

COLLECTOR PAID \$3,000.00
AND WIPED OUT DEBT

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

I. PARTIES

This Settlement Agreement and Mutual Release (hereinafter "Agreement") is entered into by and between [REDACTED] (hereinafter referred to as "PLAINTIFF") on the one hand; and Rushmore Service Center, LLC (hereinafter referred to as "DEFENDANT") on the other hand. PLAINTIFF and DEFENDANT will hereinafter collectively be referred to as "Settling Parties" in this Agreement.

II. RECITALS

WHEREAS, a dispute has arisen between the Settling Parties with respect to collection efforts made by DEFENDANT related to First PREMIER Bank credit card account number ending in 2976.

WHEREAS, on or about October 17, 2016, PLAINTIFF caused to be filed in the Civil Court of the City of New York, County of Queens, Jamaica, New York, a Complaint containing allegations DEFENDANT contacted PLAINTIFF by letter and failed to properly identify the current creditor, in violation of the Fair Debt Collection Practices Act; Index No.: 018897/2016; titled [REDACTED] v. Rushmore Service Center (hereinafter "The Complaint").

WHEREAS, DEFENDANT denies the allegations, denies it is liable to PLAINTIFF, and denies that it damaged PLAINTIFF in any way.

WHEREAS, it is the intent of the Settling Parties to resolve each of their claims against the other.

III. TERMS

WHEREFORE, in consideration of the covenants and agreements expressed herein, and the recitals set forth above, which form a part of, and are incorporated into this Agreement, the Settling Parties agree as follows:

1.0 PAYMENT AND EXECUTION OF RELEASE AND DISMISSAL

1.1 Cash settlement sums are to be paid by DEFENDANT as follows:

The sum of Three Thousand Dollars and No Cents (\$3,000.00) (hereinafter "Settlement Sum") is to be paid to PLAINTIFF by check. Said settlement check constituting payment to PLAINTIFF is to be made payable to [REDACTED] and delivered, within 15 days of DEFENDANT's receipt of an executed agreement from PLAINTIFF, to [REDACTED], to be held and deposited in trust.

1.2 1.3 DEFENDANT will request First PREMIER Bank to clear the balance of PLAINTIFF's First PREMIER Bank account ending in [REDACTED] in the amount of \$ [REDACTED]

1.3 PLAINTIFF will dismiss the Complaint within 15 business days of the receipt of the Settlement Sum.

2.0 **TERMS OF RELEASE**

In consideration of the payments and terms set forth above, and for other valuable consideration contained herein, the Settling Parties agree as follows:

2.1 PLAINTIFF does hereby fully, forever and completely release, acquit and discharge DEFENDANT, and their related entities and their predecessors, successors-in-interest, heirs, as well as past, present and future officers, directors, shareholders, agents, accountants, attorneys, employees, and insurance carriers, and First Premier Bank and PREMIER Bankcard, LLC, from any and all costs, fees, liabilities, and claims of whatever kind and nature, whether known or unknown, suspected or claimed, which relate to and/or arise out of the Complaint, or otherwise relate to the federal Fair Debt Collection Practices Act. It is the intention of the parties for this Settlement and Release to be interpreted in the broadest and most inclusive sense and to encompass all claims or potential claims of the parties without exception unless otherwise enumerated herein.

This Agreement is specifically intended to, and does release, any claim or demand which has been, or could have been, made as of the date of execution of this Agreement. It is not intended to, nor does it release any claim which is inchoate or does not currently exist.

2.2 DEFENDANT does hereby fully, forever and completely release, acquit and discharge PLAINTIFF and her predecessors, successors-in-interest, heirs, spouses and assigns, as well as past, present and future officers, directors, shareholders, agents, accountants, attorneys, employees, independent contractors, insurance carriers, parent and subsidiary organizations from any and all costs, fees, claims, demands, losses, damages, indemnity, costs, attorneys' fees, actions, causes of action, liabilities, and claims of whatever kind and nature, whether known or unknown, suspected or claimed, which concern or relate to the Complaint.

3.0 **NO ADMISSION OF LIABILITY**

In entering into the Agreement, no party herein is admitting the sufficiency of any claims, allegations, assertions, contentions or positions of any other party, nor the sufficiency of the defense to any such claims, allegations, assertions, contentions or positions. This Agreement is executed by the Settling Parties for the sole purpose of compromising and settling the claims in issue related to the Complaint, and it is expressly understood and agreed, as a condition hereof, that this Agreement or its terms of any payment made or to be made hereunder, whether this instrument becomes effective or not, shall not constitute or be construed to be an admission by any party of the truth of any claims or causes of action asserted by any other party to this Agreement. The Settling Parties desire to resolve this dispute in an amicable fashion, and have entered into this Agreement in good faith.

