03-101-CD
DIRECT MERCHANTS CREDIT CARD BANK vs.TERRYLEE MOORE

BURTON NEIL & ASSOCIATES, P.C.
By: Burton Neil, Esquire
Identification No. 11348
26 South Church Street
West Chester, PA 19380
(610) 696-2120
Attorney for Plaintiff

| | |
|---|---|
| DIRECT MERCHANTS CREDIT CARD BANK<br>17600 North Perimeter Drive, Scottsdale, AZ<br>Plaintiff | : IN THE COURT OF COMMON PLEAS |
| v. | : CLEARFIELD COUNTY, PENNSYLVANIA |
| TERRYLEE MOORE<br>221 Spruce Street, Apt 2B, Clearfield, PA<br>Defendant | : NO. 03-101-CD |
| | : CIVIL ACTION - LAW |

## COMPLAINT
## NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERENCE AND
INFORMATION SERVICE
David S. Meholick
Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
Telephone No. 814-765-2641 Ext. 5982

FILED

JAN 24 2003

William A. Shaw
Prothonotary

BURTON NEIL & ASSOCIATES, P.C.
By: Burton Neil, Esquire
Identification No. 11348
26 South Church Street
West Chester, PA 19382
610-696-2120
Attorney for Plaintiff

DIRECT MERCHANTS CREDIT CARD BANK
17600 North Perimeter Drive
Scottsdale, Arizona
Plaintiff
v.

TERRYLEE MOORE
221 Spruce Street, Apt 2B, Clearfield, PA
Defendant

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO.

: CIVIL ACTION - LAW

## Complaint

1. The plaintiff is Direct Merchants Credit Card Bank, a business corporation, with place of business located at 17600 North Perimeter Drive, Scottsdale, Arizona.

2. The defendant is Terrylee Moore, who resides at 221 Spruce Street, Apt 2B, Clearfield, Clearfield County, Pennsylvania.

3. At the defendant's request, plaintiff issued the defendant a credit card for the defendant's use in making credit purchases and securing cash advances subject to the terms and conditions governing the use of the credit card. Attached hereto, made a part hereof and marked Exhibit A is a true and correct copy of the terms and conditions.

4. The defendant accepted the credit card and the terms and conditions governing its use for the purchase of goods, merchandise and services and/or for cash advances from vendors who accepted plaintiff's credit card. In using the credit card, the defendant agreed to comply with the terms and conditions governing its use which included the obligation to pay plaintiff for all charges made in full upon receipt of the statement or in installments subject to monthly finance charges.

5. The defendant utilized the credit card by making/obtaining purchases of goods, merchandise and services and/or cash advances from vendors who accepted the credit card. Monthly statements were sent to the defendant which detailed the charges made to the account including finance charges, late and/or, over limit charges. The balance due for the charges made by the defendant including any finance charges, late or over limit charges is $5,529.00.

6. Defendant did not pay the balance due in full upon receipt of the billing statements and failed to make the required minimum monthly payment set forth in the billing statement. As such, defendant is in default of the terms and conditions governing the use of the credit card.

7. Although demand has been made by plaintiff upon defendant to pay the sum of $5,529.00, the defendant failed and refused to pay all or any part thereof.

8. Plaintiff alleges it is entitled to recovery of its attorneys fees from defendant pursuant to the terms and conditions governing the account. Plaintiff seeks recovery of attorneys fees in the sum of $1,100.00.

Wherefore, plaintiff demands judgment against the defendant in the sum of $5,529.00, attorneys fees in the sum of $1,100.00 and the costs of this action.

BURTON NEIL & ASSOCIATES, P.C.

By:
Burton Neil, Esquire
Attorney for Plaintiff

The law firm of Burton Neil & Associates, P.C. is a debt collector.

for all use by such a user. To terminate this authority, you must retrieve the credit card from the previously authorized user and return it to us at the aforementioned address along with a letter explaining why you are doing so.

## LOST OR STOLEN CREDIT CARD(S) AND/OR CHECKS

You agree to notify us immediately if your card(s) or any transfer or convenience checks are lost or stolen. You may notify us by calling 1 800 285-9988.

## CHANGE OF NAME, ADDRESS, TELEPHONE NUMBER OR EMPLOYMENT

You agree to give us prompt notice of any change in your name, mailing address, telephone number or place of employment. Send changes to Cardholder Services, P.O. Box 21222, Tulsa, Oklahoma 74121-1222.

## FOREIGN TRANSACTIONS

If you effect a transaction at a merchant that settles in a currency other than U.S. dollars, MasterCard® International Incorporated will convert the charge into a U.S. dollar amount. MasterCard International will use its currency conversion procedure, which is disclosed to institutions that issue MasterCard cards. Currently, the currency conversion rate used to determine the transaction amount in U.S. dollars is generally either a government-mandated rate or the wholesale rate in effect the day before the transaction processing date, increased by one percent. The currency conversion rate used on the processing date may differ from the rate that would have been used on the purchase date or cardholder statement posting date.

