

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of:

MID AMERICA BANK & TRUST COMPANY,
Dixon, Missouri

A State Member Bank

Docket No. 17-038-B-SM

CONSENT ORDER

WHEREAS, in recognition of the common goals of the Board of Governors of the Federal Reserve System (“Board of Governors”) and Mid America Bank & Trust Company, Dixon, Missouri (“Mid America”), a state-chartered member of the Federal Reserve System, to ensure compliance by Mid America with all applicable federal and state laws, rules, and regulations including, but not limited to, section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. § 45(a)(1)) (“FTC Act”), and effective management of the legal, reputational, and compliance risks of Mid America, the Board of Governors and Mid America have mutually agreed to enter into this Consent Order (the “Order”);

WHEREAS, the Board of Governors and the Federal Reserve Bank of St. Louis have conducted inquiries that assessed the practices of Mid America related to its balance transfer credit card portfolios offered to consumers through third parties known as Independent Service Organizations (“ISOs”);

WHEREAS, this Order is issued with respect to the following:

A. Some ISOs purchase charged-off or past-due consumer debt from financial institutions and offer products that allow consumers to repay some or all of the debt. These products involve issuing the consumer a credit card and forgiving a portion of the debt in return for in some instances requiring payments on the debt to qualify for the credit card and transferring the remaining debt onto the credit card., *i.e.*, a transferred balance. Because the ISOs themselves cannot directly offer credit cards to consumers, the ISOs contract with a bank to use the bank's Bank Identification Number ("BIN") to issue credit cards in the name of the bank to consumers. In exchange for issuing the card, a bank receives a per-account monthly fee, and in some instances a program review fee, from the ISO. Once the bank and ISO enter into an agreement, the credit card products are marketed to consumers. If a consumer's application for such a credit card product is approved, the bank will make an extension of credit to the consumer, whose account then will be held by the bank.

B. In late 2008, Mid America began to enter into such agreements with ISOs.

C. Mid America, through ISOs, marketed balance transfer credit cards to consumers with debt as an alternative to requiring consumers to settle the debt directly with the ISOs. These balance transfer credit cards gave consumers the potential to settle debt while obtaining an extension of new credit. If consumers obtained a balance transfer credit card from Mid America, part of the debt would be forgiven and the remainder would be due as a qualifying payment or would be transferred to their new card. Typically, additional credit became available to the consumer as they paid down the transferred balance.

Affirm Card

D. In July 2009, Mid America acquired a portfolio of balance transfer credit cards known as the "Affirm MasterCard" ("Affirm Card") from Meta Bank, Sioux Falls, South

Dakota, a state non-member bank. In July 2009, Mid America also entered into Credit Marketing and Receivables Purchase Agreements with an ISO to issue new Affirm Cards to consumers. Under the Credit Marketing Agreement, Mid America was required to provide written approval for all advertising materials related to the Affirm Cards. Mid America and the ISO also represented that they would comply with all laws that apply to the marketing and offering of the Affirm Cards, including, but not limited to, the FTC Act.

E. From July 2009 through and including December 2011, Mid America, through the ISO, marketed the Affirm Cards to consumers having existing debt as a credit card for which the consumers' initial credit limit would be equal to the amount of debt transferred to the card. As consumers paid off debt, new credit would become available for the consumer's use.

F. Mid America, through the ISO, failed to disclose that finance charges and fees would reduce the amount of new credit available to a consumer after making a payment.

i. The Affirm solicitation letter provided to consumers prior to account opening stated: "You will not have any available credit upon issuance of your new Affirm MasterCard. However, as you continue to make timely, qualifying payments on your account, you will open up 'available credit' to use anywhere that accepts MasterCard." It further stated, "Build more 'available credit' by making timely qualifying additional payments."

ii. The Affirm welcome letter provided to consumers after account opening contained the following representations: "Remember: by making each Monthly Minimum Payment on time, you free up available credit on your Affirm MasterCard (Purchases and cash advances may be made to the extent of your available credit, which is \$0.00 until you pay down your current balance) . . . The more you pay on your Account each month, the more available credit you free up on your Affirm MasterCard!"

iii. Neither the Affirm Card solicitation letter nor welcome letter explained that the assessment of finance charges and fees would limit the amount of new credit available to a consumer, even if the consumer made payments on the account.

iv. Therefore, consumers could have reasonably believed that by continuing to make timely minimum monthly payments on their Affirm Card they would receive credit equal to the amount they paid, when, in fact, they did not due to the assessment of finance charges and fees.

v. Approximately 588 consumer accounts were established by Mid America as a result of using the foregoing marketing materials.

