

05-1627-CD
MBNA vs Anthony W. Thomas

MBNA America Bank vs Anthony Thomas
2005-1627-CD

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.

Plaintiff

NO. 05-1627-CD

vs.

CIVIL ACTION - LAW

ANTHONY W. THOMAS

Defendant

Filed on behalf of:

Plaintiff, MBNA AMERICA BANK, N.A.

Counsel of record for this party:

Amy F. Doyle #87062

Daniel F. Wolfson #20617

Philip C. Warholic #86341

Andrew C. Spears #87737

David R. Galloway #87326

Tonilyn M. Chippie #87852

Ronald M. Abramson #94266

Ronald S. Canter #94000

Bruce H. Cherkis #18837

WOLPOFF & ABRAMSON, LLP

Attorneys in the Practice of Debt Collection

4660 Trindle Rd., 3rd Floor

Camp Hill, PA 17011

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OCT 20 2005 *85.00*

William A. Shaw
Prothonotary/Clerk of Courts

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**COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA**

MBNA AMERICA BANK, N.A.
(Plaintiff)

**C/O WOLPOFF & ABRAMSON, L.L.P.
4660 TRINDLE ROAD, 3rd FLOOR
CAMP HILL, PA 17011**

CIVIL ACTION

Type of Case: Contract

**Type of Pleading: PETITION TO CONFIRM
ARBITRATION AWARD**

VS.

Filed on Behalf of: Plaintiff

ANTHONY W. THOMAS

(Defendant)

**2419 CLEARFIELD GLEN RICHEY HIGHWAY
GLEN RICHEY, PA 16837**

Andrew C. Spears, Esquire #87737
Wolpoff & Abramson, LLP/Counsel for Plaintiff
Attorney's in the Practice of Debt Collection
4660 Trindle Road, Third Floor
Camp Hill, PA 17011
(717) 303-6700


(Signature)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.

Plaintiff

NO.

vs.

CIVIL ACTION - LAW

ANTHONY W. THOMAS

Defendant

RULE

AND NOW, this _____ day of _____, 2005, upon the
consideration of the foregoing Petition to Confirm Arbitration Award, it is ORDERED
that the parties to this action show cause, if any they have, why this Motion should not be
granted.

RULE RETURNABLE _____ days from the date of service hereof.

BY THE COURT:

Judge

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.
Plaintiff

NO. 05-1627-CV

vs.

CIVIL ACTION - LAW

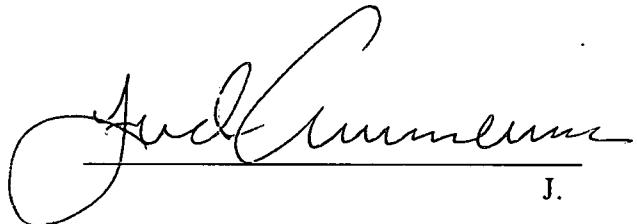
ANTHONY W. THOMAS

Defendant

RULE

AND NOW, this 25th day of October, 2005, upon consideration of the within Plaintiff's Petition to Confirm Foreign Arbitration Award, a hearing shall be scheduled in the above captioned action for the 18th day of November, 2005 at 11:00 (a.m.)/p.m., in Court Room Number 1 of the CLEARFIELD County Court House.

BY THE COURT:



J.

FILED

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William A. Shaw
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.

Plaintiff

NO.

vs.

CIVIL ACTION - LAW

ANTHONY W. THOMAS

Defendant

ORDER

AND NOW, this _____ day of _____, 200__, upon consideration of Plaintiff's Petition to Confirm Arbitration Award, it is hereby ORDERED that Plaintiff's Arbitration Award is confirmed, pursuant to 42 Pa.C.S.A. §7313, and that judgment be entered in favor of Plaintiff and against Defendant in the amount of Seven Thousand Eight Hundred Fifty-Nine Dollars and Twenty-Three Cents (\$7,859.23).

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.

Plaintiff

NO.

vs.

CIVIL ACTION – LAW

ANTHONY W. THOMAS

Defendant

**PLAINTIFF'S PETITION TO CONFIRM
ARBITRATION AWARD PURSUANT TO 42 Pa.C.S.A. §7313**

AND NOW, TO WIT, comes the Petitioner/Plaintiff, MBNA AMERICA BANK, N.A., by and through its attorneys and the law firm of Wolpoff & Abramson, LLP, and files the following Petition to Confirm Arbitration Award, and in support avers as follows:

1. Petitioner/Plaintiff, MBNA AMERICA BANK, N.A. is a Delaware corporation doing business within the Commonwealth of Pennsylvania, and the other states of the United States, with its principal place of business situated at 655 Paper Mill Road, MAILSTOP 14111, WILMINGTON, DE 19884.

2. Respondent/Defendant, ANTHONY W. THOMAS, is an adult individual with a last known address of 2419 CLEARFIELD GLEN RICHEY HIGHWAY, CLEARFIELD County, GLEN RICHEY, PA 16837.

3. Pursuant to the credit card agreement Defendant received when Plaintiff issued Defendant an open end credit card account, which Defendant assented to by virtue of his/her use of the account, the parties agreed that, in the event of any claim and/or dispute surrounding this account arose which required collection efforts, any matters would be referred to the National Arbitration Forum (NAF). A true and correct copy of this Credit Card Agreement Additional Terms and Conditions is attached hereto, incorporated herein and marked as Exhibit "A".

4. Defendant subsequently defaulted on the terms of the aforementioned credit card agreement by failing to pay Plaintiff as required pursuant to the terms the agreement.

5. In response, pursuant to the terms the credit card agreement, Plaintiff referred this matter to the NAF for Arbitration; Plaintiff then forwarded Defendant a Notice of Arbitration and Arbitration Claim form, explaining Defendant's rights and options in accordance with the Arbitration process. A true and correct copy of both the Notice of Arbitration and Arbitration Claim form are attached hereto, incorporated herein and marked as Exhibit "B".

6. Both a Notice of Arbitration and Arbitration Claim form were appropriately served to the Defendant(s).

7. An Arbitration occurred in this matter at which time both parties were provided with full and fair opportunity to present any evidence and their position in regarding to this matter.

8. An NAF Arbitration Award was entered in favor of Plaintiff and against Defendant in the amount of Seven Thousand Eight Hundred Fifty-Nine Dollars and Twenty-Three Cents (\$7,859.23). A true and correct copy of the Arbitration Award is attached hereto, incorporated herein and marked as Exhibit "C".

9. In conjunction with the issuance of this Arbitration Award, the Arbitrator in this matter certified: (a) the parties entered into an agreement providing that this matter was to be resolved in accordance with the National Arbitration Forum Code of Procedure; (b) Plaintiff filed a claim with the Forum and served it upon Defendant; (c) the parties had the opportunity to present all evidence and information to the Arbitrator; (d) the Arbitrator reviewed all evidence and information submitted; and (e) the information and evidence submitted supported the issuance of an Award in favor of Plaintiff.

10. The Credit Card Agreement unequivocally states that judgment upon any arbitration award may be entered in any state or federal Court having jurisdiction.

11. Since the above referenced Arbitration Award is non-binding and unenforceable against Pennsylvania residents without confirmation of any such Award by a Pennsylvania Court, Plaintiff has filed the instant Petition, pursuant to the Uniform Arbitration Act, in order to obtain judgment against Defendant in a Pennsylvania Court, which will better enable Plaintiff to secure a collectible judgment against Defendant.

