MID-L-4000-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
47	Middlesex	LVNV Funding LLC v. Safiya Salaam	MID-DC-17621-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Meghan Mahajan, Esq. -- Rubin & Rothman, LLC
48	Monmouth	LVNV Funding LLC v. Jenifer M. Devine	MON-L-922-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Christopher P. Odogbili, Esq. -- Pressler, Felt & Warshaw, LLP Daniel A. Schilling,

No.	County	Case Name	Docket No.	LVNV Funding LLC's Counsel
				Esq. -- Kaufman Borgeest & Ryan, LLP Krupa A. Weslosky, Esq. -- Kaufman Borgeest & Ryan, LLP
49	Monmouth	LVNV Funding LLC v. Jenifer Devine	MON-DC-9129-25	Christopher P. Odogbili, Esq. -- Pressler, Felt & Warshaw, LLP
50	Monmouth	LVNV Funding LLC v. Jenifer Devine	MON-DC-14489-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Steven C. Boc, Esq. -- Tengalia & Hunt, P.A.
51	Ocean	LVNV Funding LLC v. Veronicac Sain	OCN-DC-3644-25	Keith J. Golub, Esq. -- Rubin & Rothman, LLC
52	Ocean	LVNV Funding LLC v. William Ackerman	OCN-DC-15233-25	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC Kristina Moehle, Esq. -- Andreu, Palma, Lavin & Solis, PLLC
53	Passaic	LVNV Funding LLC v. Deborah A. Ritter	PAS-DC-11371-16	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
54	Passaic	LVNV Funding LLC v. Luis Felipe	PAS-L-3610-24	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC David A. Faloni, Esq. -- Faloni Law Group, LLC
55	Passaic	LVNV Funding LLC v. Luis Felipe	PAS-DC-5797-25	Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
56	Passaic	LVNV Funding, LLC v. Luis Felipe	PAS-DC-11280-25	Daniel J. Santucci, Esq. -- Pressler, Felt & Warshaw, LLP
57	Passaic	LVNV Funding, LLC v. Jose Estrella	PAS-DC-13144-25	Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP
58	Passaic	LVNV Funding LLC v. Yisroel Fishbain	PAS-DC-15681-25	David A. Faloni, Esq. -- Faloni Law Group, LLC
59	Passaic	LVNV Funding LLC v. Tiffeny Rivers	PAS-L-130-26	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
60	Passaic	LVNV Funding LLC v. Luis Felipe	PAS-DC-2586-26	Theologia Papadelias, Esq. — Pressler, Felt & Warshaw, LLP
61	Passaic	LVNV Funding LLC v. Jamilthon Rodriguez	PAS-DC-2080-26	Daniel J. Santucci, Esq. — Pressler, Felt & Warshaw, LLP
62	Passaic	LVNV Funding LLC v. Jamilthon Rodriguez	PAS-SC-128-26	Theologia Papadelias, Esq. — Pressler, Felt & Warshaw, LLP
63	Passaic	LVNV Funding LLC v. Trevor Berbick, PAS-DC-1726-26	PAS-DC-1726-26	Jacquelyn A. DiCicco, Esq. — J Robbin Law, PLLC
64	Passaic	Jamilthon Rodriguez v. LVNV Funding LLC	PAS-L-1015-26	LVNV Funding, LLC (via CMRRR and First Class Mail)
65	Sussex	LVNV Funding LLC v. Donna Falco	SSX-L-537-24	David A. Faloni, Esq. -- Faloni Law Group, LLC Jennifer Montan, Esq. -

No.	County	Case Name	Docket No.	LVNV Funding LLC's Counsel
				- Faegre Drinker Biddle & Reath, LLP
66	Sussex	LVNV Funding LLC v. Donna Falco	SSX-DC-3007-24	Theologia Papadelias, Esq. -- Pressler, Felt & Warshaw, LLP

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KATE NOWICKI,

Plaintiff,

vs.

LVNV FUNDING LLC, and JOHN DOES 1 to  
10,

Defendants.

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, BERGEN COUNTY**

Docket No. BER-L

Civil Action

**COMPLAINT  
and Jury Demand**

**NATURE OF THE CASE**

1. This action arises from Defendant LVNV Funding LLC's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, the Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-1, *et seq.*, and other state laws.

2. As described more fully below, Defendants made misrepresentations and committed unfair and unconscionable practices against Plaintiff and other New Jersey consumers when attempting to collect debts voided by the New Jersey Consumer Finance Licensing Act ("NJCFLA"), at N.J.S.A. 17:11C-3.

3. Therefore, Plaintiff seeks damages including statutory and actual damages under the FDCPA, treble damages under the CFA, and damages on other common law claims.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction to entertain this matter.

5. Venue in this action is proper in Bergen County because Defendants regularly conduct business here, including the collection of void debts from, and the filing of collection actions against, New Jersey residents residing in this County.

**PARTIES**

6. Kate Nowicki is a natural person residing in New Jersey.

7. At all times relevant to this lawsuit, Kate Nowicki was a citizen of the State of New Jersey.

8. Defendant LVNV Funding LLC ("LVNV") is a foreign limited liability company with its principal place of business at 355 S Main Street, Suite 300-D, Greenville, South Carolina 29601.

9. Plaintiff is informed and believes, and on that basis alleges, that Defendants John Does 1 to 10 are natural persons and/or business entities all of whom reside or are located within the United States and personally created, instituted and, with knowledge that such practices were contrary to law, acted consistent with and oversaw policies and procedures used by the employees of Defendants that are the subject of this Complaint. Those defendants personally control the illegal acts, policies, and practices utilized by Defendants and, therefore, are personally liable for all of the wrongdoing alleged in this Complaint. Those fictitious names of individuals and businesses alleged for the purpose of substituting names of defendants whose identity will be disclosed in discovery and should be made parties to this action.

10. Some or all of John Does 1-10 set the policies and practices complained of herein.

11. Some or all of John Does 1-10 were actively engaged in the practices complained of herein.

## FACTUAL ALLEGATIONS

### A. New Jersey Consumer Finance Licensing Act Framework and the Unlicensed Entities (MHC, FNBM, Credit Asset Sales)

12. N.J.S.A. 17:11C-2 defines the "consumer loan business" as follows:

"Consumer loan business" means the business of making loans of money, credit, goods or things in action, which are to be used primarily for personal, family or household purposes, in the amount or value of \$50,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this act and without first obtaining a license from the commissioner. *Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$50,000 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$50,000 or less, or in the business of buying, discounting or endorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of \$50,000 or less, shall be deemed to be engaging in the consumer loan business.*

(Emphasis added).

13. N.J.S.A. 17:11C-3(a) provides: "No person shall engage in business as a consumer lender or sales finance company without first obtaining a license or licenses under this act."

14. N.J.S.A. 17:11C-33(b) provides, in relevant part:

A consumer lender who violates or participates in the violation of any provision of section 3 . . . shall be guilty of a crime of the fourth degree. A contract of a loan not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a crime of the fourth degree under this section, shall be void and the lender shall have no right to collect or receive any principal, interest or charges unless the act was the result of a good faith error . . . .

15. All or substantially all of the accounts of which MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC (the "Unlicensed Entities") were involved in were credit

accounts with extension of credit less than \$50,000 and provided for rates of interest and/or other charges beyond those authorized by the New Jersey Consumer Finance Licensing Act, at N.J.S.A. 17:11C-1 to -49 for licensed consumer lenders.

16. A significant amount of these accounts are "retail charge accounts" as defined at N.J.S.A. 17:16C-1(r).

17. The Unlicensed Entities are in the business of soliciting, taking applications of, negotiating or arranging or aiding in the procuring or making, purchasing, and/or taking assignment of credit accounts, including defaulted accounts, which they then enforce against the borrowers, directly or indirectly, including through collection letters, lawsuits, and post-judgment collection efforts. This is their principal business. MHC Receivables, LLC, FNBM, LLC, and Credit Asset Sales LLC are each indirect, wholly owned subsidiaries of Sherman Capital, L.L.C. (*See Corporate Ownership Statement of Defs. MHC Receivables LLC, FNBM LLC, & Credit Asset Sales LLC 2, Rodriguez-Ocasio v. MHC Receivables LLC*, No. 2:24-cv-06493 (EP)(MAH), ECF No. 2 (D.N.J. May 28, 2024), which is attached as **Exhibit A**).

18. In the course of their business, the Unlicensed Entities have purchased and/or taken assignment of numerous defaulted accounts/debts originally extended by Credit One Bank, N.A. and other banks to New Jersey consumers which were primarily for personal, household, or family purposes. The assignment chain for Plaintiff's debt proceeded as follows: Credit One Bank, N.A. (original creditor and charge-off creditor) → MHC Receivables, LLC and FNBM, LLC (intermediate owners) → Credit Asset Sales LLC (intermediate owner) → Resurgent Acquisitions LLC (intermediate owner) → LVNV Funding LLC (current owner). (*See Certification of Assignment of Claim, ¶ 6, attached as Exhibit B*). Credit One Bank originated credit card accounts and immediately transferred receivables to MHC at par value, with MHC in

turn immediately transferring receivables to FNBM at par value. (See George Hughes Dep. Tr. 58:2–61:12, Ex. A, Mot. to Compel & for Sanctions, *In re Orrin S. Anderson*, No. 14-22147 (RDD), Adv. Proc. No. 15-08214 (RDD) (Bankr. S.D.N.Y. Aug. 8, 2016) (ECF No. 78-2), which is attached as **Exhibit C**.) Upon charge-off, the receivable was transferred back to MHC by FNBM, and the account was transferred to MHC by Credit One, with MHC then selling the "married up" account and receivable to Sherman Originator III and/or Credit Asset Sales LLC. (See Credit One Bank, N.A.'s Response to Request for Production No. 2, Ex. O, Mot. to Compel & for Sanctions, *In re Orrin S. Anderson*, No. 14-22147 (RDD), Adv. Proc. No. 15-08214 (RDD) (Bankr. S.D.N.Y. Aug. 8, 2016) (ECF No. 78-16), which is attached as **Exhibit D**).

19. By soliciting or taking applications for such loans, by negotiating or arranging or aiding in procuring or making such loans, by making or purchasing or taking assignment of such loans, and/or by enforcing or collecting such loans, the Unlicensed Entities acted as "sales finance compan[ies]" as defined at N.J.S.A. 17:16C-1(f).

20. By soliciting or taking applications for such loans, by negotiating or arranging or aiding in procuring or making such loans, by making or purchasing or taking assignment of such loans, and/or by enforcing or collecting such loans, the Unlicensed Entities engaged in the "consumer loan business" as defined at N.J.S.A. 17:11C-2.

21. During all times relevant to this action, the Unlicensed Entities were not licensed as "sales finance company[ies]" or "consumer lender[s]" pursuant to the NJCFLA, at N.J.S.A. 17:11C-3.

22. During all times relevant to this action, the Unlicensed Entities did not comply with the requirements of the NJCFLA.

23. The Unlicensed Entities engaged in affirmative acts of making and/or collection

without complying with the NJCFLA including licensure requirements in violation of N.J.S.A. 17:11C-3.

**B. The Credit One Debt and Assignment Chain Through Sherman Entities**

24. On or about November 18, 2022, Plaintiff Kate Nowicki incurred a consumer debt ("Account" or "Debt") for personal, household, or family purposes through a Credit One Bank, N.A. credit card account ending in 1120. (See Certification of Proof and Ownership of Account, attached as **Exhibit E**).

25. Credit One Bank, N.A. ("Credit One") is a technology and data-driven financial services company operating as a Competitive Equality Banking Act (CEBA) credit card bank with no branches, headquartered in Las Vegas, Nevada. (See Office of the Comptroller of the Currency, Community Reinvestment Act Performance Evaluation: Credit One Bank, N.A., Charter No. 20291, at 4 (Mar. 17, 2025), which is attached as **Exhibit F**).

26. Credit One Bank is a wholly owned subsidiary of Credit One Financial ("COF"). COF is not a bank holding company but is affiliated with Sherman Financial Group, LLC ("SFG") through common beneficial ownership. SFG is privately held and located in Charleston, South Carolina. (*Id.*).

27. Sherman Financial Group, LLC is owned by Sherman Capital, L.L.C. Sherman Capital, L.L.C. has no parent corporation, and no publicly held corporation owns 10% or more of Sherman Capital, L.L.C. (See Corporate Ownership Statement of Defs. MHC Receivables LLC, FNBM LLC, & Credit Asset Sales LLC 2, *Rodriguez-Ocasio v. MHC Receivables LLC*, No. 2:24-cv-06493 (EP)(MAH), ECF No. 2 (D.N.J. May 28, 2024), which is attached as **Exhibit A**).

28. Sherman Financial Group is described as "an integrated financial services company engaged in purchasing and servicing receivable portfolios acquired at a discount, and originating and servicing credit card receivables," consisting of "numerous asset holding and

operating entities throughout the United States." (See Office of the Comptroller of the Currency, Community Reinvestment Act Performance Evaluation: Credit One Bank, N.A., Charter No. 20291, at 3 (Mar. 31, 2007), which is attached as **Exhibit G**).

29. MHC Receivables, LLC ("MHC"), FNBM, LLC ("FNBM"), and Credit Asset Sales LLC ("Credit Asset Sales") are each indirect, wholly owned subsidiaries of Sherman Capital, L.L.C. (See Corporate Ownership Statement of Defs. MHC Receivables LLC, FNBM LLC, & Credit Asset Sales LLC 2, *Rodriguez-Ocasio v. MHC Receivables LLC*, No. 2:24-cv-06493 (EP)(MAH), ECF No. 2 (D.N.J. May 28, 2024), which is attached as **Exhibit A**).

30. According to public filings and regulatory documents, Sherman Capital, L.L.C. is "an entity owned by the management of Sherman Financial Group LLC" and entities owned or controlled by management (including Sherman Capital) hold equity interests and control Sherman Financial Group. (See Radian Group Inc., Current Report (Form 8-K) (Sept. 20, 2007), which is attached as **Exhibit H**)

31. A 2010 SEC-filed Securities Purchase Agreement states that "Sherman Capital, L.L.C. and/or Meeting Street Partners II Inc. will collectively own all outstanding membership interests" in Sherman Financial Group LLC. (See Securities Purchase Agreement by & between Radian Guaranty Inc. & Sherman Financial Group LLC, at 2 (May 3, 2010), which is attached as **Exhibit I**).

32. Credit One Bank's business model centers on the immediate and systematic sale of substantially all of its credit card receivables. (See **Exhibit C**).

33. The following debt sale structure and assignment chain are used by Credit One and the Sherman entities:

- a. Credit One Bank originates credit card accounts with consumers;
- b. After Credit One originates a credit card account with a consumer, it

- immediately transfers any receivables from that account to MHC at par value;
- c. MHC, in turn, immediately transfers that receivable to FNBM at par value, and that receivable stays with FNBM as long as the account is performing. FNBM, not Credit One, is the funding vehicle for these receivables;
- d. Credit One retains and services the account while it is performing, despite having sold the receivables;
- e. Once an account becomes non-performing and is charged-off, the receivable is transferred back to MHC by FNBM, and the account or debt is transferred to MHC by Credit One;
- f. MHC then sells the 'married up' account and receivable to Sherman Originator III;

34. As to Plaintiff Kate Nowicki's specific account, the debt assignment chain proceeded as follows:

- a. Credit One Bank, N.A. originated the account on or about November 18, 2022;
- b. Credit One Bank immediately transferred the receivables to MHC Receivables, LLC within approximately 30 days of origination, consistent with Credit One's systematic business model;
- c. MHC immediately transferred the receivables to FNBM, LLC at par value;
- d. FNBM held the receivables while the account was performing;
- e. Upon charge-off, the receivable was transferred back to MHC by FNBM, and the account was transferred to MHC by Credit One Bank;
- f. MHC sold the "married up" account and receivable to Credit Asset Sales LLC;
- g. Credit Asset Sales LLC sold the account to Resurgent Acquisitions LLC;
- h. Resurgent Acquisitions LLC sold the account to LVNV Funding LLC.

35. Each step in the assignment chain involving the Unlicensed Entities (MHC Receivables, FNBM, and Credit Asset Sales) was void *ab initio* under N.J.S.A. 17:11C-33(b) because these entities engaged in "making or collection" activities without obtaining required licenses under the NJCFLA.

36. MHC Receivables, LLC engaged in "making" of the loan by:
- a. Purchasing the receivables from Credit One Bank immediately upon origination, typically within 30 days, as part of Credit One's systematic funding structure;
  - b. Providing the funding for Credit One's credit card originations through its immediate purchase of receivables at par value;
  - c. Purchasing receivables on consumer credit extended primarily for personal, household, or family purposes in amounts under \$50,000;

- d. Deriving economic benefit from the usurious interest rates charged to New Jersey consumers like Plaintiff; and
  - e. Directing its activities at New Jersey consumers by systematically purchasing receivables originated to New Jersey residents.
37. MHC Receivables, LLC engaged in "collection" of the loan by:
- a. Acquiring and holding the receivables for the purpose of receiving payments from borrowers, including Plaintiff;
  - b. Exercising rights to receive and benefit from payments made by Plaintiff on the account;
  - c. Retaining economic interests in Plaintiff's account during the period of ownership;
  - d. Strategically "marrying up" the charged-off account with the receivable upon default;
  - e. Selling the account and receivable to Credit Asset Sales LLC as part of monthly pools of charged-off accounts, facilitating subsequent collection efforts;
  - f. Participating in a systematic business model operated by affiliated Sherman entities designed to profit from consumer debt collection;
  - g. Acting in coordination with affiliated Sherman entities (Credit One Bank, FNBM, Credit Asset Sales, Resurgent Acquisitions, and LVNV Funding) to facilitate the ultimate collection of charged-off consumer debts; and
  - h. Deriving profit tied to the account's collection value through its role in the Sherman entity debt sale and collection chain.
38. FNBM, LLC engaged in "making" of the loan by:
- a. Immediately purchasing the receivables from MHC at par value as part of Credit One's pre-arranged funding structure;
  - b. Serving as the designated "funding vehicle" for Credit One's receivables while accounts remained performing;
  - c. Holding the receivables during the performing period of the account, thereby financing Credit One's consumer lending operations;
  - d. Acquiring receivables on consumer credit extended primarily for personal, household, or family purposes in amounts under \$50,000; and
  - e. Profiting from usurious interest rates charged to New Jersey consumers through its role in the receivables funding structure.
39. FNBM, LLC engaged in "collection" of the loan by:
- a. Acquiring and holding the receivables for the purpose of benefiting from payments made by borrowers, including Plaintiff;
  - b. Exercising rights to receive and profit from payments made by Plaintiff during the performing period;
  - c. Retaining economic interests in Plaintiff's account while holding the receivables;

- d. Transferring the receivable back to MHC upon charge-off as part of the pre-arranged process to facilitate collection of defaulted accounts;
  - e. Coordinating with affiliated Sherman entities to ensure charged-off accounts and receivables were "married up" for subsequent sale and collection;
  - f. Participating in monthly pooling and sale of charged-off accounts that led to collection through affiliated entities and ultimately through New Jersey courts; and
  - g. Deriving profit from the transaction through its participation in the Sherman entity chain designed to profit from consumer debt origination and collection.
40. Credit Asset Sales LLC engaged in "making" of the loan by:
- a. Purchasing the charged-off account and receivable from MHC as part of the Sherman entity debt acquisition chain;
  - b. Participating in the Sherman entity business model of acquiring and profiting from consumer receivables at usurious rates;
  - c. Acting as an intermediate holder in the debt chain designed to facilitate ultimate collection; and
  - d. Directing its debt acquisition activities at New Jersey consumers by purchasing accounts originated to New Jersey residents like Plaintiff.
41. Credit Asset Sales LLC engaged in "collection" of the loan by:
- a. Acquiring the account for the express purpose of profiting from its collection through subsequent sale or direct collection efforts;
  - b. Exercising ownership rights over Plaintiff's account that had no value except through collection;
  - c. Assigning the account to Resurgent Acquisitions LLC to continue the collection chain;
  - d. Participating in a systematic business model where affiliated Sherman entities purchase charged-off consumer debt at a discount to profit from ultimate collection;
  - e. Coordinating with affiliated entities (MHC, FNBM, Resurgent Acquisitions, and LVNV Funding) to facilitate collection of accounts from New Jersey consumers;
  - f. Deriving economic benefit tied to the account's eventual collection through litigation and enforcement; and
  - g. Perpetuating collection efforts on debt bearing interest rates that violate New Jersey law for unlicensed lenders.

42. The debt purchases by the Unlicensed Entities were inherently collection activities because consumer debt has no value except through collection, and each entity purchased Plaintiff's account for the sole purpose of profiting from its ultimate collection. It cannot be anything but a roundabout way of saying they are collecting on a consumer loan.

43. Each Unlicensed Entity's involvement with Plaintiff's account constituted engaging in the "consumer loan business" as defined by N.J.S.A. 17:11C-2, which includes entities "directly or indirectly engaging in the business of soliciting or taking applications for such loans of \$50,000 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of \$50,000 or less, or in the business of buying, discounting or endorsing notes" where the consideration is \$50,000 or less.

44. The Unlicensed Entities engaged "in the making or collection" of Plaintiff's loan within the meaning of N.J.S.A. 17:11C-33(b), rendering the account void and unenforceable.

45. Alternatively, engaging in the consumer loan business without a license constitutes a crime of the fourth degree under N.J.S.A. 17:11C-33(b), and any contract "in the making or collection of which any act shall have been done which constitutes a crime of the fourth degree under this section, shall be void and the lender shall have no right to collect or receive any principal, interest or charges" unless the act resulted from good faith error.

46. The involvement of the Unlicensed Entities in Plaintiff's account was not the result of good faith error. Rather, it was part of a deliberate, systematic business model operated by the Sherman entity family of companies designed to profit from consumer lending and debt collection while circumventing state licensing requirements.

