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**June 11, 2014**  
  
**CENTRAL DISTRICT OF CALIFORNIA**  
**BY: ljw for AB DEPUTY**

**JS-6**

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

<p>12 UNITED STATES OF AMERICA, 13 Plaintiff,  14 v. 15 16 CONSUMER PORTFOLIO 17 SERVICES, INC. 18 Defendant.</p>	<p>Case No. <u>SACV14-00819 ABC (RNBx)</u>  <b>STIPULATED ORDER FOR PERMANENT INJUNCTION AND CIVIL PENALTY JUDGMENT</b></p>
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19 Plaintiff, the United States of America, acting upon notification and  
20 authorization to the Attorney General by the Federal Trade Commission  
21 (“Commission”) filed its Complaint for permanent injunction, civil penalties,  
22 and other equitable relief in this matter, pursuant to Sections 13(b) and 16(a)(1)  
23 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and  
24 56(a)(1). Defendant Consumer Portfolio Services, Inc., has waived service of  
25 the summons and the Complaint. Plaintiff and Defendant stipulate to the entry  
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1 of this Order for Permanent Injunction and Civil Penalty Judgment to resolve all  
2 matters in dispute in this action between them.

3 THEREFORE, IT IS ORDERED as follows:  
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5 **FINDINGS**

6 1. This Court has jurisdiction over this matter.

7 2. The Complaint charges that CPS participated in acts or practices in  
8 violation of Section 5(a)(1) of the Federal Trade Commission Act (“FTC Act”),  
9 15 U.S.C. § 45(a)(1); the Fair Debt Collection Practices Act (“FDCPA”), 15  
10 U.S.C. §§ 1692 - 1692p; and Section 621(a) of the Fair Credit Reporting Act  
11 (“FCRA”), 15 U.S.C. § 1681s(a), in connection with the servicing and collection  
12 of subprime motor vehicle loan accounts.  
13

14 3. CPS neither admits nor denies any of the allegations in the  
15 Complaint, except as specifically stated in this Order. Only for purposes of this  
16 action, CPS admits the facts necessary to establish jurisdiction.

17 4. CPS waives any claim that it may have under the Equal Access to  
18 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through  
19 the date of this Order, and agrees to bear its own costs and attorney fees.

20 5. CPS and Plaintiff waive all rights to appeal or otherwise challenge  
21 or contest the validity of this Order.  
22

23 **DEFINITIONS**

24 For purposes of the Order, the following definitions shall apply:

25 1. “Consumer” means any person who is or has been obligated or  
26 allegedly obligated on a loan that the CPS is servicing or has serviced.  
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1           2.     “Debt” includes any obligation or alleged obligation of a consumer  
2 to pay money arising out of a transaction in which the money, property,  
3 insurance, or services which are the subject of the transaction are primarily for  
4 personal, family, or household purposes, whether or not such obligation has been  
5 reduced to judgment. For purposes of this Order, “debt” specifically includes  
6 the obligation of a consumer to repay a loan for a motor vehicle.  
7

8           3.     “Defendant” means Consumer Portfolio Services, Inc., and its  
9 successors and assigns.

10          4.     “Fees” includes all fees, charges, and penalties, including but not  
11 limited to fees for insufficient funds payments, late payments, loan extensions,  
12 collection and legal service activities, repossession, bankruptcy claims, and any  
13 other fees or charges that CPS or any other person assesses a consumer in  
14 connection with the servicing or collection of any loan.

15          5.     “Loan” means a contract secured by a lien on a motor vehicle taken  
16 as security for repayment of the loan.

17          6.     “Servicing” means receiving and applying payments made on a  
18 consumer’s account pursuant to the terms of the loan agreement, including  
19 payments of principal, interest, and fees. “Servicing” also means any related  
20 loan servicing activity such as the administration of loan accounts, providing  
21 periodic billing statements to consumers, maintaining records of the status of  
22 consumers’ loan accounts, providing information to and resolving disputes with  
23 consumers regarding loan accounts, collecting loan payments, repossessing  
24 property, filing bankruptcy claims, calculating deficiency judgments, using  
25 consumer reports and furnishing information to consumer reporting agencies,  
26 and collecting or assessing fees in relation to any of the foregoing.  
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1 ORDER

2 LOAN SERVICING

3  
4 **I. NO DECEPTIVE LOAN SERVICING PRACTICES**

5 IT IS THEREFORE ORDERED that CPS, and its officers, agents,  
6 servants, and employees, and all other persons or entities in active concert or  
7 participation with any of them, who receive actual notice of this Order, whether  
8 acting directly or indirectly, in connection with loan servicing and collection  
9 activities, are hereby permanently restrained and enjoined from:  
10

11 A. Misrepresenting, expressly or by implication, the amount, nature, or  
12 terms of any fee or other condition or requirement of any loan, specifically  
13 including the amount owing on any loan, the amount owing for any fee, the  
14 principal balance, or accrued interest;

15 B. Misrepresenting, expressly or by implication, that any payment or  
16 fee due on any loan is allowed under the terms of the loan agreement or  
17 permitted by law;

18 C. Misrepresenting, expressly or by implication, that an account  
19 balance has been audited or verified, or is accurate;

20 D. Failing to disclose, when requesting payment by a method requiring  
21 a transaction fee, the costs and availability of all payment methods available to  
22 consumers; and  
23

24 E. Making any representation, expressly or by implication, about the  
25 amount of any loan payment or fee, the due date of any loan payment or fee, the  
26 outstanding balance owed on a loan, or any other information regarding the  
27 terms, conditions, or status of a loan, unless the representation is not misleading  
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1 and, at the time such representation is made, CPS possesses and relies on  
2 competent and reliable evidence that substantiates the representation. For  
3 purposes of this provision, “competent and reliable evidence” means audits,  
4 tests, analyses, research, studies, or other evidence, including a data integrity  
5 program that complies with Section IV of this Order, based on the expertise of  
6 accounting and other professionals in the relevant area, that have been conducted  
7 and evaluated in an objective manner by persons qualified to do so, using  
8 procedures generally accepted in the profession to yield accurate and reliable  
9 results.  
10