## APPLICABLE LAW

This Agreement and your Account will be governed by federal law and the laws of Utah, whether or not you live in Utah and whether or not your Account is used outside of Utah. This Agreement is entered into in Utah and all credit under the Agreement will be extended from Utah. All terms and conditions of this Agreement (including the change of terms provision, the applicable law provision, and the finance charge, late charge, returned check charge, over limit charge, and research charge provisions) are deemed to be material to the determination of the finance charge.

## ASSIGNMENT OF ACCOUNT

We may sell, assign or transfer your Account or any portion thereof without notice to you. You may not sell, assign or transfer your Account.

## PRIVACY PRACTICES

You agree that from time to time we may receive credit information concerning you from others, such as stores, other lenders, and credit reporting agencies, and that we may use this information to cancel or suspend your credit privileges under this Agreement even if you are not in default with us. You also agree that we may, on a regular basis, furnish purchase, transaction, credit and experience information regarding your Account to others seeking such information, including our affiliates and other third parties. You authorize us to share such information contained on your application with our affiliates and other third parties. If you fail to fulfill the terms of your credit obligation, a negative report reflecting on your credit record may be submitted to a credit reporting agency(ies). You agree that any government agency may release your residence address to us, should it become necessary to locate you. You agree that our supervisory personnel may listen to telephone calls between you and our representatives in order to evaluate the quality of our service to you and to other Cardholders.

## UPDATED FINANCIAL AND OTHER INFORMATION

Upon request, you agree to promptly give us accurate financial and other information about yourself.

## SEVERABILITY

If any provision of this Agreement is finally determined to be void or unenforceable under any law, rule, or regulation, all other provisions of this Agreement will remain valid and enforceable.

Your credit card is issued under this Agreement by Direct Merchants Credit Card Bank℠, National Association, Salt Lake City, Utah.

First Data Resources provides processing services for Direct Merchants Credit Card Bank, National Association. You may write to us at: P.O. Box 21222, Tulsa, Oklahoma 74121-1222.

## YOUR BILLING RIGHTS — KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

## NOTIFY US IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR BILL

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us on a separate sheet at Cardholder Services, P.O. Box 21222, Tulsa, Oklahoma 74121-1222 as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure of.

## YOUR RIGHTS AND OUR RESPONSIBILITIES AFTER WE RECEIVE YOUR WRITTEN NOTICE

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit line. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone to whom we furnished credit information about you that you have a question about your bill. And we must tell you the name of anyone to whom we gave this information. We must tell anyone we report to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first $50 of the questioned amount, even if your bill was correct.

## SPECIAL RULE FOR CREDIT CARD PURCHASES

If you have a problem with the quality of property or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right:

(a) You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and

(b) The purchase price must have been more than $50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

Exhibit A

# DIRECT MERCHANTS BANK℠

# Cardholder Agreement

## AGREEMENT TO TERMS — USE OF YOUR ACCOUNT — DEFINITION OF PARTIES

This is the Agreement which covers your credit card account (called your "Account") with us. You and Direct Merchants Credit Card Bank℠, National Association, will be bound by it from the first time you use the Account. If your Account is a Joint Account, you and you Joint Account holder each promise to pay and are jointly and individually responsible for a amounts due under this Agreement.

In this Agreement, and in your monthly statements, the words "you" and "your" refer to all persons named on the credit card application, credit card or acceptance form, and the word "we," "us," and "our" refer to Direct Merchants Credit Card Bank℠, National Association.

## PROMISE TO PAY

You promise to pay for: (a) credit extended by Direct Merchants Credit Card Bank, Nation Association, to you or to anyone whom you permit to use this Account; (b) finance charges, late charges, and other administrative charges (e.g., returned check charges, research charge provided in this Agreement; and (c) collection costs and attorneys' fees as permitted by applicable law if your Account should go into default.

We can accept late or partial payments, or checks or money orders marked "Payment in Ful or otherwise restrictively endorsed without losing any of our rights under this Agreement.

## CASH ADVANCES

The term cash advance is defined as and includes the following transactions: (a) Automate Teller Machine (ATM) transactions; (b) transfer and convenience check transactions; and (c) in-bank transactions. Convenience checks are used the same as personal checks. Both transfer and convenience checks are drawn on your Account and billed on your statement.

There is a cash advance transaction fee applied to every cash advance transaction. The cash advance transaction fee is equal to 3% of the cash advance, with a minimum fee of $2 per transaction.

## MAXIMUM CREDIT LINE

You may obtain credit by any means approved by us until the total unpaid balance of your Account reaches your maximum credit line. Your cash advance credit limit may be limited 50% of your maximum credit line. You agree not to allow your total unpaid balance, includin finance charges and other charges, to exceed your maximum credit line. We are not required make cash advances (including accepting transfer or convenience checks or ATM transactions) or extend credit for purchases at your request if you have exceeded your credit line, but if we do, you agree to pay us that excess amount, plus applicable finance charges and an over limit fee, immediately. Your credit line amount is defined on the enclosed Card Carrier directly above your credit card.

