

**UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU**

ADMINISTRATIVE PROCEEDING

File No. 2016-CFPB-0004

In the Matter of:

**CITIBANK, N.A., DEPARTMENT
STORES NATIONAL BANK, and
CITIFINANCIAL SERVICING, LLC**

CONSENT ORDER

The Consumer Financial Protection Bureau (Bureau) has reviewed the debt collection practices of Citibank, N.A. (Bank), Department Stores National Bank (DSNB), and CitiFinancial Servicing, LLC (CitiFinancial Servicing) (collectively, Respondent) and has identified the following law violations: Respondent, through its attorneys, filed Declarations in Collections Litigation in the New Jersey courts. Respondent's attorneys altered certain Declarations after they had been executed by altering either the date of execution, the balance allegedly owed on the Debt, or both. The altered Declarations constituted false representations concerning, among other things, the amount of the Debt allegedly owed and the legal status of the Debt. These false representations constitute deceptive acts or practices in connection with collecting Debt related to a consumer financial product or service in violation of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531 and 5536. Under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I
Jurisdiction

1. The Bureau has jurisdiction over this matter under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565.

II
Stipulations

2. Respondent has executed a separate “Stipulation and Consent to the Issuance of a Consent Order” for the Bank, DSNB, and CitiFinancial Servicing dated February 16, 2016 (Stipulations), which are incorporated by reference and are accepted by the Bureau. By these Stipulations, Respondent has consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any of the findings of fact or conclusions of law; except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

III
Definitions

3. The following definitions apply to this Consent Order:
 - a. “Account” means an extension of credit to a Consumer in the United States, primarily for personal, family, or household purposes, and established or maintained for a Consumer pursuant to a credit card program.
 - b. “Affected Consumers” are Consumers who were defendants in Collections Litigation filed by Respondent identified in an order dated June 10, 2014, entered by the Superior Court of New Jersey (Law Division – Mercer County)

in *In re Application by Citibank, N.A., Department Stores National Bank, and CitiFinancial Servicing, LLC, to Take Curative Action in Certain Pending Unsecured Consumer Debt Collection Actions*, Docket No.: L-355-14.

- c. “Affiant” means any signatory to a Declaration, other than one signing solely as a notary or witness to the act of signing, signing in his or her capacity as an employee or agent of Respondent.
- d. “Bank” means Citibank, N.A., and its predecessors, successors, and assigns.
- e. “Board” means the Bank’s duly-elected and acting Board of Directors.
- f. “Collections Litigation” means attempts by Respondent (or a third party acting on its behalf for an Account owned by Respondent) through judicial processes in the United States of America, to collect or establish a Consumer’s liability for a Debt. Collections Litigation does not include processes or proceedings initiated by Respondent in bankruptcy or probate matters involving a Consumer.
- g. “Competent and Reliable Evidence” means documents and/or records created by Respondent in the ordinary course of business, which are capable of supporting a finding that the proposition for which the evidence is offered is true and accurate, and which comport with applicable laws and court rules.
- h. “Consumer” means any natural person obligated or allegedly obligated to pay any Debt.
- i. “Debt” means, coterminous with the meaning of “debt” as defined in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(5), any obligation or alleged obligation of a Consumer to pay money arising out of a transaction in which

the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

- j. “Declaration” means any affidavit, sworn statement, certification of proof, or declaration, whether made under penalty of perjury or otherwise signed by an Affiant for purposes of affirming its accuracy and veracity, submitted by or on behalf of Respondent to a court in a Collections Litigation matter for the purpose of collecting a Debt, but does not include affidavits, sworn statements, certifications of proof, or declarations signed by counsel based solely on counsel’s personal knowledge and not based on a review of Respondent’s books and records (such as affidavits of counsel relating to service of process, extensions of time, or fee petitions).
- k. “Effective Date” means the date on which the Consent Order is issued.
- l. “Regional Director” means the Regional Director for the Northeast Region for the Office of Supervision for the Bureau, or that person’s delegate.
- m. “Respondent” means the Bank, DSNB, and CitiFinancial Servicing, and their successors and assigns, individually, collectively, or in any combination.