11  
12 **II. NO UNLAWFUL ASSESSMENT OR COLLECTION OF FEES OR**  
13 **OTHER AMOUNTS**

14 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
15 and employees, and all other persons or entities in active concert or participation  
16 with any of them who receive actual notice of this Order, whether acting directly  
17 or indirectly, in connection with loan servicing and collection activities, are  
18 hereby permanently restrained and enjoined from assessing or collecting any fee  
19 or other amount unless it is:  
20

- 21 A. Authorized and clearly and prominently disclosed by the loan  
22 agreement or amendments thereto and not prohibited by law;  
23 B. Expressly permitted by law and not prohibited by the loan  
24 agreement or amendments thereto; or  
25 C. A reasonable fee or other amount for a specific service requested by  
26 a consumer that is assessed and/or collected only after clear and prominent  
27 disclosure of the fee or other amount is provided to the consumer and explicit  
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1 consent is obtained from the consumer to pay the fee or other amount in  
2 exchange for the service, such fee or other amount is not otherwise prohibited by  
3 law or the loan agreement or amendments thereto, and the service is actually  
4 rendered.  
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6  
7 **III. NO UNILATERAL CONTRACT MODIFICATIONS**

8 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
9 and employees, and all other persons or entities in active concert or participation  
10 with any of them who receive actual notice of this Order, whether acting directly  
11 or indirectly, in connection with loan servicing and collection activities, are  
12 hereby permanently restrained and enjoined from modifying the terms and  
13 conditions of any consumer's loan agreement, through an extension of the loan  
14 term or otherwise, without express, informed consent, in writing, from the  
15 consumer. For purposes of this provision, "express informed consent" includes:

- 16 A. Disclosing, clearly and conspicuously, all fees and costs; and  
17 B. Disclosing, clearly and conspicuously, whether the modification  
18 will reduce or eliminate the ongoing assessment of any fees, including but not  
19 limited to late fees.  
20

21  
22 **IV. DATA INTEGRITY REQUIREMENT**

23 IT IS FURTHER ORDERED that CPS, in connection with loan servicing  
24 and collection activities, shall, no later than ninety (90) days after the date of  
25 entry of this Order, establish and maintain a comprehensive data integrity  
26 program ("Program") designed to ensure the accuracy, integrity, and  
27 completeness of CPS's loan servicing processes, and the data and other  
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1 information about accounts that CPS services, collects, or sells. The Program,  
2 the content and implementation of which must be fully documented in writing,  
3 shall contain administrative, technical, and physical safeguards appropriate to  
4 the nature, size, complexity, and scope of CPS's loan servicing activities, and  
5 shall include:

6       A. The designation of an employee or employees to be accountable for  
7 the Program;

8       B. The identification of material internal and external risks to the  
9 accuracy and integrity of loan servicing data that could result in errors to  
10 consumers' accounts, and assessment of the sufficiency of any safeguards in  
11 place to control these risks. At a minimum, this risk assessment should include  
12 consideration of risks in each area of relevant operation, including, but not  
13 limited to, (1) employee training and management, (2) information systems,  
14 including network and software design, information processing, storage,  
15 transmission, and disposal, and (3) prevention, detection, and response to any  
16 systems failure;

17       C. The design and implementation of reasonable safeguards to control  
18 the risks identified through risk assessment, and regular testing or monitoring of  
19 the effectiveness of the safeguards' key controls, system, and procedures;

20       D. The regular auditing, testing, or monitoring of the effectiveness of  
21 the Program; and

22       E. The evaluation and adjustment of the Program in light of the results  
23 of the required auditing, testing, or monitoring, and any material changes to  
24 CPS's operations or business arrangements that may significantly impact the  
25 Program, or any other circumstances that CPS knows or has reason to know may  
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1 have a material impact on the integrity, accuracy and completeness of CPS's  
2 loan servicing processes, or data and other information about accounts that CPS  
3 services, collects, or sells.  
4

5 **V. ASSESSMENT**

6 IT IS FURTHER ORDERED that:

7  
8 A. CPS shall, within two hundred seventy (270) days after the date of  
9 entry of the Order, and biennially thereafter for ten (10) years after entry of the  
10 Order, obtain an assessment and report ("Assessment") from a qualified,  
11 objective, independent, third-party professional, the identity of which is agreed  
12 to by a representative of the Commission, that, using procedures and standards  
13 generally accepted in the profession:

- 14 1. Sets forth the specific data integrity program that CPS has  
15 implemented and maintained during the reporting period;
- 16 2. Explains how the data integrity program is appropriate to  
17 CPS's size and complexity, and the nature and scope of CPS's activities;
- 18 3. Explains how the data integrity program meets or exceeds the  
19 protections required by Section IV of this Order; and
- 20 4. Certifies that the data integrity program is operating with  
21 sufficient effectiveness to provide reasonable assurance of the accuracy,  
22 integrity, and completeness of CPS's loan servicing processes and  
23 records.  
24

25 B. CPS shall provide a copy of the first Assessment to the Commission  
26 within ten (10) days after the Assessment is delivered to CPS. CPS shall, within  
27 thirty (30) days of a request, provide the Commission with a copy of all plans,  
28



1 reports, studies, reviews, audits, audit trails, policies, training materials, and  
2 assessments, whether prepared by or on behalf of CPS, relied upon to prepare  
3 such Assessment. All subsequent biennial Assessments shall be retained by CPS  
4 and a copy provided to the Commission within thirty (30) days of request.  
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6 **COLLECTION PRACTICES**

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8 **VI. LIMITATIONS ON CALLS TO THIRD PARTIES AND**  
9 **CONSUMERS**

10 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
11 and employees, and all other persons or entities in active concert or participation  
12 with any of them who receive actual notice of this Order, whether acting directly  
13 or indirectly, in connection with loan servicing and collection activities, are  
14 hereby permanently restrained and enjoined from:  
15

