

Phoenix Acts vs Angel Rosario
2006-977-CD

06-977-CD
Phoenix Acts vs Angel D. Rosario

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA CIVIL
DIVISION

PHOENIX ACTS RECEIVABLE III-LLC,

Plaintiff,

vs.

ANGEL D ROSARIO,

Defendant.

No. **06-977-CD**

COMPLAINT

FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

William T. Molczan, Esquire
PA I.D. #47437
WELTMAN, WEINBERG & REIS CO.,
L.P.A.
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

FILED PD #85.00 A14
m/3:45 Lm 2a Shift
JUN 19 2008 Lm

William A. Shaw
Honorable

WWR No. 04426622

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PHOENIX ACTS RECEIVABLE III-LLC

Plaintiff

vs.

Civil Action No.

ANGEL D ROSARIO

Defendant

COMPLAINT IN CIVIL ACTION AND NOTICE TO DEFEND

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 twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims 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

Court Administrator
Clearfield County Courthouse
230 East Market St., Suite 228
Clearfield, Pa 16830
(814) 765-2641, Ext. 1300-1301

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA CIVIL
DIVISION

PHOENIX ACTS RECEIVABLE III-LLC,

Plaintiff,

vs.

ANGEL D ROSARIO,

Defendant.

No.

COMPLAINT

1. Plaintiff, PHOENIX ACTS RECEIVABLE III-LLC, is a corporation located in Wilmington, Delaware.

2. Defendant is an adult individual with a last known address of 246 E North St , Bethlehem,Pa 18018 .

3. Plaintiff and Defendant entered into a Cardmember Agreement for a credit card bearing the account number 4800137192000796 . A true and correct copy of the Cardmember Agreement is attached hereto, marked as Exhibit "1" and made a part hereof.

4. This account was subsequently assigned to Plaintiff for value.

5. The Cardholder Agreement contains a provision to settle by arbitration any claim, dispute or controversy arising from or relating in any way to the Cardholder Agreement.

6. Defendant made use of said credit card and has currently a balance due and owing to Plaintiff, as of May 22, 2006, in the amount of \$3,882.57 .

7. Defendant is in default of the terms of the cardholder Agreement having not made monthly payments to Plaintiff thereby rendering the entire balance immediately due and payable.

8. Plaintiff avers that the Cardholder Agreement between the parties provides that Plaintiff is entitled to the addition of finance charges at the rate of 6.0% per annum on the unpaid balance.

9. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the principal balance, finance charges or any part thereof to Plaintiff.

WHEREFORE, Plaintiff demands Judgment in its favor and against Defendant, Angel D Rosario individually, in the amount of \$3,882.57 with continuing finance charges thereon at the rate of 6.0% per annum from date of judgment plus costs; or in the alternative, an order directing the parties to arbitrate this dispute pursuant to the terms contained in the Cardholder Agreement.

Respectfully Submitted:

By: 

William T. Molczan, Esquire
PA I.D. #47437

WELTMAN, WEINBERG & REIS CO., L.P.A.
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

1700 NW 1004000000 P. 02

Credit Card Agreement

General

In this Credit Card Agreement, the words "you" and "your" refer to each and all of the persons who accept a credit card issued by us or under an account we hold. This Credit Card Agreement (the "Agreement") consists of this document and the terms and conditions set forth in the Required Federal Disclosures section of the accompanying card carrier, which is incorporated herein and made a part hereof. The words, "we," "us," "our" and "MBNA America" mean MBNA America Bank, N.A.

When you accept or use the account, you agree to the terms in this Agreement. You should sign your card before you use it.

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.

All capitalized terms not defined herein shall have the meaning as defined in the Required Federal Disclosures section of your card carrier.

Information Gathering and Sharing

From time to time, we may obtain updated information about you including, for example, credit information. We may share information about you with credit reporting agencies and others, including merchants, and among companies affiliated with us. You may request that information about you not be shared among our affiliates, other than information pertaining solely to transactions or experiences between you and us (or an MBNA America affiliate), by writing us at MBNA, Affiliate Information Sharing, P.O. Box 15342, Wilmington, DE 19850-5342. Please include your name, address, home phone number and all MBNA America account numbers.

If you believe that inaccurate or incomplete information about you or your account has been shared by us with a credit reporting agency, write to 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 which information you believe is inaccurate or incomplete.