47. Because MHC Receivables, FNBM, and Credit Asset Sales engaged in making or collection of Plaintiff's account without obtaining required licenses under the NJCFLA, the account was void from inception, and all subsequent assignments and collection efforts were void as a matter of law.

48. Resurgent Acquisitions LLC, as a subsequent purchaser in the chain, acquired a void debt that could not be legally collected. N.J.S.A. 17:11C-33(b) provides that a contract

voided by unlicensed lending activity is void as to all parties, and "the lender shall have no right to collect or receive any principal, interest or charges."

49. LVNV Funding LLC, as the ultimate purchaser, likewise acquired a void debt that was unenforceable from inception due to the Unlicensed Entities' violations of the NJCFLA.

50. Despite the debt being void *ab initio*, LVNV Funding LLC attempted to collect the debt from Plaintiff by filing a collection lawsuit in the Superior Court of New Jersey, Special Civil Part, Mercer County, bearing docket number MER-DC-010566-24.

51. LVNV's collection efforts violated the NJCFLA because LVNV attempted to collect, and obtained judgment on, a debt that was void under N.J.S.A. 17:11C-33(b).

52. LVNV's collection efforts also violated the Fair Debt Collection Practices Act by attempting to collect a debt that was not legally owed and by filing a lawsuit to collect a void debt.

53. The systematic debt sale structure employed by Credit One Bank and the Sherman entities, including the Unlicensed Entities, was designed to generate profits from consumer lending and debt collection while avoiding state licensing requirements and regulatory oversight.

**C. The Debt Buying and Collection Industry and Unlawful Enforcement Against Kate Nowicki**

54. The Maryland Court of Appeals described the debt buying industry, consisting of players like Defendant in this case, as follows:

THE DEBT-BUYING INDUSTRY

Traditionally, when a borrower or customer failed to pay a debt on time, the creditor would do what was needed to collect the debt either by engaging with the debtor directly or by employing an attorney or outside debt collector to do so. That still occurs, of course, but a new business model that first developed in the late 1980s has become predominant in the debt collection universe, largely because (1) so much of the debt arrearage in the United States, and in Maryland, is credit card debt, and (2) Federal banking

regulations require credit card companies that are bank-related to charge off credit card debt that has been delinquent for six months.

The new model, for those companies, and others, is to sell their delinquent accounts to debt buyers for pennies on the dollar - normally between four and five cents but less for older accounts - and thereby recoup at least something without having to bear the expense of further collection efforts. The sales are in bulk. A three-year study by FTC revealed the sale of more than 5,000 "portfolios" containing nearly 90 million consumer accounts with a face value of \$143 billion at a cost of \$6.5 billion. *2013 FTC Report* at ii, 8, and Table 2.

While beneficial to the initial creditor in light of the charge-off requirement and lucrative to the debt buyer, the manner in which this new model developed and debt buyers carried on their business created significant consumer protection issues. In its 2013 Report, based in part on a 2009 Study, FTC observed that it received "more consumer complaints about debt collectors, including debt buyers, than about any other single industry." *2013 FTC Report* at i. See also *Collecting Consumer Debts - The Challenges of Change, A Workshop Report*. Federal Trade Commission, February 2009 (hereafter *2009 FTC Report*).

In its 2013 Report, FTC noted that, in its 2009 Report, it had expressed concern that debt buyers "may have insufficient or inaccurate information when they collect on debts, which may result in collectors seeking to recover from the wrong consumer or recover the wrong amount." *2013 FTC Report*. The Commission found that, although debt buyers normally receive from the initial creditor the information needed to be disclosed to the debtor under the Federal Debt Collection Practices Act (15 U.S.C. § 1692g) they often do not receive data relating to disputes raised by the debtor or a breakdown of how much of the debt is for interest, fees, or penalties, and that they rarely disclose to the debtor other information, such as data indicating that collection may be barred by limitations, that may be relevant to whether the alleged debtor is the actual debtor or owes the money and, if so, how much. *2013 FTA Report* at iii-iv.

*LVNV Funding LLC v. Finch*, 207 A.3d 202, 206 (Md. 2019).

55. All or substantially all of the accounts of which Defendant took assignment extended credit less than \$50,000 and provided for rates of interest and/or other charges beyond those authorized by the New Jersey Consumer Finance Licensing Act, at N.J.S.A. 17:11C-1 to -

49 for licensed consumer lenders.

56. In the course of their business, Defendant has purchased and/or taken assignment of numerous defaulted accounts/debts originally extended by banks or others to New Jersey consumers which were primarily for personal, household, or family purposes.

57. When attempting to collect debts, Defendant uses the mail, telephone, the internet and other instruments of interstate commerce.

58. Defendant purchases past-due and defaulted consumer accounts for pennies on the dollar, and then attempts to collect those accounts themselves or through other collection agencies or debt collectors.

59. Defendant has asserted that Plaintiff incurred or owed a certain financial obligation originating and which arose from one or more transactions which were primarily for Plaintiff's personal, family, or household purposes.

60. Debt collectors like Defendant file hundreds of thousands of collection lawsuits in the State of New Jersey, clogging the State Court's docket, wasting judicial resources and harassing New Jersey consumers.

61. The Debt alleged to be owed by Kate Nowicki was incurred for personal, family or household purposes.

62. Defendant contends that the Account was past-due and in default when they attempted to acquire it.

63. Defendant is a debt collector under the FDCPA.

**D. Unlawful Enforcement of a Void Debt**

64. On or about December 31, 2024, and in an attempt to collect the void Debt, LVNV filed a collection lawsuit against Kate Nowicki in Mercer County, New Jersey, Case No. MER-DC-010566-24 ("Collection Lawsuit"), seeking the principal sum of \$697.26 plus costs.

65. Prior to and during the Collection Lawsuit, LVNV sent collection letters to Kate Nowicki directly or indirectly through other debt collectors.

66. On or about April 2, 2025, a judgment was entered in the Collection Lawsuit against Kate Nowicki in the amount of \$783.21, which included costs and fees.

67. Following entry of judgment, LVNV executed a wage garnishment.

68. Defendant enforced the Debt when it was void.

69. The collection letters deprived Plaintiff and other New Jersey consumers of truthful, non-misleading, information.

70. The Collection Lawsuit deprived Plaintiff and other New Jersey consumers of truthful, non-misleading, information.

71. Defendant never informed Kate Nowicki and the court that MHC Receivables, LLC, FNBM, LLC, and Credit Asset Sales LLC were not licensed under the NJCFLA.

72. Defendant never informed Plaintiff and the court that the Debt was void pursuant to the NJCFLA.

73. Defendant represented to Plaintiff that they were collecting on a valid debt.

74. Defendant represented to Plaintiff that they were the lawful creditor.

75. Defendant's enforcement of the Account was unauthorized and unlawful because the Assignors did not have a license to engage in business as a "sales finance company" or a "consumer lender" pursuant to the NJCFLA, at N.J.S.A. 17:11C-3.

76. The Defendant's enforcement of the Account was unauthorized and unlawful because the Assignors did not have a license to engage in collection efforts of the Debt pursuant to N.J.S.A. 17:11C-33(b).

77. By failing to inform Plaintiff that the Debt was void pursuant to the NJCFLA,

Defendant frustrated Plaintiff's ability to make an informed decision with respect to her response to Defendant's collection letters and collection lawsuit, and deprived her of the right to enjoy the protections and benefits provided by the NJCFLA and the FDCPA.

78. Had Kate Nowicki known the Debt was void pursuant to the NJCFLA, Kate Nowicki would not have been subject to the Collection Lawsuit, judgment, and wage garnishment since it was not owed to Defendant.

79. Despite the Debt being void, Defendant represented to Plaintiff—through written dunning letters and the filing of a collection lawsuit—that the Debt was a valid, existing, and enforceable legal obligation.

80. These representations were material misrepresentations of fact because, at the time they were made, the Debt was void *ab initio* under N.J.S.A. 17:11C-33(b) and Defendant had no legal right to collect.

81. Plaintiff reasonably relied on Defendant's misrepresentations regarding the validity of the Debt.

82. Specifically, relying on the appearance of legal validity created by Defendant's filing of a formal collection lawsuit in the Superior Court of New Jersey, Plaintiff believed the Debt to be enforceable and retained an attorney and incurred attorney's fees.

83. Plaintiff was deceived and threatened into retaining attorneys because Defendant sued Plaintiff while hiding material information—believing the Debt was enforceable based on Defendant's filing of the Collection Lawsuit and obtaining of a judgment without disclosing that the Debt was void pursuant to the NJCFLAAs a direct result of this reliance, Plaintiff suffered damages in the form of costs to investigate the Debt, court fees to defend the void Debt, and damage to her creditworthiness. *See*, screenshot of the "Fees" tab of the New Jersey Courts

Judiciary eCourts System of the Docket No. MRS-DC-12-24, attached as **Exhibit J**.

84. Plaintiff expended personal time and resources to investigate the alleged obligation and review her records, treating the Debt as potentially valid rather than immediately dismissing it as void.

85. As a direct result of this reliance, Plaintiff suffered damages in the form of costs to defend the void Debt, wage garnishment, and damage to her creditworthiness.

86. As a result of the Defendant's unlawful actions, Plaintiff has suffered an ascertainable loss.

87. As a result of the unlawful collection of the void Debt, Kate Nowicki experienced emotional damages like stress, anxiety and embarrassment and suffered ascertainable damages in the form of costs to defend the void Debt, wage garnishment, and damage to her creditworthiness.

88. Accordingly, attempts to collect a void debt constitutes prohibited conduct under the FDCPA. *See, e.g., McCann v. Weltman, Weinberg & Reis Co., L.P.A.*, ESX-L-6083-23, 2024 N.J. Super. Unpub. LEXIS 2403 (Law Div. Oct. 7, 2024); *McQueen v. Fein, Such, Kahn & Shepard, P.C.*, ESX-L-1439-22, 2023 N.J. Super. Unpub. LEXIS 640 (Law Div. April 26, 2023); *Peralta v. Ragan*, No. 1:22-CV-01660-KMW-MJS, 2022 U.S. Dist. LEXIS 234300 (D.N.J. Dec. 30, 2022); *Valentine v. Mullooly, Jeffrey, Rooney & Flynn LLP*, No. 2:20-cv-14152 (WJM), 2022 U.S. Dist. LEXIS 118399 (D.N.J. July 6, 2022) (later dismissed for lack of Article III standing); *Valentine v. Unifund CCR, Inc.*, 2021 U.S. Dist. LEXIS 44747 (D.N.J. Mar. 10, 2021) (later dismissed for lack of Article III standing); *Arroyo v. Stoneleigh Recovery Assocs., LLC*, 2019 U.S. Dist. LEXIS 138287 (D.N.J. Aug. 14, 2019); *Tompkins v. Selip & Stylianou, LLP*, 2019 U.S. Dist. LEXIS 21937 (D.N.J. Feb. 11, 2019); *Latteri v. Mayer*, 2018 U.S. Dist. LEXIS

85926 (D.N.J. May 22, 2018); *Nepomuceno v. Midland Credit Mgmt.*, No. 14-05719-SDW-SCM, 2017 U.S. Dist. LEXIS 79307 (D.N.J. May 24, 2017); *Lopez v. Law Offices of Faloni & Associates, LLC*, 2016 U.S. Dist. LEXIS 124730 (D.N.J. Sept. 14, 2016); *Veras v. LVNV Funding, LLC*, No. 13-1745 (RBK/JS), 2014 U.S. Dist. LEXIS 34176 (D.N.J. Mar. 17, 2014).

89. Therefore, Defendant engaged in unlawful practices in violation of the FDCPA including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692e(10), 1692f, 1692f(1)).

#### **E. Notice Of Potential Class Action Amendment**

90. Defendant used the same procedures it did when it enforced the void Debt against Plaintiff to numerous other New Jersey consumers.

91. If discovery and further investigation reveals this matter is suitable for class action treatment, Plaintiff provides notice to Defendants that she may amend the complaint to make class allegations and propose the below class definitions. Plaintiff may also modify, narrow, or expand the following class definitions at the time Plaintiff amends the complaint or moves for class certification.

**FDCPA Class:** All natural persons with addresses in the State of New Jersey who are listed as the borrower, accountholder, debtor, or purchaser of a debt involving any of the Unlicensed Entities, or any of its sister or parent entities, at any time the respective entity was not licensed under the New Jersey Consumer Finance Licensing Act, who were subject to collection including but not limited to collection emails, collection letters, collection calls/texts, collection lawsuits, and/or credit reporting by or on behalf of Defendant on or after December 31, 2024, through and including the final resolution of this case.

**CFA Class** All natural persons with addresses in the State of New Jersey who are listed as the borrower, accountholder, debtor, or purchaser of a debt involving any of the Unlicensed Entities, or any of its sister or parent entities, at any time the respective entity was not licensed under the New Jersey Consumer Finance Licensing Act, who were subject to collection including but not limited to

collection emails, collection letters, collection calls/texts, collection lawsuits, and/or credit reporting by or on behalf of Defendant on or after December 31, 2019, through and including the final resolution of this case.

92. The Defendant collected or attempted to collect money from New Jersey consumers as a result of dunning letters and collection complaints on void accounts.

93. In an attempt to collect the void accounts from New Jersey consumers, the Defendant reported the accounts to the three major credit reporting agencies.

**FIRST COUNT  
CONSUMER FRAUD**

94. Kate Nowicki repeats and realleges all prior allegations as if set forth at length herein.

95. Section 3 of the NJCFLA, codified at N.J.S.A. 17:11C-3, provides that "No person shall engage in business as a consumer lender or sales finance company without first obtaining a license or licenses under this act."

96. A violation of section 3 in the making or collection of a loan voids the loan and precludes any further right to collect or receive any principal, interest, or charges, pursuant to the NJCFLA, at N.J.S.A. 17:11C-33(b).

97. Thus, MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC (the "Unlicensed Entities") lacked the legal right to acquire and collect the debts when they did not hold a license required by New Jersey Law.

98. The void Debt is still void when assigned to LVNV Funding LLC.

99. Any judgment arising from an action illegally filed by LVNV Funding LLC is void ab initio or cannot be enforced.

100. MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC violated section 3 of the NJCFLA by engaging in the "consumer loan business" in New Jersey without a

license to do so.

101. MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC violated section 3 of the NJCFLA by acting as "sales finance company[ies]" without a license to do so.

102. LVNV Funding LLC's violations of the NJCFLA, and attempt to collect void debts, constitute unconscionable commercial practices and otherwise violate the Consumer Fraud Act (CFA) at N.J.S.A. 56:8-2.

103. Kate Nowicki suffered ascertainable loss(es) from LVNV Funding LLC's CFA violations and enforcement or attempted enforcement of void debts.

104. Kate Nowicki suffered ascertainable loss(es) in the amount of monies paid for attorney's fees to defend the Collection Lawsuit on void Account.

105. LVNV Funding LLC is a "person" within the meaning of the CFA at N.J.S.A. 56:8-1.

106. Kate Nowicki purchased "merchandise" within the meaning of the CFA at N.J.S.A. 56:8-1.

107. LVNV Funding LLC engaged in unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in connection with the sale of merchandise in violation of the CFA at N.J.S.A. 56:8-2.

108. LVNV Funding LLC engaged in unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in the subsequent performance of the sale of merchandise in violation of the CFA at N.J.S.A. 56:8-2.

109. LVNV Funding LLC committed unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in direct violation of the CFA at N.J.S.A. 56:8-2 by:

- a. Misrepresenting in its dunning letters that it had the legal right to collect on the Account when the Debt was void;
- b. Filing a civil collection complaint on the void Debt in Case No. MER-DC-010566-24;
- c. Representing, explicitly or impliedly, in the collection complaint and related communications with Kate Nowicki that they had right to collect and file the action such that the collection complaint could be properly filed and maintained even though the Debt was void; and
- d. Demanding and/or accepting payments, including using wage garnishments on the void Account.

110. As a result of LVNV Funding LLC's unlawful actions and violations of the CFA, Kate Nowicki suffered ascertainable loss(es), including the attorney's fees and costs to defend this action, from LVNV Funding LLC's CFA violations in the amount monies collected and/or paid on the void Account, entitling her to treble damages under the CFA, at N.J.S.A. 56:8-19.

111. The Defendant engaged in unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in the subsequent performance of the sale of merchandise in violation of the CFA at N.J.S.A. 56:8-2.

112. The Defendant committed unconscionable commercial practices, deception, fraud, false promises, false pretenses and/or misrepresentations in direct violation of the CFA at N.J.S.A. 56:8-2.

113. Kate Nowicki therefore has standing to seek injunctive and other equitable relief under the CFA.

114. As a result of LVNV Funding LLC's unlawful actions, Kate Nowicki suffered ascertainable loss from LVNV Funding LLC's CFA violations, entitling her to treble damages and equitable relief under the CFA, at N.J.S.A. 56:8-19.

**WHEREFORE**, as to Count One, Kate Nowicki hereby requests a Judgment against LVNV Funding LLC,

- a. Awarding treble damages to Kate Nowicki under the CFA, at N.J.S.A. 56:8-19;
- b. Granting a permanent injunction against LVNV Funding LLC, pursuant to the CFA, at N.J.S.A. 56:8-19, prohibiting them from making any further attempts to enforce Plaintiff's account, including an injunction against any attempt to collect upon, enforce or assign the account contracts, or to seek collection remedies on or assign any outstanding judgments entered in collection action on the account;
- c. Awarding Plaintiff's counsel reasonable attorneys' fees and costs under the CFA, at N.J.S.A. 56:8-19;
- d. For pre-judgment and post-judgment interest; and
- e. For such other and further relief as the Court deems equitable and just.

**SECOND COUNT**  
**Fraud**

115. Kate Nowicki repeats and realleges all prior allegations as if set forth at length herein.

116. By taking possession of Kate Nowicki's Account and attempting collection of the same, the Defendant made material misrepresentations that they had the legal right to possess and collect the alleged Debt when they did not.

117. By taking possession of the Account and attempting collection of the same, the Defendant made material misrepresentations to Kate Nowicki that the Debt was valid when the Debt was void.

118. By taking possession of Kate Nowicki's alleged Account and attempting collection of the same, the Defendant made material misrepresentations to Kate Nowicki that they were the lawful creditor when they were not.

119. At the time Defendant made these misrepresentations, the Debt was already void and unenforceable due to the unlicensed activities of MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC.

120. At the time Defendant took possession of Kate Nowicki's alleged Account, Defendant knew or should have known that the Debt was void.

121. Kate Nowicki reasonably relied on Defendant's material misrepresentations that they were legally allowed to attempt enforcement of the alleged Debt.

122. Kate Nowicki relied on Defendant's misrepresentations that the Debt was valid by refraining from taking earlier legal action to declare the Debt void, thereby allowing interest and fees to improperly accrue on the alleged Debt.

123. Kate Nowicki relied on Defendant's misrepresentations that the Debt was valid by expending personal resources to investigate the alleged Debt rather than immediately dismissing it as void.

124. Kate Nowicki has been damaged as a result of her reasonable reliance on the Defendant's misrepresentations that they had the legal right to attempt collection of the alleged Debt when they did not, including the attorney's fees and costs to defend this action.

125. Kate Nowicki has suffered pecuniary losses in the form of costs associated with investigating the invalid Debt and out-of-pocket expenses and legal costs incurred to defend against a lawsuit that was based on a legally void instrument.

126. Kate Nowicki has sustained damages in that her creditworthiness has been negatively affected.

**WHEREFORE**, as to Count Two, Plaintiff, hereby requests a Judgment against the Defendant,

- a. A money judgment for compensatory damages based on the Defendant's material misrepresentations and the resulting reliance and damages;
- b. A money judgment for punitive damages based on the Defendant's material misrepresentations and the resulting reliance and damages;
- c. For attorney's fees, litigation expenses and costs in connection with this action;

- d. For pre-judgment and post-judgment interest; and
- e. For such other and further relief as the Court deems equitable and just.

**THIRD COUNT**  
**Fraudulent Inducement**

127. Kate Nowicki repeats and realleges all prior allegations as if set forth at length herein.

128. By taking possession of the alleged Account and attempting collection of the same, the Defendant made a material misrepresentation of a presently existing fact that they had the legal right to possess and collect the void Debt when they did not.

129. At the time the Defendant took possession of alleged Account, the Defendant knew that they were not legally entitled to possess, collect, or attempt to collect the alleged Debt since the Debt was void.

130. In attempting to enforce and/or collect the alleged Debt, the Defendant intended that Kate Nowicki would rely on their material misrepresentations that the Defendant had the legal right to collect the void accounts.

131. Defendant concealed the material fact that the Debt had been rendered void by the unlicensed activities of MHC Receivables, LLC; FNBM, LLC; and Credit Asset Sales LLC.

132. Kate Nowicki reasonably relied on the Defendant's material misrepresentations that they were legally allowed to attempt enforcement of the alleged Debt to her detriment.

133. Had Kate Nowicki known the Debt was void, she would have taken immediate action to have the Debt removed from her credit report and would not have incurred the costs and stress associated with treating the Debt as a potentially valid obligation.

134. As a result of Defendant's fraudulent inducement, Kate Nowicki has suffered damages as alleged herein.

**WHEREFORE**, as to Count Three, Plaintiff, hereby requests a Judgment against Defendant,

- a. A money judgment for compensatory damages based on the Defendant's false misrepresentations and Kate Nowicki's resulting reliance and damages;
- b. A money judgment for punitive damages based on Defendant's false misrepresentations and Kate Nowicki's resulting reliance and damages;
- c. For attorney's fees, litigation expenses and costs in connection with this action;
- d. For pre-judgment and post-judgment interest; and
- e. For such other and further relief as the Court deems equitable and just.