12. Plaintiff is entitled to the relief requested in the instant Petition given that: (a) the aforementioned Arbitration Award was properly obtained by Plaintiff; (b) this Honorable Court has jurisdiction over the Defendant to confirm the aforementioned Arbitration Award; and (c) because Defendant did not make an application, pursuant to 42 Pa.C.S.A. §7314, within thirty (30) days of receipt of the aforementioned Arbitration Award, with the Court to have said Arbitration Award vacated, modified and/or corrected.

WHEREFORE, Plaintiff/Petitioner respectfully requests that this Honorable Court confirm the Plaintiff's Arbitration Award, pursuant to 42 Pa.C.S. §7313, and enter judgment in favor of Plaintiff and against Defendant(s) in the amount of Seven Thousand Eight Hundred Fifty-Nine Dollars and Twenty-Three Cents (\$7,859.23).

Respectfully submitted,



Amy F. Doyle #87062
Daniel F. Wolfson #20617
Philip C. Warholic #86341
Andrew C. Spears #87737
David R. Galloway #87326
Tonilyn M. Chippie #87852
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WOLPOFF & ABRAMSON, LLP
Attorneys in the Practice of Debt Collection
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Camp Hill, PA 17011
(717) 303-6700

VERIFICATION

The undersigned hereby states that they are the attorney for the Plaintiff/Movant, who is located outside of this jurisdiction and in order to file the within document in an expedient and timely manner, they are authorized to take this verification on behalf of said Plaintiff/Movant in the within action and verifies that the statements made in the foregoing Petition are true and correct to the best of their knowledge, information, and belief, based upon information provided by the Plaintiff/Movant.

The undersigned understands that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 10/13/05

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LAW OFFICES
WOLPOFF & ABRAMSON, L.L.P.
*ATTORNEYS IN THE PRACTICE
OF DEBT COLLECTION*
4660 TRINDE ROAD
THIRD FLOOR
CAMP HILL, PA 17011
717-303-6700

EXHIBIT "A"

Credit Card Agreement

Additional Terms and Conditions

Selected Sections

Your Contract With Us

Your Credit Card Agreement with us consists of these Additional Terms and Conditions and the document called the Required Federal Disclosures or the Initial Disclosure. You agree to the terms and conditions of this Agreement. For the purpose of the Privacy Notice, we will use the definitions contained in the third paragraph of the Privacy Notice. For the remainder of the Agreement, we will use the definitions described under the section heading *Words Used Often in This Agreement*.

Privacy Notice

Your privacy is important to us. At MBNA, we are committed to providing you with the finest financial products and services backed by consistently top-quality service. And while information about you is fundamental to our ability to do this, we fully recognize the importance of keeping personal and account information secure.

To offer you the widest range of products and services, MBNA may share information about you both within MBNA and outside of MBNA with other companies. This allows us to offer you products and services that may interest you and best meet your needs, whether they are available directly from MBNA or through our relationships with other companies. We want you to understand our information safeguards, what information we collect, what information we share, and the benefits you receive when we share information about you.

This notice describes the privacy practices of MBNA Corporation and all MBNA affiliates, including MBNA America Bank, N.A., MBNA America (Delaware), N.A., Palladian Travel Services, Inc., MBNA Hallmark Inc., and MBNA Insurance Agency, Inc. (collectively, "MBNA"), for financial products and services governed by the laws of the United States of America. This notice explains MBNA's information collection and sharing practices and lets you choose whether or not MBNA may share certain information about you, either within MBNA or outside of MBNA with other companies.

Our Security Procedures: MBNA understands the importance of protecting and securing information and using it appropriately. Access to information about you is restricted to the people of MBNA who require it to provide products or services to you. We maintain physical, electronic, and procedural safeguard that comply with federal standards for the security of information.

What Law Applies

When MBNA shares information about you with companies outside of MBNA, we require them to impose safeguards, use it only for a permitted purpose and to return it to us or destroy it once that purpose is served. We limit the amount of information shared to what is appropriate to offer a product or service efficiently. MBNA requires any company receiving information from MBNA to sign a Confidentiality Agreement containing these requirements and obligating that company to protect the information as we would.

Information We Collect: MBNA collects and uses nonpublic personal information about you to conduct our business and to consistently deliver the top-quality customer service you expect from us. Sources of this information include the following:

- Information we receive from you on applications and other forms or through your correspondence or communication with us including through the mail, by telephone, or over the Internet;
- Information we receive from third parties, such as consumer reporting agencies, to verify statements you've made to us, or regarding your employment, credit, or other relationships; and
- Information about your transactions with MBNA and with other companies outside of MBNA.

Information We Share Within MBNA: We may share all of the information we collect about you with financial service companies within MBNA to offer additional products or services that may interest you and best meet your needs. We believe this is convenient for you and may save you both time and money. To do so, we share identification information (such as name and address), transaction and experience information (such as purchases and payments), credit eligibility information (such as credit reports and applications), and other information. The decision to purchase any such products or services is yours alone. You may tell us not to share credit eligibility information about you within MBNA, but please understand this does not prohibit us from offering you additional products and services or from sharing transaction and experience, identification, and other information within MBNA.

Information We Share With Others: From time to time, we may allow companies outside of MBNA to offer you their products and services that may interest you. These products and services may be offered by financial service providers (such as banks, loan brokers, account aggregators, insurance agents, insurance companies, mortgage bankers, and securities broker-dealers), by nonfinancial companies (such as retailers, direct marketers, communications companies, Internet service providers, manufacturers, service companies, travel agents, cruise lines, car rental agencies, hotels, airlines, publishers, and organizations endorsing MBNA financial products or services), and others (such as nonprofit organizations). Subject to applicable law, we may share all the information we collect with these companies outside of MBNA, unless you tell us not to.

Additionally, we may share all the information we collect with companies that perform marketing or other services on our behalf or to other financial institutions with which we have joint marketing agreements. We are also permitted by law to share information about you with other companies in certain circumstances. For instance, we may share all of the information we collect with companies assisting us in servicing your loan or account, with companies that endorse our products and services through affinity agreements, with government entities in response to subpoenas or

regulatory requirements, and with consumer reporting agencies. If you tell us not to share information with companies outside of MBNA that wish to offer you their products and services, as described above, please understand that we will continue to share information in these additional circumstances.

Important Information About Your Choice: We're dedicated to serving your needs - and to respecting your choices related to privacy. You may tell us not to share credit eligibility information within MBNA, and you may tell us not to share information with companies outside of MBNA that wish to offer you their products and services as described above. If you wish to opt out of such information sharing, please call toll-free 1-866-751-1255. We will ask you to verify your identity and the specific accounts to which the opt out applies, so please have all your account, membership, or reference numbers and your Social Security number or Taxpayer identification number for deposit accounts available when you call.

MBNA applies opt outs at the account level, not by individual Customer. When any person listed with others on an account opts out (for example, a co-applicant, joint account holder, or authorized user), we will list the entire account as having opted out. MBNA will continue to adhere to its disclosed privacy practices for an account even if it becomes inactive or is closed.

An opt out from information sharing on an account as described above, either within MBNA and/or with companies outside of MBNA, remains effective unless revoked in writing. Federal regulations require us to provide this notice on an annual basis, whether or not an account has previously opted out from either type of information sharing. Please remember when you receive our subsequent notices that an account previously opted out from either or both types of information sharing (and not revoked in writing) does not need to be opted out again.

This notice updates and replaces any previous notices from MBNA about the privacy, security, and protection of information. For additional information regarding MBNA's privacy practices concerning the Internet, and to view the most recent version of this privacy notice, please go to www.mbnamerica.com and click on "Privacy Notice." You may have other privacy protections under state laws. We may amend this privacy notice at any time, and we will inform you of changes as required by law.