EXHIBIT

A

How To Use Your Account

You may use your credit card to purchase or lease goods or services from persons who honor the card. You may also use your card to obtain Cash Advances. You may not use a Check Cash Advance, or any other Cash Advance, to make a payment on this or any other credit account with us. You may not use your account for business or commercial purposes.

Certain establishments may cash your personal checks upon presentation of your card. In the event we are required to pay the amount of a check cashed in this way because the check is not paid for any reason, we will charge your account for a Cash Advance in the amount of the check and any processing charge we actually incur.

If you permit any person to have access to your card or account number with the authorization to make a charge, you may be liable for all charges made by that person including charges for which you may not have intended to be liable.

The transaction date for Check Cash Advances and Balance Transfers is the date you or the person to whom the check is made payable first deposits or cashes the check. The transaction date for a returned payment (a Bank Cash Advance) is the date that the corresponding payment posted to your account.

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

You may not use a postdated Check Cash Advance to obtain credit under your account. If you do postdate a Check Cash Advance, we may elect to honor it upon presentation or return it unpaid to the party which presented it to us for payment, without in either case awaiting the date shown on the Check Cash Advance. We are not liable to you for any loss or expense incurred by you arising out of the action we elect to take.

Repayment

You promise to pay us the amounts of all credit you obtain; this includes all purchases, cash advances, fees,

your account and Finance Charges.

You may pay the entire amount outstanding at any time. You must pay each month at least the minimum payment shown on your monthly statement. If you overpay or if a credit balance is otherwise created in your account, we will not pay interest on such amounts. Your payment will be allocated in a 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 a lower rate of interest being paid before any other existing balances. All payments will be credited to your account for the billing cycle in which each payment is received; however, your available credit may not be increased by the amount of the payment until your funds have cleared. Minimum monthly payments cannot be made in advance and payments made in any billing cycle which are greater than the minimum payment due will not affect your obligation to make subsequent minimum payments each month. We can reject payments not denominated in U.S. dollars or not drawn on a U.S. Bank. No payment shall operate as an accord and satisfaction without the prior written approval of a senior officer of MBNA America.

All persons who initially or subsequently request, accept or use the account are individually and together responsible for any outstanding balance. If two or more persons are responsible to pay any outstanding balance, we may refuse to release any of them from liability until all of the unexpired cards outstanding under the account have been returned to us and the balance is paid in full.

Reasons for Requiring Immediate Payment

You will be in default and we can require immediate payment of all amounts you owe if: (1) you fail to make any required payment by the Payment Due Date; (2) your New Balance Total exceeds your credit limit, or if we have established a separate Cash Advance credit limit for you, your outstanding Cash Advance balance exceeds your Cash Advance credit limit; or (3) you fail to abide by any other terms of this Agreement.

If you default, unless prohibited by applicable law, we

can also require you to pay the collection and court costs we incur in any collection proceeding, and a reasonable attorney's fee if we refer your account for collection to an attorney who is not our salaried employee.

Our failure to exercise any of our rights when you default does not mean that we are unable to exercise those rights upon later default.

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 credit insurance premiums, if any, will accrue on your balance in accordance with this Agreement. The requirement that you make a minimum payment each month will resume following your payment holiday.

Charges Made In Foreign Currencies

If you incur a charge in a foreign currency, the charge 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 or 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 either (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

A billing cycle begins on the day after the closing date shown on your account's preceding monthly statement and ends on the closing date that appears on your account's statement for the current month.

Account Fees and Charges

Account Fees: The following fees, which are set forth on your card carrier, are assessed as Purchases in the billing cycle in which such charges accrue: (1) a Late Fee; (2) if your account is overlimit (even if fees or

Finance Charges assessed by us cause your New Balance Total to exceed your credit limit) on the last day of a billing cycle, an Overlimit Fee is charged to your account as of the day in the billing cycle that your account went over the 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 presentment; (4) a Returned Check Fee if we return a Check Cash Advance unpaid for any reason, even if the Check Cash Advance is paid upon subsequent presentment; (5) if your account is open or if you maintain an account balance, whether you have active charging privileges or not, an Annual Fee.

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.

Additional Account Fees and Charges: Please review the Required Federal Disclosures section of your card carrier for additional fees and charges that may apply to your account.