## STATEMENTS

We will send you a statement covering each billing cycle in which you have a balance in excess of $1. The statement will reflect: (a) payments, credits, purchases, cash advances, finance charges, and all other charges made to your Account during the billing cycle; (b) the minimum payment you must make (called the "minimum payment") and the date by which the minimum payment must be paid in order to avoid late charges; and (c) your available credit.

PAYMENT

Payment is due when you receive your statement each month. We will not impose any late charges if you pay at least the minimum payment reflected in your statement by the date specified, which will always be 25 days from the statement date. If you wish, you may pay more than the minimum payment and at any time you may pay the entire amount due for the current billing cycle (called "new balance"). Send payments to Cardholder Services, P.O. Box 2168, Omaha, Nebraska 68103-2168.

The minimum payment each month will be equal to 2% of the new balance or $10, whichever is greater, or the amount of the new balance if less than $10, plus:

(a) any past due amounts appearing on your statement; and

(b) the amount by which the new balance exceeds your credit line.

All payments by mail must be made by check or money order. Payments may not be made using a transfer or convenience check. You agree that any payment you make may be returned to you without applying it to your Account and without presentment or protest, for reasons including, but not limited to, that the check or money order: (1) is not drawn on the U.S. Post Office or a financial institution located in the United States; (2) is missing a signature; (3) is drawn with different numeric and written amounts; (4) contains a restrictive endorsement; (5) is post dated; (6) is not payable to Direct Merchants Bank, or Direct Merchants Credit Card Bank, N.A.; (7) is not payable in U.S. dollars; (8) is not paid upon presentment; or (9) is drawn on a transfer or convenience check. You agree to pay any bank collection fees we incur for any check payments made in U.S. dollars drawn on a financial institution not located in the United States. All payments under this Agreement must be received at the address specified on your billing statement.

ANNUAL FEE

There is an annual fee of $30 for the Account. The first annual fee will be billed approximately 90 days after your Account is opened and then once per year during the month in which your Account was originally opened.

HOW WE FIGURE FINANCE CHARGES

The periodic finance charge is calculated separately for purchases and cash advances. To calculate the finance charge for purchases, we multiply the average daily balance for purchases times the monthly periodic rate for purchases. There is no finance charge for purchases when a grace period applies. To calculate the finance charge for cash advances, we multiply the average daily balance for cash advances times the monthly periodic rate for cash advances, then add applicable cash advance transaction fees. The Account is subject to a minimum finance charge of $ .50.

AVERAGE DAILY BALANCES

We calculate average daily balances separately for purchases and for cash advances. In each case, we start by calculating a "daily balance" for each day in the billing cycle.

The daily balance of purchases for any day is equal to the previous day's daily balance for purchases plus any new purchases and any other charges that we add that day and minus any payments and credits we apply to purchases that day.

We add new purchases to the daily balance on the purchase date.

If other charges (like annual fees, late charges, over limit charges and finance charges) appear on a monthly periodic statement, we add them to your daily balance on the day following the closing date of the statement.

We apply payments and credits on the day they are received.

The daily balance of cash advances on any day is equal to the previous day's daily balance for cash advances, plus any new cash advances made that day and minus any payments and credits applied to cash advances that day. If you incur cash advance transaction fees during the period covered by a monthly periodic statement, we add them to your daily balance on the day following the closing date of the statement. We treat any cash advances obtained by transfer or convenience checks as having been made on the transaction date shown on your periodic statement.

After we have calculated all the daily balances for a monthly billing cycle, we add the daily balances for purchases and the daily balances for cash advances, and then divide each sum by the number of days in the billing cycle. The resulting amounts are the average daily balances for purchases and cash advances.

MONTHLY PERIODIC RATE

The monthly periodic rate (as of February, 1996) is 1.87%, which corresponds to an ANNUAL PERCENTAGE RATE of 22.45%. The monthly periodic rate is a variable rate that may increase or decrease if the highest prime rate published in *The Wall Street Journal* (the "prime rate") increases or decreases. The monthly periodic rate for any monthly billing cycle will be one twelfth of the sum of 14.20% plus the prime rate published on the third Tuesday of the month preceding the month in which that billing cycle ends. However, the monthly periodic rate may never fall below 1.54% regardless of the level of the prime rate. An increase in the monthly periodic rate may increase the minimum payment due on your Account.

ADJUSTING FOR GRACE PERIODS

"Grace periods" are periods during which we impose no finance charges on purchases. We impose no finance charge on a purchase added to your daily balance during the billing cycle covered by a periodic statement if that statement shows no previous balance or shows that the previous balance was paid in full within 25 days. Also, we impose no additional finance charge on any purchases included in the new balance of a monthly periodic statement if you pay the new balance in full on or before the date specified in your statement.

LATE CHARGE

At least the minimum payment amount shown on your statement is due each month when you receive your statement. We may impose a $15 late charge if you do not pay at least the minimum payment by the date specified in your statement, which will always be 25 days from the statement date.

OVER LIMIT FEE

If you go over your credit line, you will be billed an over limit fee of $15. This fee will be imposed only once per billing cycle, but will be imposed in each billing cycle that you remain over your credit line.