Words Used Often in This Agreement

"Agreement" or "Credit Card Agreement" means these Additional Terms and Conditions and the Required Federal Disclosures (or the Initial Disclosure) and any changes we make to those documents from time to time.

"You" and "your" mean each and all of the persons who are granted, accept, or use an account we hold. "You" and "your" also mean any other person who has guaranteed payment of this account, when used in the sections entitled *We May Monitor and Record Telephone Calls and Arbitration and Litigation* and when used in each of the sections relating to payment of this account

(Your Promise to Pay and How We Allocate Your Payments, for example).

"We," "us," "our," and "MBNA America" mean MBNA America Bank, N.A.

"Card" means all the credit cards we issue to you and to any other person with authorization to use this account pursuant to this Agreement.

"Access check" means an access check we provide to you to make a Check Cash Advance on your account.

If we use a capitalized term in this document but do not define the term in this document, the term has the meaning given in the Required Federal Disclosures or the Initial Disclosure or as used in your monthly statement.

We use section headings (such as *Words Used Often in This Agreement*) to organize this Agreement. The actual terms of this Agreement are in the sentences that follow and not the headings.

Sign Your Card

You should sign your card before you use it.

We May Monitor and Record Telephone Calls

You consent to and authorize MBNA America, any of its affiliates, or its marketing associates to monitor and/or record any of your telephone conversations with our representatives or the representatives of any of those companies.

Credit Reporting Agencies

You authorize MBNA America to collect information about you, including credit reports from consumer reporting agencies.

If you believe we have furnished inaccurate or incomplete information about you or your account to a credit reporting agency, write us at: MBNA Credit Reporting Agencies, P.O. Box 17054, Wilmington, DE 19884-7054. Please include your name, address, home phone number, and account number, and explain what you believe is inaccurate or incomplete.

How to Use Your Account

You may obtain credit in the form of Purchases and Cash Advances by using your cards, access checks, account number, or other credit devices. Please refer to your Required Federal Disclosures or Initial Disclosure to determine what transactions constitute Purchases and Cash Advances and how you may obtain them.

Transaction Date for Certain Cash Advance
The transaction date for Check Cash Advances and Balances is the date you or the person to whom the check is made payable first deposits or cashes it check. The transaction date for a returned payment (which will then be classified as a Bank Cash Advance) is the date that the corresponding payment posted to your account.

Payments on Your Account
You must pay each month at least the Total Minimum Payment Due shown on your monthly statement by your Payment Due Date. You may pay the entire amount you owe us at any time. Payments made in any billing cycle that are greater than the Total Minimum Payment Due will not affect your obligation to make the next Total Minimum Payment Due. If you overpay or if there is a credit balance on your account, we will not pay interest on such amounts. We will reflect payments that are not drawn in U.S. dollars and those drawn on financial institutions located outside the United States. Payment of your Total Minimum Payment Due may not avoid the assessment of Overlimit Fees.

When Your Payment Will Be Credited to Your Account

We credit payments as of the date received, if the payment is (1) received by 2 p.m. (Eastern Time); (2) received at the address shown in the upper left-hand corner of the front of your monthly statement; (3) paid with a check drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order; and (4) sent in the return envelope with only the top portion of your statement accompanying it. Payments received after 2 p.m. on any day, including the Payment Due Date, but that otherwise meet the above requirements, will be credited as of the next day. Credit for any other payments may be delayed up to five days.

How We Allocate Your Payments

We will allocate your payments in the manner we determine. In most instances, we will allocate your payments to balances (including new transactions) with lower APRs before balances with higher APRs. This will result in new balances with lower APRs (such as those with promotional APR offers) being paid

transactions made by that person, including transactions for which you may not have intended to be liable, even if the amount of those transactions causes your credit limit to be exceeded. Authorized users of this account may have the same access to information about the account and its users as the account holders.

Access Check

You may request a stop payment on an access check by providing us with the access check number, dollar amount, and payee exactly as they appear on the access check. Oral and written stop payment requests on an access check are effective for six months from the day that we place the stop payment.

You May Not Postdate an Access Check

You may not issue a postdated access check on your account. If you do postdate an access check, we may elect to honor it upon presentation or return it unpaid to the person who presented it to us for payment, without, in either case, waiting for the date shown on the access check. We are not liable to you for any loss or expense incurred by you arising out of the action we elect to take.

Your Promise to Pay

You promise to pay us the amounts of all credit you obtain, which includes all Purchases and Cash Advances. You also promise to pay us all the amounts of finance charges, fees, and any other transactions we charge against your account.

before any other existing balances.

Promise to Pay Applies to All Persons

All persons who initially or subsequently request, accept, guarantee, or use the account are individually and together responsible for any total outstanding balance. We may refuse to release from liability any person who is responsible to pay any total outstanding balance, until all of the cards, access checks, and other credit devices outstanding under the account have been returned to us and any such person or persons repays us the total outstanding balance owed to us at any time under the terms of this Agreement.

Default

You will be in default of this Agreement if: (1) you fail to make any required Total Minimum Payment Due by its Payment Due Date; (2) your total outstanding balance exceeds your credit limit; or (3) you fail to abide by any other term of this Agreement. Solely for the purposes of determining eligibility and premium payment obligations for the optional credit insurance purchased through MBNA, you will be deemed in default or delinquent if you fail to make a payment within 90 days of your Payment Due Date. Our failure to exercise any of your rights when you default does not mean that we are unable to exercise those rights upon later default.

When We May Require Immediate Payment

If you are in default, we can require immediate payment of your total outstanding balance and, unless prohibited by applicable law and except as otherwise provided under the Arbitration and Litigation section of this Agreement, we can also require you to pay the costs we incur in any collection proceeding, as well as reasonable attorneys' fees if we refer your account for collection to an attorney who is not our salaried employee.

Other Payment Terms

We can accept late payments, partial payments, or payments with any restrictive writing without losing any of our rights under this Agreement. This means that no payment, including those marked with "Paid in full" or with any other restrictive words, shall operate as an accord and satisfaction without the prior written approval of one of our senior office you may not use a postdated check to make a payment. If you do postdate a payment check, we may elect to honor it upon presentment or return it uncredited to the person who presented it, without, in either case, waiting for the date shown on the check. We are not liable to you for any loss or expense incurred by you arising out of the action we elect to take.

Payment Holidays

We may allow you, from time to time, to omit a monthly payment. We will notify you when this option is available if you omit a payment, finance charges and any applicable fee will accrue on your account in accordance with this Agreement. You must resume making your Total Minimum Payment Due each month following a payment holiday.

Transactions Made in Foreign Currency

If you make a transaction in a foreign currency, the transaction will be converted by Visa International or MasterCard International, depending on which card you use, into a U.S. dollar amount in accordance with the operating regulations conversion procedures in effect at the time that the transaction is processed. Currently, those regulations and procedures provide that the currency conversion rate to be used is

(1) a wholesale market rate or (2) a government-mandated rate in effect one day prior to the processing date, increased by one percent in each case. Visa or MasterCard retains this one percent as compensation for performing the currency conversion service. The currency conversion rate in effect on the processing date may differ from the rate in effect on the transaction date or the posting date.

Billing Cycle

Your billing cycle ends each month on a Closing Date determined by us. Each billing cycle begins on the day after the Closing Date of the previous billing cycle. Each statement reflects a single billing cycle.