Benefits

You will be offered certain benefits which will be subject to the restrictions outlined in the benefits brochure provided to you by MBNA America. MBNA America reserves the right to adjust, add, or delete benefits and services at any time and without notice.

Refusal to Honor Your Card

We are not liable for any refusal to honor your card or any Cash Advance or for any retention of your card by us, any other bank, or any seller or lessor of goods or services.

Termination

We may suspend or terminate your right to obtain credit at any time for any reason. Your obligations under this Agreement continue even after your right to obtain credit has been suspended or terminated. You must return all credit cards to us on request.

Amendments

We may amend this Agreement at any time by adding,

deleting, or changing provisions in compliance with the applicable notification requirements of federal law and the laws of the State of Delaware. 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 entire unpaid balance, including the balance existing before the amendment became effective. We may replace your credit card with another card at any time.

Assignment

We may at any time, and without notice to you, assign 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 assignment shall be entitled to all of our rights and/or obligations under this Agreement, to the extent assigned.

Credit Limit

Your credit limit is shown on your card carrier and generally on each monthly statement. We may change your credit limit or limits from time to time, and we will notify you if we do. The total amount of credit outstanding at any time must not be more than your credit limit. We may also establish a separate credit limit for Cash Advances. If we do, your outstanding Cash Advance balance may not exceed this Cash Advance limit.

Request for Credit Over Your Credit Limits

If you request credit in any form which, if granted, would result in either your total outstanding balance or your Cash Advance balance, including authorized transactions not yet posted to your account, being more than your credit limit or your Cash Advance credit limit, if we have established one for you, (whether or not such balances before the request were more than the respective credit limit), we may: (1) honor the request without permanently raising your credit limit; (2) honor the request and treat the amount which is more than your credit limit

as immediately due; or (3) refuse to honor the request. We may advise the person who made the request that it has been refused. If we refuse to honor 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 honored requests for credit over your credit limit, it does not mean that we will honor further overlimit requests. If we decide to honor such a request, we may assess 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.

Governing Law

This Agreement is made in Delaware. It is governed by the laws of the State of Delaware, without regard to its conflict of laws principles, and by any applicable federal laws.

If any part of this Agreement is found to be invalid, the rest remains effective. 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.

Litigation

The Arbitration provisions below apply to you unless you were given the opportunity to reject the Arbitration provisions and you did so reject them; in which case, you agree 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.

Arbitration: 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 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.arb-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, administrative and hearing fees which 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 Section applies to all Claims now in existence or that may arise in the future.

This Arbitration 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 Section, "we" and "us" means MBNA America Bank, N.A., its parent, subsidiaries, affiliates, licensees, predecessors, successors, assigns, and 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. Also, for the purposes of this Arbitration Section, "you" or "yours" shall mean any person or entity approved by us to use the Account, including but not limited to all persons or entities contractually obligated on the Account and all authorized users of the account.

If any part of this Arbitration Section is found to be invalid or unenforceable under any law or statute consistent with the FAA, the remainder of this Arbitration 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.

Platinum Plus Coverage Credit Insurance Benefits, Limitations, Costs & Exclusions

Platinum Plus Coverage pays your minimum monthly payment* up to your balance on the date of loss (not to exceed \$15,000), until you return to work** if you are involuntarily unemployed, totally disabled, or if you or your spouse takes covered family leave. Platinum Plus Coverage also pays your insured outstanding balance up to the least of your outstanding balance, your credit limit, or \$15,000 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 unless in TX). When enrolled, 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 hrs/wk (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: Platinum Plus Coverage 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 the first 18 mos. in CA, HI, NJ, TN & WI; 12 mos. in PA); 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 spouse, child, stepchild or parent in AK), mandatory recall to active military duty, jury duty (except in AK), or residence in 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, NY, MI, PA & SC. You may cancel this coverage at any time. If canceled within 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 49.8c; AK 78c; AZ 99c; AR 97.5c; CA 89.9c; CO 52.35c; CT 42.89c; DE 96.97c; DC 95.3c; FL 89c; GA 88c; HI 89.91c; ID 95.2c (L 8.6c, D 12.6c, U 54c, F 20c); IL 80c; IN 96c; IA 95.6c (L 7.2c, D 14.4c, U 54c, F 20c); KS 85.4c; KY 97.4c; LA 89.7c; MD 70.54c; MA 18.4c; MI 85.7c; MN 30.65c; MS 85.2c; MO 61.1c; MT 93.9c; NE 95.8c; NV 95.3c; NH 95c; NJ 97c; NM 58.9c; NY 52.5c (L 8.8c, D 26.8c, U 16.9c); NC 74.3c; ND 94.1c; OH 99c; OK 92.4c; OR 84.7c; PA 28.1c; PR 99c; RI 93.15c; SC 80c; SD 96.89c; TN 92.5c; TX 33.7c (L 5.7c, D 12c, U 16c); UT 91.88c; VT 28.4c (L 5.99c, D 6.41c, F 16c); VA 84c (L 6.1c, U 8.9c, F 20c); WA 84c; WY 95.2c; WI 93.6c (L 5.7c, D 8.9c, U 59c, F 20c); WY 95.5c.

