

**IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA**

**OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA,**

PLAINTIFF,

CASE NO.: CACE-15-021407(14)

v.

**LIBERTY UNSECURED INC., d/b/a
Improvecredit.me, d/b/a Unsecured Loan Capital, a
Florida corporation; UNSECURED LOAN
SOURCE II, INC., d/b/a Unsecured Loan Capital,
a Florida corporation; FIRST SOLUTIONS, INC.,
d/b/a Credit One, d/b/a Unsecured Loan Capital, a
Florida corporation; ANDREW MANGINI, an
individual; and MICHAEL PUGLISI, an
individual; and DAVID ALAN STERN,**

DEFENDANTS.

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is dated January 4, 2017, by and among the Office of the Attorney General, State of Florida, Department of Legal Affairs (“**ATTORNEY GENERAL**”) and David Alan Stern (“**DEFENDANT STERN**”).

I. RECITALS

A. On December 15, 2015, the **ATTORNEY GENERAL** filed its Complaint against the Defendants¹ in this matter, alleging that the Defendants’ acts and practices in connection

¹ DEFENDANTS LIBERTY UNSECURED INC., d/b/a Improvecredit.me, d/b/a Unsecured Loan Capital, UNSECURED LOAN SOURCE II, INC., d/b/a Unsecured Loan Capital, FIRST SOLUTIONS, INC., d/b/a Credit One, d/b/a Unsecured Loan Capital, ANDREW MANGINI, MICHAEL PUGLISI, and DAVID ALAN STERN.

with their unsecured loan service business constituted direct violations of FDUTPA and *per se* FDUTPA violations.

B. The complaint arose from an investigation wherein the **ATTORNEY GENERAL**, an agency of the state and the enforcing authority under FDUTPA, determined that an enforcement action served the public interest. The **ATTORNEY GENERAL** had full authority to bring this action.

C. On January 4, 2016, the Court entered a Temporary Injunction Relief and Asset Freeze Without Notice Order (“Order”), which enjoined the Defendants, *inter alia*, from marketing, selling, or otherwise engaging in loan services. Moreover, the Order prohibits the Defendants from violating FDUTPA and the Florida Credit Services Organization Act, Section 817.704, Fla. Stat.

D. In addition to this Agreement, **DEFENDANT STERN** and the **ATTORNEY GENERAL** shall file this Agreement and an Agreed Order on the Surrender and Release of Defendant David Alan Stern’s Assets (“Agreed Release Order”), attached as Exhibit A.

E. This Agreement and the Release Order constitute the full and final resolution of this action as to **DEFENDANT STERN**.

F. **THEREFORE**, in consideration of the foregoing and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

II. AGREEMENT

1. **Recitals.** Each of the above recitals above is expressly incorporated herein and is represented by the **ATTORNEY GENERAL** and **DEFENDANT STERN** to be true and correct.

A. SCOPE OF AGREEMENT AND RELEASES

2. The **ATTORNEY GENERAL** acknowledges by execution hereof that this Agreement constitutes a complete settlement and release of all of the **ATTORNEY GENERAL's** claims against the **DEFENDANT STERN**, which claims were asserted in the Complaint filed in this case. The **ATTORNEY GENERAL** agrees that it shall not proceed with or institute any civil action or proceeding against **DEFENDANT STERN** which is inconsistent with the provisions of this Agreement.

3. This Agreement shall not be construed as, nor deemed to be evidence of, an admission or concession on the part of **DEFENDANT STERN** of any liability, guilt, or wrongdoing, which is hereby expressly denied and disclaimed by **DEFENDANT STERN**.

4. Nothing herein constitutes approval by the **ATTORNEY GENERAL** of any person or corporation's past or future business practices. **DEFENDANT STERN** shall not make any representation contrary to this paragraph.

5. Nothing herein shall be construed as a waiver of any private rights, causes of action, or remedies of any private person, business, corporation, government or legal entity against the **DEFENDANT STERN**. Similarly, nothing contained herein shall waive the right of the **DEFENDANT STERN** to assert any lawful defenses in response to a claim of a consumer.