**FOURTH COUNT**  
**Violations of the Fair Debt Collection Practices Act**

135. Kate Nowicki reasserts and incorporates herein the allegations contained in the preceding and following paragraphs.

136. Kate Nowicki is a "consumer" as defined by 15 U.S.C. § 1692a(3).

137. The Debt is a consumer "debt" as defined by 15 U.S.C. § 1692a(5).

138. The Defendant LVNV Funding LLC is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and the interpretations thereof.

139. At all times relevant hereto, the Defendant by itself or through its agents sent collection letters and filed a collection lawsuit to collect the Debt.

140. At all times relevant hereto, the Defendant actively participated in the collection of the Debt allegedly owed by Kate Nowicki.

141. Therefore, not only is the Defendant liable for the acts and omissions of its agents, but for its own acts in hiring, directing, and negligently supervising debt collection to collect debts.

142. By attempting to collect consumer debts that are void under the NJCFLA, the

Defendant violated the FDCPA (including, but not limited to, 15 U.S.C. §§ 1692e (including subsections 1692e(2), 1692e(5), 1692e(10)), and 1692f (including subsection 1692f(1)).

143. The violations of the FDCPA described herein constitute per se violations.

144. Based on any one or more of those violations, the Defendant is liable to Kate Nowicki for damages, attorneys' fees and costs under 15 U.S.C. § 1692k.

**WHEREFORE**, as to Count Four, Plaintiff, hereby requests a Judgment against Defendant,

- a. For statutory damages in favor of Kate Nowicki pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i) or, in the alternative, 15 U.S.C. § 1692k(a)(2)(A);
- b. For actual damages in favor of Kate Nowicki pursuant to 15 U.S.C. § 1692k(a)(1), including the tax consequences of this action;
- c. For attorney's fees, litigation expenses and costs in connection with this action pursuant to 15 U.S.C. § 1692k(a)(3);
- d. Attorney's fees, litigation expenses, and costs pursuant to 15 U.S.C. § 1692k(a)(B)(3);
- e. For pre-judgment and post-judgment interest; and
- f. For such other and further relief as the Court deems equitable and just.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues subject to trial by jury.

**NOTICE TO ATTORNEY GENERAL**

A copy of this Complaint will be e-mailed to the Attorney General of the State of New Jersey within twenty-four hours after the filing with the Court, pursuant to N.J.S.A. 56:8-20.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Yongmoon Kim is designated as trial counsel for Plaintiff.

**CERTIFICATION**

Pursuant to Rule 4:5-1, I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or of any pending

arbitration or administrative proceeding and that no other action or arbitration proceeding is contemplated, except for the matters styled:

- *LVNV Funding, LLC v. Nowicki*, MER-DC-010566-24 (N.J. Super Ct. Law Div.).

Futhermore, Plaintiff may file one or more lawsuits against the Unlicensed Entities and Rubin & Rothman, LLC.

I further certify that I know of no party who should be joined in this action at this time.

I hereby certify that pursuant to Rule 1:38-7: All confidential identifiers of the parties to this action have been redacted from all documents or pleadings submitted to the Court.

KIM LAW FIRM LLC

/s/ Angela Yu

Angela Yu

*Attorneys for Plaintiff*

Dated: December 31, 2025

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*Attorneys for MHC Receivables LLC,  
FNMB LLC, and Credit Asset Sales LLC*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

LUIS A. RODRIGUEZ-OCASIO and FELICIA  
ANN EARLE, on behalf of themselves and those  
similarly situated,

Plaintiffs,

vs.

MHC RECEIVABLES LLC;  
FNBM LLC;  
CREDIT ASSET SALES LLC;  
RESURGENT ACQUISITIONS LLC;  
LVNV FUNDING LLC; and  
JOHN DOES 1 to 10,

Defendants.

Civil Action No. 2:24-cv-6493

**CORPORATE OWNERSHIP  
STATEMENT OF DEFENDANTS  
MHC RECEIVABLES LLC, FNBM  
LLC, AND CREDIT ASSET SALES  
LLC**

**CORPORATE OWNERSHIP STATEMENT OF DEFENDANTS MHC RECEIVABLES  
LLC, FNBM LLC, AND CREDIT ASSET SALES LLC**

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, defendants MHC Receivables LLC, FNBM LLC, and Credit Asset Sales LLC, through their undersigned attorneys, state as follows:

MHC Receivables, LLC is an indirect, wholly owned subsidiary of Sherman Capital, L.L.C.

FNBM, LLC is an indirect, wholly owned subsidiary of Sherman Capital, L.L.C.

Credit Asset Sales LLC is an indirect, wholly owned subsidiary of Sherman Capital, L.L.C.

Sherman Capital, L.L.C. has no parent corporation. No publicly held corporation owns 10% or more of Sherman Capital, L.L.C.

Dated: May 28, 2024

By: /s/ Jeffrey A. Rosenthal  
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*Attorneys for MHC Receivables LLC,  
FNBM LLC, and Credit Asset Sales LLC*

**CERTIFICATE OF SERVICE**

I, Jeffrey A. Rosenthal, hereby certify that:

On May 28, 2024, a copy of the forgoing Corporate Ownership Statement was served on all registered counsel by the Court's CM/ECF system and by U.S. mail, first-class postage prepaid on the following parties:

Yongmoon Kim  
KIM LAW FIRM LLC  
411 Hackensack Ave, Suite 701  
Hackensack, New Jersey 07601  
*Attorneys for Luis A. Rodriguez-Ocasio and Felicia Ann Earle*

Austin O'Brien  
J ROBBIN LAW  
200 Business Park Drive, Suite 103  
Armonk, NY 10504  
*Attorneys for Resurgent Acquisitions LLC and LVNV Funding LLC*

Dated: May 28, 2024

/s/ Jeffrey A. Rosenthal  
Jeffrey A. Rosenthal

1619404 799758582

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DOCKET NO: MER-DC-010566-24

LVNV Funding LLC

Plaintiff

Vs.

Kate Nowicki

Defendant

SUPERIOR COURT  
LAW DIVISION  
COUNTY: MERCER

SPECIAL CIVIL PART

CIVIL ACTION  
*Certification of Assignment of Claim*

I am of full age, being duly sworn according to law, upon oath deposes and says and as Authorized Representative for LVNV Funding LLC (hereafter the "Plaintiff") hereby certifies as follows:

1. I have personal knowledge regarding Plaintiff's creation and maintenance of its normal business records, including computer records of its credit accounts. This information was regularly and contemporaneously maintained at or near the time of the event by a person with actual knowledge or supplied by such a person during the regular course of the Plaintiff's business. I am authorized to execute this Certification on behalf of Plaintiff and the information below is true and correct to the best of my knowledge, information and belief based on the business records of the account. If called as a witness, I can competently testify to the facts stated herein.
2. The original creditor in the above referenced matter is Credit One Bank, N.A..
3. The original account number in the above referenced matter ends in 1120.
4. The defendant's social security number ends in 532.
5. The current owner is LVNV Funding LLC.
6. Plaintiff's business records indicate that subsequent to the account's origination other owners of the account included:

Entity	Entity Name	Legal Entity Name
Original Creditor	Credit One Bank, N.A.	Credit One Bank, N.A.
Charge Off Creditor	Credit One Bank, N.A.	Credit One Bank, N.A.
Intermediate Owner	MHC Receivables, LLC and FNBM, LLC	MHC Receivables, LLC and FNBM, LLC
Intermediate Owner	Credit Asset Sales LLC	Credit Asset Sales LLC
Intermediate Owner	Resurgent Acquisitions LLC	Resurgent Acquisitions LLC
Current Owner	LVNV Funding LLC	LVNV Funding LLC

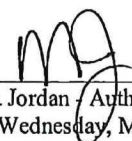
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

The foregoing affidavit was signed to and subscribed before me this Wednesday, March 19, 2025

LVNV Funding LLC

  
(Notary Public)



  
Moesha Jordan Authorized Representative  
Wednesday, March 19, 2025

[EXHIBIT B]

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:	)
	) Adv. Proc. No.
ORRIN S. ANDERSON,	) 15-08214 (RDD)
	)
Debtor.	) Bankr. Case No.
	) 14-22147 (RDD)
	)
ORRIN S. ANDERSON, a/k/a ORRIN	)
ANDERSON, a/k/a ORRIN SCOTT	)
ANDERSON,	)
	)
Debtor and Plaintiff on	)
behalf of himself and all	)
others similarly situated,	)
	)
v.	)
	)
CREDIT ONE BANK, N.A.,	)
	)
Defendant.	)
	)

DEPOSITION OF GEORGE HUGHES

Taken on June 2, 2016

At 9:31 A.M.

300 South Fourth Street, Suite 800

Las Vegas, Nevada

Reported by: Jennifer Clark, RDR, CRR, CCR #422

MAGNA LEGAL SERVICES

(866) 624-6221

www.MagnaLS.com



<p style="text-align: right;">Page 42</p> <p>1 are you referring to Sherman Financial Group, 2 LLC? 3 A. Yes. 4 Q. Is there any other entity that 5 you consider to be Sherman Financial other 6 than Sherman Financial Group, LLC? 7 A. No. 8 Q. So when that's used by the bank 9 or by Credit One Financial, when it shows up 10 in paperwork and it says "Sherman Financial," 11 what's being referred to there is Sherman 12 Financial Group, LLC; is that correct? 13 A. I believe so. 14 Q. Do you have an understanding as 15 to why Sherman Financial became the owner of 16 Marin National Bancorp in March of 2005? 17 A. Yes. 18 Q. What's your understanding? 19 A. The Qvale family was looking to 20 sell the bank for effectively, I think, 21 estate-planning purposes. Kjell was an 22 elderly individual. 23 Q. And do you have an 24 understanding -- who at that time owned or 25 ran Sherman Financial?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Right, right. But I take it the 2 knowledge that Credit One Financial has today 3 includes the knowledge of Marin National 4 Bancorp prior to that name change in 2006, 5 does it not? 6 A. Yes. 7 Q. Well, does Credit One Financial 8 have any understanding as to why Sherman 9 Financial Group purchased it back in March 10 of 2005? 11 MR. SLODOV: Asked and answered. 12 Objection. 13 THE WITNESS: For the -- I'm not 14 sure exactly how to answer. The bank 15 was being shopped to be sold, so there 16 were various people evaluating, and it 17 made financial sense to them. They have 18 wanted to get into this business. 19 BY MR. SHELLY: 20 Q. And if I understand your prior 21 testimony, the only asset that Marin National 22 Bancorp had at that time that could be 23 purchased in a sale of Marin National Bancorp 24 was its holding in First National Bank of 25 Marin; correct?</p>
<p style="text-align: right;">Page 43</p> <p>1 A. I believe it to be Ben Navarro 2 and Brett Hildebrand ran Sherman Financial. 3 Q. Do they still run it? 4 A. Yes. 5 Q. Do you have an understanding as 6 to why those individuals in Sherman Financial 7 wanted to purchase Marin National Bancorp 8 from Mr. -- or from Kjell? 9 A. Not specifically. 10 Q. Well, you understood that he 11 wanted to sell it for estate-planning 12 purposes. The flip side to that is it had to 13 make sense for them in some way. 14 A. Diversifying their financial -- I 15 think it made a good business decision. They 16 evaluated it, and it was a good business 17 decision. I don't know specifically what 18 motivated them. 19 Q. And Credit One Financial, who 20 you're here testifying for, has no 21 understanding as to why those individuals 22 wanted to purchase what was then Credit One 23 Financial. 24 A. Well, what was then Marin 25 National Bancorp.</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Correct. 2 Q. What other knowledge does Credit 3 One Financial have regarding Sherman 4 Financial other than what you've just talked 5 about? Does it know anything about the 6 current structure of Sherman Financial? 7 A. Generally. 8 Q. Could you give me that general 9 knowledge. 10 A. That it has a debt-buying 11 business; that it has a Mexico banking 12 operation. 13 Q. Anything else? 14 A. The credit card operation that 15 we're talking about but -- 16 Q. What do you mean by "a 17 debt-buying business"? 18 A. They purchase debt. 19 Q. What kind of debt are you 20 referring to? 21 A. Consumer loans of various types. 22 Q. Does that include credit card 23 debt? 24 A. Yes. 25 Q. And does Sherman Financial do</p>



<p style="text-align: right;">Page 46</p> <p>1 that itself, or does it do it through some 2 other entity? 3 A. Through other entities, I 4 believe. 5 Q. Do you know the names of any of 6 those other entities? 7 A. Not specifically. I think you 8 had maybe mentioned one of them previously, 9 but they're -- I don't have -- or Credit One 10 Financial doesn't have knowledge of their 11 purchasing practices, entities, or asset 12 holding -- you know, their process. 13 Q. Well, where is Sherman Financial 14 located? 15 A. They have offices in South 16 Carolina. 17 Q. Is that where Credit One 18 Financial gets its direction from? 19 A. No. 20 Q. Where does Credit One Financial 21 get its direction from? 22 A. From the board. 23 Q. And the board -- does it consist 24 of any individuals other than the officers 25 that we've already talked about?</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Other than being on the board of 2 Credit One Financial, does Mr. Jones, Chris 3 Jones, have any position within any of the 4 Sherman entities that I've referred to 5 earlier? 6 A. Yes. 7 Q. What entities would they be? 8 A. Do not know specifically. 9 Q. But you do know he's affiliated 10 with some -- at least one other entity within 11 that group. 12 A. Correct. 13 Q. Do you have any understanding as 14 to why he's on the board of Credit One 15 Financial? 16 A. He was involved with the initial 17 transaction, evaluating it. 18 Q. Anything else? 19 A. His -- I think some previous 20 experience and knowledge in the financial 21 services. 22 Q. What sort of previous experience 23 and knowledge are you referring to? 24 A. I don't have the specific. 25 Q. But you know he's been in some</p>
<p style="text-align: right;">Page 47</p> <p>1 A. Yes. 2 Q. Who is on the board of Credit One 3 Financial? 4 A. Ben Navarro, Brett Hildebrand. 5 Q. Anyone else? 6 A. Chris Jones, Scott Silver, Robert 7 Dejong, Berkman Hong, Mike Lauer. 8 Q. Mr. Navarro and Mr. Hildebrand, 9 you had indicated as being some of the owners 10 of Sherman Financial. First of all, do you 11 know if they're the only owners of Sherman 12 Financial, or are there other owners? 13 A. I'm not aware to the specific 14 detail of all the owners. 15 Q. Well, do you know if -- 16 A. But presumably, there are other 17 owners, yes. 18 Q. Why presumably? 19 A. I know it's management team owned 20 but not the specific ownerships. 21 Q. The other individuals that you 22 mentioned on the board of Credit One 23 Financial, are they in any way on the 24 management team of Sherman Financial? 25 A. No.</p>	<p style="text-align: right;">Page 49</p> <p>1 ways involved in the financial service 2 business at least prior to the acquisition by 3 Mr. Navarro and Mr. Hildebrand in 2005; is 4 that correct? 5 A. Yes. 6 Q. Have you had any personal 7 dealings with Mr. Jones? 8 A. Yes. 9 Q. In what way? 10 MR. SLODOV: Objection. Beyond 11 the scope. 12 THE WITNESS: About -- at the 13 time of the transaction. 14 BY MR. SHELLY: 15 Q. At the time of the name change 16 and the sale -- or the sale, rather? 17 A. The sale. 18 Q. The sale, actually. Okay. 19 What was your involvement with 20 him at the time of the sale of Marin National 21 Bancorp? 22 A. Information exchange based upon 23 the transaction evaluation. Financial 24 metrics. 25 Q. Was Mr. Jones working for</p>



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1 Q. Okay. Let me just see if I  
 2 understand this correctly. You're saying  
 3 that Credit One Bank has receivables;  
 4 correct? That it sells. What do you mean  
 5 when you say "receivables"?  
 6 A. Credit card receivables.  
 7 Q. And to a layperson, what would  
 8 that mean?  
 9 A. A purchase at Wal-Mart.  
 10 Q. Okay. On a credit card would  
 11 create a credit card receivables. And that  
 12 receivable is transferred from Credit One  
 13 Bank to MHC; is that correct?  
 14 A. Correct.  
 15 Q. That's the first part of this --  
 16 this transaction.  
 17 A. That's correct.  
 18 Q. How is that -- and is that  
 19 done -- what's the timing of that? I go in.  
 20 I make that purchase at Wal-Mart. How long  
 21 does it take for that purchase at Wal-Mart to  
 22 get into the hands of MHC?  
 23 A. I'll provide an example. Maybe  
 24 would be the easiest.  
 25 Q. Okay. Sure.

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1 A. Easiest way.  
 2 Q. Because I'm trying to come up  
 3 with an example, and I'm sure you can come up  
 4 with a better one than I can, so yeah, go  
 5 right ahead.  
 6 A. Because settlement by each  
 7 merchant may take a various amount of time.  
 8 Q. Right.  
 9 A. Depending on when they close out  
 10 their day.  
 11 Q. Okay.  
 12 A. But that purchase at Wal-Mart is  
 13 received by the bank, say -- today is the  
 14 2nd, June 2. On June 3, that would be in the  
 15 bank's settlement for June 2. And on June 3,  
 16 that receivable would be sold.  
 17 Q. So the timing -- the beginning of  
 18 this sale process is when it's settled by  
 19 Credit One Bank -- when it becomes part of  
 20 the settlement of Credit One Bank; correct?  
 21 A. Yes.  
 22 Q. How long does it take -- not just  
 23 how long, but how does that receivable get  
 24 transferred from Credit One Bank at the time  
 25 of the settlement to MHC? What's that

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1 process? How does that occur?  
 2 A. So Credit One Bank -- to make  
 3 sure I'm understanding, so you want to know  
 4 the example of a purchase amount perhaps.  
 5 Q. Okay. Sure. You got a  
 6 settlement.  
 7 A. There's a \$100 settlement.  
 8 Q. It's a receivable. It's settled  
 9 at the bank.  
 10 A. At the bank.  
 11 Q. How does that get to MHC?  
 12 A. MHC purchases it the next -- the  
 13 day after that -- of that settlement for that  
 14 \$100.  
 15 Q. Okay.  
 16 A. So they transfer funds to the  
 17 bank.  
 18 Q. That occurs a day after the  
 19 settlement, so the receivable is with the  
 20 bank for a day?  
 21 A. I mean, technically, it's today.  
 22 The settlement of yesterday that we know  
 23 today.  
 24 Q. Okay.  
 25 A. So it's not really -- I'd say

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1 it's less than a day.  
 2 Q. And that process occurs -- I take  
 3 it it's not -- you don't have clerks sitting  
 4 around looking at all these things. It's all  
 5 done electronically via the computers; is  
 6 that correct?  
 7 A. Correct, it's -- yes.  
 8 Q. And you said there's a transfer  
 9 of funds from MHC to the bank, and the bank  
 10 transfers, at the same time, that receivable  
 11 to MHC; is that correct?  
 12 A. Uh-huh, yes.  
 13 Q. And do you know, does MHC pay the  
 14 bank a premium to purchase that receivable?  
 15 What's the --  
 16 A. Par.  
 17 Q. Par. Okay.  
 18 So there's no -- there's no  
 19 financial benefit bestowed upon the bank in  
 20 selling that receivable to MHC; is that  
 21 correct?  
 22 A. Not on the individual receivable  
 23 basis.  
 24 Q. On any sort of a basis with those  
 25 receivables? I mean, as a group? You say



<p style="text-align: right;">Page 62</p> <p>1 not on an individual basis. If I add  2 thousands and thousands of them together,  3 would there be any financial benefit in that  4 transfer?  5 A. No.  6 Q. So in the sale of those  7 receivables, the bank really nets zero in  8 terms of profit; correct?  9 A. Correct.  10 Q. Why does Credit One Bank do that?  11 Why do they sell it to MHC? What's the  12 rationale behind that?  13 A. It's the structure the regulators  14 wanted in place at the time of the sale to  15 Sherman.  16 Q. The regulators?  17 A. Our primary regulator, the OCC,  18 Office of the Comptroller of the Currency.  19 Q. Do you have any understanding why  20 they wanted that sort of a structure set up?  21 A. They wanted the receivables off  22 balance sheet of the bank.  23 Q. And do you know why they wanted  24 that?  25 A. To not -- so we wouldn't -- to</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. And do you know why, in  2 particular with that transaction, the OCC  3 wanted that change?  4 A. Nothing further than I've already  5 told you.  6 Q. Do you know why the OCC didn't  7 want the prior owners to set up such a  8 process?  9 A. I do not.  10 Q. You just know that when the new  11 owners came on, they wanted this change to  12 occur.  13 A. Correct.  14 Q. And when you're talking about  15 insured deposits that existed at that time,  16 that would be people with savings accounts,  17 things like that, at First National Bank of  18 Marin; is that correct?  19 A. Savings account, time  20 certificates of deposit.  21 Q. Anything else that would be  22 considered an insured deposit?  23 A. No.  24 Q. Does Credit One Bank currently  25 hold any insured deposits?</p>
<p style="text-align: right;">Page 63</p> <p>1 not fund the loans with insured deposits, so  2 they wanted a different structure.  3 Q. When you say "to not fund the  4 loans with the insured deposits," what loans  5 are you referring to?  6 A. The receivable. They wanted the  7 receivables off balance sheet, to be financed  8 off balance sheet, to be sold on a  9 non-recourse basis.  10 Q. Previously, they were funded with  11 insured deposits?  12 A. They were funded on balance  13 sheet, yes.  14 Q. And that occurred within the  15 prior Marin -- First National Bank of Marin  16 structure?  17 A. Correct.  18 Q. Okay. So this change in this  19 process that the OCC wanted, that occurred  20 with the sale of Marin National Bancorp to  21 Sherman Financial Group and the new structure  22 that was ultimately set up, Credit One Bank;  23 is that correct? Did it happen with the  24 transaction or the name change?  25 A. Transaction.</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Yes.  2 Q. What insured deposits does it  3 currently hold?  4 A. From Credit One Financial.  5 Q. It holds insured deposits from  6 Credit One Financial. What insured deposits  7 does it hold from Credit One Financial?  8 A. A CD.  9 Q. One CD?  10 A. Correct.  11 (Pages 66 through 75 were  12 deemed confidential and are  13 bound separately.)  14  15  16  17  18  19  20  21  22  23  24  25</p>