16 A. Disclosing the existence of a debt to any third party other than the  
17 consumer's spouse, parent (if the consumer is a minor), guardian, executor, or  
18 administrator, including employers, co-workers, family members, neighbors,  
19 references, and friends, without the consumer's consent;

20 B. Communicating with any person at a time or place that CPS knows  
21 or should know is inconvenient to the person, including but not limited to  
22 communicating with a person at the person's place of employment if CPS knows  
23 or has reason to know that the person's employer prohibits the person from  
24 receiving such communication;  
25

26 C. Communicating, except when seeking to acquire location  
27 information in compliance with Sections VI.D, E, and F, below, with any third  
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1 party other than the consumer's spouse, parent (if the consumer is a minor),  
2 guardian, executor, administrator, the consumer's attorney, a consumer reporting  
3 agency if otherwise permitted by law, or CPS's attorney(s), unless CPS has the  
4 prior consent of the consumer given directly to CPS or the express permission of  
5 a court of competent jurisdiction, or CPS can show that such communication is  
6 reasonably necessary to secure its collateral or effectuate a post-judgment  
7 judicial remedy;

9 D. Communicating with any third party for the purpose of acquiring  
10 location information about the consumer unless CPS possesses a reasonable  
11 belief that it does not currently possess the consumer's location information;  
12 ***provided that*** for purposes of this subsection CPS shall have a reasonable belief  
13 that it cannot locate the consumer when, for example: 1) it receives mail directed  
14 to the consumer's last known address returned as undeliverable; 2) the  
15 consumer's known telephone number(s) have been disconnected; 3) at each  
16 number known to belong to the consumer the voice mail box is full or does not  
17 accept messages; or 4) a third party at the consumer's last known telephone  
18 number claims that the consumer is no longer using the telephone number;

20 E. Communicating more than once with any third party for the  
21 purpose of obtaining location information about the consumer unless such third  
22 party requests that CPS communicate with him or her again or CPS reasonably  
23 believes that the third party's earlier response was erroneous or incomplete and  
24 the third party now has correct or complete location information;

25 F. Contacting any third party at a telephone number after that third  
26 party or anyone at that telephone number has informed CPS, orally or in writing,  
27 that 1) the consumer CPS is trying to contact cannot be reached at that telephone  
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1 number; 2) the third party does not have location information for the consumer  
2 the CPS is trying to reach, unless CPS has a reasonable belief that the third  
3 party's earlier statements were erroneous or incomplete, and that such third party  
4 now has correct or complete location information; or 3) the third party wishes  
5 CPS to cease further communication with the third party;

6 G. Failing to create and maintain, for at least three (3) years from the  
7 date of last contact with the third party, records documenting that a third party at  
8 a particular telephone number has informed CPS, orally or in writing, that the  
9 consumer CPS is trying to contact cannot be reached at that telephone number or  
10 the third party does not have location information for that consumer;

11 H. Failing to create and maintain, for at least three (3) years from the  
12 date of last contact with the third party, records documenting that CPS had a  
13 reasonable belief that 1) at the time of the call CPS did not have the consumer's  
14 current location information and 2) a third party's statements that the consumer  
15 CPS is trying to contact cannot be reached at that telephone number or that the  
16 third party does not have location information about that consumer were  
17 erroneous, incomplete, or out of date, before calling that telephone number  
18 again; *provided that*, for purposes of this subsection, to have a "reasonable  
19 belief" that a third party's earlier statements were erroneous or incomplete and  
20 that such third party now has correct or complete location information, CPS  
21 must have: 1) conducted a thorough review of all applicable records, documents,  
22 and database entries for the consumer that CPS is trying to reach to search for  
23 any notations indicating that the consumer cannot be reached at that telephone  
24 number or that the third party does not have location information about the  
25 consumer CPS is trying to reach; and 2) obtained and considered information or  
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1 evidence from a new or different source other than the information or evidence  
2 previously relied upon by CPS in attempting to contact that consumer, and such  
3 information or evidence substantiates CPS's belief that the third party's earlier  
4 statements were erroneous or incomplete and that such third party now has  
5 correct or complete location information; and

6 I. Engaging in conduct the natural consequence of which is to harass,  
7 oppress, or abuse a person, including, but not limited to, causing a telephone to  
8 ring, or engaging a person in telephone conversation, repeatedly or continuously  
9 with the intent to annoy, abuse, or harass the person at the called number. For  
10 purposes of this subsection, there shall exist a rebuttable presumption of an  
11 intent to annoy, harass, or abuse if CPS places more than one call to any  
12 consumer after that consumer has notified CPS, either orally in writing, that the  
13 consumer does not wish to be contacted telephonically; *provided that* any oral  
14 request that telephone contact stop shall be invalid after thirty (30) days if:

15 1) CPS, within seven (7) days of the consumer's oral request, sends the  
16 consumer a written notice to the consumer's last known mailing address,  
17 advising that the consumer must confirm his or her request in writing by sending  
18 a notice to an address specified in the CPS notice or by submitting a request to  
19 CPS online at its website; and 2) the consumer fails to provide CPS with  
20 confirmation of his or her request in writing or through the CPS website;  
21 *provided further that* CPS shall create and make available on its website an  
22 electronic form through which consumers may submit written requests to stop  
23 further telephonic communications.  
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27 **VII. UNAUTHORIZED DEBITS PROHIBITED**  
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1 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
2 and employees, and all other persons or entities in active concert or participation  
3 with any of them, who receive actual notice of this Order, whether acting  
4 directly or indirectly, in connection with its loan servicing and collection  
5 activities, are hereby permanently restrained and enjoined from debiting funds  
6 from any bank account without the accountholder's express authorization.  
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8  
9 **VIII. DECEPTIVE COLLECTION PRACTICES PROHIBITED**

10 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
11 and employees, and all other persons or entities in active concert or participation  
12 with any of them who receive actual notice of this Order by personal service or  
13 otherwise, whether acting directly or indirectly, in connection with loan  
14 servicing and collection activities, are hereby permanently restrained and  
15 enjoined from using any false, deceptive, or misleading representation or means  
16 including, but not limited to:

17 A. Misrepresenting, expressly or by implication, that nonpayment of  
18 the debt will result in adverse consequences, such as immediate repossession of  
19 the vehicle securing the consumer's loan; and  
20

21 B. Misrepresenting, expressly or by implication, the nature and  
22 purpose of any collection call to a consumer, including by disguising or  
23 concealing the telephone number from which the call is made.  
24

25 **IX. FDCPA VIOLATIONS PROHIBITED**

26 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
27 and employees, and all other persons or entities in active concert or participation  
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1 with any of them who receive actual notice of this Order, whether acting directly  
2 or indirectly, when acting as a debt collector within the meaning of the FDCPA,  
3 are hereby permanently restrained and enjoined from taking the following  
4 actions:

5       A.     Stating to any person from whom CPS is trying to acquire location  
6 information about a consumer that the consumer owes a debt;

7       B.     Communicating more than once with any person for the purpose of  
8 obtaining location information about the consumer unless requested to do so by  
9 the person or unless CPS reasonably believes that the person's earlier response  
10 was erroneous or incomplete and that the person now has correct or complete  
11 location information;

12       C.     Communicating with a consumer in connection with the collection  
13 of a debt:

14           1.     At times or places known to be inconvenient to the  
15 consumer, without the consumer's prior consent; and

16           2.     At the consumer's place of employment when CPS knows or  
17 has reason to know that the consumer's employer prohibits the consumer  
18 from receiving such communications;

19       D.     Communicating about the debt with persons other than the  
20 consumer, the consumer's spouse, parent (if the consumer is a minor), guardian,  
21 executor, or administrator, the consumer's attorney, a consumer reporting  
22 agency, the creditor, the creditor's attorney, or its own attorneys without the  
23 consumer's prior consent given directly to CPS or the express permission of a  
24 court of competent jurisdiction, or as reasonably necessary to effectuate a post-  
25 judgment judicial remedy;  
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1 E. Engaging in conduct the natural consequence of which is to harass,  
2 oppress, or abuse any person in connection with the collection of any debt,  
3 including, among other things, causing a telephone to ring or engaging any  
4 person in telephone conversation repeatedly or continuously with intent to  
5 annoy, abuse, or harass any person at the called number;

6 F. Falsely representing the character, amount, or legal status of a debt;

7 G. Falsely representing that nonpayment of a debt will result in  
8 seizure, garnishment, attachment or sale of any property or wages of a person  
9 unless the action is lawful and CPS intends to take such action;

10 H. Falsely threatening to take any action that cannot legally be taken or  
11 that is not intended to be taken;

12 I. Using false information or deceptive means to collect or attempt to  
13 collect a debt or to obtain information concerning a consumer; and

14 J. Using unfair or unconscionable means to collect or attempt to  
15 collect a debt, including, but not limited to, the following:

16 1. Posting payments to or debiting funds from a consumer's  
17 bank account without the consumer's express consent and authorization;

18 2. Collecting amounts not expressly authorized by the  
19 agreement creating the debt or permitted by law; and

20 3. Threatening to take any nonjudicial action to effect  
21 dispossession or disablement of property where there was no present  
22 intent to take possession of the property.  
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26 **X. FURNISHER RULE VIOLATIONS PROHIBITED**  
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1 IT IS FURTHER ORDERED that CPS, and its officers, agents, servants,  
2 and employees, and all other persons or entities in active concert or participation  
3 with any of them, who receive actual notice of this Order, whether acting  
4 directly or indirectly, for the duration of any period that CPS furnishes  
5 information to a consumer reporting agency, are hereby permanently restrained  
6 and enjoined from:

7 A. Failing to:

8 1. Establish and implement reasonable written policies and  
9 procedures regarding the accuracy and integrity of the information  
10 relating to consumers that it furnishes to a consumer reporting agency, as  
11 required by Section 623(e) of the FCRA, 15 U.S.C. § 1681s-2(e); 16  
12 C.F.R. § 660.3; and 12 C.F.R. § 1022.42;

13 2. Consider and incorporate the applicable guidelines set forth  
14 in Appendix A to 16 C.F.R. Part 660 and Appendix E to 12 C.F.R. Part  
15 1022 in developing such policies and procedures; and

16 3. Review such policies and procedures periodically and update  
17 them as necessary to ensure their continued effectiveness; and

18 B. Failing to:

19 1. Comply with Section 623(b) of the FCRA, 15 U.S.C.  
20 § 1681s-2(b), when consumer reporting agencies refer disputes to it  
21 pursuant to Section 611(a)(2), 15 U.S.C. § 1681i(a)(2); and comply with  
22 Section 623(a)(8)(E) of the FCRA, 15 U.S.C. § 1681s-2(a)(8)(E), 16  
23 C.F.R. § 660.4, and 12 C.F.R. § 1022.43, when consumers dispute  
24 directly, by failing to conduct reasonable investigations of disputes,  
25 including but not limited to, when the dispute relates to payments, fees, or  
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1 balances owed, failing to a) check that assessed fees or other amounts  
2 were calculated properly and permitted by contract or state law, b) check  
3 that all assessments, payments, and payment reversals were correctly  
4 applied, and c) check that the principal balance was not increased  
5 improperly;

6 2. Review all relevant information provided by the consumer  
7 with the dispute notice as required under Section 623(a)(8)(E)(ii) of the  
8 FCRA, 15 U.S.C. § 1681s-2(a)(8)(E)(ii); 16 C.F.R. § 660.4(e)(2); 12  
9 C.F.R. § 1022.43(e)(2), and in accordance with the provisions of this  
10 Order;

11 3. Complete its investigation of the dispute and report the  
12 results of the investigation to the consumer before the expiration of the  
13 period prescribed by Section 611(a)(1) of the FCRA, 15 U.S.C.  
14 § 1681i(a)(1); 16 C.F.R. § 660.4(e)(3); and 12 C.F.R. § 1022.43(e)(3);