Pearl Card

G. The Pearl Gold MasterCard balance transfer credit card (“Pearl Card”) was marketed to consumers as a way to build positive payment records because their monthly payments would be reported to consumer reporting agencies, such as TransUnion, Experian, and Equifax (“CRAs”).

H. In December 2010, the Federal Deposit Insurance Corporation (“FDIC”) entered into a consent order with WebBank, Salt Lake City, Utah, a state non-member bank (“WebBank Consent Order”), requiring, among other things, WebBank and its successors and assigns to refrain from reporting any consumer defaults on the Pearl Card accounts to the CRAs. *In the Matter of WebBank*, Docket FDIC-10-792b & 793k (Dec. 29, 2010).

I. In December 2010, Mid America acquired the Pearl Card portfolio from WebBank, which had issued the Pearl Cards through an agreement with another ISO.

J. After Mid America acquired the Pearl Card portfolio from WebBank, it refrained from reporting consumers’ credit histories to the CRAs. Mid America believed that as a

successor to WebBank for the purposes of the WebBank Consent Order, it could not report positive payment histories because it was, as WebBank's assignee, required to refrain from reporting defaults (*i.e.*, negative credit histories) to the CRAs.

K. Mid America failed to disclose to consumers that it would not report credit histories to the CRAs despite the marketing materials and disclosures previously provided to Pearl Card consumers, when the accounts were held at WebBank, explaining that the credit reporting to CRAs for the Pearl Card would be a way for consumers to build positive payment records. Approximately 12,000 consumer accounts were affected by Mid America's decision not to report without further disclosures.

Emblem Card

L. Under state law, if the applicable statute of limitations for a consumer's debt expires, a creditor or debt collector may not sue to collect the debt.

M. In most states, if a consumer acknowledges or makes a partial payment towards a debt for which the statute of limitations already has expired, the statute of limitations period is restarted, and a creditor or debt collector can sue the consumer to collect on that debt.

N. In September 2010, the FDIC entered into a consent order with Monterey County Bank, Monterey, California, a state non-member bank ("Monterey Consent Order"), regarding one of its balance transfer credit card portfolios not at issue in this matter. However, the Monterey Consent Order did relate to bank and ISO credit card disclosures. Under the Monterey Consent Order, Monterey County Bank, among other things, was required to: "[r]efrain from offering credit cards which are intended for the transfer and payment of charged-off consumer debt . . . without disclosing the age of the debt and the fact the transferred debt is time-barred

and/or no longer reportable by the credit reporting agencies.” *In the Matter of Monterey County Bank*, Docket FDIC-09-081b & FDIC 10-221k (Sept. 29, 2010).

O. In March 2011, Mid America acquired a balance transfer credit card portfolio known as the Emblem Master Card portfolio (“Emblem Cards”) from Monterey County Bank, which had issued Emblem Cards through an agreement with another ISO. In March 2011, Mid America and the ISO entered into a Credit Card Service Agreement and a Receivable Sales Agreement for Mid America to offer new Emblem Cards to consumers. Under the Credit Card Service Agreement, the ISO was required to ensure that the card design, all marketing materials, and promotional strategies comply with applicable laws. Mid America was required to review and approve the marketing materials and disclosures related to the Emblem Cards.