RETURNED CHECK CHARGE

You agree to pay $15 each time you make a payment on your Account with a check that is returned unsatisfied by your bank or other financial institution.

RESEARCH CHARGES

You agree to pay $5 for each sales slip, statement, transfer or convenience check copy you request if more than one copy is requested per year.

APPLICATION OF PAYMENTS

We apply your payments in the following order: to any unpaid finance charges, administrative charges, promotional balances, cash advances, and purchases.

CHANGE OF TERMS (including finance charges)

SUBJECT TO APPLICABLE LAW, WE MAY CHANGE OR TERMINATE ANY TERM OF THIS AGREEMENT OR ADD NEW TERMS AT ANY TIME, WITHOUT LIMITATION, INCLUDING ADDING OR INCREASING FEES; INCREASING YOUR MONTHLY MINIMUM PAYMENT AND INCREASING THE RATE OR AMOUNT OF FINANCE CHARGES, OR CHANGING THE METHOD OF COMPUTING THE BALANCE UPON WHICH FINANCE CHARGES ARE ASSESSED. PRIOR WRITTEN NOTICE WILL BE PROVIDED TO YOU WHEN REQUIRED BY APPLICABLE LAW. CHANGES MAY APPLY TO BOTH NEW AND OUTSTANDING BALANCES.

DEFAULT AND TERMINATION OF AGREEMENT

You will be in default under this Agreement upon: (a) your failure to make
minimum payment by the date specified in your statement; (b) your violation
provision of this Agreement; (c) your death; (d) your becoming the subject o
insolvency proceedings; (e) your becoming the subject of attachment, foreclosu
lien, judgement or garnishment proceedings; (f) your failure to supply us with
we reasonably deem necessary; (g) your supplying us with misleading, false
incorrect information; (h) our receipt of information that you are unwilling or u
the terms or conditions of this Agreement; (i) our receipt of information fro
including credit reporting agencies, which indicates a serious delinquency o
other creditors; or (j) your moving out of the U.S. After your default, your
will continue to accrue finance charges at the contract rate. Balances outsta
Agreement when your credit line is reduced or terminated will continue to
charges until paid in full and are subject to all the terms and conditions of t
Upon default, we have the right to terminate or suspend your credit privileg
Agreement, to change the terms of your Account and this Agreement, to req
your entire Account balance including all accrued but unpaid charges immed
you for what you owe. You will pay our court costs, reasonable attorneys'
collection costs related to the default to the extent permitted by applicable la
we will apply your payments first to attorneys' fees and then in the order se
Application of Payments.

CREDIT AUTHORIZATIONS

Some transactions will require our prior authorization and you may be aske
identification. If our authorization system is not working, we may not be a
transaction, even if you have sufficient available credit. We will not be lia
of these events happen. We are not responsible for any refusal to accept or

CARD RENEWAL

Cards are issued with an expiration date. We have the right not to renew y
any reason.

CARD CANCELLATION

The card(s), transfer and convenience checks issued to you remain our pro
cancellation, you agree to return your card(s) and any unused transfer or c
checks to us.

CLOSING YOUR ACCOUNT

You can cancel or close your Account by writing to us at Cardholder Serv
21222, Tulsa, Oklahoma 74121-1222. Your notice becomes effective wh
we receive it. If you cancel the Account, you must immediately pay ever
including any amounts owed but not yet billed to you. If you do not pay
outstanding balances will continue to accrue finance and other charges an
terms and conditions of this Agreement. You also agree to return your card
transfer and/or convenience checks to us. We will not honor any transfer
check written on your Account if we receive the check after your Accou

LIABILITY FOR UNAUTHORIZED USE

You should retain your copies of all charge slips until you receive your st
time you should verify that the charges are true and the amounts conform
liable for the unauthorized use of your credit card. You will not be liable
use that occurs after you notify us of the loss, theft or possible unauthorize
must be given by you immediately upon learning of the loss, theft or pos
use by calling us at 1 888 205-9988 or writing us at Cardholder Services
Tulsa, Oklahoma 74121-1222. In any case, your liability for unauthorize
card will not exceed $50. However, unauthorized use does not include
whom you have given the credit card or authority to use the Account, an

# VERIFICATION

Ruth A. Kenny is Agency Assistant for Direct Merchants Credit Card Bank the within Plaintiff in this action, and that the statements of fact made in the foregoing Complaint are true and correct to the best of the undersigned verifier's knowledge and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 12-13-02

√ Ruth Kenny
Ruth A. Kenny

Terrylee Moore
5458004041980614

FILED Atty Neil

m/11:02 am pd 85.00

JAN 2 4 2003

1 CC Shff

William A. Shaw
Prothonotary

## In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13581

DIRECT MERCHANTS CREDIT CARD BANK

03-101-CD

vs.

MOORE, TERRYLEE

COMPLAINT

## SHERIFF RETURNS

NOW FEBRUARY 27, 2003 RETURN THE WITHIN COMPLAINT "NOT SERVED, TIME EXPIRED" AS TO TERRY LEE MOORE, DEFENDANT. NOT ENOUGH TIME TO SERVE.