4.0 **GENERAL CONDITIONS**

4.1 **ENTIRE AGREEMENT**: This Agreement constitutes the full and entire Agreement between the Settling Parties hereto with regard to the settlement of the claims alleged in the Complaint and such Settling Parties acknowledge that there is no other agreement, oral and/or written, between the Settling Parties hereto with regard to the settlement.

4.2 **AUTHORITY TO ENTER AGREEMENT**: This Agreement is the result of arms-length negotiations. Each signatory to this Agreement represents and warrants to the others that he, she or it is duly and fully authorized to execute this Agreement on behalf of the party indicated at the signature line, that each signatory is acting pursuant to the power and authority granted by their respective principals, and that no further approvals are required to be obtained from any persons or entities to bind the party to this Agreement.

4.3 **FINAL AGREEMENT**: The Settling Parties to this Agreement acknowledge that (1) this Agreement and its reduction to final form is the result of good faith negotiations between the Settling Parties; (2) Settling Parties have reviewed and examined this Agreement; and (3) any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. This Agreement is to be construed fairly, and not in favor of or against any party, regardless of which party or parties drafted or participated in the drafting of its terms.

4.5 **MODIFICATIONS**: This Agreement may be amended or modified only by a writing signed by all parties to this Agreement.

4.6 **PARAGRAPH HEADINGS**: Paragraph headings are for reference only and shall not affect the interpretation of any paragraph hereto.

4.7 **NO INDUCEMENT**: Each of the Settling Parties to this Agreement warrants that no promise or inducement has been made or offered by any of the parties, except as set forth herein, and that this Agreement is not executed in reliance upon any statement or representation of any of the Settling Parties or their representatives, concerning the nature and extent of the injuries, damages or legal liability thereof. The Settling Parties further represent that they have been represented by legal counsel during the course of negotiations leading to the signing of this Agreement, and that they have been advised by legal counsel with respect to the meaning of this Agreement and its legal effect.

4.8 **COUNTERPARTS**: This Agreement may be executed in counter-parts with the same effect as if all original signatures were placed on one document, and all of which together shall be one and the same Agreement. **Additionally, facsimile and emailed signatures are acceptable.**

4.9 ENFORCEABILITY: The parties agree that they wish the Court to retain jurisdiction to enforce the terms of this agreement.

4.10 FEES AND COSTS: Each party agrees that with regard to each other, each of them shall bear their own fees and costs, including attorneys' fees, expert fees, and court costs, with regard to the Action 4.11 TAXES: DEFENDANT is not responsible for any or all of PLAINTIFF's own respective tax consequences related to this Agreement.

4.12 BENEFIT AND BURDEN: This Agreement shall be binding upon and inure to the benefit and burden of the Settling Parties hereto and their respective heirs, representatives, successors and assigns.


4.13 NO ASSIGNMENTS: The Settling Parties each represent and warrant that they are the holder of the claims herein released and that there has been no assignment or other transfer of any cause of action(s), claim and/or interest in any claims which they are releasing pursuant to the terms of this Agreement to any third party or any governmental agency.

4.14 CONFIDENTIALITY: The Settling Parties agree that as a material condition to this settlement, the terms and conditions of this settlement, including the amount of the settlement and the identity of the parties to the settlement, are strictly confidential and may not be disclosed or disseminated to any other entity, except insofar as the Undersigned may disclose the amount of the settlement for the purpose of seeking financial advice, and only to immediate family members, attorneys, accountants, or financial advisors, who will be instructed by the Settling Party that the terms of the settlement, including the settlement amount, must be kept confidential. The Settling Parties further specifically agree that they will not publicize, or cooperate in any effort to publicize, the settlement or its terms by any means, including but not limited to press releases, advertisements, professional brochures, news conferences, news interviews, or publication via the internet.

4.15 GOVERNING LAW: This Agreement and performance under it shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Mutual Release on the date affixed by their signature.

DATED: _____, 2016

By: _____


DATED: _____, 2016

RUSHMORE SERVICE CENTER

By: _____
Dale Dobberpuhl