P. From July 2011 through and including December 2013, Mid America, through its agreements with the ISO, originated Emblem Cards. Mid America, through the ISO, marketed the new Emblem Card to consumers who had charged-off or past-due debt. Neither the solicitation letter provided to consumers prior to account opening nor the welcome letter provided to consumers after account opening accurately disclosed to consumers that participating in the Emblem Card program could restart the statute of limitations for out-of-statute debt. Thus, the debt could be collected through a lawsuit by Mid America or a third party, although Mid America asserts that it has not pursued collection on these accounts, the ISO has not pursued collection on these accounts, and Mid America has prohibited third parties from doing so in the future. Approximately 8,000 of these consumers had charged-off debts that were outside of the statute of limitations (“out-of-statute debt”).

Q. The deficiencies specified in paragraphs A. through P. above resulted in deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and unsafe or unsound banking practices.

WHEREAS, the practices described above warrant a consent order by the Board of Governors against Mid America to cease and desist and take affirmative action under sections 8(b)(1), (2), (3), and (6) of the FDI Act (12 U.S.C. § 1818(b)(1), (2), (3), and (6)), including the payment of restitution to affected cardholders of approximately \$5,000,000;

WHEREAS, Mid America has agreed to this Order;

WHEREAS, since entering into agreements with the ISOs, Mid America has taken steps to improve its compliance program, including with respect to its relationships with ISOs;

WHEREAS, Mid America has agreed to undertake additional efforts to identify holders of Affirm Cards whose accounts have been transferred from one ISO to another ISO for the purpose of providing restitution;

WHEREAS, Mid America has ceased issuing new balance transfer credit card products, including those described in this Order, but could do so in the future subject to the requirements of paragraph 7 below; and

WHEREAS, on October 6, 2017, the board of directors of Mid America adopted a resolution authorizing Greg Luehmann, in his capacity as the president of Mid America, to enter into this Order on behalf of Mid America and consent to compliance with each and every applicable provision of this Order by Mid America and waiving any and all rights that Mid America may have pursuant to section 8 of the FDI Act (12 U.S.C. § 1818), including, but not limited to: (i) the issuance of a notice of charges on any matters set forth in this Order; (ii) a hearing for the purpose of taking evidence on any matters set forth in this Order; (iii) judicial

review of this Order; (iv) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of the Order or any provision hereof.

NOW, THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony, it is hereby ordered, pursuant to sections 8(b)(1), (2), (3), and (6), of the FDI Act (12 U.S.C. §§ 1818(b)(1), (2), (3), and (6) and), that:

No Misrepresentations or Omissions

1. Mid America shall continue to take all action necessary to correct all violations of the FTC Act cited in the Federal Reserve's most recent Consumer Affairs Report of Examination, and maintain future compliance with the FTC Act. Mid America shall not make, or allow to be made, in connection with any extension of credit, any misleading or deceptive representation, statement, or omission, expressly or by implication, including but not limited to with respect to balance transfer credit cards through ISOs.

2. Whether acting on its own or through a third party, Mid America shall disclose clearly and prominently, and on the same page, any representation about credit limits or available credit in any balance transfer credit card solicitation or similar balance transfer marketing materials and the effect of any fees and finance charges on the amount of available credit.

3. Whether acting on its own or through a third party, Mid America shall refrain from all of the following:

(a) making misleading statements or omissions about the amount of available credit;

(b) offering credit cards that enable the transfer and payment of charged-off debt without clearly and prominently disclosing whether the debt could be collected

under the applicable statute of limitations and/or is no longer reportable by the CRAs;
and

(c) misleading consumers concerning any changes in the terms or the conditions of the credit card account after issuance, or failing to disclose any changes in how or whether the credit card will be reported to CRAs from what was marketed to the consumer, irrespective of whether the credit card was originally issued by Mid America or another bank.

4. Mid America shall make no representations to any insured depository institution, any consumers, or any other person or entity that the Board of Governors, the Reserve Bank, or any employee, agent, or representative of the Board of Governors or the Reserve Bank have endorsed or approved any aspect of any product or service offered by Mid America, including those offered through third parties.