Account Fees and Charges

Required Federal Disclosures or Initial Disclosure: are charged as purchases in the billing cycle in which the fees accrue:

- (1) a Late Fee if the Total Minimum Payment Due shown on your monthly statement is not received by us on or before its Payment Due Date;
- (2) an Overlimit Fee if your New Balance Total exceeds your credit limit on the last day of a billing cycle, even if fees or finance charges charged by us cause your New Balance Total to exceed your credit limit; an Overlimit Fee is charged to your account as of the day in the billing cycle that the total outstanding balance on your account exceeds your credit limit;
- (3) a Returned Payment Fee if a payment on your account is returned for insufficient funds or for any other reason, even if it is paid upon subsequent presentation;
- (4) a Returned Cash Advance Check Fee if we return an access check unpaid for any reason, even if the access check is paid upon subsequent presentation;
- (5) a Copy Fee for each copy of a monthly statement or sales draft, except that the six most recent monthly statements and six sales drafts will be provided for free; and
- (6) an Annual Fee if your account is open or if you maintain an account balance, whether you have active charging privileges or not.

Abandoned-Property Charges: Unless prohibited by applicable law, we will charge your account, as a purchase, for any costs incurred by us associated with complying with state abandoned-property laws.

Please review your Required Federal Disclosures or Initial Disclosure for additional fees and charges that may apply to your account.

Benefits

We may offer you certain benefits and services with your account. Unless expressly made a part of this Agreement, any such benefits or services are not a part of this Agreement but are subject to the terms and restrictions outlined in the benefits brochure and other official documents provided to you from time to time by or on behalf of MBNA America. We may adjust, add, or delete benefits and services at any time and without notice to you.

Refusal to Honor Your Account

We are not liable for any refusal to honor your account. This can include a refusal to honor your card or account number or any check written on your account. We are not liable for any retention of your card by us, any other bank, or any provider of goods or services.

We May Suspend or Close Your Account

We may suspend or close your account or otherwise terminate your right to use your account. We may do this at any time and for any reason. Your obligations under this Agreement continue even after we have done this. You must destroy all cards, access checks, and other credit devices on the account when we request that you do so.

You May Close Your Account

You may close your account by notifying us in writing or by telephone and destroying all cards, access checks, and other credit devices on the account. Your obligations under this Agreement continue even after you have done this.

Transactions After Your Account Is Closed

When your account is closed, you must contact anyone authorized to charge transactions to your account, such as Internet service providers, health clubs, or insurance companies. These transactions may continue to be charged to your account until you change the billing. Also, if we believe you have authorized a transaction or are attempting to use your account after you have requested to close the account, we may allow the transaction to be charged to your account.

We May Amend This Agreement

We may amend this Agreement at any time. We may amend it by adding, deleting, or changing provisions of this Agreement. When we amend this Agreement, we will comply with the applicable notice requirements of federal and Delaware law that are in effect at that time. If an amendment gives you the opportunity to reject the change, and if you reject the change in the manner provided in such amendment, we may terminate your right to receive credit; and may ask you to return all credit devices as a condition of your rejection. The amended Agreement (including any higher-rate or other higher charges or fees) will apply to the total outstanding balance, including the balance existing before the amendment became effective. We may replace your card with another card at any time.

We May Sell Your Account

We may at any time, and without notice to you, sell, assign or transfer your account, any sums due on your account, this Agreement, or our rights or obligations under your account or this Agreement, to any person or entity. The person or entity to whom we make any such sale, assignment, or transfer shall be entitled to all of our rights and/or obligations under this Agreement to the extent sold, assigned or transferred.

Your Credit Limit

Your credit limit is disclosed to you when you receive your card and, generally, on each monthly statement. We may change your credit limit from time to time.

The amount shown on your monthly statement as Cash or Credit Available does not take into account any Purchases, Cash Advances, finance charges, fees, any other transactions, or credits that post to your account after the Closing Date of that monthly statement. Such transactions could result in your credit limit being exceeded and result in the assessment of Overlimit Fees.

What We May Do if You Attempt to

The total outstanding balance on your account plus authorizations at any time must not be more than your credit limit. If you

attempt a transaction that results in your total outstanding balance (plus authorizations) exceeding your credit limit, we may (1) permit the transaction without raising your credit limit; (2) permit the transaction and treat the amount of the transaction that is more than the credit limit as immediately due; or (3) refuse to permit the transaction.

If we refuse to permit the transaction, we may advise the person who attempted the transaction that it has been refused. If we refuse to permit a Check Cash Advance or Balance Transfer, we may do so by advising the person presenting the Check Cash Advance or Balance Transfer that credit has been refused, that there are insufficient funds to pay the Check Cash Advance or Balance Transfer, or in any other manner.

If we have previously permitted you to exceed your credit limit, it does not mean that we will permit you to exceed your credit limit again. If we decide to permit you to exceed your credit limit, we may charge an Overlimit Fee as provided in this Agreement.

Unauthorized Use of Your Card

Please notify us immediately of the loss, theft, or possible unauthorized use of your account at 1-800-789-6701.

You Must Notify Us When You Change Your Address

We strive to keep accurate records for your benefit and ours. The post office and others may notify us of a change to your address. When you change your address, you must notify us promptly of your new address.

What Law Applies

This Agreement is made in Delaware, and we extend credit to you from Delaware. This Agreement is governed by the laws of the State of Delaware (without regard to its conflict of laws principles) and by any applicable federal laws.

The Provisions of This Agreement Are Severable

If any provision of this Agreement is found to be invalid, the remaining provisions will continue to be effective.

Our Rights Continue

Our failure or delay in exercising any of our rights under this Agreement does not mean that we are unable to exercise those rights later.

Arbitration and Litigation

This Arbitration and Litigation provision applies to you, unless you were given the opportunity to reject the Arbitration and Litigation provisions and you did so reject them, in the manner and timeframe required. If you did reject effectively such a provision, you agreed that any litigation brought by you against us regarding this account or this Agreement shall be brought in a court located in the State of Delaware.

Any claim or dispute ("Claim") by either you or us against the other, or against the employees, agents, or assigns of the other, arising from or relating in any way to this Agreement or any prior Agreement or your account (whether under a statute, in contract, tort, or otherwise and whether for money damages, penalties, or declaratory or equitable relief), including claims regarding the applicability of this Arbitration and Litigation section or the validity of the entire Agreement or any prior Agreement, shall be resolved by binding arbitration. The arbitration shall be conducted by the National Arbitration

Forum ("NAF"), under the Code of Procedure in effect at the time the Claim is filed. Rules and forms of the National Arbitration Forum may be obtained and Claims may be filed at any National Arbitration Forum office, www.naf-forum.com, or P.O. Box 50191, Minneapolis, Minnesota 55405, telephone 1-800-474-2371.

If the NAF is unable or unwilling to act as arbitrator, we may substitute another nationally recognized, independent arbitration organization that uses a similar code of procedure.

At your written request, we will advance any arbitration filing fee, or administrative and hearing fees that you are required to pay to pursue a Claim in arbitration. The arbitrator will decide who will be ultimately responsible for paying those fees. In no event will you be required to reimburse us for any arbitration filing, administrative, or hearing fees in an amount greater than what your court costs would have been if the Claim had been resolved in a state court with jurisdiction. Any arbitration hearing at which you appear will take place within the federal judicial district that includes your billing address at the time the Claim is filed. This arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (FAA). Judgment upon any arbitration award may be entered in any court having jurisdiction. The arbitrator shall follow existing substantive law to the extent consistent with the FAA and applicable statutes of limitations and shall honor any claims or privilege recognized by law. If any party requests, the arbitrator shall write an opinion containing the reasons for the award.