6. Notwithstanding any other provision of this Agreement, nothing herein shall be construed to impair, compromise or affect any right of any government agency other than the **ATTORNEY GENERAL**.

7. Notwithstanding the foregoing, the **ATTORNEY GENERAL** may institute an action or proceeding to enforce the terms and provisions of this Agreement or to take action based on future conduct by the **DEFENDANT STERN**. The fact that such conduct was not expressly prohibited by the terms of this Agreement shall not be a defense to any such enforcement action.

8. Nothing herein relieves the **DEFENDANT STERN** of his continuing duty to comply with applicable laws of the State of Florida nor constitutes authorization by the **ATTORNEY GENERAL** for the **DEFENDANT STERN** to engage in acts and practices prohibited by such laws. This Agreement shall be governed by laws of the State of Florida.

9. **DEFENDANT STERN** expressly acknowledges that he had the opportunity to obtain the advice and counsel of an independent attorney of his choosing to assist in the negotiation and preparation of this Agreement. **DEFENDANT STERN** has read this Agreement, is aware of its terms, has voluntarily executed it, and acknowledges that to the extent he has waived any rights or defenses by entry into this Agreement; such waiver was made voluntarily and with full knowledge of the ramifications of such waiver. Further, **DEFENDANT STERN** acknowledges that this Agreement constitutes the entire agreement between the **DEFENDANT STERN** and the State of Florida in this matter.

10. **DEFENDANT STERN** states that no promises of any kind or nature whatsoever, other than the written terms of this Agreement, were made to induce **DEFENDANT STERN** into entering into this Agreement.

B. INJUNCTIVE TERMS

The **ATTORNEY GENERAL** and **DEFENDANT STERN** agree to the following:

11. **Permanent Ban on Loan and Credit Services.** **DEFENDANT STERN**, whether acting directly or indirectly, shall be and are hereby permanently **ENJOINED** from:

- a. advertising, marketing, promoting, or offering for sale any service or good related to loan services or any activity that is defined/identified as a credit service organization service in Paragraph 817.7001(2)(a), Florida Statutes;
- b. selling, disseminating, engaging in, providing, or rendering any service or good related to loan services or any activity that is defined/identified as a credit service organization service in Paragraph 817.7001(2)(a), Florida Statutes;
- c. training, educating or advising any other person or entity, regarding the solicitation, sale and/or dissemination of any service or good related to loan services or any activity that is defined/identified as a credit service organization service in Paragraph 817.7001(2)(a), Florida Statutes; and
- d. owning, controlling/having the authority to control, participating in, assisting, or receiving any benefit, either directly or indirectly, from the acts and practices of any business, organization, entity, or individual that provides a service or good related to loan services or any activity that is defined/identified as a credit service organization service in Paragraph 817.7001(2)(a), Florida Statutes.

12. **Additional Prohibited Business Activities.** **DEFENDANT STERN**, whether acting directly or through any person, trust, corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promoting, offering for sale, sale, or rendering of any good, service, plan, or program is hereby **RESTRAINED** and **ENJOINED** from:

- a. making any false or misleading representations, or false or deceptive statements, in any communications with or directed to consumers;
- b. using, transferring or benefitting in any matter from customer information in all forms in their possession, custody, or control, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which was obtained by **DEFENDANT STERN** prior to entry in to this Agreement in connection with **DEFENDANTS'** services; and
- c. attempting to collect, collecting, or assigning any right to collect payment from any consumer who purchased or agreed to purchase any of the Corporate Defendants' goods or services, where the purported authorization for the alleged sale occurred prior to the entry of this Agreement.