15 4. Provide notice of a determination that a dispute is frivolous  
16 or irrelevant within the time period specified by Section 623(a)(8)(F)(ii)  
17 of the FCRA, 15 U.S.C. § 1681s-2(a)(8)(F)(ii); 16 C.F.R. § 660.4(f)(2);  
18 and 12 C.F.R. § 1022.43(f)(2); and

19 5. Include the reasons for its determination that a dispute is  
20 frivolous or irrelevant and identify any information required to investigate  
21 the disputed information as required under Section 623(a)(8)(F)(iii) of the  
22 FCRA, 15 U.S.C. § 1681s-2(a)(8)(F)(iii); 16 C.F.R. § 660.4(f)(2); and 12  
23 C.F.R. § 1022.43(f)(3).  
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26

27 **MONETARY RELIEF**

1 **XI. EQUITABLE MONETARY RELIEF**

2 IT IS FURTHER ORDERED that CPS shall provide redress to all  
3 consumers with covered accounts as follows:

4 A. **Covered Accounts**: The class of consumers eligible for redress  
5 shall include individuals 1) whose accounts were serviced by CPS at any time  
6 between January 1, 2008 and June 30, 2013, and 2) who were charged an  
7 amount exceeding the amount allowed by the contract or permitted by law  
8 (“overcharges”) in any of the following categories:  
9

- 10 1. Non-sufficient funds (“NSF”) fees;
- 11 2. Late payment fees;
- 12 3. Legal fees;
- 13 4. Field chase fees;
- 14 5. Finance charges that accrued on principal balance increases related  
15 to loan extensions;
- 16 6. Finance charges that accrued on principal balance increases related  
17 to bankruptcy filings; or
- 18 7. Payoff overages in excess of \$1.00.

19  
20 CPS shall identify covered accounts in the manner specified in Attachment A to  
21 this Order and Section XI.H, below;

22 B. **Refunds for Paid Accounts**: Within ninety (90) days of entry of  
23 the Order, CPS shall provide a refund in the amount of the overcharge to each  
24 consumer with a covered account who overpaid more than one dollar (\$1.00)  
25 and whose loan was paid in full as of the date thirty (30) days prior to the date  
26 on which CPS mails the refund;  
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1           1.     CPS shall mail, by first class mail, address correction service  
2 requested, a check for the full amount of the overcharge. The face of each  
3 check shall clearly and conspicuously state, "Please cash or deposit this  
4 check within 180 days or it will no longer be good." The check shall be  
5 accompanied by a letter describing the purpose of the refund check, the  
6 text of which has been approved by a representative of the Commission,  
7 and include no other material; prior to mailing, CPS shall make  
8 reasonable efforts to obtain current location information for any consumer  
9 due a cash refund, including by consulting with the Postal Service's  
10 National Change of Address database;

12           2.     For any letter returned to CPS within sixty (60) days of  
13 mailing, CPS shall make further reasonable efforts to identify a current  
14 address for the consumer, and, within thirty (30) days of receipt of the  
15 returned letter, remail the check to the corrected address, if any;

17           3.     CPS shall retain, in a segregated account, all funds from  
18 uncashed checks for three hundred sixty (360) days from date of issuance  
19 of the last check issued pursuant to Section XI.B.2, above. All funds from  
20 uncashed checks remaining after this period shall be disgorged  
21 immediately to the U.S. Treasury pursuant to the payment instructions in  
22 Section XII.B;

23     C.     **Adjusted Account Balances for Active Accounts:** Within sixty  
24 (60) days of entry of the Order, CPS shall reduce, by the amount of the  
25 overcharge, the outstanding balance owed on any covered account that is active  
26 as of the date thirty (30) days prior to the date on which the balance is so  
27  
28

1 reduced, and advise each consumer of the reduction of his or her balance in the  
2 next monthly statement after the adjustment has been made;

3 D. **Adjusted Account Balances for Charged-Off Accounts**: Within  
4 sixty (60) days of entry of the Order, CPS shall reduce, by the amount of the  
5 overcharge, the outstanding balance owed on any covered account that has been  
6 charged off as of the date thirty (30) days prior to the date on which the balance  
7 is so reduced; *provided that*, in lieu of adjusting the outstanding balance on any  
8 covered charged-off account, CPS may elect to permanently forebear collection  
9 on the account including by never 1) reporting the account to a consumer  
10 reporting agency, 2) seeking to collect a deficiency balance on the account, or  
11 3) selling the account;

12  
13 E. **Sold Accounts**: Within ninety (90) days of entry of the Order, CPS  
14 shall provide each purchaser of any covered account identified pursuant to  
15 Section XI.A, above, with written notice of the identity of each such covered  
16 account and the amount of any required balance adjustment;

17  
18 F. **Credit Reporting**: Within sixty (60) days of entry of the Order, for  
19 any covered account the balance of which was adjusted pursuant to Sections XI.  
20 B, C, or D, above, and that CPS has reported to any consumer reporting agency,  
21 CPS shall furnish corrected account information to that consumer reporting  
22 agency or cease reporting the account;

23 G. **Information for Consumers**: CPS shall, within five (5) days of  
24 entry of the Order, post on its website, clearly and prominently, a toll-free  
25 number and email address dedicated to responding to inquiries about this Order  
26 and the redress process. CPS shall timely respond to consumer inquiries about  
27 this Order and the redress process, including whether the consumer 1) has a  
28



1 covered account; 2) the amount of any overcharge(s) identified, and 3) the  
2 method and date of any payment or account adjustment. CPS shall post and  
3 maintain the toll-free number and email address at least until such time as CPS  
4 remits unclaimed funds to the U.S. Treasury pursuant to Section XI.B.3, above;