No Claim submitted to arbitration is heard by a jury, and no Claim may be brought as a class action or as a private attorney general. You do not have the right to act as a class representative or participate as a member of a class of claimants with respect to any Claim. This Arbitration and Litigation section applies to all Claims now in existence or that may arise in the future.

This Arbitration and Litigation section shall survive the termination of your account with us as well as any voluntary payment of the debt in full by you, any bankruptcy by you, or sale of the debt by us.

For the purposes of this Arbitration and Litigation section, "we" and "us" means MBNA America Bank, N.A., its parent, subsidiaries, affiliates, licensees, predecessors, successors, assigns, any purchaser of your account, and all of their officers, directors, employees, agents, and assigns or any and all of them. Additionally, "we" or "us" shall mean any third party providing benefits, services, or products in connection with the account (including but not limited to credit bureaus, merchants that accept any credit device issued under the account, rewards or enrollment services, credit insurance companies, debt collectors, and all) of their officers, directors, employees and agents) if, and only if, such a third party is named by you as a co-defendant in any Claim you assert against us.

If any part of this Arbitration and Litigation section is found to be invalid or unenforceable under any law or statute consistent with the FAA, the remainder of this Arbitration and Litigation section shall be enforceable without regard to such invalidity or unenforceability.

THE RESULT OF THIS ARBITRATION AGREEMENT IS THAT EXCEPT AS PROVIDED ABOVE, CLAIMS CANNOT BE LITIGATED IN COURT, INCLUDING SOME CLAIMS THAT COULD HAVE BEEN TRIED BEFORE A JURY, AS CLASS ACTIONS, OR AS PRIVATE ATTORNEY GENERAL ACTIONS.

CREDIT INSURANCE BENEFITS, LIMITATIONS, COSTS & EXCLUSIONS

CONSUMER PROTECTION DISCLOSURES

CREDIT INSURANCE IS: NOT A DEPOSIT; NOT FDIC-INSURED; NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY; AND NOT GUARANTEED BY THE BANK.

PURCHASE OF CREDIT INSURANCE IS NOT A CONDITION OF OBTAINING CREDIT. IF COVERAGE IS DESIRED, IT MAY BE PURCHASED ELSEWHERE.

Credit Insurance pays your minimum monthly payment* up to your balance on the date of loss (not to exceed \$25,000, except disability in MN), until you return to work**. If you are involuntarily unemployed, totally disabled, or if you or your spouse takes covered family leave. Credit Insurance also pays your insured outstanding balance up to the least of your outstanding balance, your credit limit (not AL, AZ, AR, DE, DC, ID, IL, IA, LA, MD, MN, MS, NY, ND, OH, OK, RI, SD, VT, WA, WV & WY), or \$25,000 if you die.

Eligibility: One insured per account (insured must be the primary cardholder or a co-applicant, authorized users are not eligible) under age 66 (70 in AZ, NV & VA; 71 in FL, GA, MI, MO & OK, 72 in NM). Your coverage ends at these same ages (except family leave in AZ, FL & SD & unemployment). When employed, certificates will be mailed explaining your coverage & effective date. In MN unemployment coverage is effective 61 days from your certificate effective date. For unemployment or family leave benefits, you must be gainfully employed working at least 30 hours/week (not self-employed or an independent contractor) for 90 consecutive days before the date of loss (CO - before application date), (PA - on the date of loss), (TX - before coverage effective date for unemployment). Employees of professional corporations may be eligible.

Coverages & Benefits: Credit Insurance covers: your death; involuntary unemployment due to job loss; general strike; unionized labor dispute; or lockout; total disability due to sickness or injury if you are unable to perform the material & substantial duties of your job (or any job after 12 mos. in PA, 18 mos. in AL, AZ, AR, CA, DE, DC, GA, HI, ID, IL, IA, KS, LA, MD, MN, MS, NV, NJ, ND, OH, OK, RI, SD, TN, VT, WA, WV & WY); your or your spouse's unpaid leave of absence from employment due to care of your newborn or newly adopted child or an incapacitated immediate family member (must be active military duty, jury duty (except in AK); mandatory recall to a federally declared disaster area. Loss (not death) must continue at least 30 days before benefits begin. In NY, for strikes, unionized labor disputes & lockouts, you must be unemployed for 7 consecutive weeks & qualify for state unemployment benefits before benefits begin. A daily benefit is paid for each day of loss over 30 days for unemployment in NY & PA, and disability in CA, CT, GA, NY, MI, PA, RI & SC. You may cancel this coverage at any time. If canceled within the first 30 days of coverage, all premiums will be refunded.

Exclusions: Life: suicide in the first 6 months of coverage (not MD & MO). Involuntary Unemployment: retirement, resignation, voluntary forfeiture of income or job loss due to willful or criminal misconduct, disability, strikes in IL, military discharge in NY & normal seasonal unemployment in TX. Disability: normal pregnancy or childbirth (not CA, MA & NV). Intentionally self-inflicted injuries (not MD), or a pre-existing medical condition during first 6 months of coverage (not NJ). Family leave benefits are not paid if you are eligible for or receiving unemployment benefits or are disabled.

This is only a brief description of coverage, and coverages vary by state. Please refer to your certificates for a full explanation of coverage.

Costs per \$100 per Month of Average Daily Balance:

Costs apply to Life (L), Disability (D), Unemployment (U) & Family Leave (F): AL 54.5c; AK 78c; AZ 99.9c; AR 99c; CA 89.9c; CO 50.6c; CT 42.89c; DE 99.9c; DC 99.9c; FL 89c; GA 90.8c; HI 89.91c; ID 99.5c; IL 8.6c; D 16.9c; U 54c; F 20c; IL 80.97c; IN 96c; IA 97.7c; D 16.6c; U 54c; F 20c; KS 85.47c; KY 97.4c; LA 99.93c; ME 53.05c; MD 79.74c; MA 15.7c; MI 85.7c; MN 31.47c; MS 92.5c; MO 61.1c; MT 93.9c; NE 95.8c; NV 99.87c; NH 95c; NJ 97c; NM 58.9c; NY 52.5c (IL 8.8c; D 26.8c; U 16.9c); NC 71.3c; ND 94.97c; OH 99.9c; OK 97.47c; OR 80.8c; PA 38.1c; PR 99c; RI 99.98c; SC 78.8c; SD 99.9c; TN 92.5c; TX 33.7c (IL 4.8c; D 12.9c; U 16c); UT 90.44c; VT 34.92c (IL 6.68c; D 12.24c; F 16c); VA 84c (L 6.1c; D 8.9c; U 49c; F 20c); WA 89.39c; WV 99.5c; WI 93.6c (IL 5.7c; D 8.9c; U 59c; F 20c); WY 99.7c.

Availability: Involuntary Unemployment is not available in MA or VT. Family Leave is not available in AL, CT, MA, MD, MN, NM, NY, PA, or TX.