---

Return Costs

| Cost | Description |
|---|---|
| 19.37 | SHFF. HAWKINS PAID BY: ATTY. |
| 10.00 | SURCHARGE PAID BY: ATTY. |

**Sworn to Before Me This**

5 Day Of March 2003

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

**So Answers,**

Chester Hawkins
by Marilyn Harp

**Chester A. Hawkins**
**Sheriff**

FILED
MAR 05 2003
William A. Shaw
Prothonotary

BURTON NEIL & ASSOCIATES, P.C.
By: Burton Neil, Esquire
Identification No. 11348
26 South Church Street
West Chester, PA 19380
(610) 696-2120
Attorney for Plaintiff

I hereby certify this is a true and correct copy of the original filed in this cause.
By:
Burton Neil & Associates, P.C.
Attorneys for Plaintiff

DIRECT MERCHANTS CREDIT CARD BANK
17600 North Perimeter Drive, Scottsdale, AZ
Plaintiff
v.

TERRYLEE MOORE
221 Spruce Street, Apt 2B, Clearfield, PA
Defendant

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 03-101-CD
: CIVIL ACTION - LAW

## COMPLAINT
## NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERENCE AND
INFORMATION SERVICE
David S. Meholick
Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
Telephone No. 814-765-2641 Ext. 5982

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JAN 24 2003

Attest.
Prothonotary/
Clerk of Courts

BURTON NEIL & ASSOCIATES, P.C.
By: Burton Neil, Esquire
Identification No. 11348
26 South Church Street
West Chester, PA 19382
610-696-2120
Attorney for Plaintiff

DIRECT MERCHANTS CREDIT CARD BANK
17600 North Perimeter Drive
Scottsdale, Arizona
Plaintiff
v.

TERRYLEE MOORE
221 Spruce Street, Apt 2B, Clearfield, PA
Defendant

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO.

: CIVIL ACTION - LAW

## Complaint

1. The plaintiff is Direct Merchants Credit Card Bank, a business corporation, with place of business located at 17600 North Perimeter Drive, Scottsdale, Arizona.

2. The defendant is Terrylee Moore, who resides at 221 Spruce Street, Apt 2B, Clearfield, Clearfield County, Pennsylvania.

3. At the defendant's request, plaintiff issued the defendant a credit card for the defendant's use in making credit purchases and securing cash advances subject to the terms and conditions governing the use of the credit card. Attached hereto, made a part hereof and marked Exhibit A is a true and correct copy of the terms and conditions.

4. The defendant accepted the credit card and the terms and conditions governing its use for the purchase of goods, merchandise and services and/or for cash advances from vendors who accepted plaintiff's credit card. In using the credit card, the defendant agreed to comply with the terms and conditions governing its use which included the obligation to pay plaintiff for all charges made in full upon receipt of the statement or in installments subject to monthly finance charges.

5. The defendant utilized the credit card by making/obtaining purchases of goods, merchandise and services and/or cash advances from vendors who accepted the credit card. Monthly statements were sent to the defendant which detailed the charges made to the account including finance charges, late and/or, over limit charges. The balance due for the charges made by the defendant including any finance charges, late or over limit charges is $5,529.00.

for all use by such a user. To terminate this authority, you must retrieve the credit card from the previously authorized user and return it to us at the aforementioned address along with a letter explaining why you are doing so.

LOST OR STOLEN CREDIT CARD(S) AND/OR CHECKS

You agree to notify us immediately if your card(s) or any transfer or convenience checks are lost or stolen. You may notify us by calling 1 804 265-9988.

CHANGE OF NAME, ADDRESS, TELEPHONE NUMBER OR EMPLOYMENT

You agree to give us prompt notice of any change in your name, mailing address, telephone number or place of employment. Send changes to Cardholder Services, P.O. Box 21222, Tulsa, Oklahoma 74121-1222.

FOREIGN TRANSACTIONS

If you effect a transaction at a merchant that settles in a currency other than U.S. dollars, MasterCard® International Incorporated will convert the charge into a U.S. dollar amount. MasterCard International will use its currency conversion procedure, which is disclosed to institutions that issue MasterCard cards. Currently, the currency conversion rate used to determine the transaction amount in U.S. dollars is generally either a government-mandated rate or the wholesale rate in effect the day before the transaction processing date, increased by one percent. The currency conversion rate used on the processing date may differ from the rate that would have been used on the purchase date or cardholder statement posting date.

APPLICABLE LAW

This Agreement and your Account will be governed by federal law and the laws of Utah, whether or not you live in Utah and whether or not your Account is used outside of Utah. This Agreement is entered into in Utah and all credit under the Agreement will be extended from Utah. All terms and conditions of this Agreement (including the change of terms provision, the applicable law provision, and the finance charge, late charge, returned check charge, over limit charge, and research charge provisions) are deemed to be material to the determination of the finance charge.

ASSIGNMENT OF ACCOUNT

We may sell, assign or transfer your Account or any portion thereof without notice to you. You may not sell, assign or transfer your Account.