13. **Additional Required Acts.** **DEFENDANT STERN** further agrees that:

- a. prior to, or upon execution of this Agreement, **DEFENDANT STERN** shall provide the **ATTORNEY GENERAL** any customer information in all forms in his possession, custody, or control, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which was obtained by **DEFENDANT STERN** in connection with his employment with and for Defendants;
- b. within ten (10) business days after providing the **ATTORNEY GENERAL** the consumer information required in this paragraph, **DEFENDANT STERN** shall dispose of the customer information

described in this paragraph. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed;

- c. within fifteen (15) business days after the entry of this Agreement, **DEFENDANT STERN** shall provide the **ATTORNEY GENERAL** a sworn affidavit attesting that **DEFENDANT STERN** no longer possesses any customer information regardless form, namely hard copy and/or electronically; and
- d. for a period of five (5) years from the date of this Agreement, **DEFENDANT STERN** shall notify the **ATTORNEY GENERAL** at least thirty (30) days prior to creating, operating, or exercising any control over any business entity or organization in Florida, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, corporation or unincorporated entity. Said notification shall include a written statement disclosing: (1) the name, address and telephone number of the business entity; (2) the names of the business entity's officers, directors, principals, managers, and employees; and (3) a detailed description of the business entity's intended activities.

14. **Future Violations.** Any failure to comply with the terms and conditions of this Agreement is by statute prima facie evidence of a violation of Chapter 501, Part, II, Florida Statutes, and will subject **DEFENDANT STERN** to penalties, sanctions, attorneys' fees and costs and any other relief allowed by Florida law. Any sanction or payment provided by this Agreement does not preclude the Department of Legal Affairs from pursuing any other action, relief, or sanction available to the Department for any act which, independent of this Agreement, would constitute a violation of the laws of Florida.

C. MONETARY TERMS

15. The **ATTORNEY GENERAL** and **DEFENDANT STERN** agree that upon the effective date of this Agreement, the Parties shall submit the Agreed Release Order to the Court for entry (Exhibit A). As set forth in the Agreed Release Order, **DEFENDANT STERN** shall surrender Twenty-Five Thousand Dollars (\$25,000.00) to the **ATTORNEY GENERAL**. Upon this surrender, the **ATTORNEY GENERAL** shall release all remaining assets subject to the Court's asset freeze in this matter.

16. The surrendered funds identified *supra* in Paragraph 15 shall be deposited into the Department of Legal Affairs Escrow Fund, in accordance with Section 501.2101(1), Florida Statutes, for consumer restitution. In the event actual restitution exceeds payments made in this case, these funds will be distributed pro-rata to the complainants determined by the **ATTORNEY GENERAL** to be eligible for restitution. In no event shall any individual consumer receive more than the amount they are actually owed. If any funds remain after the distribution of consumer restitution, the **ATTORNEY GENERAL** will deposit the remaining monies into the Department of Legal Affairs Revolving Trust Fund and it shall be used to defray the costs of restitution distribution and/or any attorneys' fees and costs incurred in this matter. Decisions as to restitution distribution are within the sole discretion of the **ATTORNEY GENERAL**.

D. MISCELLANEOUS PROVISIONS

17. **Defendant's Cooperation and Compliance.** DEFENDANT STERN further agrees that:

- a. he shall, in connection with this action or any subsequent investigation related to or associated with the transaction or the occurrences that are the subject of the ATTORNEY GENERAL'S Complaint in this matter, cooperate in good faith with the ATTORNEY GENERAL, and shall appear and provide truthful and complete testimony in any civil trial, civil deposition, or other civil proceeding, interviews, conferences, discovery, review of documents, and for such other matters that a representative of the ATTORNEY GENERAL may reasonably request upon three (3) days written notice, or other reasonable notice, at such places in Broward County, Florida and reasonable times as the ATTORNEY GENERAL'S representative may designate, without the service of a subpoena.
- b. The ATTORNEY GENERAL is authorized to monitor DEFENDANT STERN'S compliance with this Agreement, without further leave of the Court, by all lawful means, including but not limited to the use of representatives posing as consumers to DEFENDANT STERN, any of DEFENDANT STERN's employees, or any other entity managed or controlled in whole or in part by the DEFENDANT STERN, without the necessity of identification or prior notice.