Board and Senior Management Oversight Plan

5. Within 60 days of this Order, the board of directors of Mid America shall submit to the Reserve Bank an acceptable written plan to strengthen the board of directors' oversight of the compliance risk management program. The plan shall describe the actions that the board of directors has taken and/or will take to improve Mid America's compliance risk management program and a timeline for the actions to be taken. The plan shall, at a minimum, address, consider, and include:

(a) measures to communicate the board of directors' clear expectations regarding compliance with consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1));

(b) measures to ensure adherence to approved compliance policies, procedures, and standards for consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1));

(c) measures to ensure that the compliance program is administered by senior management and other personnel with sufficient expertise in, and knowledge of, consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and to ensure that the Bank has adequate levels and types of officers and staff to comply fully with all requirements of this Order;

(d) measures to ensure the appropriate and timely resolution of audit findings, compliance risk assessments, and examination findings for consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)); and

(e) measures to enhance the information and reports that will be regularly reviewed by the board of directors including, compliance risk assessments regarding consumer protections laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and reports on the status and results of measures taken, or to be taken, by senior management to remediate outstanding compliance issues, to implement major compliance initiatives, and to comply fully with this Order.

Consumer Compliance Risk Management Plan

6. Within 60 days of this Order, Mid America shall submit to the Reserve Bank an acceptable written plan to enhance the consumer compliance risk management program to ensure that the marketing, processing, and servicing of consumer products and services, including consumer products and services, such as balance transfer credit cards, offered through a third party (“Third Party Products”), comply with all consumer protection laws and regulations,

including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)). The consumer compliance committee of the board of directors shall have responsibility for overseeing the development and implementation of the plan required by this paragraph. The plan shall, at a minimum, address, consider, and include:

(a) measures to ensure that the program is developed in accordance with applicable supervisory guidance of the Board of Governors, including, but not limited to, the guidance entitled, “Guidance on Managing Outsourcing Risk,” dated December 5, 2013 (SR 13-19/CA 13-21); “Community Bank Risk-Focused Consumer Compliance Supervision Program,” dated November 18, 2013 (CA 13-19); “Revised Federal Reserve Examination Procedures for Section 5 of the FTC Act,” dated July 13, 2016 (CA 16-4); and “Unfair or Deceptive Acts or Practices by State-chartered Banks,” dated March 11, 2004 (CA 04-2);

(b) measures to enhance Mid America’s marketing materials, disclosures, and similar documentation for consumer products and services to ensure that consumers receive material information in a manner that is accurate, clear, complete, and conspicuous, including notice, if applicable, that Mid America is no longer reporting to CRAs;

(c) measures to ensure that the compliance program is administered by compliance personnel with sufficient expertise in, and knowledge of, applicable consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and to ensure that sufficient personnel is provided to comply fully with all requirements of this Order;

(d) measures to enhance policies and procedures for:

(i) the review, approval, and maintenance by Mid America of: (1) all marketing, advertising, solicitation materials (including direct mail or Internet solicitations,

promotional materials, telemarketing scripts, website content, mobile applications, and social media content), and similar communications for consumer products and services, including Third Party Products; (2) other materials provided to consumers generated in connection with the marketing, processing, and servicing of consumer products and services, including any account agreements and account statements; (3) all materials related to customer service; (4) all materials documenting the service-level standards for services provided by all Third Party Product providers and their partners, servicers, vendors, and any of their providers or sub-servicers (collectively, “Third Party Product Providers”), including due diligence reports, monitoring and audit results, and financial materials; and (5) any material changes thereto;

(ii) periodic compliance reviews, including on-site visits, as appropriate, by Mid America of all Third Party Product Providers, whose roles are material to the provision of consumer products and services on behalf of Mid America;

(iii) prompt notification to Mid America by its Third Party Product Providers of any complaints, regardless of the source; inquiries or investigations from federal or state agencies or legislative bodies; and legal actions received from any party raising concerns about the practices of any Third Party Product Providers;

(iv) promptly addressing and resolving consumer complaints and inquiries arising in connection with consumer products or services, including any Third Party Product, monitoring such complaints and inquiries and identifying any trends concerning the nature of the complaints, and promptly addressing the root causes of such complaints and inquiries;