<p style="text-align: right;">Page 78</p> <p>1 Q. Okay. The financing vehicle 2 for -- for the purchase of these receivables 3 or financing vehicle for something beyond 4 that? 5 A. Well, it's a structured finance 6 where FNBM holds the assets and has a 7 borrowing facility associated with those 8 assets that receive funds from lenders, and 9 the assets are collateral for that asset. 10 They're effectively an asset-backed borrowing 11 facility. 12 Q. Could you try to simplify that 13 for me in layperson's -- I think I understand 14 what you're saying, and correct me if I'm 15 wrong. 16 They use -- once they get these 17 receivables, they use that as an asset to be 18 able to get money loaned to FNBM that it can 19 then use for the purchase of those 20 receivables from MHC, which MHC can then use 21 to purchase those receivables from Credit One 22 Bank; is that correct? 23 A. Correct. 24 Q. Anything about what I just said 25 that doesn't quite jibe, or is that exactly</p>	<p style="text-align: right;">Page 80</p> <p>1 that that was done at the request of the 2 regulators. 3 This transfer process from MHC of 4 the receivables to FNBM, was that also 5 something that was requested or required by 6 the regulators? 7 A. I'm not aware that -- the 8 specific was -- they requested it be off 9 balance sheet. 10 Q. Once it went -- that receivable 11 went from Credit One Bank to MHC, was it off 12 balance sheet? 13 A. Yes. 14 Q. So any transfer after that fact 15 really was not required by the regulators; is 16 that correct? 17 A. That be my -- my opinion. Yeah, 18 I would think that would be correct. 19 Q. And Credit One Financial set up 20 that transfer from its subsidiary, Credit One 21 Bank, to MHC to satisfy the request of the 22 OCC to get that receivable off of its balance 23 sheet; correct? 24 A. That was, I think -- sorry. 25 The proposed structure was the</p>
<p style="text-align: right;">Page 79</p> <p>1 how it occurs? 2 A. No. I think that's exactly how 3 it occurs. 4 Q. Okay. 5 (A recess was taken from 6 11:03 A.M. to 11:13 A.M.) 7 BY MR. SHELLY: 8 Q. I just wanted to backtrack for a 9 second. You had mentioned about Mr. Lauer, 10 who was previously with MGIC. Is there 11 anyone else at Credit One Financial that has 12 ever been affiliated with MGIC? 13 A. No, not that I'm aware of. 14 Q. And are you aware of any other -- 15 any relationship that MGIC has had with any 16 Sherman entity other than its -- I think you 17 described it as prior ownership of Sherman 18 Financial Group -- yeah, ownership interest 19 in Sherman Financial Group? 20 A. No. 21 Q. Okay. 22 A. None that I'm aware of. 23 Q. Getting back to this transfer 24 process that we talked about, we talked about 25 from Credit One Bank to MHC, and you told me</p>	<p style="text-align: right;">Page 81</p> <p>1 one -- the proposed structure to move it off 2 balance sheet, to have the transfer from, at 3 the time, First National Bank of Marin to 4 MHC Receivables, was at the, I guess, 5 direction, so to speak, of the regulators and 6 with their approval of that structure. 7 Q. And that initial transfer that 8 you just described from First National Bank 9 of Marin to MHC, that satisfied that 10 direction of the OCC; correct? 11 A. I'm not certain. 12 Q. Is Credit One Financial certain? 13 I mean, certainly they set up such a 14 structure to satisfy those -- that 15 requirement; correct? 16 A. I don't recall if the structure 17 was the pass-through that's in existence 18 today or just the MHC at that time, because 19 it was set up at the same time. The 20 understanding is FNBM, LLC needed to be set 21 up for the financing to be in place as a 22 bankruptcy-remote entity. 23 Q. Whose understanding was that when 24 you said the understanding was that -- 25 A. Credit One Financial's</p>



<p style="text-align: right;">Page 134</p> <p>1 Q. So the bank has not always sent 2 out such letters. 3 A. I'm not certain. I don't believe 4 it always has. 5 Q. Do you know why it started 6 sending out such letters? 7 MR. SLODOV: Objection. I'm just 8 going to make a point of clarification. 9 You're asking to his personal knowledge 10 again, or is this Credit One Financial? 11 MR. SHELLY: Credit One 12 Financial. 13 BY MR. SHELLY: 14 Q. Well, I mean, Credit One 15 Financial is its subsidiary. Does it know 16 why its subsidiary started sending out these 17 letters? 18 A. No. 19 Q. Do you know if the bank, after it 20 sends out such letters or after it sells such 21 accounts, continues to receive payments from 22 its customers on that debt? 23 A. I'm sorry. What was the first 24 part of that? 25 Q. After the bank either sends out</p>	<p style="text-align: right;">Page 136</p> <p>1 or does it send the full payment to the 2 purchaser? 3 A. It sends the full payment. 4 Q. Has that always been the case? 5 A. Yes. 6 Q. And does it receive any fee back 7 from the purchaser for forwarding that 8 payment that it received? 9 A. No. 10 Q. Has it ever received any? 11 A. No. 12 THE WITNESS: Can we take a 13 break? 14 MR. SHELLY: Sure. 15 (A luncheon recess was taken 16 at 12:28 P.M.) 17 * * * * * 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 135</p> <p>1 one of these letters or sells the account to 2 some other entity through MHC, does the bank 3 ever receive payments from its customers on 4 those debts? 5 A. It would at times. 6 Q. And what does it do with those 7 payments? 8 A. Remits those on to the buyer. 9 Q. And how does it know who the 10 buyer is? How does it know where to send 11 that payment? 12 A. There's -- my understanding, 13 there's a coding at the account level to 14 track who they're sent to. 15 Q. And that coding at the account 16 level, is that done at the bank, or is that 17 done at FDR? 18 A. FDR is the system of record where 19 all that -- 20 Q. So the bank would utilize its 21 records at FDR to determine who the purchaser 22 was, and it would remit -- send that payment 23 to that purchaser; is that correct? 24 A. Yes. 25 Q. Does it keep any of that payment,</p>	<p style="text-align: right;">Page 137</p> <p>1 LAS VEGAS, NEVADA; JUNE 2, 2016 2 1:14 P.M. 3 -o0o- 4 5 EXAMINATION (Resumed) 6 BY MR. SHELLY: 7 Q. This is just a question. I'm 8 curious. Maybe you know the answer. 9 Sherman Originator III, do you 10 know why it's called three? 11 A. No, I don't. 12 Q. Do you know if there was a two 13 and a one or if there's a four? 14 A. No, I don't. 15 Q. Okay. Just curious more than 16 anything else about that one. 17 Going through those, those other 18 entities that we talked about whether or not 19 you had any knowledge about them was PYOD, 20 LLC, if you know what they are and what they 21 do? 22 A. I do not. 23 Q. Have you ever heard of them 24 before today? 25 A. I think I've heard of them or --</p>



<p style="text-align: right;">Page 158</p> <p>1 A. I'm not sure it's segregatable, 2 but I don't know exactly how or the structure 3 or the maintenance of that. 4 Q. Okay. It's segregatable. Do you 5 know if it is, in fact, segregated? 6 A. It's segregate. 7 Q. Who is responsible to maintain 8 the documents of Credit One Financial? 9 A. From a financial perspective, the 10 finance group of Credit One Bank, myself. 11 Q. So you would be the person 12 responsible for maintaining the -- 13 A. I would be the person responsible 14 for maintaining financial documentation. 15 Q. Okay. 16 A. Whatever that is. 17 Q. Did you receive any notification 18 of a litigation hold as it may relate to this 19 case and the documents in the possession of 20 Credit One Financial? Not the bank but 21 Credit One Financial. 22 A. I believe so. 23 Q. You're not sure, though? 24 A. Well, my understanding, separate 25 of this, of document hold would be to not</p>	<p style="text-align: right;">Page 160</p> <p>1 Sherman entity. 2 Q. Is Credit One Bank a Sherman 3 entity? 4 A. No. 5 Q. From what you testified to in 6 2006, First National Bank of Marin was 7 acquired as well as Marin -- 8 A. National Bancorp. 9 Q. -- National Bancorp were acquired 10 by Sherman Financial Group; is that correct? 11 A. Correct. 12 Q. Did there come a point in time 13 after 2006 that that relationship changed? 14 A. Yes. 15 Q. And when was that? 16 A. I believe it was December 31, 17 2012. 18 Q. And can you explain for the 19 record how the relationship changed. 20 A. Credit One Financial and Credit 21 One Bank elected to change its corporate 22 status from C corp -- a C corporation to an 23 S corporation. 24 Q. And how did that affect ownership 25 or control of Credit One Financial?</p>
<p style="text-align: right;">Page 159</p> <p>1 destroy anything, but nothing has been 2 destroyed. So I can't recall specifically -- 3 Q. Okay. 4 A. -- to be quite frank. 5 Q. But as far as you know, as the 6 person maintaining the documents at Credit 7 One Financial, you're not aware, then, of the 8 destruction of any records of Credit One 9 Financial that -- at any point in time since 10 the creation of Credit One Financial. Is 11 that correct? 12 A. Yeah, nothing that's -- yes, that 13 would be -- I think that's a fair statement. 14 MR. SHELLY: All right. I think 15 that's all I have. 16 MR. SLODOV: All right. I have a 17 couple questions. 18 19 EXAMINATION 20 BY MR. SLODOV: 21 Q. Mr. Hughes, Counsel -- Mr. Shelly 22 began by defining for you Sherman entities, 23 and one of the questions I wanted to clear 24 up, is Credit One Financial a Sherman entity? 25 A. Credit One Financial is not a</p>	<p style="text-align: right;">Page 161</p> <p>1 A. The ownership of Credit One 2 Financial was transferred to the respective 3 ownership of Sherman Financial as individuals 4 or trusts. 5 Q. So prior to December 31, 2012, 6 would it be fair to say that Sherman 7 Financial Group held an ownership interest in 8 the stock of Credit One Financial? 9 A. Correct. 10 Q. Do you recall what the percentage 11 ownership was? 12 A. 100 percent. 13 Q. And after December 31, 2012, was 14 there -- 15 A. Zero. 16 Q. Zero. Okay. 17 And does Credit One Financial 18 dictate policy, practice, or procedure to its 19 subsidiary, Credit One Bank? 20 A. No. 21 Q. In terms of the manner in which 22 Credit One Financial relates to Credit One 23 Bank, would it be fair to say that Credit One 24 Financial is a holding company that has no 25 operations of its own?</p>



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

In re:

Chapter 7

Orrin S. Anderson, aka Orinn Anderson,  
aka Orinn Scott Anderson

Case No. 14-22147 (rdd)

Hon. Robert D. Drain

Debtor.

-----X

In re:

Adv. Case No. 15-08214 (rdd)

Hon. Robert D. Drain

Orrin S. Anderson, aka Orinn Anderson,  
aka Orinn Scott Anderson,

Debtor and Plaintiff, on behalf of himself  
and all others similarly situated,

v.

CREDIT ONE BANK, N.A. AND  
CREDIT ONE FINANCIAL,

Defendants.

-----X

**CREDIT ONE BANK, N.A.'S  
RESPONSES TO PLAINTIFF'S FIRST  
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendant, CREDIT ONE BANK, N.A. (Credit One), through counsel and pursuant to the Fed. R. Civil P. 34, hereby responds to Plaintiff's first Request for Production of Documents, as follows.

ANSWER: Objection A: Credit One objects to each and every request (Request 1 through 26) to the extent that the term "documents" is defined so broadly and seek the same information in multiple formats, from multiple locations. As such, the request calls for the production of multiple copies of the same information contained in or derived from multiple locations, in contravention of Fed.R.Civ.P. 34(b)(2)(E)(iii), and is unreasonably burdensome, oppressive, and duplicative.

**[EXHIBIT D]**

Objection B: Credit One further objects to each and every request (Request 1 through 26) for the reason that the time period for requests purports to cover the period between May 3, 2007 to present, as overbroad, irrelevant, unduly burdensome and immaterial, because Plaintiff did not obtain a discharge until May, 2014, the injury about which he complains did not arise until after obtaining his discharge, and Plaintiff lacks standing to pursue a claim for events prior to his discharge. Moreover, the time period for this request is overbroad irrelevant, unduly burdensome and immaterial, because: (i) there were 9,306,499 non-business bankruptcy filings in the time period between 2007 and 2014, see <http://www.uscourts.gov/news/2014/10/28/fiscal-year-bankruptcy-filings-lowest-seven-years>; (ii) Plaintiff was not party to this Court orders in *In re Torres* 04-13404-rdd or *In re Mateo*, 06-01917-rdd, (iii) Plaintiff lacks standing to enforce an injunction entered in favor of any other person; (iv) even if Plaintiff could seek to enforce the Court's orders entered in *In re Torres* or *In re Mateo*, Credit One was not a creditor in or party to either case, Credit One was not on notice of those orders, and was not subject to or bound by the Court's orders, and Plaintiff could not enforce those orders against Credit One; (v) the claims pursuant to the Bankruptcy Code are time-barred, under either laches, 28 U.S.C. § 1658, the one year statute of limitations as provided in N.Y. Civil Practice Law and Rules § 215(4), the three statute of limitations as provided in Civil Practice Law and Rules § 214(2), (5), and to the extent Plaintiff seeks an award of punitive damages, by the five year statute of limitations applicable to such claims under 18 U.S.C. § 3282.

Objection C: Credit One objects to objects to each and every request (Request 1 through 26) on the ground that identification of individuals of putative class members is premature and not “within the scope of legitimate discovery.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 354 (1978); *Swelns v. Universal Fid. L.P.*, No. 2:13-CV-104-PRC, 2014 WL 1571323, at \*3 (N.D. Ind. Apr. 17, 2014) (“it is usually inappropriate for a Court to order a defendant to hand over name and address information for *all* the potential class members.”); *Dubin & Dubin LLP v. Mayorga*, 2013 WL 3989550, \*4 (W.D.N.Y. 2013); *Godson v. Eltman, Eltman & Cooper, PC*, No. 11-CV-0764S SR, 2013 WL 4832715, at \*2 (W.D.N.Y. Sept. 11, 2013) (FDCPA claim; “plaintiff's motion to compel disclosure of the names and addresses of putative class members is denied.”); *Charles v. Nationwide Mut. Ins. Co.*, No. 09 CV 94 ARR, 2010 WL 7132173, at \*8 (E.D.N.Y. May 27, 2010); *Drossin v. Nat'l Action Fin. Servs., Inc.*, No. 07-61873-CIV, 2008 WL 5381815, at \*3 (S.D.Fla. Dec.19, 2008); *Dziennik v. Sealift, Inc.*, No. 05-CV-4659, 2006 WL 1455464, \*1-2 (E.D.N.Y. May 23, 2006).

[EXHIBIT D]

**Request No. 1**

Documents concerning policies for determining when consumer debts are discharged in bankruptcy.

ANSWER: Credit One hereby incorporates by reference Objections A and B set forth above, as though fully rewritten herein.

Credit One further objects to the requests on the grounds that Credit One does not determine when consumer debts are discharged in bankruptcy, nor maintain policies for making such a determination, as the question of when a consumer debt is discharged in bankruptcy is entirely a judicial function committed to the bankruptcy courts as provided in Title 11 of the United States Code.

Credit One further objects to the request on the grounds that the request seeks information not in the possession, custody or control of Credit One, as the request does not limit itself to Credit One's documents or Credit One accounts.

Credit One further objects to this request on the grounds that, within 30 days from when an account is identified as associated with a bankrupt debtor, ownership of the subject account is transferred, which takes place prior to discharge in bankruptcy and as Credit One no longer owns such accounts, Credit One does not report the occurrence of a discharge of any such account. As such, Credit One has no responsive documents to this request.

Credit One further objects to this request on the grounds that the request is not reasonably calculated to lead to the discovery of admissible evidence.

Credit One further objects to this request on the grounds that the request is not relevant.

Subject to the foregoing objections, Credit One states that when it receives notification of a bankruptcy filing or a bankruptcy Court's discharge order, Credit One abides by the automatic stay or order as the case may be, but Credit One has determined, after making a diligent search of its policies and procedures, that it has no specific documents responsive to this request.

**Request No. 2**

Documents concerning the sale of consumer debts to third parties, including contracts for the sale of consumer debts.

ANSWER: Credit One hereby incorporates by reference Objections A, B and C set forth above, as though fully rewritten herein.

Credit One further objects to the request on the grounds that the request seeks information not in the possession, custody or control of Credit One, as the request does not limit itself to Credit One's documents or Credit One accounts.

**[BEGIN -CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER]**

Further answering, and subject to the parties' protective order, Credit One further states that following the time Credit One originates credit card accounts, by virtue of an ongoing process on the day each receivable is created through use of the card, Credit One Bank sells all right, title and interest in the receivables to another entity, MHC Receivables, LLC, who in turn sells its interest in the receivables to FNBM, LLC. Despite the sale of the receivable, Credit One Bank retains ownership of and servicing rights for the account while the account is performing and in good standing. See Credit One 79-101 (Amended and Restated Receivables Purchase Agreement by and between MHC Receivables, LLC and Credit One Bank, NA, dated May 11, 2011). While Credit One Bank does retain ownership of the Account until charge off, there are no economic rights associated with that ownership, other than revenue the bank receives after sale of the receivable is as Servicer. At the time of charge off, however, Credit One Bank transfers all remaining right, title and interest in the account to MHC Receivables, LLC. See Credit One 089 ¶ 3.8. At the time of charge off, FNBM, LLC, also transfers all right, title and interest in the defaulted receivable to MHC Receivables, LLC. See Credit One 102-146 (Amended and Restated Receivables Purchase Agreement dated November 25, 2009 between MHC Receivables, LLC and FNBM, LLC). In turn, MCH Receivables, LLC conveys all right, title and interest in the recombined account and receivable to its affiliate, Sherman Originator III, LLC. From Sherman Originator III, LLC, the Plaintiff's account was resold to Midland Funding, LLC. See Credit One 009-049; 50-51; 52-78. The entities involved in the transfer of ownership of the receivable (and after charge off, transfer of the account)(MHC Receivables, LLC, FNBM, LLC and Sherman Originator III, LLC) are not parents or subsidiaries of Credit One Bank N.A.

**[END-CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER]**

Subject to the foregoing objections, and subject to the parties' protective order, see relevant Purchase and Sale Agreements, Credit One 009-146, produced as part of Credit One's initial disclosures.

Credit One objects to production of unredacted portions of the documents (Credit One 83, 86, 88, 96, 116, 130-32, 134, 135, 137, 138, 139) on the grounds that disclosure of the

**[EXHIBIT D]**

1619404 799758582

Rubin & Rothman,LLC  
1787 VETERANS HIGHWAY  
ISLANDIA, NEWYORK 11749,  
(800) 298-6058

LVNV Funding LLC

Plaintiff

Vs.

Kate Nowicki

Defendant

DOCKET NO: MER-DC-010566-24

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
COUNTY: MERCER

SPECIAL CIVIL PART

CIVIL ACTION

*Certification of Proof and Ownership of Account*

The undersigned, being of full age and duly sworn according to law, upon oath deposes and says as follows:


1. I am an authorized representative of LVNV Funding LLC (hereafter the "Plaintiff"). I have personal knowledge regarding Plaintiff's creation and maintenance of its normal business records, including computer records of its credit accounts. This information was regularly and contemporaneously maintained during the course of the Plaintiff's business. I am authorized to execute this Certification on behalf of Plaintiff and the information below is true and correct to the best of my knowledge, information and belief based on the business records of the account. If called as a witness, I can competently testify to the facts stated herein.
2. Based on the Plaintiff's business records, the corresponding receivable of account xxxx-xxxx-xxxx-1120 (hereafter the "Account") is the result of the extension of credit to the Defendant by Credit One Bank, N.A. on or about 11/18/2022 (the Date of Origination). The account was then owned by Credit Asset Sales LLC . Credit Asset Sales LLC later sold and/or assigned Portfolio 44021, which included the defendant's Account, to Plaintiff or Plaintiff's predecessor(s)-in-interest on Jul 18, 2024 ("the Date of Assignment"). Thereafter, all ownership rights, without impairment and without exception, were assigned to, transferred to and became vested in Plaintiff, including the right to collect the purchased balance owing of \$697.26.
3. The above stated amount is due by the Defendant to the Plaintiff and all just and lawful offsets, payments and credits to the account have been allowed. Demand for payment was made more than thirty days ago.
4. This claim is not based upon writ of attachment, capias ad respondendum, replevin or claims based directly or indirectly upon the sale of a chattel, wherein a chattel has been repossessed peaceably or by legal process.
5. To the best of my knowledge and belief, the defendant is not a minor or mentally incapacitated person.
6. The source for defendant's address used for service of the Summons and Complaint is the information contained in the Plaintiff's business records maintained in its normal course of business.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

The foregoing affidavit was signed to and subscribed before me this Wednesday, March 19, 2025

LVNV Funding LLC

  
(Notary Public)

  
Moesha Jordan  
Wednesday, March 19, 2025



[EXHIBIT E]



Office of the  
Comptroller of the Currency  
Washington, DC 20219

# LIMITED PURPOSE BANK

## PUBLIC DISCLOSURE

March 17, 2025

### COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION

Credit One Bank, N.A.  
Charter Number: 20291

6801 South Cimarron Road  
Las Vegas, NV 89113

Office of the Comptroller of the Currency

425 S. Financial Place  
Suite 1700  
Chicago, IL 60605

NOTE: This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion, or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.