Availability: This coverage is not available in ME. 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 (5/85), LOI NY (3/93), AS LOI TX (6/92), LOIC-IP-KS (2/96), and LOIC-IP; Standard Guaranty/SG LOI (5/85) (NH only). Life & Disability: Union Security Life/L-I-Z; Standard Guaranty Life (TX only)/L-I-Z (8/92)(3.53RA); First Fortis Life (NY Life only)/NYI.M0013; and American Security (NY Disability only)/W-S-A. Family Leave: American Security/FLP (4/97), FLP-FL (12/97) 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 (12/97) in KS, 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.

This product is not an insured deposit account, is not FDIC insured, is not guaranteed by MBNA America Bank, N.A., and is not a condition of obtaining credit.

*Less past due and over credit limit amounts. In MI, coverage pays 5% of the balance on your date of disability up to \$750. In NY, coverage pays the minimum payment due on your date of loss.

**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 except in CA, HI, IN, KS, MI, NJ, NY, PA, TN, TX & WI.

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.

MBNA America Bank, N.A., is the exclusive issuer and administrator of this and other *Platinum Plus* credit card accounts

MBNA America® is a federally registered service mark of MBNA America Bank, N.A.

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NEXT90 (Revised 4/2000)

DISC-58

4/1/00 MBNAULOI (MBNA-L/D/Uncapped LOI/FL)

INFORMATION ABOUT THIS STATEMENT

PAYMENTS

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 this 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 enclosed return envelope with only the top portion of this 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. We will reject payments that are not drawn in U.S. dollars and those drawn on a financial institution located outside of the United States. Credit for any other payments may be delayed up to five days. No payment shall operate as an accord and satisfaction without the prior written approval of one of our Senior Officers.

BILLING RIGHTS SUMMARY

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, please write to us on a separate sheet of paper or use a copy of the form provided below. We must receive your written inquiry at P.O. Box 15026, Wilmington, DE 19850, no later than 60 days after we sent you the first bill on which the transaction or error appeared. You may telephone us, but doing so does not preserve your billing rights. In your letter or on the form, give the following information: your name and account number, the dollar amount of the suspected error, the posting date of the transaction in question, and an explanation of why you believe there is an error (if you are using the form, check the appropriate box).

IMPORTANT INFORMATION ABOUT THIS ACCOUNT

GRACE PERIOD

If you pay this statement's entire New Balance Total by the Payment Due Date, Periodic Rate Finance Charges will not be assessed on Category C or D transactions posted during the next billing cycle. If the Previous Balance shown on this statement was paid in full by its Payment Due Date and you pay this statement's entire New Balance Total by the Payment Due Date shown on this statement, then the Category C or D portion(s) of this statement's New Balance Total will not be assessed Periodic Rate Finance Charges during the next billing cycle. There is no grace period for Category A or B Cash Advances.

COMPUTATION METHODS FOR BALANCES SUBJECT TO FINANCE CHARGES

Categories A and B - Average Cash Advance Balance (including new Cash Advances): We calculate the Balance Subject to Finance Charge for each Cash Advance category using the following Average Cash Advance Balance method: Each day, of the current billing cycle, we take the beginning Cash Advance balance, including accrued but unpaid Finance Charges, add new Cash Advances, and subtract payments or credits. This gives us the daily Cash Advance balance. If any daily balance is less than zero we will treat that balance as zero. We add together the current billing cycle's daily Cash Advance balances. We then include, for each day prior to the current billing cycle, balances on Cash Advances that had a transaction date prior to the current billing cycle but which were posted to your account in the current billing cycle. We divide this total by the number of days in the billing cycle. This gives us the Average Cash Advance Balance (a Balance Subject to Finance Charge).