(v) regular meetings between Mid America and Third Party Product Providers for which the Bank will take and maintain written notes;

(vi) the periodic review by Mid America's board of directors and senior management of Mid America's business and strategic plans relating to agreements with Third Party Product Providers;

(vii) assessing consumer compliance risk, performing the necessary due diligence in the approval of new relationships with Third Party Product Providers, and implementation of appropriate risk management procedures and controls for new relationships with Third Party Product Providers; and

(viii) updating policies and procedures on an ongoing basis as necessary to incorporate new or changes to consumer protection laws, regulations, and supervisory guidance issued by federal or state agencies affecting consumer products or services, including Third Party Products;

(e) measures to ensure on-going, periodic training of appropriate Bank personnel, including the board and senior management, that addresses compliance with consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1));

(f) measures to enhance the risk monitoring process and management information systems to identify, manage and promptly correct compliance weaknesses, including any weaknesses in compliance with section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), in the marketing, processing, and servicing of consumer products and services, including Third Party Products;

(g) measures to enhance the internal controls, including enhancing internal audits for compliance with consumer protection laws and regulations, including section 5(a)(1)

of the FTC Act (15 U.S.C. § 45(a)(1)), in the marketing, processing, and servicing of consumer products and services, including Third Party Products;

(h) measures to ensure that any arrangement with a Third Party Product Provider to market, process, and/or service Third Party Products requires that Mid America has the ultimate authority to determine the terms, manner, and conditions under which the Third Party Product will be marketed, processed, and/or serviced for consumers, and that the Third Party Product Provider will make any changes, on a prospective basis, in such terms, manner, and conditions that Mid America deems necessary to comply with applicable laws, regulations, and/or supervisory guidance; and

(i) measures to ensure that Mid America takes the actions required by paragraphs 1 through 4 of this Order.

New Third Party Products

7. Mid America shall not enter into any new agreements with Third Party Product Providers, including such agreements with ISOs, until Mid America has received nonobjection from the Reserve Bank for the plans required by paragraphs 5 and 6 of this Order.

Restitution and Other Relief

8. Within 10 days of this Order, Mid America shall deposit an amount of not less than \$3,000,000 into a qualified settlement fund pursuant to section 1.468B-1, *et seq.*, of the Treasury Regulations, promulgated under section 468B of the Internal Revenue Code, or otherwise into a segregated deposit account at an insured depository institution acceptable to the Reserve Bank (“Reserve Account”) for the purpose of providing restitution as required by this Order. Mid America shall make all restitution payments required by this Order regardless of whether the total of such payments exceeds the segregated amount required by this paragraph.

No disbursements may be made out of the Reserve Account, except those made pursuant to the restitution plan submitted and not objected to by the Reserve Bank pursuant to this Order.

9. Within 60 days of this Order, Mid America shall submit to the Reserve Bank an acceptable written plan to provide for remediation and restitution to the holders of Pearl and Emblem Cards in connection with this Order (“Restitution Plan A”). Restitution Plan A shall, at a minimum, address, consider, and include:

(a) Provisions for Mid America to make restitution and take equitable actions described in paragraph 9(a), for consumers whose Pearl Card accounts had been held by WebBank and were not informed by Mid America that Mid America stopped reporting their payment histories to the CRAs, who paid the amounts described in paragraphs 9(a)(i) and (ii), and were never 31 or more days past due at month end, from February 7, 2011 through and including the effective date of this Order (“Pearl Card Holders”):

- (i) For all Pearl Card Holders with closed accounts, Mid America shall:
- a. refund by check all monthly participation fees and annual fees paid by the consumer from February 7, 2011 through and including the effective date of this Order;
 - b. cancel or waive all monthly participation fee and annual fee payments due that were charged off or otherwise not paid by the consumer from December 1, 2010 through and including the effective date of this Order;
 - c. provide notice that Mid America has not been reporting positive credit history; and

d. report to the CRAs payment history in a manner consistent with applicable law and regulation.