18. **General and Administrative Provisions.** It is further agreed that:

- a. the Court shall retain jurisdiction for the purpose of enabling any party to this Agreement to apply at any time for such further orders and directions as might be necessary or appropriate for the modification, construction, or implementation of the injunctive provisions of this Agreement, or, for the enforcement and for sanctions or other punishment of violations of any provisions hereof, including civil and/or criminal contempt proceedings. The parties by stipulation may agree to a modification of this Agreement, which agreement shall be presented to this Court for consideration, provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both the ATTORNEY GENERAL and DEFENDANT STERN;

- b. should this Agreement be modified, this Agreement, in all other respects, shall remain in full force and effect unless otherwise ordered by the Court;
- c. if any term of this Agreement is to any extent unenforceable, invalid or illegal, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term;
- d. this Agreement shall be governed by laws of the State of Florida; and
- e. the signatures below indicate the **PARTIES'** consent to this Agreement.

19. **Effective Date.** The effective date of this Agreement shall be the date upon which both of the following have occurred: (a) the Parties' full acceptance, execution and delivery of this Agreement, and (b) the Court entering the Agreed Order on the Surrender and Release of Defendant David Alan Stern's Assets. Acceptance by the **ATTORNEY GENERAL** shall be established by the signature of the **ATTORNEY GENERAL's** South Florida Bureau Chief of the Consumer Protection Division.

SIGNATURE PAGES FOLLOW

AGREED TO BY:

DAVID ALAN STERN

Signed:

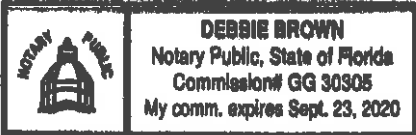
[Signature]
DAVID ALAN STERN
Individually

STATE OF FLORIDA)
COUNTY OF ~~BROWARD~~) Palm Beach

Before me, a Notary Public in and for said County and State, on this 5th day of

January 2017, personally appeared DAVID ALAN STERN, who is personally known to me or has

produced Florida Driver License as identification.



Signed: [Signature]
Print Name: Debbie Brown
Notary Public, State of Florida at Large
My Commission Expires: 09/23/2020

COUNSEL FOR DAVID A. STERN

[Signature]
Barbara Stern, Esq.
Fla. Bar. No. 526576

**OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA**



KRISTEN PESICEK
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Dated: 1/19/17



VICTORIA BUTLER
Director
Office of the Attorney General
State of Florida
Department of Legal Affairs
Consumer Protection Division

Dated: 1/10/17

EXHIBIT A

**IN THE CIRCUIT COURT OF THE
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**OFFICE OF THE ATTORNEY GENERAL,
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a Florida corporation; FIRST SOLUTIONS, INC.,
d/b/a Credit One, d/b/a Unsecured Loan Capital, a
Florida corporation; ANDREW MANGINI, an
individual; and MICHAEL PUGLISI, an
individual; and DAVID ALAN STERN,**

DEFENDANTS.

**AGREED ORDER ON THE SURRENDER AND RELEASE OF
DEFENDANT DAVID ALAN STERN'S ASSETS**

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs, ("ATTORNEY GENERAL") and Defendant David Alan Stern ("DEFENDANT STERN") (collectively, "Parties") hereby agree to the entry of this Agreed Order. The Parties being in agreement, and the Court being otherwise duly advised, it is hereby **ORDERED and ADJUDGED** that:

Surrender of Assets

1. Pursuant to the settlement agreement executed by the Parties, **DEFENDANT STERN** shall surrender to the **ATTORNEY GENERAL** Twenty-Five Thousand Dollars (\$25,000) in the

Bank of America account number *4766, which were frozen by the **ATTORNEY GENERAL** pursuant to the Order Granting Temporary Injunction and Asset Freeze Without Notice dated January 4, 2016.