Underwriting Companies/Policy: Involuntary

Unemployment: American Security/LOI (9/85), LOI NY (3/93), AS/LOI TX (11/99), LOIC/IP-KSI (2/96), LOIC/IP-CRS-ME (5/85) and LOIC-IP; Standard Guaranty/SG LOI (5/85) (NH only). Life & Disability: Union Security Life/L-1-Z, L-S-G in AL, AZ, AR, DE, DC, ID, IL, IA, KS, LA, MD, MN, MS, NV, ND, OH, OK, RI, SD, VT, WA, WV & WY; Standard Guaranty Life (TX only)/L-1-Z (8/92)(3.53RA); First Fortis Life (NY Life only)/NYLM0013, American Security (NY Disability only)/W-S-A, Fortis Insurance (ME only)/U-X-A, Family Leave: American Security/FLP (4/97), FLP-FLI (1/297) in FL, FLP-NC (3/98) in NC, FLP-OK (4/97) in OK, FLP-VA (2/98) in VA, FL-IP(AZ) (7/98) in AZ, FL-IP(4/97) in IL & IN, FL-IP-KS (1/297) in KS, FL-IP-ME (4/99) in ME, FL-IP-WY (4/97) in WY; Standard Guaranty/FLP (4/97) in NH; Union Security Life/FLP-VT(4/97) in VT; Soliciting agents for Mississippi and Florida are Charles M. Gordon and Pamela Curtis, respectively.

The creditor may receive compensation in connection with this offer.

It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

*Less past due and over credit limit amounts. In MI, coverage pays 5% of the balance on your date of disability up to \$1250. In OR, coverage pays the greater of 1/36th of the balance or the current minimum payment due on your date of loss. In NY & PA, coverage pays the minimum payment due on your date of loss. In TX, coverage pays the greater of 6% of your insured outstanding balance on your date of unemployment or your minimum monthly payment.

**The number of monthly benefit payments will not exceed 9 for family leave; 12 for unemployment in AL, AK, CT, IL, MI, MN, MO, NM, NC, NY, PA, SC & TX; 12 for disability in AK, CO, CT, FL, KY, MA, MO, MT, NE, NH, NM, NC, OR, SC, UT & VA.

NY, NJ & TX Residents Only: To purchase coverages separately, write to Assurant Group, P.O. Box 50355, Atlanta, GA 30302. Applications will be sent to you.

LAW OFFICES
WOLPOFF & ABRAMSON, L.L.P.
*ATTORNEYS IN THE PRACTICE
OF DEBT COLLECTION*
4660 TRINDLE ROAD
THIRD FLOOR
CAMP HILL, PA 17011
717-303-6700

EXHIBIT "B"

**IN THE
NATIONAL ARBITRATION FORUM
CLAIM**

MBNA America Bank, N.A.
c/o Wolpoff & Abramson, L.L.P.
Attorneys in the Practice of Debt Collection
Two Irvington Centre
702 King Farm Blvd.
Rockville, MD 20850

RE:
Forum File Number: FA0502000419141
Claimant File Number: 0134262122
Account No.: 4500660011535026
Card member Agreement Type: QUANTUM

CLAIMANT,

Anthony W Thomas
2419 Clrfld Gln Rchy Hwy
Glen Richey PA 16837

RESPONDENT(S),

For a Claim against Respondent(s), Claimant states:

1. By way of contract and use of the credit account at issue, Respondent(s) became bound by the terms of a credit agreement (hereinafter the "Agreement"), which is attached hereto and incorporated herein by reference.
2. Respondent(s) is/are in default under the terms of the Agreement and is/are now indebted to Claimant in the amount of \$6348.20, as reflected in the attached account summary, plus interest of \$45.92 as of the date of filing, and at 6.00% thereafter.
3. Despite repeated demands for payment, Respondent(s) has/have not paid the amounts due.
4. Claimant requests an Award for the amounts reflected in Paragraph 2, plus all arbitration fees incurred, Process of Service fees and Attorney Fees of \$952.23, if allowed by law, equaling 15% of the outstanding principal balance.
5. The attached Agreement contains a Delaware choice of law provision and a provision for "reasonable" attorney fees. Delaware law specifically provides that an attorney fee may be awarded in an amount up to 20% on an unpaid claim if allowed by law. See, 10 Del. Code Sec. 3912 (Pleading & Practice).
6. The attached Agreement contains a mandatory arbitration provision under the Rules of the National Arbitration Forum ("NAF").

The undersigned counsel for Claimant asserts, under penalty of perjury, that the information contained in this Claim and the supporting documents attached hereto are accurate based upon information provided by Claimant to the undersigned counsel.

WOLPOFF & ABRAMSON, L.L.P.
Attorneys in the Practice of Debt Collection

By:


 Bruce H. Cherkis, Esq.
 ADMITTED: (MD, DC, PA)

Counsel for the Claimant

If Respondent or counsel wishes to contact Claimant, please call or write:

Paralegal Department
 Wolpoff & Abramson, L.L.P.
 Two Irvington Centre
 702 King Farm Blvd., 5th Floor
 Rockville, MD 20850
 1-800-830-2793

11842

SUMMARY OF ACCOUNT INFORMATION

ACCOUNT STATUS REPORT

Date Filed: 02/11/2005

Account Number: 4500660011535026

Cardmember Agreement: QUANTUM

Primary Account Holder: ANTHONY W THOMAS

Address: 2419 Clrfld Gln Rchy Hwy

Glen Richey, PA 16837

Home Phone:

Work Phone:

Social Security Number: 184425726

Secondary Account Holder:

Address:

Home Phone:

Work Phone:

Principal Balance: \$6348.20

Interest Rate: 6%

Date Assigned: 12/28/2004

INFORMATION DRAWN FROM ACCOUNT RECORDS AND CURRENT AS OF THE DATE FILED

NOTICE OF ARBITRATION

Dear Respondent,

AN ARBITRATION CLAIM HAS BEEN FILED AGAINST YOU.

Enclosed and served upon you is the Initial Claim. You may obtain a copy of the Code of Procedure, without cost, from the Claimant or from the Forum at WWW.ARBITRATION-FORUM.COM or 800/474-2371.

IF YOU DO NOT SERVE THE CLAIMANT AND FILE WITH THE FORUM A WRITTEN RESPONSE, AN AWARD MAY BE ENTERED AGAINST YOU. AN ARBITRATION AWARD MAY BE ENFORCED IN COURT AS A CIVIL JUDGMENT.

YOU HAVE THIRTY (30) DAYS TO RESPOND FROM RECEIPT OF SERVICE.

You have a number of options at this time. You may:

1. *Submit a written Response to the Claim*, stating your reply and defenses to the Claim, together with documents supporting your position. Your Response must be served on the Claimant and filed with the Forum. Read Forum Code of Procedure Rule 13. A Counter Claim, Cross-claim or Third Party Claim may also be served and filed, and accompanied by the fee as provided in the Fee Schedule. Forms for such Response and Claims may be obtained from the Forum. If you fail to respond in writing to the Claim, an Award may be entered against you and in favor of the Claimant and you will lose your case.
2. *Demand a Document Hearing or a Participatory Hearing*. You may request a Hearing in your Response or in a separate writing. Unless you have agreed otherwise, an In-person Participatory Hearing will be held in the Judicial District where you reside or do business. You may also request a hearing on-line or by telephone. Your written Request for a Hearing must be filed with the Forum. You must also serve a copy of your Request on the Claimant and any other Parties. Read Forum Code of Procedure Rules 25 and 26.
3. *Have other options*. You may seek the advice of an attorney or any person who may assist you regarding this arbitration. You should seek this advice promptly so that your Response can be served and filed within the time required by the Code of Procedure. If you have any questions or need help in responding, you may contact the Forum.