PRIVACY PRACTICES

You agree that from time to time we may receive credit information concerning you from others, such as stores, other lenders, and credit reporting agencies, and that we may use this information to cancel or suspend your credit privileges under this Agreement even if you are not in default with us. You also agree that we may, on a regular basis, furnish purchase, transaction, credit and experience information regarding your Account to others seeking such information, including our affiliates and other third parties. You authorize us to share such information contained on your application with our affiliates and other third parties. If you fail to fulfill the terms of your credit obligation, a negative report reflecting on your credit record may be submitted to a credit reporting agency(ies). You agree that any government agency may release your residence address to us, should it become necessary to locate you. You agree that our supervisory personnel may listen to telephone calls between you and our representatives in order to evaluate the quality of our service to you and to other Cardholders.

UPDATED FINANCIAL AND OTHER INFORMATION

Upon request, you agree to promptly give us accurate financial and other information about yourself.

SEVERABILITY

If any provision of this Agreement is finally determined to be void or unenforceable under any law, rule, or regulation, all other provisions of this Agreement will remain valid and enforceable.

Your credit card is issued under this Agreement by Direct Merchants Credit Card Bank℠, National Association, Salt Lake City, Utah.

---

First Data Resources provides processing services for Direct Merchants Credit Card Bank, National Association. You may write to us at: P.O. Box 21222, Tulsa, Oklahoma 74121-1222.

YOUR BILLING RIGHTS — KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

NOTIFY US IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR BILL

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us on a separate sheet at Cardholder Services, P.O. Box 21222, Tulsa, Oklahoma 74121-1222 as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure of.

YOUR RIGHTS AND OUR RESPONSIBILITIES AFTER WE RECEIVE YOUR WRITTEN NOTICE

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit line. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone to whom we furnished credit information about you that you have a question about your bill. And we must tell you the name of anyone to whom we gave this information. We must tell anyone we report to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first $50 of the questioned amount, even if your bill was correct.

SPECIAL RULE FOR CREDIT CARD PURCHASES

If you have a problem with the quality of property or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right:

(a) You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and

(b) The purchase price must have been more than $50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

---

Exhibit A

# DIRECT MERCHANTS BANK℠

# Cardholder Agreement

## AGREEMENT TO TERMS — USE OF YOUR ACCOUNT DEFINITION OF PARTIES

This is the Agreement which covers your credit card account (called your "Account") wi us. You and Direct Merchants Credit Card Bank℠, National Association, will be bound it from the first time you use the Account. If your Account is a Joint Account, you and y Joint Account holder each promise to pay and are jointly and individually responsible for amounts due under this Agreement.

In this Agreement, and in your monthly statements, the words "you" and "your" refer to persons named on the credit card application, credit card or acceptance form, and the wo "we," "us," and "our" refer to Direct Merchants Credit Card Bank℠, National Associatio

PROMISE TO PAY

You promise to pay for: (a) credit extended by Direct Merchants Credit Card Bank, Nati Association, to you or to anyone whom you permit to use this Account; (b) finance charg late charges, and other administrative charges (e.g., returned check charges, research char provided in this Agreement; and (c) collection costs and attorneys' fees as permitted by applicable law if your Account should go into default.

We can accept late or partial payments, or checks or money orders marked "Payment in f or otherwise restrictively endorsed without losing any of our rights under this Agreement

CASH ADVANCES

The term cash advance is defined as and includes the following transactions: (a) Autom Teller Machine (ATM) transactions; (b) transfer and convenience check transactions; and (c) in-bank transactions. Convenience checks are used the same as personal checks. Both transfer and convenience checks are drawn on your Account and billed on your statement.

There is a cash advance transaction fee applied to every cash advance transaction. The cash advance transaction fee is equal to 2% of the cash advance, with a minimum fee of $ per transaction.

MAXIMUM CREDIT LINE

You may obtain credit by any means approved by us until the total unpaid balance of you Account reaches your maximum credit line. Your cash advance credit limit may be limite 50% of your maximum credit line. You agree not to allow your total unpaid balance, includ finance charges and other charges, to exceed your maximum credit line. We are not require make cash advances (including accepting transfer or convenience checks or ATM transactions or extend credit for purchases at your request if you have exceeded your credit line, but if w do, you agree to pay us that excess amount, plus applicable finance charges and an over limi fee, immediately. Your credit line amount is defined on the enclosed Card Carrier directly above your credit card.

STATEMENTS

We will send you a statement covering each billing cycle in which you have a balance in excess of $1. The statement will reflect: (a) payments, credits, purchases, cash advances, finance charges, and all other charges made to your Account during the billing cycle; (b) th minimum payment you must make (called the "minimum payment") and the date by which th minimum payment must be paid in order to avoid late charges; and (c) your available credit.

## PAYMENT

Payment is due when you receive your statement each month. We will not impose any late charges if you pay at least the minimum payment reflected in your statement by the date specified, which will always be 25 days from the statement date. If you wish, you may pay more than the minimum payment and at any time you may pay the entire amount due for the current billing cycle (called "new balance"). Send payments to Cardholder Services, P.O. Box 2168, Omaha, Nebraska 68103-2168.