# [EXHIBIT F]

**Contents**

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Discriminatory or Other Illegal Credit Practices Review ..... 4  
State Rating ..... 5  
    State of Nevada ..... 5  
Appendix A: Summary of Overall and State Ratings .....A-1  
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**[EXHIBIT F]**

## Overall CRA Rating

**Institution's CRA Rating:** This institution is rated *Outstanding*.

The major factors that support this rating include:

- The institution demonstrates a high level of community development (CD) services and qualified investment activity.
- The institution makes use of innovative or complex qualified investments or CD services.
- The institution exhibits excellent responsiveness to CD needs in its assessment area (AA).

[EXHIBIT F]

## Description of Institution

Credit One Bank, N.A. (Credit One or bank), headquartered in Las Vegas, Nevada, is a technology and data-driven financial services company offering a full range of consumer credit card products. It is a wholly owned subsidiary of Credit One Financial (COF). COF is not a bank holding company. It is affiliated with Sherman Financial Group, LLC (SFG) through common beneficial ownership. SFG is privately held and located in Charleston, SC.

Credit One operates as a Competitive Equality Banking Act (CEBA) credit card bank with no branches. CEBA banks are restricted to credit card operations, maintain only one office, and do not accept demand deposits or savings or time deposits of less than \$100,000, other than to secure extensions of credit. Receivables not retained by the bank are sold on a daily and nonrecourse basis.

Credit One's portfolio consists primarily of unsecured credit cards that were issued to sub-prime and near-prime borrowers. The bank launched a new fully secured credit card program in March 2022. Credit One's marketing strategy remains in line with its goal of providing a viable credit vehicle to troubled or emerging borrowers wishing to establish and/or repair their credit. Customer contacts for these products occur via telephone, mail, or the internet.

The following table provides an overview of Credit One's financial information.

**Table 1: Financial Information (000s)**

	Year-end 2022	Year-end 2023	Year-end 2024	Average for Evaluation Period
Tier 1 Capital	\$534,598	\$589,348	\$509,701	\$544,549
Total Income	\$1,355,287	\$1,500,131	\$1,634,691	\$1,496,703
Net Operating Income	\$429,335	\$452,901	\$473,753	\$451,996
Total Assets	\$1,251,146	\$1,578,525	\$1,664,279	\$1,497,983
Pass Through Receivables /Managed Assets	\$10,259,399*	\$12,134,660*	\$12,211,219*	\$11,535,093

Source: Consolidated Report of Condition and Income and bank reported data.

\*Off-Balance sheet credit card receivable balances.

[EXHIBIT<sup>2</sup> F]

## **Scope of the Examination**

### **Evaluation Period/Products Evaluated**

The OCC evaluated the bank using Limited Purpose Bank performance criteria, which includes an investment test and service test. We reviewed the level and nature of qualified investments and CD services to evaluate Credit One's responsiveness to CD needs in its AA. The evaluation period is January 1, 2022, through December 31, 2024.

The bank has adequately addressed the needs of its AA, and therefore, outside of AA qualified investments and/or services were considered in evaluating performance.

Credit One's CRA performance was rated Outstanding at the last CRA evaluation dated January 31, 2022.

[EXHIBIT<sup>3</sup> F]

## **Discriminatory or Other Illegal Credit Practices Review**

Pursuant to 12 CFR. 25.28(c) or 195.28(c), respectively, in determining a national bank's or federal savings association's (collectively, bank) CRA rating, the OCC considers evidence of discriminatory or other illegal credit practices in any geography by the bank, or in any assessment area by an affiliate whose loans have been considered as part of the bank's lending performance. As part of this evaluation process, the OCC consults with other federal agencies with responsibility for compliance with the relevant laws and regulations, including the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, and the Bureau of Consumer Financial Protection, as applicable.

The OCC has not identified that this institution (or any affiliate whose loans have been considered as part of the institution's lending performance) has engaged in discriminatory or other illegal credit practices that require consideration in this evaluation.

The OCC will consider any information that this institution engaged in discriminatory or other illegal credit practices, identified by or provided to the OCC before the end of the institution's next performance evaluation in that subsequent evaluation, even if the information concerns activities that occurred during the evaluation period addressed in this performance evaluation.

[EXHIBIT<sup>4</sup> F]

## State Rating

### State of Nevada

CRA Rating for Nevada: *Outstanding*

The major factors that support this rating include:

- The bank demonstrates a high level of CD services and qualified investment activity in the state of Nevada.
- The bank demonstrates use of innovative or complex qualified investments and CD services in the state of Nevada.
- The bank exhibits excellent responsiveness to CD needs in the state of Nevada.

### Description of Assessment Area

Credit One's AA consists of the Las Vegas-Henderson-Paradise, NV Metropolitan Statistical Area (MSA). Based on 2020 U.S. Census data, the AA contained 535 census tracts (CTs) and included 37 low-income CTs, 128 moderate-income CTs, 209 middle-income CTs, and 158 upper-income CTs. Three CTs had no income designation.

The AA is highly competitive, with large national and regional commercial banks operating extensive branch networks. These institutions have broader access to opportunities for qualified CD investments and service activities, which can present a competitive challenge. According to the June 30, 2024, FDIC deposit-market share report, there were 43 FDIC-insured banks operating 274 branches in the AA. Credit One ranked 15<sup>th</sup> in deposit market share with 0.8 percent. The top five banks, Bank of America, N.A., Wells Fargo Bank, N.A., Wells Fargo National Bank West, Beal Bank, and J.P. Morgan Chase Bank, N.A. collectively hold 66.6 percent of the market share.

According to the 2020 U.S. Census data, the total population in the MSA was 2,265,461. The population distribution by income level was 6.8 percent in low-income CTs, 23.8 percent in moderate-income CTs, 39.7 in middle-income CTs, 29.5 percent in upper-income CTs, and 0.2 percent in CTs with no income designation. Families living below the poverty level was 9.8 percent.

Housing units totaled 912,465, with 443,247, or 48.6 percent, being owner-occupied. The distribution of owner-occupied units was 2.4 percent in low-income CTs, 15.7 percent in moderate-income CTs, 42.7 percent in middle-income CTs, 39.0 percent in upper-income CTs, and 0.2 percent in CTs with no income designation. The median housing age was 42 and 39 years in low- and moderate-income CTs, respectively. In middle- and upper-income CTs, the median housing age was 28 and 21 years, respectively. Rental and vacant units account for 51.4 percent of housing units in the AA.

[EXHIBIT<sup>5</sup> F]

Most non-farm businesses in the AA are small as measured by the number of employees and gross revenues. According to 2024 Dun and Bradstreet data, 93.3 percent of businesses located in the AA have less than \$1.0 million in gross annual revenues and 53.3 percent of businesses reported less than five employees. Less than 1.0 percent of businesses are headquartered in the AA, while 95.4 percent operate from a single location.

According to Moody’s Analytics, the Las Vegas economy is slowing slightly as growth in the labor force has plateaued. Industries facing declines include leisure/hospitality, retail, and government entities. However, most other parts of the economy are still growing. The housing market is recovering, and home prices have risen close to highs from several years ago and residential construction is strengthening. Area strengths included a large gaming and entertainment infrastructure, no personal income taxes, and a high concentration of workers in their prime. Economic challenges include a heavy reliance on consumer spending, higher employment volatility, and overvalued single-family housing. Top employers include Nellis Air Force Base, Encore Casino, Intercontinental – the Venetian, MGM Grand, and the Las Vegas Sands Corporation.

According to the U.S. Bureau of Labor Statistics, Clark County’s monthly unemployment rate ranged from 5.1 percent and 6.4 percent between 2022 through 2024. The unemployment was 6.3 percent in January 2022 which was higher than the state of Nevada unemployment of 5.6 percent. The unemployment rate dropped slightly to 5.9 percent by December 2024 which was still higher than the state rate of 5.6 percent.

Based upon 2020 U.S. Census data, housing affordability remains a challenge for low- and moderate-income families. Median family income was \$71,896, with low-income families earning less than \$2,996 per month, and moderate-income families earning less than \$4,793. The maximum low- and moderate annual income calculations are based on 50.0 percent and 80.0 percent of the FFIEC adjusted median family income for the AA. The calculated maximum affordable monthly mortgage payment (30.0 percent of monthly income) was \$899 for a low-income borrower and \$1,438 for a moderate-income borrower. Assuming a 30-year mortgage with a 6.0 percent interest rate, and not considering any down payment, homeowner’s insurance, real estate taxes, or additional monthly expenses, the monthly mortgage payment for a home at the median housing value of \$282,327 would be \$1,693. Based on these calculations, low- and moderate-income borrowers would have difficulty qualifying for a mortgage loan in the AA.

**Table 2: Nevada Assessment Area Description**

	Number	Low	Moderate	Middle	Upper	NA
<b>Tracts</b>	535	6.9%	23.9%	39.1%	29.5%	0.6%
<b>Families</b>	516,891	20.9%*	18.0%*	20.2%*	40.9%*	0.0%
<b>Businesses</b>	306,949	3.6%**	27.3%**	33.3%**	35.5%**	0.3%

Source: Demographic Data – 2020 U.S. Census and 2024 Dun & Bradstreet Data.

\*Represents families by income level.

\*\*Represents businesses by income level of census tract. The NA category consists of geographies that have not been assigned an income classification.

Examiners utilized three community contacts in this AA, including a local small business development organization that provides technical assistance to entrepreneurs, a local government economic development agency that serves as a resource for businesses looking to expand in the area, and a community group focused on serving disadvantaged families through financial aid

# [EXHIBIT F]

and education. The organizations indicated the needs are access to capital, microloans, and flexible underwriting for small businesses, particularly in underserved areas. Additionally, grants to nonprofits, education to small businesses, and bank-led financial literacy education assistance are needed.

## **Conclusions About Performance**

### **Summary**

Credit One provides a high level of qualified CD investments and CD services in relation to available opportunities, financial capacity, nature of operations, and competition from local, national, and regional banks and savings institutions. We also considered the bank operates under a CEBA charter, with associated restrictions, and unique operations. The bank provided qualified investments and services that were responsive to identified community service and affordable housing needs in the AA.

- The bank's level of qualified investments and CD services is outstanding given the available opportunities, competition from full-service institutions, its financial condition, and the unique nature of its banking operations. The bank made meaningful qualified investments and provided CD services to organizations that provide affordable housing, financial education, and services to low- and moderate-income (LMI) communities.
- The bank made use of innovative or complex qualified investments and CD services to meet the needs of its AA. Senior and executive level management served on boards and committees to organizations focusing on supporting community needs and affordable housing. Employees provided leadership and expertise to these organizations. The bank also invested \$14.6 million into a CRA Investment Fund to strengthen its response to affordable housing needs in the community.
- The bank demonstrates excellent responsiveness to affordable housing and CD service needs in the AA. Credit One's qualified investments supported affordable housing needs and community services focused on LMI individuals and CTs within the bank's AA.

### **Qualified Investments**

Qualified investments and grants benefiting the bank's AA totaled \$27.6 million during the evaluation period. This equates to 5.1 percent of average tier 1 capital from 2022 through 2024. As the bank sufficiently addressed the needs within its AA, qualified grants totaling \$1.5 million outside of the bank's AA had a positive impact on the overall investment test rating. The level of qualified investments and grants is outstanding and are directly responsive to the identified community needs of affordable housing and services targeting LMI residents and CTs.

Management monitors its investments made as a percentage of bank income and capital levels. For investments/grants made inside the AA, a target ratio of 1.0 percent of income is maintained. For capital to investments, the bank maintains a target of 3.0 percent.

The following table summarizes the bank's investments and grants.

[EXHIBIT F]

**Table 3: Qualified Investment Activity (000s)**

	<b>Benefits AA</b>	<b>Outside AA**</b>	<b>Totals</b>
<b>Originated Investments</b>	\$14,598	\$0	\$14,598
<b>Originated Grants</b>	\$13,000	\$1,500	\$14,500
<b>Prior-Period Investments that Remain Outstanding</b>	\$0	\$0	\$0
<b>Total Qualified Investments</b>	\$27,598	\$1,500	\$29,098
<b>Unfunded Commitments*</b>	\$0	\$0	\$0

\* "Unfunded Commitments" means legally binding investment commitments that are tracked and recorded by the bank's financial reporting system.

\*\* Investments included in the Benefits AA column are in the AA or in the broader statewide or regional area that includes the AA.

The following table measures the level of total qualified investment activities in terms of average tier 1 capital, average total income, and pass-through receivables over the evaluation period.

**Table 4: Qualified Investment Percentages**

	<b>Benefits AA (%) *</b>	<b>Outside AA (%)</b>
<b>Total Investments/Average Tier 1 Capital</b>	5.1	0.3
<b>Total Investments/Average Total Income</b>	1.8	0.1
<b>Total Investments/Average Pass-Through Receivables</b>	0.2	0.0

\* Investments included in the Benefits AA column are in the AA or in the broader statewide or regional area that includes the AA.

**Community Services**

Credit One provided a total of \$10.6 million in qualified grants to 26 non-profit organizations for community services to LMI individuals. The bank also provided an additional \$1.5 million in grants outside of its AA during the review period. Examples of grants are as follows:

- Grants totaling \$1.0 million to a non-profit organization whose mission is to serve those in need through food, shelter, daily needs, and addiction recovery. The grants received were used support the men, women, families, and single parents staying in emergency shelters by providing them care and basic needs, including clothing, job development, and counseling.
- Grants totaling \$875,000 to a non-profit organization which supported homeless and at-risk veterans by providing over 300 transitional and permanent housing beds. The organization provides support for other needs such as rental assistance, transportation, household supplies, temporary financial aid, and food. Over 3,200 LMI veterans were served during the period.
- Grants totaling \$735,000 to non-profit organization that provides services for homeless youth including outreach and advocacy, crisis intervention, family reunification, and transitional housing. The grants received from the bank helped to provide safe housing, basic need resources, and education and employment services. The organization provides

a wide variety of best practice programs and services to ensure that homeless youth obtain the support, resources, and services they need to achieve self-sufficiency.

- Grants totaling \$650,000 to a non-profit organization whose mission is to enable young people, especially those in need, to reach their full potential as productive, caring, and responsible citizens. The grants received from the bank were used to fund workforce development and money management skill programs across Southern Nevada. In addition, the funds helped establish college and career programs. Seventy-eight percent of individuals served are LMI.
- A \$1.5 million grant to an independent school located in Charleston, South Carolina. The school's mission is to establish and maintain a rich and dynamic learning environment for children from under-served neighborhoods. The grant received from the bank helped provide education programs and services including healthy lunches, school supplies, uniforms, and medical, dental, and vision care to students. The organization served over 200 LMI students annually. Approximately 85.0 percent of students receive free or reduced lunches.

### **Affordable Housing**

Credit One invested a total of \$2.4 million in grants to five non-profit organizations and \$14.6 million in a CRA Community Impact Bond fund inside the bank's AA. Below are examples of affordable housing grants and investments:

- Grants totaling \$1.1 million to a non-profit organization that assist at-risk families with children to receive move in costs and first month rental assistance as they transition to independent housing. This assistance helps families secure housing, obtain financial stability, and secure long-term independence. The organization serves an average of 225 LMI families annually.
- Grants totaling \$765,000 to a non-profit organization dedicated to enhancing the well-being of LMI individuals and communities through accessible rental housing, down payment assistance, financial literacy programs, counseling services, and comprehensive homebuyer education. The organization owns and rents over 200 affordable housing units with the goal of graduating the tenants to home ownership. Funds from Credit One are earmarked for the development and construction of affordable single-family homes for sale to LMI families.
- A \$14.6 million investment in a CRA Qualified Investment Fund, which is an open-end mutual fund that identifies, purchases, and earmarks CRA-qualifying securities in the Fund related to the shareholders' AAs. The fund targets LMI properties with a borrower income less than 80.0 percent of the median family income. During the evaluation period, the fund financed over 30 properties within the AA. Several examples of these properties are listed below in table 5.

[EXHIBIT F]

**Table 5: LMI Housing Investments in the Bond Fund**

City	State	County	Original Balance	Borrowers' Income	% of MFI
Las Vegas	NV	Clark	\$110,000	\$49,587	68.5
Las Vegas	NV	Clark	\$100,000	\$31,837	44.0
Las Vegas	NV	Clark	\$ 99,974	\$48,960	59.9
Henderson	NV	Clark	\$166,000	\$49,991	61.2
Las Vegas	NV	Clark	\$ 75,000	\$28,079	34.4
Las Vegas	NV	Clark	\$287,992	\$49,837	61.0

Credit One also committed investment funds for two affordable multi-family rental properties through Ginnie Mae and Fannie Mae pools. These investments are part of the bank's CRA Qualified Investment Fund and demonstrates the bank's continued commitment to meeting affordable housing needs in its AA.

- A \$2.5 million Fannie Mae pool earmarked for an affordable rental property in Las Vegas, NV. The apartment has 138 units, with 73 units (53.0 percent) receiving Section 8 housing assistance. Water, sewer, and trash removal are included in the rent to keep bills low. The property is in a moderate-income CT where 27.0 percent of residents live below the poverty line.
- \$309,858 in two Ginnie Mae REMIC Trusts earmarked for an affordable senior living community in Las Vegas, NV. All 80 rental units receive Section 8 housing assistance. Water, sewer, and trash utilities are included in the rent, and some units are accessible to people with disabilities. The property is in a low-income CT where 36.0 percent of residents live below the poverty line. An on-site resident services coordinator connects residents to the resources they need, including community assistance programs, volunteer programs, and community activities.

**CD Services**

**Table 6: CD Service Activities**

CD Service	Benefits AA*
CD Service Activities 2022	962
CD Service Activities 2023	1,665
CD Service Activities 2024	1,842

\* CD services included in the Benefits AA column are in the AA or in the broader statewide or regional area that includes the AA.

CD service activities provided by Credit One employees were highly responsive to community needs and consistent with the bank's capacity and expertise to conduct such activities. During the evaluation period, 293 bank employees provided qualified CD services to 34 community organizations, totaling 4,469 hours. The level of the bank's CD service hours is outstanding and demonstrated expertise and leadership with the bank providing board of director expertise and serving in other leadership capacities. The following are examples of CD service hours:

[EXHIBIT F]

- Employees provided a total of 741 hours to an organization that assists families and individuals throughout Nevada to overcome barriers and attain self-sufficiency through direct services, training, and referral to community resources. LMI services include homeless assistance, home weatherization, emergency resources, and life skills. Bank officers served 192 hours at board and finance meetings where they provided financial and technical expertise. Additionally, 549 hours were dedicated to fundraising organizational meetings for events such as school supplies and toy drives for LMI children as well as food drives.
- Employees provided a total of 679 hours to an organization that serves LMI people with intellectual disabilities to improve quality of life for them and their families. Bank officers provided 77 hours of job training and 32 hours of technical assistance on financial matters such as reviewing and approving the non-profit's annual budget and strategic plan. Another 566 hours were dedicated to fundraising assistance for the organization.
- Employees provided a total of 396 hours to an organization that serves homeless veterans, providing them with housing, employment, counseling and support services to help them build their skills and regain their independence. Bank employees provided 249 hours of technical assistance during meetings to discuss housing and job opportunities for homeless veterans. An additional 148 hours were served sitting on advisory council and fundraising meetings, in which employees provided financial expertise in drafting, reviewing and approving the organization's annual budget, strategic plan, and assisted in planning and development of fundraising events.
- Employees provided a total of 382 hours to an organization whose mission is to assist youth to achieve economic success using community volunteers to deliver financial lessons in Title 1 schools. Two bank officers served 132 hours as board members, attending periodic meetings and provided ongoing financial expertise in drafting, reviewing, and approving the organization's annual budget and strategic plan. An additional 247 hours were dedicated to financial literacy workshops at these schools to promote financial capability, work and career readiness, and business ownership.
- Employees provided a total of 264 hours to an organization that provides emotional support, quality of life programs, and financial assistance for children and their families affected by childhood cancer. The bank supports programs that provide housing for LMI children and families when they must travel for care. Two bank officers served 125 hours attending board and finance meetings, where they provided financial expertise in drafting, reviewing and approving the organization's annual budget and strategic plan. An additional 139 hours were dedicated to fundraising meetings.

[EXHIBIT F]

## Appendix A: Summary of Overall and State Ratings

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RATINGS: Credit One Bank, N.A.	
Overall Bank	Overall Bank Rating
Credit One Bank	Outstanding
State Name	State Rating
Nevada	Outstanding

[EXHIBIT F]

## Appendix B: Definitions and Common Abbreviations

The following terms and abbreviations may be used in this performance evaluation, including the CRA tables. The definitions are intended to provide the reader with a general understanding of the terms, not a strict legal definition.

**Affiliate:** Any company that controls, is controlled by, or is under common control with another company. A company is under common control with another company if the same company directly or indirectly controls both companies. For example, a bank subsidiary is controlled by the bank and is, therefore, an affiliate.

**Aggregate Lending (Aggt.):** The number of loans originated and purchased by all reporting lenders (HMDA or CRA) in specified income categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

**Assessment Area (AA):** A geographic area that consists generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking Automated Teller Machine (ATM).

**CEBA:** Competitive Equality Banking Act of 1987, which permitted corporations to form limited-purpose credit card banks, whose operations are restricted to credit card activities, without the corporation becoming subject to the limitations of a “bank holding company” under the Bank Holding Company Act. A CEBA credit card bank engages only in credit card operations, does not accept demand deposits or saving or time deposits of less than \$100,000 (other than secured extensions of credit), maintains only one office and does not engage in the business of making commercial loans.

**Census Tract (CT):** A small, relatively permanent statistical subdivision of a county delineated by a local committee of census data users for the purpose of presenting data. Census tracts nest within counties, and their boundaries normally follow visible features, but may follow legal geography boundaries and other non-visible features in some instances, Census tracts ideally contain about 4,000 people and 1,600 housing units.