Categories C and D - Average Daily Balance (including new Purchases): We calculate the Balance Subject to Finance Charge for each of these categories using the following Average Daily Balance method: Each day, we take the beginning balance, including accrued but unpaid Finance Charges, add new transactions and new Account Fees, and subtract payments or credits. This gives us the daily balance. We do not add the costs for either the Credit Protection plan or for credit insurance purchased through MBNA in the beginning balance until the first day of the billing cycle after the billing cycle in which they are billed. We do not add new

If you need more information, describe the item you are unsure about. You do not have to pay any amount in question while we are investigating, but you are obligated to pay the parts of your bill that are not in question. We cannot report you as delinquent or take any action to collect the amount you question while we investigate your inquiry.

If you have authorized us to pay your credit card bill automatically from your savings or checking account with us, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us at least three business days before the automatic payment is scheduled to occur.

Special Rule for Credit Card Purchases

If you have a problem with the quality of goods 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 not have to pay the remaining amount due on the goods or services. You have this protection only when the purchase price was more than \$50 and the purchase was made in your home state or within 100 miles of your mailing address. (If we own or operate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase).

transactions, new Account Fees, or new Cash Equivalent Transaction Fees if the previous Balance shown on this statement was paid in full by its Payment Due Date. If any daily balance is less than zero we will treat that balance as zero. We add the daily balances for the billing cycle together and divide the total by the number of days in the billing cycle. This gives us the Average Daily Balance (a Balance Subject to Finance Charge).

TOTAL PERIODIC RATE FINANCE CHARGE COMPUTATION

Periodic Rate Finance Charges accrue and are compounded on a daily basis. To determine the Periodic Rate Finance Charge for each category, we multiply the Balance Subject to Finance Charge by its applicable Daily Periodic Rate and that result by the number of days in the billing cycle. To determine the total Periodic Rate Finance Charge for the billing cycle, we add the Periodic Rate Finance Charges for each category together. Each Daily Periodic Rate is calculated by dividing its corresponding Annual Percentage Rate by 365.

IF YOUR ANNUAL FEE IS BILLED ON THIS STATEMENT

We will credit your account for the Annual Fee billed on this statement if you close your account by calling us at 1-800-432-2552 (open 24 hours a day) within 30 days of the mailing of this statement. You may continue to use your account during this period; however, if you use or maintain a balance on your account thereafter, you will have to pay an Annual Fee. You must pay the New Balance Total in full by its Payment Due Date for each statement that you may receive after you close this account.

MISCELLANEOUS

For the complete terms and conditions of your account, consult your Credit Card Agreement.

Individualized BankCard Services is a trademark of MBNA America Bank, N.A. This account is issued and administered by MBNA America Bank, N.A.

CUSTOMER STATEMENT OF DISPUTED ITEM (You must use a separate form for each dispute. Please print.)

IF YOU BELIEVE A TRANSACTION ON YOUR STATEMENT IS AN ERROR, COMPLETE AND SIGN A COPY OF THIS FORM USING BLUE OR BLACK INK, OR WRITE A DETAILED LETTER ON A SEPARATE SHEET OF PAPER AND THEN RETURN IT TO: P.O. BOX 15026, WILMINGTON, DE 19850, USA. PLEASE DO NOT ALTER WORDING ON THIS FORM OR MAIL YOUR LETTER OR FORM WITH YOUR PAYMENT.

YOUR NAME: _____

TRANSACTION DATE: _____

POSTING DATE: _____

Please tell us below why you think the item noted above is an error. **Check only one box.**

- ☐ 1. The amount of the charge was increased from \$ _____ to \$ _____ or my sales slip was added incorrectly. Enclosed is my copy of the sales draft that shows the correct amount.
- ☐ 2. I certify that the charge listed above was not made by me or a person authorized by me to use my card, nor were the goods or services represented by the transaction received by me or a person authorized by me. (If you do not recognize a sale, choose this option.)
- ☐ 3. I have not received the merchandise that was to be shipped to me on _____ (date). I have asked the merchant to credit my account.
- ☐ 4. The attached credit slip was listed as a charge on my statement.
- ☐ 5. I was issued a credit slip that was not shown on my statement. A copy of my credit slip is enclosed.
- ☐ 6. Although I did engage in the above transaction, I dispute the entire charge or a portion in the amount of \$ _____. I have contacted the merchant and requested a credit adjustment. I either did not receive this credit or it was unsatisfactory. I am disputing this charge because _____