5 H. **Errors and Omissions:** If, at any time prior to the date that CPS  
6 remits unclaimed funds to the U.S. Treasury pursuant to Section XI.B.3, above,  
7 CPS learns about a covered account for which CPS has not taken any action  
8 required by Sections XI.B - F, above, whether CPS learns of the account through  
9 its own internal processes or receives information from a third party, such as the  
10 third party monitor appointed pursuant to Section XI.I, below, a Commission  
11 representative, or a consumer, CPS shall, within thirty (30) days of learning of  
12 the account, take curative steps, including 1) taking the required action as to that  
13 account; 2) conducting a reasonable search for any similarly situated accounts;  
14 and 3) taking the required action as to any accounts so located. CPS shall also  
15 give written notice to the third party monitor appointed pursuant to Section XI.I,  
16 below, and any other party from which it learned of such an account. The notice  
17 must identify each such account, explain what action, if any, was required and  
18 taken, and the relevant dates; and

19 I. **Third Party Monitor:** Within thirty (30) days of entry of the  
20 Order, CPS shall retain, at its expense, a qualified, objective, independent, third-  
21 party professional, the identity of which is agreed-to by a representative of the  
22 Commission, and with which CPS fully cooperates, to monitor and audit CPS's  
23 compliance with Sections XI.B-H above. The management letter between CPS  
24 and the third party monitor shall grant Commission staff access to the third party  
25 monitor's staff, work papers, and other materials prepared in the course of the  
26  
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1 third party's monitoring and auditing of CPS's compliance with Sections XI.B-  
2 H above, upon request by a representative of the Commission, for one year after  
3 receipt by the Commission of the final audit. Such third party monitor shall:

4 1. Provide, to both CPS and the Commission, within thirty (30)  
5 days after each action is required to be completed pursuant to Sections B –  
6 G, above, an interim written report verifying whether CPS was in  
7 compliance with that action; and  
8

9 2. Provide, to both CPS and the Commission, a final audit  
10 verifying the extent of CPS's compliance with Sections B-H, above,  
11 within thirty (30) days after CPS completes the last required action of  
12 those provisions, but in no event more than two (2) years after entry of  
13 the Order.  
14

15 **XII. MONETARY JUDGMENT FOR CIVIL PENALTY**

16 IT IS FURTHER ORDERED that:

17 A. Judgment in the amount of two million dollars (\$2,000,000) is  
18 entered in favor of Plaintiff against CPS as a civil penalty. This amount  
19 represents a penalty of one million dollars (\$1,000,000) for Defendant's alleged  
20 violations of the FDCPA and one million dollars (\$1,000,000) for Defendant's  
21 alleged violations of the Furnisher Rule;  
22

23 B. CPS is ordered to pay to Plaintiff, by making payment to the  
24 Treasurer of the United States, two million dollars (\$2,000,000), which, as  
25 Defendant stipulates, its undersigned counsel holds in escrow for no purpose  
26 other than payment to Plaintiff. Such payment must be made within seven (7)  
27  
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1 days of entry of this Order by electronic fund transfer in accordance with  
2 instructions previously provided by a representative of Plaintiff; and

3 C. CPS relinquishes dominion and all legal and equitable right, title,  
4 and interest in all assets transferred pursuant to this Order and may not seek the  
5 return of any assets.  
6

7 **COMPLIANCE AND REPORTING**

8  
9 **XIII. ORDER, FDCPA & FURNISHER RULE ACKNOWLEDGMENTS**

10 IT IS FURTHER ORDERED that CPS shall deliver copies of this Order,  
11 the FDCPA, and the Furnisher Rule (attached hereto as Attachments B and C)  
12 and obtain acknowledgments of receipt as directed below:  
13

14 A. Submit to the Commission an acknowledgment of receipt of this  
15 Order, the FDCPA, and the Furnisher Rule, sworn under penalty of perjury,  
16 within seven (7) days of entry of this Order;

17 B. For a period of three (3) years after date of entry of this Order,  
18 deliver:

- 19 1. A copy of this Order, the FDCPA, and the Furnisher Rule to:  
20 (a) all principals, officers, directors, and managers and members who  
21 formulate, direct, or control CPS's policies and practices relating to loan  
22 servicing, collection and credit reporting activities; and (b) any business  
23 entity resulting from any change in structure as set forth in the Section  
24 titled Compliance Reporting;  
25  
26  
27  
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1           2.     A copy of this Order and the FDCPA to all employees,  
2           agents, and representatives of CPS who participate in loan servicing and  
3           collection activities; and

4           3.     A copy of this Order and the Furnisher Rule to all employees,  
5           agents, and representatives of CPS who participate in credit reporting  
6           activities;

7           Delivery must occur within seven (7) days of entry of this Order for current  
8           personnel. To all others, delivery must occur before they assume their  
9           responsibilities; and

10          C.     Obtain from each individual or entity to which CPS delivered a  
11          copy of this Order, the FDCPA, or the Furnisher Rule, within thirty (30) days, a  
12          signed and dated acknowledgment of receipt of this Order, the FDCPA, and the  
13          Furnisher Rule.  
14

15  
16       **XIV. COMPLIANCE REPORTING**

17           IT IS FURTHER ORDERED that CPS shall make timely submissions to  
18           the Commission:  
19

20          A.     One year after entry of this Order, CPS must submit a compliance  
21          report, sworn under penalty of perjury. CPS must 1) identify the primary  
22          physical, postal, and email address and telephone number as designated points of  
23          contact, which representatives of the Commission and Plaintiff may use to  
24          communicate with CPS; 2) identify all of CPS's businesses by all of their names,  
25          telephone numbers, and physical, postal, email, and Internet addresses;  
26          3) describe the activities of each business, including the goods and services  
27          offered, and the means of advertising, marketing, and sales; 4) describe in detail  
28

1 whether and how CPS is in compliance with each Section of this Order; and  
2 5) provide a copy of each Order Acknowledgment obtained pursuant to this  
3 Order, unless previously submitted to the Commission;

4 B. For twelve (12) years after entry of this Order, CPS must submit a  
5 compliance notice, sworn under penalty of perjury, within fourteen (14) days of  
6 any change in the following: 1) any designated point of contact; or 2) the  
7 structure of CPS or any entity that CPS has any ownership interest in or controls  
8 directly or indirectly that may affect compliance obligations arising under this  
9 Order, including: creation, merger, sale, or dissolution of the entity or any  
10 subsidiary, parent, or affiliate that engages in any acts or practices subject to this  
11 Order;