**Combined Statistical Area (CSA):** A geographic entity consisting of two or more adjacent Core Based Statistical Areas with employment interchange measures of at least 15. An employment interchange measure is a measure of ties between two adjacent entities. The employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity.

**Community Development (CD):** Affordable housing (including multifamily rental housing) for low- or moderate-income individuals; community services targeted to low- or moderate-income individuals; activities that promote economic development by financing businesses or farms that meet Small Business Administration Development Company or Small Business Investment Company programs size eligibility standards or have gross annual revenues of \$1 million or less; or activities that revitalize or

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[EXHIBIT F]

stabilize low- or moderate-income geographies, distressed or underserved nonmetropolitan middle-income geographies, or designated disaster areas.

**Community Reinvestment Act (CRA):** the statute that requires the OCC to evaluate a bank's record of meeting the credit needs of its entire community, including LMI areas, consistent with the safe and sound operation of the bank, and to take this record into account when evaluating certain corporate applications filed by the bank.

**Consumer Loan(s):** A loan(s) to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. This definition includes the following categories: motor vehicle loans, credit card loans, other secured consumer loans, and other unsecured consumer loans.

**Family:** Includes a householder and one or more other persons living in the same household who are related to the householder by birth, marriage, or adoption. The number of family households always equals the number of families; however, a family household may also include non-relatives living with the family. Families are classified by type as either a married-couple family or other family, which is further classified into 'male householder' (a family with a male householder and no wife present) or 'female householder' (a family with a female householder and no husband present).

**Full-Scope Review:** Performance under the Lending, Investment, and Service Tests is analyzed considering performance context, quantitative factors (e.g., geographic distribution, borrower distribution, and total number and dollar amount of investments), and qualitative factors (e.g., innovativeness, complexity, and responsiveness).

**Geography:** A census tract delineated by the United States Bureau of the Census in the most recent decennial census.

**Home Mortgage Disclosure Act (HMDA):** The statute that requires certain mortgage lenders that conduct business or have banking offices in a metropolitan statistical area to file annual summary reports of their mortgage lending activity. The reports include such data as the race, gender, and the income of applicants, the amount of loan requested, the disposition of the application (e.g., approved, denied, and withdrawn), the lien status of the collateral, any requests for preapproval, and loans for manufactured housing.

**Home Mortgage Loans:** A closed-end mortgage loan or an open-end line of credit as these terms are defined under §1003.2 of this title, and that is not an excluded transaction under §1003.3(c)(1) through (10) and (13) of this title.

**Household:** Includes all persons occupying a housing unit. Persons not living in households are classified as living in group quarters. In 100 percent tabulations, the count of households always equals the count of occupied housing units.

**Limited-Scope Review:** Performance under the Lending, Investment, and Service Tests is analyzed using only quantitative factors (e.g., geographic distribution, borrower distribution, total number and dollar amount of investments, and branch distribution).

**Low-Income Individual:** Individual income that is less than 50 percent of the area median income.

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[EXHIBIT F]

**Low Income Geography:** A census tract with a median family income that is less than 50 percent.

**Market Share:** The number of loans originated and purchased by the institution as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

**Median Family Income (MFI):** The median income determined by the U.S. Census Bureau every five years and used to determine the income level category of geographies. The median is the point at which half of the families have income above, and half below, a range of incomes. Also, the median income determined by the Federal Financial Institutions Examination Council (FFIEC) annually that is used to determine the income level category of individuals. For any given area, the median is the point at which half of the families have income above, and half below, a range of incomes.

**Metropolitan Division:** As defined by Office of Management and Budget, a county or group of counties within a Core Based Statistical Area that contains an urbanized population of at least 2.5 million. A Metropolitan Division consists of one or more main/secondary counties that represent an employment center or centers, plus adjacent counties associated with the main/secondary county or counties through commuting ties.

**Metropolitan Statistical Area:** An area, defined by the Office of Management and Budget, as a core based statistical area associated with at least one urbanized area that has a population of at least 50,000. The Metropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

**Middle-Income:** Individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 percent and less than 120 percent, in the case of a geography

**Moderate-Income:** Individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 percent and less than 80 percent, in the case of a geography.

**Multifamily:** Refers to a residential structure that contains five or more units.

**Owner-Occupied Units:** Includes units occupied by the owner or co-owner, even if the unit has not been fully paid for or is mortgaged.

**Qualified Investment:** A qualified investment is defined as any lawful investment, deposit, membership share, or grant that has as its primary purpose CD.

**Rating Area:** A rated area is a state or multi-state metropolitan statistical area. For an institution with domestic branches in only one state, the institution's CRA rating would be the state rating. If an institution maintains domestic branches in more than one state, the institution will receive a rating for each state in which those branches are located. If an institution maintains domestic branches in two or more states within a multi-state metropolitan statistical area, the institution will receive a rating for the multi-state metropolitan statistical area.

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Charter Number: 20291

**Small Loan(s) to Business(es):** A loan included in 'loans to small businesses' as defined in the Consolidated Report of Condition and Income (Call Report) instructions. These loans have original amounts of \$1 million or less and typically are either secured by nonfarm or nonresidential real estate or are classified as commercial and industrial loans.

**Small Loan(s) to Farm(s):** A loan included in 'loans to small farms' as defined in the instructions for preparation of the Consolidated Report of Condition and Income (Call Report). These loans have original amounts of \$500,000 or less and are either secured by farmland or are classified as loans to finance agricultural production and other loans to farmers.

**Tier 1 Capital:** The total of common shareholders' equity, perpetual preferred shareholders' equity with non-cumulative dividends, retained earnings and minority interests in the equity accounts of consolidated subsidiaries.

**Upper-Income:** Individual income that is at least 120 percent of the area median income, or a median family income that is at least 120 percent, in the case of a geography.

[<sup>B-4</sup>EXHIBIT F]



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Comptroller of the Currency  
Administrator of National Banks

Limited Purpose

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## **Public Disclosure**

March 31, 2007

### **Community Reinvestment Act Performance Evaluation**

**Credit One Bank, N. A.  
Charter Number: 20291**

**585 Pilot Road  
Las Vegas, NV 98119**

**Office of the Comptroller of the Currency  
Mid-Size and Credit Card Bank Supervision  
3 Ravinia Drive, Suite 550  
Atlanta, GA 30346**

**NOTE: This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion, or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.**

# **[EXHIBIT G]**

## **Institution's Community Reinvestment Act (CRA) rating:**

**This institution is rated** Outstanding

The conclusions for the three rating criteria are:

- Credit One Bank, N.A. (Credit One) demonstrates a high level of qualified investments and community development (CD) services.
- Credit One demonstrates occasional use of innovative or complex qualified investments and CD services.
- Credit One demonstrates excellent responsiveness to credit and CD needs in its assessment area (AA).

## **Scope of the Examination**

In evaluating Credit One's performance under the CRA, we reviewed CD activities from May 21, 2002 through March 31, 2007. We reviewed the level and nature of qualified investments and CD services. At the bank's request, we also considered qualified investments provided by its parent, Sherman Financial Group LLC (Sherman). At the prior examination dated May 20, 2002, we rated the bank Satisfactory.

If a bank has adequately addressed its AA needs, the OCC considers CD activities the bank submits that benefit areas outside of its AA in the evaluation of its performance. Credit One has adequately addressed the needs of its AA, and therefore, qualified investments originated outside of its AA by Sherman was considered in evaluating its performance.

## **Description of Institution**

Credit One is located in Las Vegas, Nevada, has no branch offices, and operates as a Competitive Equality Banking Act (CEBA) credit card bank. In July 1984, Credit One began operations as a full service bank under the name of First National Bank of Marin (FNBM) in San Rafael, California. FNBM maintained a wide range of products until 1995 when it began focusing primarily on two types of products, partially and fully secured credit cards. FNBM received a limited purpose designation from the OCC in June 1996. Limited purpose banks offer only a narrow product line. The bank moved from San Rafael, California to Las Vegas, Nevada in November 1998. FNBM was sold to Sherman Financial Group, LLC (Sherman), obtained its CEBA status in March 2005 and subsequently changed its name to Credit One in 2006.

During the evaluation period, Credit One ceased offering fully and partially secured credit cards and currently offers only unsecured cards. As Credit One changed to CEBA

**[EXHIBIT G]**

status, it began selling all but a very small portion of its receivables on a daily basis. Therefore, in 2005 and thereafter, the levels of assets, capital, and income have experienced large decreases compared to prior years. Credit One's target market is sub-prime borrowers who desire to either build or repair credit and ultimately become eligible for increased credit availability. Customer contact is made by telephone, through the mail and via the Internet.

Credit One has 506 employees, the majority of whom are customer service and transaction service representatives and collectors. There are 44 bank officers. The staff has declined from 806 employees at the last CRA Evaluation, 17 who were officers. The decline in resources has resulted in fewer employees devoted to community development activities.

As of December 31, 2006, Credit One reported total assets of approximately \$82 million and Tier 1 Capital of approximately \$29.5 million. Because Credit One no longer holds its receivables on its books, total assets declined 63% from approximately \$223 million at year end 2002 to year end 2006. When Credit One's CRA performance was last evaluated, Tier 1 Capital was \$27,704. No pass-through receivables were reported. In the current evaluation period, average Tier 1 capital is \$41,635, an increase of \$13,931 or 33.4%. The significant increase occurred in 2003 and 2004, and leveled off to approximately the same levels shown in the prior evaluation period. The increase in capital had an impact on the ratios (performance measures), and was taken into consideration in our analysis.

Credit One is a wholly owned subsidiary of Sherman. Sherman is an integrated financial services company engaged in purchasing and servicing receivable portfolios acquired at a discount, and originating and servicing credit card receivables. The company consists of numerous asset holding and operating entities throughout the United States and in Mexico City, Mexico. As of December 31, 2006, Sherman reported total assets of \$1,204 million and net income of \$347 million.

Credit One is a designated CEBA financial institution. A CEBA is restricted from accepting retail deposits or extending loans outside of its credit card operations. A more detailed definition of CEBA credit card banks can be found at the end of this evaluation in "Definitions and Common Abbreviations". Otherwise, there are no additional legal, financial or other factors impeding the bank's ability to help meet the credit needs in its AA.

[EXHIBIT G]

The table below shows year end financial information for the five year period since the last CRA evaluation and through the most recent quarter end.

**Table 1: Financial Information (000s)**

	Year-end 2002	Year-end 2003	Year-end 2004	Year-end 2005	Year-end 2006	Most Recent Quarter- end 3/31/07	Average for Evaluation Period
<b>Tier 1 Capital</b>	\$36,357*	\$51,564*	\$77,303*	\$23,625*	\$29,528*	\$31,431*	\$41,635
<b>Total Income</b>	\$147,697*	\$150,082*	\$163,319*	\$67,411*	\$120,944*	\$159,164**	\$134,770
<b>Net Operating Income</b>	\$10,440*	\$23,758*	\$39,321*	\$4,134*	\$8,391*	\$11,416**	\$16,243
<b>Total Assets</b>	\$222,998*	\$217,006*	\$215,061*	\$89,147*	\$82,090*	\$73,490*	\$149,965
<b>\$Pass-Through Receivables</b>	\$0*	\$0*	\$0*	\$378,299*	\$636,679*	\$676,117*	\$563,698

Source: Consolidated Report of Condition and Income and bank reported data.

\* Actual data reported

\*\*Annualized data reported.

## Description of the Assessment Area

Credit One has delineated its AA as a majority of Clark County, which is 320 census tracts including the cities of Las Vegas, North Las Vegas, Henderson, and the Las Vegas Valley. Clark County is part of the Las Vegas-Paradise, NV metropolitan statistical area (MSA). The AA includes the location of Credit One's charter office, support operations, and administrative activities. The portions of Clark County that are excluded from Credit One's AA are on its perimeter, none of which are low- or moderate-income geographies. The AA complies with the technical requirements of the regulation and does not arbitrarily exclude low-or moderate income geographies. The following discussion and tables present general demographic and economic information on the AA.

### Clark County, Nevada

**Table 2: Assessment Area Description**

	Number	Low	Moderate	Middle	Upper	N/A%
<b>Tracts</b>	320	5.6%	17.6%	48.00%	28.00%	.80%
<b>Families</b>	326,897	18.83%*	18.71%*	23.47%*	38.99%*	.00%*
<b>Businesses</b>	105,734	8.49%**	21.48%**	35.87%**	34.10%**	.06%**

Source: Demographic Data – 2000 U.S. Census, Dun & Bradstreet Data. N/A category consists of geographies that have not been assigned an income classification.

\*Represents families by income level.

\*\*Represents businesses by income level of census tract.

Las Vegas is the most populous city in the state of Nevada, and a major vacation, shopping, entertainment and gambling location. The name Las Vegas is often applied to the unincorporated areas of Clark County, with a 2005 population estimate of 1,710,551

[EXHIBIT G]

that surrounds the city, especially the resort areas on and near the Las Vegas Strip. This 4½ mile stretch of Las Vegas Boulevard is mostly outside the Las Vegas city limits, in the unincorporated town of Paradise.

In the last decade, Las Vegas climbed the ranks of large cities in the U.S., growing 66.3% from 63<sup>rd</sup> largest in 1990 to 32<sup>nd</sup> largest in 2000. This population growth exemplifies a favorable job market, a relatively stable economy with low business costs, and a lenient tax structure which results in low individual and business taxes. Nevada does not have a state income tax. Rapid population growth within the MSA has led to a significant urbanization of the AA, with a US Department of Housing and Urban Development (HUD) updated median family income of \$52,577, while the unemployment rate is 4.3% as of June 30, 2006. The tax structure has a direct impact on the extent to which public agencies are able to address the pressing social and health needs of the region's low- and moderate-income individuals and families. Conversely, a reliance on property tax income provides public agencies with an incentive to promote growth and upper income developments within their jurisdictions, rather than mixed income or affordable housing.

Tourism drives the economy in the Las Vegas – Paradise MSA, with 36 million people visiting the city each year and visitor spending estimated at \$35 billion in 2005. Approximately 60% of the workers in the Las Vegas-Paradise MSA are employed in retail trade or in the service sector. Though many miles away, the terrorist attacks of September 11, 2001 had a devastating effect on the Las Vegas economy as the gaming and travel sector responded with extensive layoffs. While the city had mostly recovered by 2003, other problems became apparent, primarily difficulties in drawing tourists back to the downtown area. Development and revitalization projects are currently in progress to revitalize the downtown economy.

Housing costs have outpaced incomes. The most serious problems facing Clark County is a lack of affordable quality housing. The area's explosive growth has put a strain on local government and increased the demand for affordable housing, schools, and health care for low- and moderate income families, seniors and people who are homeless. The fact that 89% of the land in Clark County is owned by the federal government places a premium on available private lands that creates a disincentive to the development of affordable housing. Housing in Las Vegas has become less affordable to low- and moderate income families and individuals. For example, the price of an existing home rose 87% from \$169,494 in 2002 to \$317,400 in 2006, making housing increasingly less affordable over the evaluation period.

While the entertainment and service industries are collectively the largest employers in Las Vegas, the major single employer is the Clark County School District, followed by Nellis Air force Base. Obtaining and retaining long-term employment at wages capable of sustaining family households is a challenge for low and moderate-income families in the Las Vegas-Paradise MSA. Approximately 60% of the workers in the MSA are employed in retail trade or in the service sector but many of them are not earning a living wage; thus housing, healthcare, health insurance and childcare are not affordable.

[EXHIBIT G]

Additionally, wages are not enough to keep up with the increasing cost of housing in the MSA.

There is strong competition among financial institutions to provide financial services and meet their CRA obligations in the Las Vegas-Paradise MSA. Many of these large regional institutions and credit unions vie for a part of available CD opportunities. Institutions having a significant presence in the AA are: Wells Fargo Bank, N.A., Bank of America, N.A., Citibank Nevada, N.A., and Washington Mutual Bank.

Through the course of our examination, we received information from community organizations to identify community credit needs. We learned that affordable housing for low- and moderate income families, transitional housing, economic development, and small business financing and development are the predominant needs in the community. Other CD needs include multi-family rental housing assistance and financial literacy counseling for both business owners and individual customers. Through the interview process, we also learned that the infrastructure for CD activities is not well developed in this MSA and opportunities are limited by this factor.

[EXHIBIT G]

## **Conclusions About Performance**

### **Summary**

During the evaluation period, Credit One originated a high level of qualified investments in relation to the limited opportunities available in its AA, strong competition from larger financial institutions that have access to more dedicated staff resources for community development investments, limited staff dedicated to CD activities. In addition, the increase in average Tier 1 Capital had an impact on the bank's performance measures. Total investments exceeded \$3.5 million or 8.45 % of the bank's average Tier 1 capital, 2.61% of average total income, and .62% of average pass-through receivables.

Credit One's level of CD services is high in relation to opportunities and limited staff with regard to CD activities. By serving on the Boards of Directors and on finance committees of 16 different community groups and non profits, these officers provide necessary financial skills and services. Credit One provided a marketing initiative that utilized extensive man hours and yielded significant financial results,

Credit One's use of innovative or complex qualified investments, grants, and donations is rare. However, CD services showed extensive innovation and originality by dedicating talent within the bank to assist a non-profit organization in an original and creative way. Credit One was highly innovative in its use of the marketing talents of its staff to develop and implement a fund raising initiative that significantly advanced the funds of local non-profit entities that benefit low and moderate individuals and families.

Credit One's qualified investments show excellent responsiveness to identified credit needs of low- and moderate-income individuals and families in its AA. Qualified investments, grants and donations funded entities that provide critical services to low- and moderate income individuals and families, affordable housing, and promote economic development by financing small businesses. Approximately 74% of Credit One's qualified investments benefited affordable housing projects for low- and moderate income families and individuals, meeting a critical need in the bank's AA.

### **Qualified Investments**

The level of Credit One's qualified investments, grants, and donations is high. Total investments exceeded \$3.5 million or 8.45 % of the bank's average Tier 1 capital, 2.61% of average total income, and 0.62% of average pass-through receivables. As stated earlier, this level is excellent in relation to the limited opportunities available in its AA, strong competition from larger financial institutions that have access to more dedicated staff resources for CD investments, and the increase in its capital base over the evaluation period.

The majority of Credit One's qualified investments fall in two categories, providing significant grant and donation support for organizations that meet the needs of low- and moderate income individuals, and national investments funds that finance affordable

# [EXHIBIT G]

housing in the AA. The level of qualified investments is significant in relation to the restrictions to lending that CEBA charter banks face and limited opportunities in the AA. Credit One's CRA program is designed to target a wide range of programs that promote financial and homebuyer education, affordable housing, building life skills for low- and moderate income individuals and families, emergency services, and health and human services. Credit One's CRA program strives to impact multiple areas of the community by providing vital funds in support of various community organizations.

The majority of qualified investment dollars are placed in CRA qualified funds specifically designated to Credit One. The projects are highly responsive to the need for affordable housing which has reached a critical level in the AA. The bank's initial \$1 million investment funded two large projects:

- The rehabilitation of a multifamily rental housing development located in a low-income census tract. It contains 114 units, all of which are low-income.
- Financing a 142 unit project in a moderate-income census tract. The project is an assisted living/multifamily rental facility by the Nevada Housing Division. Bonds to fund the project were issued for the purpose of providing housing for low-income seniors.

A second CRA fund totaling \$1.5 million funded multiple projects.

- Financing the construction and permanent mortgage of multifamily housing project containing 270 units. All of the units are designated for persons or families who have incomes at or below 60% of median.
- Freddie Mac qualified CRA mortgage pools

The remainder of Credit One's qualified investments is grants and donations that fund local community groups providing vital goods and services to low- and moderate income individuals, families and small businesses. However, the bank's involvement is not limited to its dollars. Its officers demonstrate their commitment to the community by building multifaceted relationships with organizations to increase their sustainability. For example, Credit One's investment of more than \$36,000 in a local micro enterprise initiative is supported by officers serving on the Board of Directors, finance committee, and providing direct technical assistance to small business owners.

Another example is Credit One's ongoing financial support of a housing organization that develops, promotes and initiates affordable housing in the AA for low- and moderate income individuals. The non profit organization operates a rental housing program, a home ownership program consisting of homebuyer education, counseling, and down payment assistance, as well as a program to ensure the security of its housing recipients. Besides providing a substantial financial grant, Credit One's president serves on its Board of Directors.

[EXHIBIT G]

Credit One's out of area qualified investment consisted of a donation to the victims of Hurricane Katrina. These funds indirectly impacted the AA because the city of Las Vegas and Clark County provided funding to more than 5,000 persons who were displaced by the disaster and relocated to Las Vegas. The initiative provided housing, clothing, food, and job related services to these individuals and families. Other qualified investments outside the AA are provided by Sherman or its affiliated companies. They consist of grants and donations that are targeted to low- and moderate income individuals and families and the creation of affordable housing.

**Table 3a: Qualified Investment Activity (000s)**

	Benefits AA	Outside AA	Totals
<b>Originated Investments</b>	\$2,500		\$2,500
<b>Originated Grants</b>	\$534	\$381	\$915
<b>Prior-Period Investments that Remain Outstanding</b>	\$100		\$100
<b>Total Qualified Investments</b>	\$3,134	\$381	\$3,515

**Table 4a: Qualified Investment Percentages**

	Benefits AA (%)	Outside AA (%)	Total (%)
<b>Total Investments/Average Tier 1 Capital</b>	7.53%	.92%	8.45%
<b>Total Investments/Average Total Income</b>	2.33%	.28%	2.61%
<b>Total Investments/Average Pass-Through Receivables</b>	1.11%	.14%	.62%

### Community Development Services

Credit One's CD services are designed to supplement their investment dollars by building sustainability in the initiatives of local non profit organizations. An example of a creative and innovative CD service that was a major investment of time and talent follows.