The Forum is an independent and impartial arbitration organization, which does not give legal advice or represent parties. **THIS SUMMARY IS NOT A SUBSTITUTE FOR READING AND UNDERSTANDING THE CODE OF PROCEDURE WHICH GOVERNS THIS ARBITRATION.**

The Forum
P.O. Box 50191
Minneapolis USA 55405-0191
(651) 631-1105 (800) 474-2371
info@arb-forum.com
ARBITRATION-FORUM.COM

LAW OFFICES
WOLPOFF & ABRAMSON, L.L.P.
*ATTORNEYS IN THE PRACTICE
OF DEBT COLLECTION*
4660 TRINDE ROAD
THIRD FLOOR
CAMP HILL, PA 17011
717-303-6700

EXHIBIT "C"



NATIONAL
ARBITRATION
FORUM®

May 16, 2005

Anthony W Thomas
2419 Clrfld Gln Rchy Hwy
Glen Richey, PA 16837

MBNA America Bank, N.A.
c/o Wolpoff & Abramson, L.L.P.
Ronald M. Abramson, Esq.
Attorneys in the Practice of Debt Collection
702 King Farm Blvd.
Two Irvington Centre
Rockville, MD 20850-5775

RE: MBNA America Bank, N.A. v Anthony W Thomas
File Number: FA0502000419141
Claimant Reference Number: 0134262122

Dear Parties:

Enclosed and served upon you by United States Mail is a copy of the **Award**, which has been entered in this matter.

This case is now closed with the National Arbitration Forum. All future inquiries regarding this case should be directed to the opposing Party.

Sincerely,

Laura Johnson
Case Coordinator
Enclosure



NATIONAL
ARBITRATION
FORUM®

MBNA America Bank, N.A.
c/o Wolpoff & Abramson, L.L.P.
Attorneys in the Practice of Debt Collection
702 King Farm Blvd, Two Irvington Centre
Rockville, MD 20850-5775

CLAIMANT(s),

AWARD
RE: MBNA America Bank, N.A. v Anthony W Thomas
File Number: FA0502000419141
Claimant File Number: 4500660011535026

Anthony W Thomas
2419 Cirfld Gln Rchy Hwy
Glen Richey, PA 16837

RESPONDENT(s).

The undersigned Arbitrator in this case FINDS:

1. That no known conflict of interest exists.
2. That on or before 02/10/2005 the Parties entered into an agreement providing that this matter shall be resolved through binding arbitration in accordance with the Forum Code of Procedure.
3. That the Claimant has filed a Claim with the Forum and served it on the Respondent in accordance with Rule 6.
4. That the Respondent has filed a Response with the Forum and served it on the Claimant.
5. That the matter has proceeded in accord with the applicable Forum Code of Procedure.
6. The Parties have had the opportunity to present all evidence and information to the Arbitrator.
7. That the Arbitrator has reviewed all evidence and information submitted in this case.
8. That the information and evidence submitted supports the issuance of an Award as stated.

Therefore, the Arbitrator ISSUES:

An Award in favor of the Claimant, for a total amount of \$7,859.23.

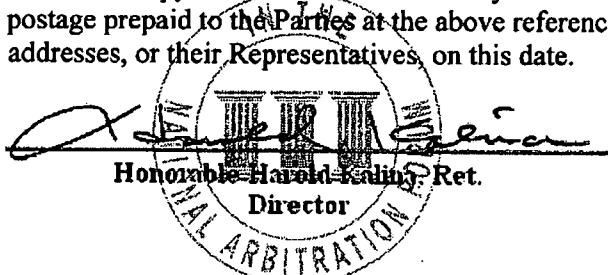
Entered in the State of Pennsylvania


Honorable Jack M. Marden
Arbitrator

Date: 05/16/2005

**ACKNOWLEDGEMENT AND CERTIFICATE
OF SERVICE**

This Award was duly entered and the Forum hereby certifies that a copy of this Award was sent by first class mail postage prepaid to the Parties at the above referenced addresses, or their Representatives, on this date.



Maz
Mazzei & Associates

Main Office:
 Professional Office Building
 432 Boulevard of the Allies
 Pittsburgh, PA 15219
 Phone: 412.765.3606
 Fax: 412.765.1917
 Please send all correspondence
 to our Main Office.



Pennsylvania Office Locations:

Altoona
 814-949-2370

Beaver
 724-773-8003

Belle Vernon
 724-929-8004

Clarion
 814-226-6717

Clearfield
 814-768-7434

Coudersport
 814-274-8505

Erie
 814-860-3040

Greensburg
 724-836-0360

Johnstown
 814-539-6619

Meadville
 814-337-7377

New Castle
 724-656-8007

Tarentum
 724-226-4174

Uniontown
 724-434-5595

Warren
 814-723-4370

Washington
 724-228-0995

Williamsport
 570-321-0113



FACSIMILE TRANSMISSION

05-1627-CD

DELIVER TO: THE HONORABLE FREDRIC J. AMMERMAN

COMPANY: CLEARFIELD COUNTY COURTHOUSE

FAX NO.: (814) 765-7649 DATE: November 4, 2005

SENDER: Mazzei & Associates/Philip Kugel

NO. OF PAGES: 2 (Including Cover)

MESSAGE:

ANTHONY W. THOMAS -CH. 7 BANKRUPTCY NO. 05-72565

PLEASE KINDLY PROCESS IN YOUR NORMAL FASHION AND CEASE
 JUDGMENT FOR MBNA V. ANTHONY W. THOMAS. DOC # 05-
 1627-CD

THANK YOU.

*****CONFIDENTIALITY NOTICE*****

The document(s) accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange return of the original document(s).

*On Schedule - Nov 18th
 FILED*

NOV 10 2005

o/ 3:40 (m)

William A. Shaw

Prothonotary

FILER OF F. B. I.

United States Bankruptcy Court
Western District of Pennsylvania

Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 13 of the United States Bankruptcy Code, entered on 10/08/2005 at 4:17 PM and filed on 10/08/2005.

Anthony W. Thomas
2419 Clearfield Glen Richey Hwy.
Glen Richey, PA 16837
SSN: xxx-xx-5726
dba
Thomas Enterprises



The case was filed by the debtor's attorney: The bankruptcy trustee is:

Jason J. Mazzei
Mazzei & Associates
Professional Office Building
432 Blvd. of the Allies
Pittsburgh, PA 15219
412-765-3606

Ronda J. Winnecour
Suite 3250, USX Tower
600 Grant Street
Pittsburgh, PA 15219
412-471-5566

The case was assigned case number 05-72565 to Judge Judith K. Fitzgerald.

The filing of a bankruptcy case automatically stays certain actions against the debtor and the debtor's property. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <https://ecf.pawb.uscourts.gov> or at the Clerk's Office, U.S. Bankruptcy Court, 5414 U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Theodore S.
Hopkins
Clerk, U.S.
Bankruptcy Court**

PACER Service Center

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100917
NO: 05-1627-CD
SERVICE # 1 OF 1
PETITION/CONFIRM ARBITRATION

AWARD;RULE;MEMORANDUM

PLAINTIFF: MNBA AMERICA BANK, N.A.
VS.
DEFENDANT: ANTHONY W. THOMAS

SHERIFF RETURN

NOW, November 04, 2005 AT 12:33 PM SERVED THE WITHIN PETITION/CONFIRM ARBITRATION
AWARD;RULE;MEMORANDUM ON ANTHONY W. THOMAS DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2nd ST.,
SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ANTHONY W. THOMAS,
DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL PETITION/CONFIRM ARBITRATION
AWARD;RULE;MEMORANDUM AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: SNYDER /

FILED

NOV 23 2005

6/3/06

William A. Shaw

Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WOLPOFF	1547	10.00
SHERIFF HAWKINS	WOLPOFF	1547	32.95

Sworn to Before Me This

So Answers,

____ Day of _____ 2005

Chester A. Hawkins
Chester A. Hawkins
Sheriff

Keep in file

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MBNA AMERICA BANK, N.A.
Plaintiff

NO. 05-1627-CJ

vs.