The minimum payment each month will be equal to 2% of the new balance or $10, whichever is greater, or the amount of the new balance if less than $10, plus:

(a) any past due amounts appearing on your statement; and

(b) the amount by which the new balance exceeds your credit line.

All payments by mail must be made by check or money order. Payments may not be made using a transfer or convenience check. You agree that any payment you make may be returned to you without applying it to your Account and without presentment or protest, for reasons including, but not limited to, that the check or money order: (1) is not drawn on the U.S. Post Office or a financial institution located in the United States; (2) is missing a signature; (3) is drawn with different numeric and written amounts; (4) contains a restrictive endorsement; (5) is post dated; (6) is not payable to Direct Merchants Bank, or Direct Merchants Credit Card Bank, N.A.; (7) is not payable in U.S. dollars; (8) is not paid upon presentment; or (9) is drawn on a transfer or convenience check. You agree to pay any bank collection fees we incur for any check payments made in U.S. dollars drawn on a financial institution not located in the United States. All payments under this Agreement must be received at the address specified on your billing statement.

## ANNUAL FEE

There is an annual fee of $30 for the Account. The first annual fee will be billed approximately 90 days after your Account is opened and then once per year during the month in which your Account was originally opened.

## HOW WE FIGURE FINANCE CHARGES

The periodic finance charge is calculated separately for purchases and cash advances. To calculate the finance charge for purchases, we multiply the average daily balance for purchases times the monthly periodic rate for purchases. There is no finance charge for purchases when a grace period applies. To calculate the finance charge for cash advances, we multiply the average daily balance for cash advances times the monthly periodic rate for cash advances, then add applicable cash advance transaction fees. The Account is subject to a minimum finance charge of $ .50.

## AVERAGE DAILY BALANCES

We calculate average daily balances separately for purchases and for cash advances. In each case, we start by calculating a "daily balance" for each day in the billing cycle.

The daily balance of purchases for any day is equal to the previous day's daily balance for purchases plus any new purchases and any other charges that we add that day and minus any payments and credits we apply to purchases that day.

We add new purchases to the daily balance on the purchase date.

If other charges (like annual fees, late charges, over limit charges and finance charges) appear on a monthly periodic statement, we add them to your daily balance on the day following the closing date of the statement.

We apply payments and credits on the day they are received.

The daily balance of cash advances on any day is equal to the previous day's daily balance for cash advances, plus any new cash advances made that day and minus any payments and credits applied to cash advances that day. If you incur cash advance transaction fees during the period covered by a monthly periodic statement, we add them

A 2992

to your daily balance on the day following the closing date of the statement. We treat any cash advances obtained by transfer or convenience checks as having been made on the transaction date shown on your periodic statement.

After we have calculated all the daily balances for a monthly billing cycle, we add the daily balances for purchases and the daily balances for cash advances, and then divide each sum by the number of days in the billing cycle. The resulting amounts are the average daily balances for purchases and cash advances.

## MONTHLY PERIODIC RATE

The monthly periodic rate (as of February, 1996) is 1.870%, which corresponds to an ANNUAL PERCENTAGE RATE of 22.45%. The monthly periodic rate is a variable rate that may increase or decrease if the highest prime rate published in *The Wall Street Journal* (the "prime rate") increases or decreases. The monthly periodic rate for any monthly billing cycle will be one twelfth of the sum of 14.20% plus the prime rate published on the third Tuesday of the month preceding the month in which that billing cycle ends. However, the monthly periodic rate may never fall below 1.54% regardless of the level of the prime rate. An increase in the monthly periodic rate may increase the minimum payment due on your Account.

## ADJUSTING FOR GRACE PERIODS

"Grace periods" are periods during which we impose no finance charges on purchases. We impose no finance charge on a purchase added to your daily balance during the billing cycle covered by a periodic statement if that statement shows no previous balance or shows that the previous balance was paid in full within 25 days. Also, we impose no additional finance charge on any purchases included in the new balance of a monthly periodic statement if you pay the new balance in full on or before the date specified in your statement.

## LATE CHARGE

At least the minimum payment amount shown on your statement is due each month when you receive your statement. We may impose a $15 late charge if you do not pay at least the minimum payment by the date specified in your statement, which will always be 25 days from the statement date.

## OVER LIMIT FEE

If you go over your credit line, you will be billed an over limit fee of $15. This fee will be imposed only once per billing cycle, but will be imposed in each billing cycle that you remain over your credit line.

## RETURNED CHECK CHARGE

You agree to pay $15 each time you make a payment on your Account with a check that is returned unsatisfied by your bank or other financial institution.

## RESEARCH CHARGES

You agree to pay $5 for each sales slip, statement, transfer or convenience check copy you request if more than one copy is requested per year.

## APPLICATION OF PAYMENTS

We apply your payments in the following order: to any unpaid finance charges, administrative charges, promotional balances, cash advances, and purchases.