CD services that Credit One provided to the Las Vegas Rescue Mission (The Mission) exhibit creativity and innovation and represent an activity that is not commonly available in the Las Vegas-Paradise MSA or other similar communities. The Mission provides emergency services, such as short-term housing for the homeless, emergency shelter, long-term assistance to low- and moderate-income individuals seeking to making lasting changes in their lifestyles, clothing, job development and counseling. President/Chief Executive Officer (CEO) Robert DeJong serves on the Board of Directors of this organization, providing financial guidance and assisting in the pursuit of the organization's mission. In his leadership role, President/CEO DeJong invested a significant amount of his own time, as well as made available the resources of the bank's

[EXHIBIT G]

marketing department to design, develop and implement an ongoing direct mail program to obtain new donors for the Mission. The marketing department used its extensive knowledge to develop a model that targeted prospective donors with a high likelihood for a positive response. Unique marketing material kits were created, printed and mailed. Tracking reports were created and used to identify areas for improvement. More than 30 internal meetings and an additional 10 meetings with Mission staff were held. In all, over 200 hours were donated to this effort. The mail campaign occurred in late 2006 and raised significant funds for the organization. Donations continue to be received and the campaign was deemed a success. Credit One will continue to be involved in overseeing this marketing initiative into the foreseeable future.

As discussed previously, Credit One's investment in a micro enterprise initiative builds sustainability by the bank's investment of time and talent. The CRA Officer provides financial services as a member of the Board and other officers serve on the Board of Directors and finance committee. This business development corporation is a certified financial institution that attempts to reduce barriers to success through micro loans, business training, and technical assistance to underserved populations in Nevada. Its purpose is to increase participation in entrepreneurship among low- and moderate-income individuals. Credit One officers also provide technical and financial assistance to small businesses served by the organization.

Nevada Bankers Collaborative is an alliance of financial institutions in Nevada. It seeks to help meet CD needs of the State's rapidly increasing low- and moderate-income population by providing a focused, innovative approach to solving Nevada's greatest challenges. Currently, it is involved in three initiatives:

- Individual Development Accounts (IDAs) to promote asset building among low- and moderate-income populations.
- Non-profit Capacity Building Initiative to provide tools and training to build more efficient, responsive, and sustainable nonprofit organizations in Nevada.
- Neighborhood Revitalization Initiative to promote economic advancement and sustainability of Nevada communities through neighborhood revitalization for the benefit of low- and moderate-income individuals and families.

The Collaborative has selected a 40 block area in North Las Vegas for a pilot revitalization initiative. The area is located in a Community Development Block Grant (CDBG) eligible moderate income census tract. Credit One's CRA Officer works closely with the collaborative, providing financial guidance. In addition, Credit One also provides investment dollars.

Credit One has launched an internal program, Road to Good Credit, that is targeted to schools that have a majority of low- and moderate income students. The bank developed the program and provided employees to present program topics. The CD service is considered innovative because it helps high school students better understand credit, how to use credit wisely, and how to avoid the pitfalls of excessive revolving credit. This

[EXHIBIT G]

service is noteworthy because the bank's decline in staff has resulted in fewer employees devoted to CD activities.

Credit One officers identified a foundation associated with its data resource provider that offers matching funds to qualifying agencies within the operating locale of its clients. Through the bank's efforts, it obtained more than \$32,000 in funds for CD organizations in its AA and the results were highly responsive to the needs of its AA.

Other CD services are provided through community involvement of the CRA and other bank officers. By serving on the Boards of Directors and on finance committees of 11 additional community groups and non profits, these officers provide necessary financial skills and services. It is notable that Credit One also provides grants to 12 of these community groups and non profits described in this section. The financial expertise of the bank officers assist with capacity building and sustainability of the organizations.

### **Fair Lending or Other Illegal Credit Practices Review**

We found no evidence of discriminatory or other illegal credit practices inconsistent with helping to meet community credit needs. During the evaluation period, Credit One operated under enforcement actions relative to its credit card operations. The Orders required, among other things, that the bank not engage in any unfair or deceptive acts or practices relative to a partially secured credit card product. Our evaluation revealed that Credit One no longer offers the partially secured credit card. Customer complaints relative to the current credit card product are nominal in relation to the volume of open accounts and new originations. The bank has fully complied with the Orders, one of which has since been terminated. We considered these actions during our evaluation and concluded that they should not have an adverse impact on Credit One's CRA Performance rating.

[EXHIBIT<sup>1</sup> G]

## Definitions and Common Abbreviations

The following terms and abbreviations are used throughout this performance evaluation. The definitions are intended to provide the reader with a general understanding of the terms, not a strict legal definition.

**Affiliate** – Any company that controls, is controlled by, or is under common control with another company. A company is under common control with another company if both companies are directly or indirectly controlled by the same company. A bank subsidiary is controlled by the bank and is, therefore, an affiliate.

**Assessment Area (AA)** – A geographic area that consists generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

**Benefit to Assessment Area** – A qualified Community Development activity benefits the assessment area if (i) the activity benefits areas within the assessment area, or (ii) the activity has the potential to benefit the assessment area and is located in the broader statewide or regional area that includes the bank’s assessment area. If a bank has adequately addressed the needs of its assessment area, then the OCC also considers activities submitted by the bank that benefit areas outside of its assessment area.

**CEBA** – Competitive Equality Banking Act of 1987, which permitted corporations to form limited-purpose credit card banks, whose operations are restricted to credit card activities, without the corporation becoming subject to the limitations of a “bank holding company” under the Bank Holding Company Act. A CEBA credit card bank engages only in credit card operations, does not accept demand deposits or savings or time deposits of less than \$100,000 (other than to secure extensions of credit), maintains only one office and does not engage in the business of making commercial loans.

**Census Tract (CT)** – Small, locally defined statistical areas within metropolitan statistical areas. These areas are determined by the United States Census Bureau in an attempt to group homogenous populations. A CT has defined boundaries per 10-year census and an average population of 4,000.

**Community Development (CD)** – Affordable housing for low- or moderate-income individuals; community services targeted to low- or moderate-income individuals; activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or activities that revitalize or stabilize low- or moderate-income geographies.

# [EXHIBIT G]

**Community Reinvestment Act (CRA)** – The statute that requires the OCC to evaluate a bank’s record of meeting the credit needs of its local community, consistent with the safe and sound operation of the bank, and to take this record into account when evaluating certain corporate applications filed by the bank.

**Geography** – A census tract delineated by the United States Bureau of the Census in the most recent decennial census.

**Limited Purpose Institution** – An institution that offers only a narrow product line (such as credit cards or automobile loans) to a regional or broader market and for which a designation as limited purpose bank is in effect.

**Median Family Income (MFI)** – The median income determined by the United States Census Bureau every 10 years and used to determine the income level category of geographies. Also, it is the median income determined by the Department of Housing and Urban Development annually that is used to determine the income level category of families. For any given geography, the median is the point at which half of the families have income above it and half below it. (See the four categories of median income below.)

- **Low-Income** – An income level that is less than 50% of the MFI.
- **Moderate-Income** – An income level that is at least 50% and less than 80% of the MFI.
- **Middle-Income** – An income level that is at least 80% and less than 120% of the MFI.
- **Upper-Income** – An income level that is 120% or more of the MFI.

**Metropolitan Division:** As defined by Office of Management and Budget, a county or group of counties within a Metropolitan Statistical Area that contains a population of at least 2.5 million. A Metropolitan Division consists of one or more counties that represent an employment center or centers, plus adjacent counties associated with the main county or counties through commuting ties.

**Metropolitan Statistical Area:** An area, defined by the Office of Management and Budget, as having at least one urbanized area that has a population of at least 50,000. The Metropolitan Statistical Area comprises the central county or counties, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting.

**Net Operating Income** – As listed in the Consolidated Report of Condition and Income: Income before income taxes and extraordinary items and other adjustments.

**Pass-Through Receivables** – Outstanding receivables tied to all accounts issued or owned by the bank. Pass-through receivables include receivables attributable and receivables retained on balance sheet as those terms are used in 12 CFR 8.

[EXHIBIT G]

**Tier 1 Capital** – The total of common shareholders' equity, perpetual preferred shareholders' equity with non-cumulative dividends, retained earnings and minority interests in the equity accounts of consolidated subsidiaries.

**Total Assets** – Total bank assets as listed in the Consolidated Report of Condition and Income.

**Total Income** – Total Interest income plus Total Non-interest income as listed in the Consolidated Report of Condition and Income – Total Interest income plus Total Non-interest income.

**Wholesale Institution** – An institution that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers and for which a designation as a wholesale bank is in effect.

[EXHIBIT G]

8-K 1 d8k.htm FORM 8-K

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**  
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of report (Date of earliest event reported): September 14, 2007

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**Radian Group Inc.**

(Exact name of registrant as specified in its charter)

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**Delaware**

(State or other jurisdiction of incorporation)

**1-11356**  
(Commission File Number)

**23-2691170**  
(IRS Employer Identification No.)

**1601 Market Street, Philadelphia, Pennsylvania**  
(Address of principal executive offices)

**19103**  
(Zip Code)

**(215) 231-1000**  
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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[EXHIBIT H]

**Item 1.01. Entry into a Material Definitive Agreement.*****Sale of Sherman Interests***

On September 14, 2007, Radian Guaranty Inc. ("Radian Guaranty"), the principal mortgage insurance subsidiary of Radian Group Inc., Mortgage Guaranty Insurance Corporation ("MGIC Guaranty"), a subsidiary of MGIC Investment Corporation, and Sherman Capital, L.L.C. ("Sherman Capital"), an entity owned by the management of Sherman Financial Group LLC ("Sherman"), entered into a Securities Purchase Agreement (the "SPA") pursuant to which Radian Guaranty and MGIC Guaranty each agreed to sell to Sherman Capital: (1) all of their respective preferred interests in Sherman; and (2) 1,425,335 Class A Common Units in Sherman, representing approximately 37.0% of their respective common interests in Sherman, for a cash purchase price of approximately \$240.8 million to each company, plus a contingent payment discussed below. In addition, Radian Guaranty also agreed to sell to Sherman Capital an additional 247,212 Class A Common Units in Sherman (representing an additional 6.4% of Radian Guaranty's common interests in Sherman) for a cash purchase price of approximately \$37.1 million.

In addition to the purchase price paid at closing, both Radian Guaranty and MGIC Guaranty are entitled to a contingent payment, the amount of which will depend on the extent that Sherman Capital's after-tax return on the Class A Common Units acquired in the transaction (excluding the additional 247,212 Class A Common Units acquired from Radian Guaranty) exceeds approximately 16% annually. The contingent payment is payable to Radian Guaranty and MGIC Guaranty on December 31, 2013 or earlier upon the closing of a sale of Sherman.

The transaction contemplated by the SPA closed on September 19, 2007 (the "SPA Closing Date"), with total proceeds to Radian Guaranty of approximately \$277.9 million, plus the contingent payment, if any. Before giving effect to this transaction, Radian Guaranty and MGIC Guaranty each held identical interests in Sherman consisting of approximately 40.96% of the Class A Common Units in Sherman (Class A Common Units represented approximately 94% of the total equity in Sherman) and half of the total preferred units. Entities owned by Sherman's management, including Sherman Capital, owned the remaining Class A Common Units and all of the Class B Common Units. In connection with the closing of the current transaction, the interests in Sherman were recapitalized into a single class of interests. As a result, Radian Guaranty and MGIC Guaranty each now own 21.8% and 24.2%, respectively, of the outstanding equity in Sherman, with entities controlled by Sherman's management controlling the remaining interests.

***Sherman Option Agreement***

Also, on September 14, 2007, Radian Guaranty entered into an Option Agreement with Meeting Street Investments LLC ("MS LLC"), an entity owned by Sherman's management. Under the Option Agreement, Radian Guaranty granted to MS LLC an irrevocable option (the "Call Option") to require Radian Guaranty to sell to MS LLC all of Radian Guaranty's remaining interests in Sherman at anytime during the one year period following the SPA Closing Date. The purchase price under the Call Option will be equal to: (1) the product of (a) Radian Guaranty's ownership percentage in Sherman as of the date of sale under the Option Agreement and (b) \$1.5 billion, minus (2) 50% of all future distributions made by Sherman with respect to Radian Guaranty's remaining interests in Sherman through the date of sale under the Option Agreement. The Option Agreement terminates one year from the SPA Closing Date.

[EXHIBIT H]

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The foregoing descriptions of the SPA and the Option Agreement are not complete and are qualified in their entirety by reference to the SPA and the Option Agreement, which are filed as Exhibits 2.1 and 10.1, respectively, to this Current Report on Form 8-K and are incorporated into this Item 1.01 as if fully set forth herein.

**Item 9.01 Financial Statements and Exhibits.**

*(d) Exhibits.*

- \*2.1 Securities Purchase Agreement, dated as of September 14, 2007, by and between Radian Guaranty Inc., Mortgage Guaranty Insurance Corporation and Sherman Capital, L.L.C.
- 10.1 Option Agreement, dated as of September 14, 2007, by and between Radian Guaranty Inc. and Meeting Street Investments LLC

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\* The schedule referred to in the Securities Purchase Agreement is not being filed herewith. The registrant agrees to furnish supplementally a copy of such schedule to the Securities and Exchange Commission upon request.

[EXHIBIT H]

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**RADIAN GROUP INC.**

Date: September 20, 2007

By: /s/ Edward J. Hoffman  
Edward J. Hoffman  
Vice President, Securities Counsel

[EXHIBIT H]

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**EXHIBIT INDEX**

<u>Exhibit No.</u>	<u>Description</u>
*2.1	Securities Purchase Agreement, dated as of September 14, 2007, by and between Radian Guaranty Inc., Mortgage Guaranty Insurance Corporation and Sherman Capital, L.L.C.
10.1	Option Agreement, dated as of September 14, 2007, by and between Radian Guaranty Inc. and Meeting Street Investments LLC

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\* The schedule referred to in the Securities Purchase Agreement is not being filed herewith. The registrant agrees to furnish supplementally a copy of such schedule to the Securities and Exchange Commission upon request.

[EXHIBIT H]

EX-10.1 3 dex101.htm SECURITIES PURCHASE AGREEMENT BY AND BETWEEN RADIAN  
GUARANTY INC. AND SHERMAN

Exhibit 10.1

**SECURITIES PURCHASE AGREEMENT**

**BETWEEN**

**RADIAN GUARANTY INC.**

**AND**

**SHERMAN FINANCIAL GROUP LLC**

**Dated as of May 3, 2010**

**[EXHIBIT I]**

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT, dated as of May 3, 2010 (this "Agreement"), between RADIAN GUARANTY INC., a Pennsylvania corporation ("Radian" or "Seller"), and SHERMAN FINANCIAL GROUP LLC, a Delaware limited liability company ("Purchaser" or "Sherman").

BACKGROUND

- A. Seller is the record and beneficial owner of 2,177,453 Common Units of Sherman.
- B. Seller desires to sell, and Purchaser desires to purchase, all of Seller's Common Units of Sherman.

C. As a result of the transactions contemplated by this Agreement, Sherman Capital, L.L.C. ("Sherman Capital") and/or Meeting Street Partners II Inc. ("MSPII") will collectively own all outstanding membership interests in Sherman.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions hereinafter set forth, and intending to be legally bound hereby, the parties hereto agree as follows.

1. PURCHASE AND SALE OF UNITS AND TERMINATION OF AGREEMENTS

1.1 Common Units. On the Closing Date (as defined in Article 10 below), subject to the terms and conditions of this Agreement, in consideration of the payment of the Common Units Purchase Price (as defined in Section 2.1 below) to Seller, Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, 2,177,453 Common Units of Sherman (together, the "Common Units"), free and clear of all liens, security interests, options, claims, mortgages, pledges, proxies and other restrictions on title or transfer of any nature whatsoever (collectively, "Encumbrances"), other than any restrictions on transfer of the Common Units under the Securities Act of 1933 (as amended) and state securities Laws as privately placed securities and other than such Encumbrances as may arise under the Sixth Amended and Restated Limited Liability Company Agreement of Sherman Financial Group LLC dated as of August 1, 2008 (the "Sherman Operating Agreement").

1.2 Termination of Consent Documents. Upon consummation of the Closing, subject to the terms and conditions of this Agreement, the following documents shall be terminated in their entirety and all rights and obligations of the parties thereto granted thereby extinguished: (i) that certain Consent and Agreement, dated as of August 10, 2009, among Radian SFG Participation LLC ("RSFG") as successor to Radian Asset Management Inc. ("RAMI"), Sherman Capital, Purchaser and certain affiliates of Purchaser identified therein (the "Consent and Agreement"), (ii) that certain Letter Agreement, dated as of August 10, 2009, related to the Consent and Agreement (the "Letter Agreement") among Seller, Sherman Capital and MSPII, and (iii) that certain Security Agreement, dated as of August 10, 2009, related to the Consent and Agreement among RSFG as successor to RAMI, Purchaser and the other guarantor signatories thereto (together with the Consent and Agreement and the Letter Agreement, the "Consent Documents"). Each of the signatories hereto that are parties to the Consent Documents shall have the benefit of this Section 1.2.

[EXHIBIT I]

1.3 Termination of Rights Under Other Agreements. Radian hereby confirms and agrees, on behalf of itself and its affiliates, for the avoidance of doubt, that upon consummation of the Closing, all rights of Radian and/or any of its affiliates under the Sherman Operating Agreement, the Third Amended and Restated Limited Liability Company Agreement of Sherman Capital, L.L.C., dated as of September 1, 2007 (the "Sherman Capital Operating Agreement") and the Amended and Restated Stockholders Agreement of Meeting Street Partners II Inc., dated as of September 1, 2007 (the "MSPH Stockholders' Agreement"), including, without limitation, any tag-along rights or related rights set forth therein, shall be immediately terminated in their entirety, without further action on the part of any person, and hereby further irrevocably waives any and all such rights under such agreements, effective at such time; provided, that, notwithstanding anything to the contrary in this Section 1.3, Radian does not waive any rights that Radian or its affiliates have pursuant to Sections 3.7, 3.9 (Radian or its affiliate are deemed to be "Indemnified Members" as defined therein) and 4.3 of the Sherman Operating Agreement as prior members of Sherman. Pursuant to Section 12.1 of that certain Securities Purchase Agreement, dated September 14, 2007 (the "2007 Securities Purchase Agreement"), among Mortgage Guaranty Insurance Corporation, Seller and Sherman Capital, upon consummation of the Closing, Seller irrevocably waives any and all right that it has to receive any portion of the Contingent MGIC/Radian Class A Units Purchase Price (as defined in the 2007 Securities Purchase Agreement) to which it would otherwise be entitled pursuant to the 2007 Securities Purchase Agreement, if any, and all rights under the 2007 Securities Purchase Agreement relating thereto, including, without limitation, its rights under the provisions of Article 2 and 6 of the 2007 Securities Purchase Agreement to receive payment thereof, to receive information with respect to the determination thereof and to be secured with respect thereto by any Lien (as defined in the 2007 Securities Purchase Agreement) upon any assets of Sherman Capital to be granted in favor of Seller in accordance with the terms of the 2007 Securities Purchase Agreement and all of its rights to receive any financing information under Section 5.1 of the 2007 Securities Purchase Agreement. Each of the signatories hereto that are parties to the Sherman Operating Agreement, the Sherman Capital Operating Agreement, the MSPH Stockholders' Agreement and the 2007 Securities Purchase Agreement shall have the benefit of this Section 1.3.

## 2. PURCHASE PRICE

2.1 Common Units Purchase Price. The aggregate purchase price for the Common Units shall be \$172,017,436 (the "Common Units Purchase Price").

2.2 Payment of Purchase Price. At the Closing, Purchaser shall deliver the Common Units Purchase Price to Radian. All payments to be made pursuant to this Section 2.2 shall be made by wire transfer of immediately available funds to an account designated by the recipient in writing to Purchaser at least two (2) Business Days prior to the Closing Date. For the purposes of this Agreement, "Business Day," means a day on which commercial banks are open for business (Saturdays, Sundays and holidays excluded) in New York, New York.

## 3. REPRESENTATIONS AND WARRANTIES OF SELLER

As a material inducement to Purchaser to enter into this Agreement and consummate the transactions contemplated hereby, Seller hereby represents and warrants to Purchaser as follows:

3.1 Organization. Seller is a corporation validly existing and in good standing under the laws of the State of its incorporation.

3.2 Equity Interests and Related Matters. There are no statutory or contractual preemptive rights or rights of first refusal or Encumbrances or other similar restrictions with respect to the purchase and sale of the Common Units (other than those contained in the Sherman Operating Agreement). Except for the Sherman Operating Agreement, there are no agreements or understandings between Seller and any other persons with respect to the voting or transfer of the Common Units or with respect to any other aspect of Sherman's governance.

3.3 Authorization. The execution, delivery and performance of this Agreement and the sale of the Common Units hereunder by Seller have been duly authorized by Seller. This Agreement constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

3.4 Noncontravention. The execution and delivery by Seller of this Agreement, the sale of the Common Units hereunder and the fulfillment of and compliance with the respective terms hereof by Seller, do not and will not (i) conflict with or result in a material breach of the terms, conditions or provisions of, (ii) constitute a material default under (whether with or without the passage of time, the giving of notice or both), (iii) result in the creation of any Encumbrance upon the Common Units, (iv) except for a notice filing to be made after Closing with the Pennsylvania Insurance Department notifying it of the sale of the Common Units and the filing relating to this Agreement by Seller on a Current Report on Form 8-K or Quarterly Report on Form 10-Q with the Securities and Exchange Commission, require that Seller obtain or make any authorization, consent, approval, exemption or other action by or notice or declaration to, or filing with, any foreign, federal, state or local government and any agency or any instrumentality thereof, including any court or regulatory body (collectively, a "Governmental Entity") or any third party pursuant to or (v) give any third party the right to modify, terminate or accelerate any material obligation under, in any such case, any statute, law, ordinance, regulation, rule, code, order, rule of common law (any of the foregoing, a "Law"), the organizational documents of Seller or any material agreement, instrument, order, judgment or decree to which Seller is subject (other than the Sherman Operating Agreement), except as has not had and would not have a material adverse effect on Seller's ability to consummate the transactions contemplated by this Agreement.