(ii) For all Pearl Card Holders with active accounts:

a. credit to the account all monthly participation fees and annual fees paid by the consumer from February 7, 2011 through the effective date of this Order;

b. provide notice that Mid America has not been reporting positive credit history;

c. report to the CRAs past payment history in a manner consistent with applicable law and regulation; and

d. address the future reporting of payment histories and provide appropriate notice.

(b) Provisions for Mid America to make restitution and take equitable actions described in paragraph 9(b), for consumers who obtained an Emblem Card issued by Mid America from July 1, 2011 through and including December 31, 2013 and who paid amounts described in paragraphs 9(b)(i) and (ii) (“Emblem Card Holders”):

(i) For all Emblem Card Holders with closed accounts, including charged-off accounts, Mid America shall:

a. refund by check the amount of the total qualifying payments made by the consumer in connection with enrollment;

b. refund by check the amount of the total payments made by the consumer towards the transferred balance;

c. refund by check the amount of the total annual fees paid by the consumer from July 1, 2011 through and including the effective date of this Order;

d. cancel or waive the remaining transferred balance payments, and all annual fee payments due, that were charged off or otherwise not paid by the consumer from July 1, 2011 through and including the effective date of this Order;

e. pursue the reversal of any trade line(s) that were negatively affected by the amounts required to be refunded, cancelled, or waived;

and

f. provide notice about the reasons for any of the actions described in paragraphs 9(b)(i)(a) through (e).

(ii) For all Emblem Card Holders with active accounts, Mid America shall:

a. credit to the account the amount of the total qualifying payments made by the consumer in connection with enrollment;

b. credit to the account the amount of the total payments made by the consumer towards the transferred balance;

c. credit to the account the amount of the total annual fees paid by the consumer from July 1, 2011 through and including through the effective date of this Order;

d. forgive any remaining transferred balance;

e. pursue the reversal of any trade line(s) that were negatively affected by the amounts required to be refunded; and

f. provide notice about the reasons for any of the actions described in paragraphs 9(b)(ii)(a) through (e).

10. Mid America shall provide for remediation and restitution to holders of Affirm Cards in connection with this Order as follows:

(a) Within 15 days of the effective date of this Order, Mid America shall submit to the Reserve Bank an acceptable written description of the reasonable efforts Mid America has used or will use to identify, by no later than 60 days after the approval of such description, any individual consumers who obtained an Affirm Card issued by Mid America from July 13, 2009 through and including December 31, 2011 (“Affirm Card Holders”) and to identify the data needed to refund such Affirm Card Holders the amounts specified in paragraphs 10(b)(i)(a) – (b);

(b) If any Affirm Card Holders and the data needed to refund such Affirm Card Holders the amounts specified in paragraphs 10(b)(i)(a) – (b) are identified by Mid America prior to the expiration of the 60-day period provided for in paragraph 10(a), within 60 days after the expiration of such 60-day period, Mid America shall submit to the Reserve Bank an acceptable written plan to provide for remediation and restitution to all Affirm Card Holders who have been identified by Mid America (“Restitution Plan B”). Restitution Plan B shall, at a minimum, address, consider, and include provisions for Mid America to make the restitution and take the equitable actions described in paragraph 10(b) for the Affirm Card Holders who paid the amounts described in paragraphs 10(b)(i) and (ii):

(i) For all such Affirm Card Holders with closed accounts, including charged-off accounts, Mid America shall:

a. refund by check all monthly service fees and interest paid by the consumer on the transferred balance from July 13, 2009 through and including the effective date of this Order;

b. cancel or waive all monthly service fees and interest payments due on the transferred balance that were charged off or otherwise not paid by the consumer from July 13, 2009 through and including the effective date of this Order;

c. pursue the reversal of any trade line(s) that were negatively affected by the amounts required to be refunded, cancelled, or waived; and

d. provide notice explaining that any finance charges and fees had reduced the amount of available credit.