12 C. CPS must submit to the Commission notice of the filing of any  
13 bankruptcy petition, insolvency proceeding, or any similar proceeding by or  
14 against CPS within fourteen (14) days of its filing;

15 D. Any submission to the Commission required by this Order to be  
16 sworn under penalty of perjury must be true and accurate and comply with 28  
17 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under  
18 the laws of the United States of America that the foregoing is true and correct.  
19 Executed on: \_\_\_\_\_" and supplying the date, signatory's full name, title (if  
20 applicable), and signature; and

21 E. Unless otherwise directed by a Commission representative in  
22 writing, all submissions to the Commission pursuant to this Order must be  
23 emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal  
24 Service) to: Associate Director for Enforcement, Bureau of Consumer  
25 Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,  
26  
27  
28

1 Washington, DC 20580. The subject line must begin: U.S. v. Consumer  
2 Portfolio Services, Inc.

3  
4 **XV. RECORDKEEPING**

5 IT IS FURTHER ORDERED that, in addition to records required to be  
6 created and maintained pursuant to Sections IV, V, VI, and XIV, above, CPS  
7 must create certain records for twelve (12) years after entry of the Order, and  
8 retain each such record for five (5) years, unless otherwise indicated.

9 Specifically, CPS must create and retain the following records:  
10

11 A. Accounting records that reflect the revenues from all goods and  
12 services sold, and specifically including revenues from:

- 13 1. Loan servicing fees and fees paid by or imposed on  
14 consumers;
- 15 2. Payments of principal and interest received on active  
16 accounts;
- 17 3. Costs incurred in generating the revenues reported in 1 and 2,  
18 above; and
- 19 4. Disbursement of the revenues reported in 1 and 2 above;

20 B. Personnel records showing, for each person involved in loan  
21 servicing or collection, that person's name, address, and telephone numbers; job  
22 title or position; dates of service; and, if applicable, the reason for termination;

23 C. Copies of all scripts, training materials, and policy manuals related  
24 to loan servicing and collection activities; and

25 D. All records necessary to demonstrate full compliance with each  
26 provision of this Order, including all submissions to the Commission.  
27  
28



1  
2 **XVI. COMPLIANCE MONITORING**

3 IT IS FURTHER ORDERED that, for the purpose of monitoring CPS's  
4 compliance with this Order:

5 A. Within fourteen (14) days of receipt of a written request from a  
6 representative of the Commission or Plaintiff, CPS must submit additional  
7 compliance reports or other requested information, which must be sworn under  
8 penalty of perjury; appear for depositions; and produce documents for inspection  
9 and copying. The Commission and Plaintiff are also authorized to obtain  
10 discovery, without further leave of court, using any of the procedures prescribed  
11 by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions),  
12 31, 33, 34, 36, 45, and 69;

13  
14 B. For matters concerning this Order, the Commission and Plaintiff are  
15 authorized to communicate directly with CPS. CPS must permit representatives  
16 of the Commission and Plaintiff to interview any employee or other person  
17 affiliated with CPS who has agreed to such an interview. The person  
18 interviewed may have counsel present; and

19  
20 C. The Commission and Plaintiff may use all other lawful means,  
21 including posing, through its representatives, as consumers, suppliers, or other  
22 individuals or entities, to CPS or any individual or entity affiliated with CPS,  
23 without the necessity of identification or prior notice. Nothing in this Order  
24 limits the Commission's lawful use of compulsory process, pursuant to Sections  
25 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.  
26  
27  
28

1 **XVII. RETENTION OF JURISDICTION**

2 IT IS FURTHER ORDERED that this Court retains jurisdiction of this  
3 matter for purposes of construction, modification, and enforcement of this  
4 Order.  
5

6 **SO ORDERED** this 11<sup>TH</sup> day of June, 2014:  
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10 Audrey B. Collins  
11 UNITED STATES DISTRICT JUDGE  
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1 **STIPULATED AND AGREED:**

2 **FOR PLAINTIFF:**

3 **THE UNITED STATES OF AMERICA**

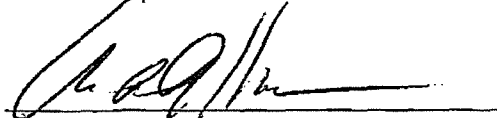
4  
5 **STUART F. DELERY**  
6 Assistant Attorney General  
7 Civil Division

8 **MICHAEL S. BLUME**  
9 Director  
10 **ANDREW E. CLARK**  
11 Assistant Director


12   
13 \_\_\_\_\_

14 **ANN ENTWISTLE**  
15 Trial Attorney  
16 Consumer Protection Branch  
17 U.S. Department of Justice  
18 P.O. Box 386  
19 Washington, D.C. 20044  
20 Telephone: (202) 305-3630  
21 Fax: (202) 514-8742  
22 Ann.F.Entwistle@usdoj.gov  
23  
24  
25  
26  
27  
28

1 **FOR THE FEDERAL TRADE**  
2 **COMMISSION:**

3 


4 **CHARLES A. HARWOOD**  
5 Director, Northwest Region

6 

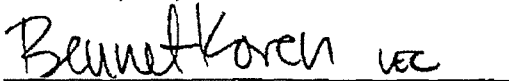
7 **TRACY S. THORLEIFSON**  
8 Attorney  
9 tthorleifson@ftc.gov  
10 Federal Trade Commission  
11 915 Second Avenue, Suite 2896  
12 Seattle, WA 98174  
13 Phone: (206) 220-6350

14 Date: April 29, 2014

**FOR DEFENDANT CONSUMER**  
**PORTFOLIO SERVICES, INC:**



Michael Lavin, CA Bar No. 199423  
Senior Vice President-General Counsel  
Michael@consumerportfolio.com  
Consumer Portfolio Services, Inc.  
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**JOEL WINSTON**  
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Hudson Cook, LLC  
1020 19th Street, N.W., Suite 700  
Washington DC 20036  
Telephone: (202) 327-9716

Date: December 13, 2013

1 ATTACHMENT A

2 CPS shall use the following procedures to identify consumers whose accounts  
3 were serviced by CPS at any time between January 1, 2008, and June 30, 2013,  
4 and were charged the following types of fees or other amounts in an amount  
5 exceeding the amount allowed by the contract or permitted by law  
6 (“overcharges”):

7 **DEFINITIONS**

8 For purposes of this Attachment A, the following definitions shall apply:  
9

10 1. **“Non-sufficient funds (NSF) fees”** shall mean fees assessed to an  
11 account when a check, draft or other instrument is dishonored because there are  
12 not sufficient funds in the consumer’s account to pay the check, draft or other  
13 instrument.