## CHANGE OF TERMS (including finance charges)

SUBJECT TO APPLICABLE LAW, WE MAY CHANGE OR TERMINATE ANY TERM OF THIS AGREEMENT OR ADD NEW TERMS AT ANY TIME, WITHOUT LIMITATION, INCLUDING ADDING OR INCREASING FEES; INCREASING YOUR MONTHLY MINIMUM PAYMENT AND INCREASING THE RATE OR AMOUNT OF FINANCE CHARGES, OR CHANGING THE METHOD OF COMPUTING THE BALANCE UPON WHICH FINANCE CHARGES ARE ASSESSED. PRIOR WRITTEN NOTICE WILL BE PROVIDED TO YOU WHEN REQUIRED BY APPLICABLE LAW. CHANGES MAY APPLY TO BOTH NEW AND OUTSTANDING BALANCES.

## DEFAULT AND TERMINATION OF AGREEMENT

You will be in default under this Agreement upon: (a) your failure to mak
minimum payment by the date specified in your statement; (b) your violat
provision of this Agreement; (c) your death; (d) your becoming the subject
insolvency proceedings; (e) your becoming the subject of attachment, foreclo
lien, judgement or garnishment proceedings; (f) your failure to supply us wi
we reasonably deem necessary; (g) your supplying us with misleading, fal
incorrect information; (h) our receipt of information that you are unwilling o
the terms or conditions of this Agreement; (i) our receipt of information fr
including credit reporting agencies, which indicates a serious delinquency
other creditors; or (j) your moving out of the U.S. After your default, you
will continue to accrue finance charges at the contract rate. Balances outs
Agreement when your credit line is reduced or terminated will continue to
charges until paid in full and are subject to all the terms and conditions of
Upon default, we have the right to terminate or suspend your credit privil
Agreement, to change the terms of your Account and this Agreement, to r
your entire Account balance including all accrued but unpaid charges imm
you for what you owe. You will pay our court costs, reasonable attorneys
collection costs related to the default to the extent permitted by applicable
we will apply your payments first to attorneys' fees and then in the order
Application of Payments.

## CREDIT AUTHORIZATIONS

Some transactions will require our prior authorization and you may be as
identification. If our authorization system is not working, we may not be
transaction, even if you have sufficient available credit. We will not be l
of these events happen. We are not responsible for any refusal to accept

## CARD RENEWAL

Cards are issued with an expiration date. We have the right not to renew
any reason.

## CARD CANCELLATION

The card(s), transfer and convenience checks issued to you remain our p
cancellation, you agree to return your card(s) and any unused transfer or
checks to us.

## CLOSING YOUR ACCOUNT

You can cancel or close your Account by writing to us at Cardholder Se
21233, Tulsa, Oklahoma 74121-1233. Your notice becomes effective w
we receive it. If you cancel the Account, you agree immediately pay eve
including any amounts owed but not yet billed to you. If you do not pa
outstanding balances will continue to accrue finance and other charges
terms and conditions of this Agreement. You also agree to return your can
transfer and/or convenience checks to us. We will not honor any transfe
check written on your Account if we receive the check after your Accou

## LIABILITY FOR UNAUTHORIZED USE

You should retain your copies of all charge slips until you receive your
time you should verify that the charges are true and the amounts unalte
liable for the unauthorized use of your credit card. You will not be liab
use that occurs after you notify us of the loss, theft or possible unauthori
must be given by you immediately upon learning of the loss, theft or p
use by calling us at 1 800 205-9988 or writing us at Cardholder Servic
Tulsa, Oklahoma 74121-1233. In any case, your liability for unauthori
card will not exceed $50. However, unauthorized use does not include
whom you have given the credit card or authority to use the Account,

# VERIFICATION

Ruth A. Kenny is Agency Assistant for Direct Merchants Credit Card Bank the within Plaintiff in this action, and that the statements of fact made in the foregoing Complaint are true and correct to the best of the undersigned verifier's knowledge and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 12-13-02

Ruth Kenny
Ruth A. Kenny

Terrylee Moore
5458004041980614

BURTON NEIL & ASSOCIATES, P.C.
BY: Burton Neil, Esquire
Identification No. 11348
26 South Church Street
West Chester, PA 19382
610-696-2120
ATTORNEY FOR: Plaintiff

| | |
|---|---|
| DIRECT MERCHANTS CREDIT CARD BANK | : IN THE COURT OF COMMON PLEAS |
| Plaintiff | : CLEARFIELD COUNTY, PENNSYLVANIA |
| VS. | |
| TERRYLEE MOORE | : NO. 03-101-CD |
| Defendant | : CIVIL ACTION - LAW |

## PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly discontinue the above-captioned action without prejudice.

BURTON NEIL & ASSOCIATES, P.C.

BY: ______________________
Burton Neil, Esquire
Attorney for Plaintiff

FILED
JUN 09 2003
William A. Shaw
Prothonotary

FILED

m 2:57 pm 1 cert + cc to atty

JUN 09 2003

William A. Shaw
Prothonotary

COPY

# IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

**Direct Merchants Credit Card Bank**

**Vs.** **No. 2003-00101-CD**

**Terrylee Moore**

## CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 9, 2003, marked:

Settled, Discontinued and Ended

Record costs in the sum of $114.37 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 9th day of June A.D. 2003.

William A. Shaw, Prothonotary