(ii) For all such Affirm Card Holders with active accounts, Mid

America shall:

a. credit to the account all monthly service fees and interest paid by the consumer on the transferred balance from July 13, 2009 through and including the effective date of this Order;

b. refrain from charging any new monthly servicing fees and any interest on the transferred balance until the corrective disclosures required by paragraph 10(b)(ii)(d) of this Order are made;

c. pursue the reversal of any trade line(s) that were negatively affected by the amounts required to be refunded; and

d. provide notice explaining that any finance charges and fees had reduced and will reduce the amount of available credit.

(iii) For any Affirm Card Holder for whom Mid America is unable to identify the data needed to refund the amounts specified in paragraphs 10(b)(i)(a)–(b) and 10(b)(ii)(a)–(b) within the 60-day period specified in paragraph 10(b), Mid America shall:

- a. pay by check \$441; and
- b. provide notice explaining that any finance charges and fees had reduced and will reduce the amount of available credit.

11. Restitution Plan A and Restitution Plan B (if any) shall each include:

(a) Provisions for Mid America to provide the Reserve Bank with any additional data and information necessary to determine the restitution for Affirm Card Holders, Pearl Card Holders, and Emblem Card Holders (“Eligible Consumers”) after which the Reserve Bank shall provide Mid America with the list of Eligible Consumers and the amounts of restitution to be paid to each Eligible Consumer. After an opportunity for Mid America to comment, the Reserve Bank shall submit to Mid America (and any third-party identified in Restitution Plan A and Restitution Plan B as the trustee or paying agent) the final list of Eligible Consumers and amount of restitution to be paid to each, and payment by Mid America (or trustee or paying agent) of such amounts pursuant to Restitution Plan A and Restitution Plan B shall be deemed in compliance with the restitution requirements of this Order; and

(b) Proposed text of the following items: letters or notices that will be sent to the Eligible Consumers entitled to credits to their accounts; letters that will accompany the restitution checks to Eligible Consumers receiving refunds; restitution checks; envelopes in which the restitution checks will be enclosed; and any letters or notices required to be sent to Eligible Consumers required by paragraphs 9 and 10. The text of the letters to Eligible Consumers shall include: satisfactory language explaining the reasons that Mid America is

crediting the account or sending a restitution check; a reference to the web address for any press release by the Board of Governors related to this Order; and a statement that the restitution payment does not, in any manner, limit a consumer's rights. The face of each restitution check shall clearly and conspicuously state the number of days within which the Eligible Consumer must cash the check, which may not be less than 90 days.

12. Within 30 days after receipt of the Reserve Bank's written non-objection of Restitution Plan A and Restitution B, respectively, the restitution described in paragraphs 9 and 10 shall be made and the letters, including the notices, checks, and envelopes described in paragraph 9 and 10 shall be sent to the Eligible Consumers without modifications. Letters and any checks are to be sent by United States Postal Service first-class mail, address correction service requested, to each Eligible Consumer's last known address reflected in Mid America or the ISO's records or the most recent address provided by the National Change of Address System. The envelopes shall contain only the materials to which the Reserve Bank has provided a non-objection. Mid America shall make reasonable attempts to locate Eligible Consumers or their estates, including a standard address search using the National Change of Address System, or other similar system, if the notification letter and/or restitution check is returned for any reason. Mid America shall promptly re-mail all returned letters and restitution checks to corrected addresses.

13. (a) No earlier than 90 days from the date the restitution checks were originally mailed ("Void Date"), Mid America may void all checks that were returned or have not been negotiated, provided Mid America includes a mechanism in Restitution Plan A and Restitution Plan B by which Eligible Consumers can obtain a restitution payment for a period of 360 days from the date the restitution check was originally mailed.

(b) The total amount of any restitution payments that had been made by checks that were voided and that were not cashed or deposited by Eligible Consumers, and the total amount of any interest or other payments earned on the Reserve Account shall be distributed to the United States Treasury.

(c) Once the Board of Governors determines that all required restitution obligations described in paragraphs 9, 10, 11, and 12 of this Order have been satisfied and the Board of Governors issues the appropriate non-objection, Mid America may close the Reserve Account and remit to Mid America any excess funds remaining therein.