CIVIL ACTION - LAW

ANTHONY W. THOMAS
Defendant

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
PETITION TO CONFIRM ARBITRATION AWARD**

AND NOW, TO WIT, comes the Petitioner/Plaintiff, MBNA AMERICA BANK, N.A., by and through its attorneys and the law firm of Wolpoff & Abramson, LLP, and files the following Memorandum of Law in Support of Petition to Confirm Arbitration Award, and in support thereof avers as follows:

I. **STATEMENT OF FACTS:**

Defendant(s), ANTHONY W. THOMAS, was/were issued an open end credit card account by Plaintiff. Defendant(s) has/have been at all relevant times material hereto a regular user(s) of this credit card for the purchase of products, goods and/or for obtaining services. Defendant(s) has/have been provided with copies of the Statements of Account accurately showing all debits and credits for transactions on the this credit card account; Defendant(s) never objected to the above mentioned Statements of Account submitted by Plaintiff to Defendant(s) which detailed the products and services purchased using this account.

In the event of a breach for nonpayment, pursuant to page 9 of the Credit Card Agreement, the parties agreed that this matter would be referred to the National Arbitration Forum (hereinafter NAF) to effectuate collection. This matter was referred to the NAF for determination and disposition; the NAF entered an Arbitration Award against the Defendant(s) in

RECEIVED

OCT 20 2005

COURT ADMINISTRATOR'S
OFFICE

favor of the Plaintiff in the amount of Seven Thousand Eight Hundred Fifty-Nine Dollars and Twenty-Three Cents (\$7,859.23).

II. ISSUE PRESENTED:

Whether, pursuant to 42 Pa.C.S. §7313 of the Uniform Arbitration Act, should this Honorable Court confirm the Arbitration Award entered by the (NAF) against the Defendant(s) and in favor of the Plaintiff.

III. ARGUMENT:

Contracts containing clauses providing for settlement of disputes arising thereunder by arbitration are valid, and irrevocable except on such grounds as exist at law or in equity for the revocation of any contract. General State Authority, to Use of Dunzik, v. John McShain, Inc., 25 A.2d 572, 573 (Pa. Super. 1942); 42 Pa.C.S.A. §7303. When parties agree to arbitration in a clear and unmistakable manner, Courts make every reasonable effort to favor such agreements. Emmaus Municipal Authority v. Eltz, 204 A.2d 926, 927 (Pa. 1964).

The Federal Uniform Arbitration Act was drafted by the National Conference of Commissioners on Uniform State Laws and was approved for use by the American Bar Association in 1955. Pennsylvania codified the Uniform Arbitration Act (hereinafter UAA); 42 Pa.C.S.A. §§7301-7320 in 1982. The purpose of the UAA is to promote resolution of disputes in a nonjudicial forum while still providing for the Court's role in compelling or staying Arbitration proceedings when requested. Chester Upland School Dist. v. McLaughlin, 655 A.2d 621, (Pa. Cmwlth. 1995), appeal granted 665 A.2d 471, 542 Pa. 637, affirmed 675 A.2d 1211.

Further, while a party can waive their right to arbitration, the question of the timeliness of a demand for arbitration is not one of interpretation of the agreement and not one of the existence of scope of the arbitration provision; it is thus outside the bounds of judicial review and its resolution must be left to arbitration. Highmark Inc. v. Hospital Service Association of Northeastern Pennsylvania, 785 A.2d 93 (Pa. Super. 2001), reargument denied, appeal denied,

797 A.2d 914. Here, the account issued to Defendant by Plaintiff was governed by the aforementioned card member agreement, which contained an Arbitration clause. By virtue of Defendant's use and maintenance of the subject account, Defendant became bound by all terms of the account, including the agreement to arbitrate.

The Federal Arbitration Act, which governs the aforementioned Arbitration proceeding conducted by the NAF, does not require that an agreement to arbitrate be signed; See 9 U.S.C., Section 2; see also Bouriez v. Carnegie Mellon, 359 F.3d 292 (parties may be compelled to arbitrate if common law principles of agency and contract support such an obligation and that a person may be equitably stopped from challenging an agreement that includes an arbitration clause when that person embraces the agreement and directly benefits from it). By way of further response, where the offered silently takes offered benefits, courts will often find an acceptance. Further, this is especially true if prior dealings between the parties, or trade practices known to both, create a commercially reasonable expectation by the offeror that silence represents an acceptance, and in such a case, the offeree is under a duty to notify the offeror if she does not intend to accept. A written agreement to subject any existing controversy to arbitration or a provision in a written agreement to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist in law or in equity relating to the validity, enforceability or revocation of any contract. 42 Pa.C.S.A. §7303..

As outlined in Plaintiff's Petition, pursuant to the Credit Card Agreement Additional Terms and Conditions, which Defendant received during the time period in which Plaintiff issued Defendant the subject open end credit card account, the parties agreed that this matter was be referred to the National Arbitration Forum for Arbitration in the event of any claim and/or

dispute arose if the account is referred to collection. By using the subject credit card to purchase products and services, Defendant agreed to these terms.

Pursuant to 42 Pa.C.S.A. §7314, pertaining to vacating an Arbitration award by the Court, a motion to vacate shall be made within thirty (30) days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud, misconduct or other improper means, it shall be made within thirty (30) days after such grounds are known or should have been known to the applicant. 42 Pa.C.S.A. §7314(b). No such relief has been requested by Defendant within the applicable time limits in this matter.

Except as otherwise prescribed by general rules, 42 Pa.C.S.A. 7319(2) provides that the application to a Court under this subchapter shall be made to the Court in the county where the adverse party resides. 42 Pa.C.S.A. 7319(2). Upon the granting of an Order of Court confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the Order, and the judgment or decree may be enforced as any other judgment or decree. 42 Pa.C.S.A. §7316. On an application of a party, the Court shall confirm an award, unless within the time limits imposed under section 7313, grounds are urged for vacating, modifying or correcting the award, in which case the Court shall proceed as provided in section 7314 (relating to vacating award by Court) or section 7315 (relating to modification or correction of award by Court. 42 Pa.C.S.A. §7313. The meaning of this section is that the Court is to confirm an Arbitration award if it has become final, i.e., unless, within a thirty (30) day appeal period, someone has presented the Court with grounds for setting the award aside. Atlantic Richfield Co. v. Atlantic Independent Union, 537 F. Supp. 371.(E.D.Pa. 1982). Further, the fact that the relief awarded by the arbitrators was such that it could not or would not be granted by a Court of law or equity is not a ground for vacating or refusing to confirm the award. 42 Pa.C.S.A. §7314(a)(2); Racicot v. Erie Ins. Exchange, 837 A.2d 496, 500 (Pa. Super. 2003).

IV. CONCLUSION

Here, none of the applicable exceptions to avoiding this NAF arbitration award exist. Both Plaintiff and Defendant(s) entered into an open-ended credit agreement which contained a valid arbitration clause. When Defendant(s) breached this agreement through nonpayment Plaintiff exercised its contractual right to arbitrate its claim through the NAF. After receiving appropriate notice of arbitration, Defendant(s) was/were afforded a full and fair hearing on the merits. Following the NAF arbitrator's finding in favor of Plaintiff, Defendant(s) had the opportunity to challenge Plaintiff's award; Defendant(s) did not do so. Therefore, in light of the foregoing, there is no basis to disturb the arbitrator's finding, and Plaintiff respectfully requests that this Honorable Court grant the relief requested in Plaintiff's Petition to Confirm its Arbitration Award.

Respectfully submitted,



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