3.5 No Brokers or Finders. Neither Seller nor any of its respective directors, officers, employees, shareholders or agents have retained, employed or used any broker or finder in connection with the transactions contemplated by this Agreement or in connection with the negotiation thereof for which Purchaser has or will have any obligation in respect of any finder's or brokerage fees in connection therewith.

#### 4. REPRESENTATIONS AND WARRANTIES OF PURCHASER

As a material inducement to Seller to enter into this Agreement and consummate the transactions contemplated hereby Purchaser hereby represents and warrants to Seller as follows:

4.1 Organization. Purchaser is a limited liability company validly existing and in good standing under the laws of Delaware.

4.2 Authorization. The execution, delivery and performance of this Agreement and the purchase of the Common Units by Purchaser have been duly authorized by Purchaser. This Agreement constitutes the valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

4.3 Noncontravention. The execution and delivery by Purchaser of this Agreement, the purchase of the Common Units hereunder, and the fulfillment of and compliance with the respective terms hereof and thereof by Purchaser, do not and will not (i) conflict with or result in a material breach of the terms, conditions or provisions of, (ii) constitute a material default under (whether with or without the passage of time, the giving of notice or both), (iii) require that Purchaser obtain or make any authorization, consent, approval, exemption or other action by or notice or declaration to, or filing with, any Governmental Entity or third party or (iv) give any third party the right to modify, terminate or accelerate any material obligation under, in any such case, any Law or the organizational documents of Purchaser or any material agreement, instrument, order, judgment or decree to which Purchaser is subject (other than the Sherman Operating Agreement), except as has not had and would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated by this Agreement.

4.4 Solvency. As of the Closing Date and upon consummation of the transactions contemplated in this Agreement, (a) the fair value of the property of Purchaser is greater than the total amount of liabilities, including contingent liabilities, of Purchaser, (b) the present fair salable value of the assets of Purchaser is not less than the amount that will be required to pay the probable liability of Purchaser on its debts as they become absolute and matured, (c) Purchaser does not intend to, and does not believe that it will, incur debts or liabilities beyond Purchaser's ability to pay as such debts and liabilities mature, and (d) Purchaser is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which Purchaser's property would constitute an unreasonably small capital. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

4.5 No Brokers or Finders. Neither Purchaser nor any of its directors, officers, employees, shareholders or agents have retained, employed or used any broker or finder in connection with the transactions contemplated by this Agreement or in connection with the negotiation thereof for which Seller has or will have any obligation in respect of any finder's or brokerage fees in connection therewith.

## 5. COVENANTS AND AGREEMENTS

5.1 Governmental Approvals. If a permit, consent, approval or authorization of a third party or a Governmental Entity is necessary to consummate the transactions contemplated by this Agreement, the parties shall cooperate with each other and use their best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings and to obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties and Governmental Entities which are necessary to consummate the transactions contemplated by this Agreement. The parties shall have the right to review in advance, and, to the extent practicable, each will consult the other on all the information relating to any party, as the case may be, and any of their respective affiliates, which appears in any filing made with, or written materials submitted to, any such third party or any such Governmental Entity in connection with the transactions contemplated by this Agreement.

5.2 Further Assurances. Each of the parties shall do any and all things reasonably necessary or appropriate in order to cause the transactions contemplated by this Agreement to be consummated on the terms and subject to the conditions provided herein as promptly as practicable.

5.3 Transaction Expenses. Each of Seller and Purchaser shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

## 6. CERTAIN FEDERAL INCOME TAX MATTERS

6.1 Federal Income Tax Treatment of Transactions. It is agreed and understood, by and between the undersigned, that, for Federal income tax purposes: (a) the payments pursuant to Section 2.2 are distributions in liquidation of Seller's partnership interest in Purchaser; and (b) no part of such payments should be treated as a distributive share or guaranteed payment under Internal Revenue Code §736(a). Neither Seller nor Purchaser shall take any position in connection with any tax or any tax audit or other administrative or judicial proceeding or on any tax return, report, statement or form that is inconsistent with the tax treatment set forth in this Article 6.

6.2 Closing of the Books. Items of income, gain, loss, deduction or credit, and any other items of Purchaser through and including April 30, 2010 (unless the Closing Date occurs prior to April 30, 2010), computed based on a closing of the books of Purchaser as of that date and past practices of Purchaser, shall be allocated to Seller and the other members of Sherman in accordance with Article VI of the Sherman Operating Agreement. No such items shall be allocated to Seller for periods after April 30, 2010.

6.3 Tax Reporting and Tax Audits. In accordance with Section 8.3 of the Sherman Operating Agreement, and solely to the extent such information has not already been provided to Seller under such Section, Purchaser shall provide to Seller an Internal Revenue Service Schedule K-1 (and any relevant state or local equivalent form) and such other information, if any, with respect to Purchaser as may be necessary for the preparation by Seller of (i) Seller's federal income tax returns, including a statement showing Seller's share of taxable income, net operating loss, capital gain or loss, and credits, and (ii) such state and local income tax returns and other tax returns as are required to be filed by Seller as a result of Purchaser's activities in such jurisdiction, in each case for each taxable period ending on or before the Closing Date. The Federal partnership income tax return(s) of Purchaser for 2009 and 2010 shall be prepared consistently with the prior such returns of Purchaser. With respect to tax audits of Purchaser relating to any period or periods during which Seller was a partner in Purchaser for Federal income tax purposes, the provisions of Section 4.1 of the Sherman Operating Agreement shall continue to apply.

## 7. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS

Each and every obligation of Purchaser to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of each of the following conditions:

7.1 Representations and Warranties True on the Closing Date. Each of the representations and warranties made by Seller in this Agreement shall be true and correct at and as of the Closing Date.

7.2 Compliance With Agreement. Seller shall have in all material respects performed and complied with all of its agreements and obligations under this Agreement which are to be performed or complied with by it prior to or on the Closing Date, including the delivery of the documents specified in Section 10.1.

7.3 Approvals; Absence of Injunction. Purchaser and Seller shall have obtained all necessary approvals, including all necessary regulatory approvals, for the transactions contemplated hereby. No injunction that prohibits the consummation of the transactions contemplated hereby by Seller or Purchaser and that has been issued by a court of competent jurisdiction shall be in effect.

#### 8. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

Each and every obligation of Seller to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of each of the following conditions:

8.1 Representations and Warranties True on the Closing Date. Each of the representations and warranties made by Purchaser in this Agreement shall be true and correct at and as of the Closing Date.

8.2 Compliance With Agreement. Purchaser shall have in all material respects performed and complied with all of its agreements and obligations under this Agreement which are to be performed or complied with by it prior to or on the Closing Date, including the delivery of the documents specified in Section 10.2.

8.3 Approvals; Absence of Injunction. Purchaser and Seller shall have obtained all necessary approvals, including all necessary regulatory approvals, for the transactions contemplated hereby. No injunction that prohibits the consummation of the transactions contemplated hereby by Seller or Purchaser and that has been issued by a court of competent jurisdiction shall be in effect.

#### 9. INDEMNIFICATION

9.1 By Radian. Radian shall indemnify, defend and hold harmless Purchaser from and against all losses, damages, judgments, awards, settlements, costs and expenses (including, without limitation, interest, penalties, court costs and reasonable attorneys fees and expenses, but excluding consequential, indirect or punitive damages (including lost profits)) (collectively, "Claims") asserted against, resulting to, imposed upon or incurred by Purchaser, directly or indirectly, by reason of, arising out of or resulting from the inaccuracy or breach of any representation, warranty or covenant of Radian contained in this Agreement.

9.2 By Purchaser. Purchaser shall indemnify, defend and hold harmless Radian from and against all Claims asserted against, resulting to, imposed upon or incurred by Radian, directly or indirectly, by reason of, arising out of or resulting from the inaccuracy or breach of any representation, warranty or covenant of Purchaser contained in this Agreement.

10. CLOSING

Unless the parties to this Agreement mutually agree that a physical closing is not necessary, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place at such location on which the parties mutually agree, at 10:00 a.m. Eastern Standard Time on May 3, 2010. The date and time of Closing is referred to herein as the "Closing Date."

10.1 Closing Actions and Deliveries by Radian. At the Closing, Radian shall deliver to Purchaser the following documents, in each case duly executed or otherwise in proper form:

(a) Unit Transfer Documents. A power of attorney authorizing Sherman to record the transfer of the Common Units from Radian to Purchaser in Sherman's books and records, duly executed on behalf of Radian.

(b) Other Documents. Such other certificates and documents as Purchaser may reasonably request.

10.2 Closing Actions and Deliveries by Purchaser. At the Closing, Purchaser shall deliver the following items, including the following documents, in each case duly executed or otherwise in proper form:

(a) Cash Purchase Price. To Seller, the payment required by Section 2.1.

(b) Other Documents. Such other certificates and documents as Seller may reasonably request.

11. MISCELLANEOUS

11.1 Amendments; Waivers. This Agreement may be amended, or any provision of this Agreement may be waived; provided, however, that any such amendment shall be binding upon the parties only if set forth in a writing duly signed by or on behalf of both parties and all waivers of this Agreement must be in writing and signed by or on behalf of the party waiving its rights. No delay or failure on the part of any party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, and no single or partial exercise by any party of any such right, remedy, power or privilege shall preclude other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

11.2 Successors and Assigns. This Agreement and all of the covenants and agreements contained herein and all of the rights, interests and obligations hereunder, by or on behalf of any of the parties, shall bind and inure to the benefit of the respective successors and assigns of the parties whether so expressed or not. No assignment shall relieve the assignor of any obligation hereunder unless the assignee is acceptable to the non-assigning party in its discretion as evidenced in a writing signed by the non-assigning party. No assignment shall be effective until each party to this Agreement that is not a party to the instrument of assignment receives notice of such assignment.

11.3 Notices. Notices, requests, permissions, waivers, and other communications hereunder shall be in writing and shall be deemed to have been duly given when received if delivered by hand, facsimile transmission or by first class mail (registered, return receipt requested), properly addressed and postage prepaid:

If to Radian:

Radian Guaranty Inc.  
c/o Radian Group Inc.  
1601 Market Street  
Philadelphia, Pennsylvania 19103-2337  
Attention: General Counsel  
Telephone No.: (215) 231-1647  
Fax No.: (215) 405-9160

[EXHIBIT I]

With copies (which will not constitute notice) to:

Radian Guaranty Inc.  
c/o Radian Group Inc.  
1601 Market Street  
Philadelphia, Pennsylvania 19104  
Attention: Chief Financial Officer  
Phone: (215) 231-1000  
Fax: (215) 405-9160

AND

Drinker Biddle & Reath LLP  
One Logan Square  
18th and Cherry Streets  
Philadelphia, Pennsylvania 19103  
Attn: F. Douglas Raymond, III  
Phone: (215) 988-2548  
Fax: (215) 988-2757

If to Purchaser:

Sherman Financial Group LLC  
200 Meeting Street  
Charleston, South Carolina 29401  
Attention: General Counsel  
Telephone No.: (843) 266-1717  
Telecopy No.: (843) 722-1884

With a copy (which will not constitute notice) to:

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006  
Attn: Andrea G. Podolsky  
Phone: (212) 225-2590  
Fax: (212) 225-3999

Each party may change its address for notices by written notice sent to the other parties.

[EXHIBIT I]

11.4 Entire Agreement. This Agreement and the documents referred to herein contain the entire agreement and understanding between the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, whether written or oral, relating to such subject matter in any way.

11.5 No Third-Party Beneficiaries. Subject to Sections 1.2, 1.3 and 11.2, this Agreement is for the sole benefit of the parties and nothing herein expressed or implied shall give or be construed to give any person (including any person acting in a representative capacity) or entity, other than the parties, any legal or equitable rights or remedies hereunder.

11.6 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

11.7 Resolution of Disputes.

(a) Generally. Unless prohibited by applicable Law or as otherwise expressly provided in this Agreement, the parties agree that any dispute, controversy or claim arising out of or relating to this Agreement or the performance by the parties of its terms shall be settled by binding arbitration held in the Borough of Manhattan, City of New York, State of New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, except as specifically otherwise provided in this Section 11.7. Notwithstanding the foregoing, to the extent the arbitrator(s) does not possess the power to subpoena witnesses necessary to the resolution of a dispute, controversy or claim brought hereunder which a court of competent jurisdiction would possess, such dispute, controversy or claim shall not be subject to the terms of this Section 11.7 and shall instead be subject to resolution in such court.

(b) Arbitrators. If the matter in controversy (exclusive of attorney fees and expenses) shall appear, as at the time of the demand for arbitration, to exceed \$500,000, then the panel to be appointed shall consist of three neutral arbitrators; otherwise, one neutral arbitrator. No arbitrator shall be a current or former officer, manager, director or employee of Purchaser, Sherman Capital, MSPII or Radian (or any entity with which any of them has combined or any of their respective affiliates).

(c) Procedures; No Appeal. The arbitrator(s) shall allow such discovery as the arbitrator(s) determines appropriate under the circumstances and shall resolve the dispute as expeditiously as practicable, and if reasonably practicable, within 90 days after the selection of the arbitrator(s). The arbitrator(s) shall give the parties written notice of the decision, with the reasons therefor set out, and shall have 30 days thereafter to reconsider and modify such decision if any party so requests within 10 days after the decision. Thereafter, the decision of the arbitrator(s) shall be final, binding, and nonappealable with respect to all persons, including (without limitation) persons who have failed or refused to participate in the arbitration process, except to the extent such decision shall be premised upon an erroneous application of or shall be contrary to applicable Law. In making any decision, the arbitrator(s) is instructed to preserve, as nearly as possible, to the extent compatible with applicable Law, the original business and economic intent of the parties embodied in this Agreement.

[EXHIBIT I]

(d) Authority. The arbitrator(s) shall have authority to award relief under legal or equitable principles, including interim or preliminary relief, and to allocate responsibility for the costs of the arbitration and to award recovery of attorneys' fees and expenses in such manner as is determined to be appropriate by the arbitrator(s).

(e) Entry of Judgment. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having in personam and subject matter jurisdiction. Purchaser and Radian each hereby submit to the in personam jurisdiction of the federal and state courts in the Southern District of New York, in the borough of Manhattan for the purpose of confirming any such award and entering judgment thereon.

(f) Confidentiality. Subject to Section 11.10, all proceedings under this Section 11.7, and all evidence given or discovered pursuant hereto, shall be maintained in confidence by all parties and by the arbitrator(s).

(g) Continued Performance. The fact that the dispute resolution procedures specified in this Section 11.7 shall have been or may be invoked shall not excuse any party from performing its obligations under this Agreement and during the pendency of any such procedure all parties shall continue to perform their respective obligations in good faith.

(h) Tolling. All applicable statutes of limitation shall be tolled while the procedures specified in this Section 11.7 are pending. The parties will take such action, if any, required to effectuate such tolling.

11.8 Waiver of Jury Trial. WITHOUT LIMITING SECTION 11.7, AND ONLY TO THE EXTENT THAT ANY PROVISION OF SECTION 11.7 IS HELD BY A COURT OF COMPETENT JURISDICTION NOT TO BE ENFORCEABLE, EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND FOR ANY COUNTERCLAIM THEREIN TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

11.9 No Strict Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. No draft of this Agreement shall be considered in construing the meaning hereof.

11.10 Disclosures and Announcements. The press release announcing the execution of this Agreement shall be issued in the form attached hereto as Exhibit A. Except as may be required by, or deemed advisable by counsel with respect to compliance with, Law or the rules of the New York Stock Exchange, as such Law and rules are interpreted by counsel (who may be inside counsel) for a party, each party shall consult with the other party before issuing or causing the publication of any other press release or otherwise making any other public announcement or public statement with respect to this Agreement or the transaction contemplated hereby; provided, that nothing in this Section 11.10 shall prevent Radian or its affiliates from referring to Sherman in filings with the Securities Exchange Commission or discussions with stockholders, regulators or others in a manner consistent with past practices.

11.11 Indemnification as Sole Remedy. Absent fraud on the part of the indemnifying party in the negotiation or performance of this Agreement, Article 9 shall be the sole and exclusive recourse of the parties to this Agreement for Claims arising out of or resulting from any breach of any representation, warranty, covenant, or agreement of or by any party contained in this Agreement.

11.12 Counterparts; Fax and Pdf Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures of the parties transmitted by fax or pdf shall be deemed to be their original signatures for all purposes.

11.13 Headings. The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.

11.14 Survival. In the event of termination of this Agreement by the parties, this Agreement shall forthwith become void and of no further force and effect, except that Article 9, and Sections 11.5, 11.6, 11.7, 11.8, 11.9, 11.10, 11.11, 11.13 and this Section 11.14 shall survive such termination indefinitely.

11.15 Further Assurances. On or before May 25, 2010, Sherman shall deliver such financial information as is required by Radian or its affiliates consistent with past practices to prepare their financial statements for the second quarter of 2010.

11.16 Index of Defined Terms. Each of the following terms is defined in the section set forth opposite such term:

Agreement	Preamble
Business Day	Section 2.2
Claims	Section 9.1
Closing	Article 10
Closing Date	Article 10
Common Units	Section 1.1
Common Units Purchase Price	Section 2.1
Consent and Agreement	Section 1.2
Consent Documents	Section 1.2
Encumbrances	Section 1.1
Governmental Entity	Section 3.4
Law	Section 3.2
Letter Agreement	Section 1.2
MSPII	Recitals
MSPII Stockholders' Agreement	Section 1.3
Purchaser	Preamble
Radian	Preamble
RAMI	Section 1.2
RSFG	Section 1.2
Seller	Preamble
Sherman	Preamble
Sherman Capital	Recitals
Sherman Capital Operating Agreement	Section 1.3
Sherman Operating Agreement	Section 1.1
2007 Securities Purchase Agreement	Section 1.3

[EXHIBIT I]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

**RADIAN GUARANTY INC.**

By: /s/ C. Robert Quint  
Name: C. Robert Quint  
Title: EVP, CFO

**SHERMAN FINANCIAL GROUP LLC**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

Signature Page to Securities Purchase Agreement

[EXHIBIT I]

The undersigned Meeting Street Partners II Inc. and Sherman Capital, L.L.C are executing the foregoing Securities Purchase Agreement solely for the purposes of (i) consenting to the transactions set forth herein, (ii) agreeing to Sections 1.2, 1.3, 11.3, 11.6, 11.7, 11.8, 11.9 and 11.12 and (iii) waiving any rights they may have under Article IX of the Sherman Operating Agreement with respect to the transactions contemplated by such Securities Purchase Agreement.

**MEETING STREET PARTNERS II INC.**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

**SHERMAN CAPITAL, L.L.C.**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

The undersigned PYOD LLC, Ascent Card Services, LLC and Wentworth Street LLC are executing the foregoing Securities Purchase Agreement solely for the purposes of agreeing to Section 1.2, 11.3, 11.6, 11.7, 11.8, 11.9 and 11.12 of this Securities Purchase Agreement.

**PYOD LLC**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

**ASCENT CARD SERVICES, LLC**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

**WENTWORTH STREET LLC**

By: /s/ Leslie G. Gutierrez  
Name: Leslie G. Gutierrez  
Title: Authorized Representative

Signature Page to Securities Purchase Agreement

[EXHIBIT I]

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The undersigned Radian SFG Participation LLC is executing the foregoing Securities Purchase Agreement solely for the purposes of agreeing to Section 1.2, 11.3, 11.6, 11.7, 11.8, 11.9 and 11.12 of this Securities Purchase Agreement.

**RADIAN SFG PARTICIPATION LLC**

By: /s/ C. Robert Quint  
Name: C. Robert Quint  
Title: Chief Financial Officer

Signature Page to Securities Purchase Agreement

[EXHIBIT I]

**EXHIBIT A**

**Press Release**

[INTENTIONALLY OMITTED]

[EXHIBIT I]

CASE JACKET |

User:YONGMOON KIM

Docket Number: MER DC 010566 - 24

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Case Caption: Lvnv Funding Llc As Vs Nowicki Kate  
 Court: Special Civil Part  
 Case Type: Contract Dispute  
 Case Track:  
 Case Disposition: Default By Clerk

Venue: Mercer  
 Case Status: Defaulted  
 Judge:  
 Statewide Lien:

Case Initiation Date: 12/31/2024 Age: 00 YR 00 MO  
 Demand Amount: \$697.26  
 Jury Demand: None Disposition Date: 02/11/2025

[Plaintiffs \(1\)](#) | 
 [Defendants \(1\)](#) | 
 [Judgments \(1\)](#) | 
 [ACMS Documents \(5\)](#) | 
 [Writs \(2\)](#) | 
 [Fees \(5\)](#)

Date Filed	Trans Type	Document Type	Receipt Amount	Pay Type	Payment ID	Trans Number	Payor Last Name
12/31/2024	FLF	C33	57.00	CG	000140367	Z000001	LVNV FUNDING LLC AS
04/09/2025	FLF	XF4	0.00	NF		Z000002	
07/02/2025	EXD	E03	42.00	CG	000140367	Z000003	LVNV FUNDING LLC AS
07/16/2025	OSR	E03	9.00	PR	000000003	Z000004	LVNV FUNDING LLC AS
08/14/2025	FLF	X93	30.00	CG	000143117	Z000005	NOWICKI

Showing 1 to 5 of 5 entries

[EXHIBIT J]