2. To effect the surrender of the funds identified in Paragraph 1, the Court directs Bank of America, immediately upon receiving notice of this Order, to remit Twenty-Five Thousand Dollars (\$25,000) in the Bank of America account number *4766, in **DEFENDANT DAVID ALAN STERN'S** name, to the **ATTORNEY GENERAL** by certified check(s) or other guaranteed funds payable to the **Department of Legal Affairs Escrow Fund, 110 SE 6th Street, Fort Lauderdale, Florida 33301**, or by wire transfer in accordance with directions provided by counsel for the **ATTORNEY GENERAL**.

3. To the extent Bank of America cannot comply with Paragraph 2 without the assistance of **DEFENDANT STERN**, such Bank of America must, within three (3) business days of receiving this Order, notify the **DEFENDANT STERN** and counsel for the **ATTORNEY GENERAL** of its inability to comply. Such notification shall specify the actions by **DEFENDANT STERN** that are necessary to comply with this Judgment. **DEFENDANT STERN** shall immediately complete any action necessary to facilitate the identified third party's ability to timely comply with this Subsection, and the failure of **DEFENDANT STERN** to complete such action within ten (10) days shall be deemed a violation of the Order and interest at the rate prescribed in the Florida statutes shall immediately begin to accrue.

Release of Assets

4. This Order releases all assets and accounts of **DEFENDANT STERN's** that were frozen by the January 4, 2016 Injunction Order including, but not limited to, the accounts identified below.

5. This Order releases any vehicle(s) owned by **DEFENDANT STERN** that was frozen by the January 4, 2016 Injunction Order.

6. This Order releases the **DEFENDANT'S** Pension Benefit account maintained by Fidelity Workplace Services, LLC (dba Fidelity Investments).

7. This Order releases all funds in the Bank of America account number *8679, in **DEFENDANT DAVID ALAN STERN'S** name.

8. This Order releases any of **DEFENDANT's** credit card accounts with Bank of America.

9. This Order releases any **DEFENDANT's** credit card accounts with Citibank.

10. This Order releases **DEFENDANT'S** HELOC Account with Nationwide Bank.

11. Upon Bank of America's payment to the **ATTORNEY GENERAL** of Twenty-Five Thousand Dollars (\$25,000) in the Bank of America account number *4766, in **DEFENDANT DAVID ALAN STERN'S** name, pursuant to Paragraph 2, this Order releases all remaining funds in the Bank of America account number *4766, in **DEFENDANT DAVID ALAN STERN'S** name.

12. The Parties agree that the Court retains jurisdiction to enforce this Order.

SIGNATURES ON FOLLOWING PAGES

AGREED TO BY:
DAVID ALAN STERN

Signed:

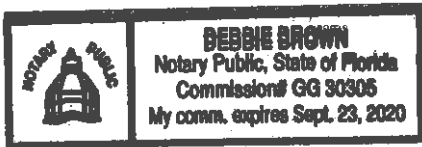
[Signature]
DAVID ALAN STERN
Individually

STATE OF FLORIDA)
COUNTY OF ~~BROWARD~~ Palm Beach

Before me, a Notary Public in and for said County and State, on this 5th day of

January 2017, personally appeared DAVID ALAN STERN, who is personally known to me or has

produced FL driver license as identification.



Signed: [Signature]

Print Name: Bebie Brown

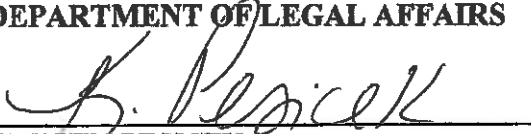
Notary Public, State of Florida at Large

My Commission Expires: 09/23/2020

COUNSEL FOR DAVID A. STERN

[Signature]
Barbara Stern, Esq.
Fla. Bar. No. 526576

**OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS**



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Kristen.Pesicek@myfloridalegal.com

Dated: 11/19/17

ORDERED, APPROVED and ENTERED in Chambers in Broward County,

Florida this ____ day of _____, 2017.

By: _____
Circuit Court Judge
Carlos A. Rodriguez

CC: all counsel