14 2. **“Late payment fees”** shall mean fees assessed to an account when a  
15 payment is not made on the payment due date or within any applicable grace  
16 period provided in the contract and/or state law.

17 3. **“Legal fees”** shall mean expenses incurred by CPS and assessed to an  
18 account when CPS hires a third party to perform legal services in connection  
19 with the account.

20 4. **“Field chase fees”** shall mean expenses incurred by CPS and assessed to  
21 an account when CPS hires a third party to make a personal visit to the  
22 consumer’s residence on behalf of CPS.

23 5. **“Finance charges accrued on principal balance increases related to**  
24 **loan extensions”** shall mean additional finance charges that accrued on an  
25 account when the consumer paid an extension fee and an extension fee was  
26 collected from a prior principal payment.

1 6. **“Finance charges accrued on principal balance increases related to**  
2 **bankruptcy filings”** shall mean additional finance charges that accrued when  
3 the principal balance of an account was increased in connection with the  
4 consumer’s filing of a petition for bankruptcy.

5 7. **“Payoff overages”** shall mean any portion of a payoff payment that  
6 exceeded the actual full balance owed as of the date the payoff payment was  
7 received.

8 **METHODOLOGY FOR REDRESS**

9 1. **Non-sufficient funds (NSF) fees:** Run a customized query of CPS’s  
10 Liberty accounting system to compare the amount of each NSF fee assessed to  
11 an account against the NSF fee routine that was assigned to that account when  
12 the account was boarded based on state law, and identify all NSF fees that  
13 exceeded the NSF fee routine.

14 2. **Late payment fees:** Run customized queries of the Liberty system to  
15 identify overcharges of late fee assessments on an account as follows:

16 A. For each active and paid-off account:

- 17 (i) Recalculate the late fee based on the late fee parameters  
18 coded on the account at the time the contract was boarded,  
19 (ii) Where applicable, recalculate the late fee based on the late  
20 fee routine for the applicable state, and  
21 (iii) Identify all late fees that exceeded the lower of the  
22 recalculations conducted under Steps A(i) and (ii).  
23

24 B. For each charged-off account, review its historic month-end records  
25 from the Liberty system and recalculate the amount of each late fee that was  
26 assessed on an account to identify all late fees that exceeded the amounts  
27 permitted by contract and state law.  
28

1 3. **Legal fees:** Run customized queries of the Liberty system to identify  
2 overcharges of legal fees as follows:

3 A. Determine the date of the assessment of each legal fee;

4 B. Compare the date of the assessment to the dates of the following  
5 four events:

6 (i) the repossession date,

7 (ii) the bankruptcy filing date,

8 (iii) the date of assignment to an attorney to institute a legal  
9 action against the consumer,

10 (iv) the charge-off date; and  
11

12 C. Identify all legal fees assessed prior to any of the events in Steps  
13 B(i) – B(iv).  
14

15 4. **Field chase fees:** Run customized queries of the Liberty system to  
16 identify all accounts to which field chase fees were charged under the general  
17 collection expenses transaction code, and those fees:

18 A. Were between \$40.00 and \$50.00, and  
19

20 B. Were assessed to an account originated in one of the following  
21 states: Colorado, Idaho, Indiana, Iowa, Maine, Michigan, New Jersey,  
22 Oklahoma, Pennsylvania, South Carolina, West Virginia, Wisconsin, or  
23 Wyoming.

24 5. **Finance charges accrued on principal balance increases related to**  
25 **loan extensions:** Run customized queries of the Liberty System to:

26 A. Identify all accounts where, on the same day,

27 (i) an extension fee transaction code was applied to the account,  
28



1 (ii) a debit of \$50.00 or less was posted to the account, and

2 (iii) an amount of \$50.00 or less was applied to principal.

3 B. For each account identified in Step A, determine the amounts of  
4 additional payments accountholders may have made as a result of the extension  
5 process by:

6 (i) for paid-off accounts, calculating the finance charges that  
7 accrued on the higher principal balance at the contract rate from the  
8 date of the principal balance increase to the payoff date,

9 (ii) for active accounts, calculating the finance charges that  
10 accrued on the higher principal balance at the contract rate from the  
11 date of the principal balance increase to June 30, 2013, and

12 (iii) for charged-off accounts, calculating the finance charges that  
13 accrued on the higher principal balance at an interest rate of 20.0%  
14 per annum from the date of the principal balance increase to the  
15 charge-off date.  
16

17 **6. Finance charges that accrued on principal balance increases related**  
18 **to bankruptcy filings:** Run customized queries of the Liberty System to:

19 A. Identify all accountholders who filed a Chapter 13 bankruptcy  
20 petition between January 1, 2008, and June 30, 2013,

21 B. Identify any of the accounts identified in Step A for which the  
22 principal balance increased after the bankruptcy filing date, and

23 C. Calculate the finance charges that accrued on the increased  
24 principal balance at an interest rate of 6.0% per annum.  
25

26 **7. Payoff overages:** Run customized queries of the Liberty system to  
27 identify all accounts as to which all of the following occurred:  
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- A. The accountholder made a payoff payment,
- B. The payoff payment exceeded the actual full balance owed as of the date the payoff payment was received,
- C. CPS retained some or all of the excess payment, and
- D. The amount of the excess payment retained by CPS exceeded \$1.00.