Independent Third-Party Auditor

14. Within 45 days of the date of this Order, Mid America shall hire an independent auditor who is acceptable to the Reserve Bank, who shall verify that Mid America made restitution as directed by the Reserve Bank. The independent auditor shall prepare a final written report (“Final Report”) evaluating the processes and procedures by which Mid America made the restitution, including the amounts of all restitution credits and refunds required by this Order. Restitution Plan A and Restitution Plan B shall contain a date by which the independent auditor’s Final Report shall be submitted to the Reserve Bank for non-objection. Prior to delivery of the Final Report, the Reserve Bank may require the independent auditor to produce interim reports or other updates related to the progress of Restitution Plan A and Restitution Plan B. All reports by the independent auditor shall be submitted simultaneously to Mid America and the Reserve Bank.

Approval, Implementation, and Progress Reports

15. Mid America shall submit written plans that are acceptable to the Reserve Bank within the applicable time periods set forth in this Order.

16. Unless otherwise provided above, within 10 days of approval by the Reserve Bank, Mid America's board of directors shall adopt the approved plans. Upon adoption, Mid America shall promptly implement the approved plans, and thereafter fully comply with them.

17. During the term of this Order, the approved plans shall not be amended or rescinded without the prior written approval of the Reserve Bank.

18. Within 45 days after the end of each calendar quarter following the date of this Order, Mid America's board of directors shall submit to the Reserve Bank written progress reports detailing the form and manner of all actions taken to secure compliance with the provisions of this Order and the results thereof. The Reserve Bank may, in writing, discontinue the requirement for progress reports or modify the reporting schedule.

Notices

19. All communications regarding this Order shall be sent to:

- (a) Richard M. Ashton
Deputy General Counsel
Board of Governors of the Federal Reserve System
20 & C Streets, N.W.
Washington, D.C. 20551
- (b) Robert Hopkins
Senior Vice President
Federal Reserve Bank of St. Louis
P.O. Box 442
St. Louis, Missouri 63166-0442
- (c) Greg Luehmann
President
Mid America Bank & Trust Company
216 West Second Street

Dixon, Missouri 65459

With a copy to:

- (d) Andrea K. Mitchell
Partner
Buckley Sandler LLP
1250 24th Street, NW, Suite 700
Washington, D.C. 20037

Miscellaneous

20. Notwithstanding any provision of this Order to the contrary, the Reserve Bank may, in its discretion, grant written extensions of time to Mid America to comply with any provision of this Order.

21. The provisions of this Order shall be binding upon Mid America, its institution-affiliated parties, in their capacities as such, and Mid America's successors and assigns.

22. Each provision of this Order shall remain effective and enforceable until stayed, modified, or terminated, or suspended in writing by the Reserve Bank.

23. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, or any other federal or state agency from taking any further or other action affecting Mid America, or any of its current or former institution-affiliated parties or its successors or assigns, or any other of Mid America's subsidiaries; however, the Board of Governors shall not take any further action against Mid America based upon the conduct described in the WHEREAS clauses of this Order to the extent known by the Board of Governors as of the effective date of this Order. This release and discharge shall not preclude or affect: (i) any right of the Board of Governors to determine and ensure compliance with this Order; (ii) any proceedings brought by the Board of Governors to enforce the terms of this Order; or (iii) any proceedings brought by the Board of Governors against individuals or entities who are or were institution-affiliated parties of Mid America.

24. Nothing in this Order, expressed or implied, shall give to any person or entity, other than the parties hereto and their successors hereunder, any legal or equitable right, remedy, or claim under this Order.

By Order of the Board of Governors of the Federal Reserve System effective this 25th day of October 2017.

MID AMERICA BANK &
TRUST COMPANY

BOARD OF GOVERNORS
OF THE FEDERAL RESERVE SYSTEM

By: _____/s/_____
Greg Luehmann
President

By: _____/s/_____
Ann E. Misback
Secretary of the Board