ACCOUNT NUMBER: _____

REFERENCE NUMBER: _____

AMOUNT: \$ _____

TRANSACTION DESCRIPTION: _____

- ☐ 7. I certify that the charge in question was a single transaction, but was posted twice to my statement. I did not authorize the second transaction.
Sale #1 \$ _____ Reference # _____
Sale #2 \$ _____ Reference # _____
- ☐ 8. I notified the merchant on _____ to cancel the preauthorized order (reservation). Please note cancellation if and if available, enclose a copy of your telephone bill showing date and time of cancellation. Reason for cancellation: _____
- ☐ 9. Although I did engage in a transaction with the merchant, I was billed for _____ transaction(s) totaling \$ _____ that I did not engage in, nor did anyone else authorized to use my card. I do have all my cards in my possession. Enclosed is a copy of my sales slip for the valid charge.
- ☐ 10. Merchandise that was shipped to me has arrived damaged and/or defective. I returned it on _____ (date) and asked the merchant to credit my account.
- ☐ 11. I have returned merchandise on _____ because _____

(If box 10 or 11 was checked, please provide date merchandise was returned and a copy of the return receipt.)

☐ 12. Other. Please explain. _____

Please check only one box, do not alter wording on this form, and provide copies of all documentation that will help us investigate your dispute. (i.e. contracts, invoices, detailed letter, sales draft)

Signature (required): _____

Telephone #: _____

Home: _____

Date: _____

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is Chris Brachman IV

(NAME)

Pres of Phoenix, plaintiff herein, that

(TITLE)

(COMPANY)

he/she is duly authorized to make this verification, and that the facts set forth in the foregoing Complaint are true and correct to the best of his/her knowledge, information and belief.



(SIGNATURE)

This law firm is a debt collector attempting to collect this debt for our client and any information obtained will be used for that purpose.

WWR#04426622

RECEIVED
MAY 26 2006
MANN BRACKEN, LLC

FILED

JUN 19 2006

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PHOENIX ACTS RCVBL III-LLC

Plaintiff

No. 06-977-CP

vs.

PRAECIPE TO SETTLE, DISCONTINUE
AND END WITHOUT PREJUDICE TO REFILE

ANGEL D ROSARIO

Defendants

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY.

James C. Warmbrodt
PA I.D #42524
WELTMAN, WEINBERG & REIS CO., L.P.A.
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#04426622

FILED

AUG 22 2006

W/11:30/4

William A. Shaw
Prothonotary/Clerk of Courts

1 SENT TO ATTY

SENT OF DISC TO

ATTY & COPY TO C/H

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PHOENIX ACTS RCVBL III-LLC

Plaintiff

vs.

Civil Action No. 06-977-CP

ANGEL D ROSARIO

Defendants

PRAECIPE TO SETTLE, DISCONTINUE
AND END WITHOUT PREJUDICE TO REFILE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

SIR:

Kindly settle, discontinue and end without prejudice to refile the above-captioned matter upon the records of the Court and mark the costs paid.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 

James C. Warmbrodt

PA I.D. #42524

WELTMAN, WEINBERG & REIS CO., L.P.A.

2718 Koppers Building

436 Seventh Avenue

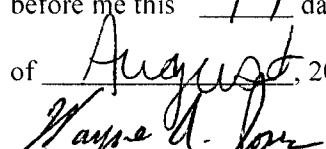
Pittsburgh, PA 15219

(412) 434-7955

SWORN TO AND SUBSCRIBED

before me this 17 day

of August, 2006



NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Wayne A. Jones, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires June 29, 2010
Member, Pennsylvania Association of Notaries

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

CIVIL DIVISION

Phoenix Acts Receivable III-LLC

Vs.

No. 2006-00977-CD

Angel D. Rosario

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 August 22, 2006, marked:

Settle, discontinue and end without prejudice.

Record costs in the sum of \$85.00 have been paid in full by Weltman, Weinberg & Reis, L.P.A..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 22nd day of August A.D. 2006.

William A. Shaw, Prothonotary