IV

Bureau Findings and Conclusions

- The Bureau finds the following:
- 4. The Bank is a national bank with approximately \$1.337 trillion in total assets as of September 30, 2015.
 - 5. The Bank is an insured depository institution with assets greater than \$10 billion within the meaning of 12 U.S.C. § 5515(a).

6. The Bank is a “covered person” as that term is defined by 12 U.S.C. § 5481(6).
7. DSNB is a subsidiary of the Bank and an “affiliate” of the Bank within the meaning of 12 U.S.C. § 5515(a).
8. DSNB is a “covered person” as that term is defined by 12 U.S.C. § 5481(6).
9. CitiFinancial Servicing is an “affiliate” of the Bank within the meaning of 12 U.S.C. § 5515(a).
10. CitiFinancial Servicing is a “covered person” as that term is defined by 12 U.S.C. § 5481(6).
11. Respondent collects Debt allegedly owed to it after its customers allegedly fail to pay on their Accounts using, among other means, Collections Litigation. Respondent retained certain law firms to file court actions in the New Jersey courts to collect credit card Debt allegedly owed to Respondent by Consumers.
12. These law firms are “service providers” under 12 U.S.C. § 5481(26) because they provided material service to Respondent in connection with the offering or provision by Respondent of consumer financial products or services by, among other things, collecting Debt allegedly owed to Respondent in connection with Respondent’s extension of credit to Consumers.
13. Affiants executed Declarations for Respondent’s attorneys to file with the New Jersey courts in actions to collect Debt allegedly owed to Respondent. In Collections Litigation brought by Respondent, the Affiant to a Declaration attested to the accuracy of the amount of the Debt allegedly owed by a Consumer as of the date of the Declaration’s execution. The Affiant also attested to having personal knowledge of the facts of the Debt that formed the basis of the statements made in the Declaration.

14. Respondent's law firms altered the dates of the Declarations and/or the amount of the Debt allegedly owed after the Affiants executed the Declarations. These alterations meant that the Declarations, as filed with the New Jersey courts, were not Competent and Reliable Evidence to prove the Debts Respondent collected or attempted to collect, in most cases misrepresented the date the Affiant executed the Declaration, and in certain circumstances misrepresented the amount of the Debt allegedly owed.
15. In May 2011, Respondent became aware that these law firms had altered the dates and/or amounts of the Debt due on Declarations after execution by Affiants and had filed them with the New Jersey courts.
16. Respondent stopped referring new credit card accounts for collection to the law firms, directed those firms not to engage in further litigation of pending Collections Litigation, and instructed the law firms not to commence any new litigation in connection with credit card accounts that Respondent already referred to them.
17. Respondent reported these findings to the Office of the New Jersey Courts Administration (OCA).
18. As of September 12, 2011, Respondent had filed, through the law firms, altered Declarations in approximately 6,700 Debt collection actions that were then pending in the New Jersey courts. At that time, Respondent had collected approximately \$11 million in actions in which those altered Declarations had been filed, and was still attempting to collect approximately \$34 million in additional Debt in such actions.

19. On June 10, 2014, the Superior Court of New Jersey (Law Division – Mercer County), at Respondent’s request, ordered vacatur of any final judgments in Debt collection actions filed against Affected Consumers involving altered Declarations, dismissal with prejudice of the Debt collection actions filed against Affected Consumers involving altered Declarations, and the return of approximately \$11 million collected after the filing of the complaints in actions involving altered Declarations. The Superior Court’s dismissal of all pending cases against Affected Consumers involving altered Declarations also required that Respondent forgo collecting approximately \$34 million in additional Debt that Affected Consumers allegedly owed to Respondent.
20. Section 1036(a)(1)(B) of the CFPA prohibits “unfair, deceptive, or abusive” acts or practices. 12 U.S.C. § 5536(a)(1)(B).
21. As described in paragraphs 13-18, in connection with the collection or attempt to collect Debt, in numerous instances, Respondent, through its law firms, represented, expressly or impliedly, that the Debt allegedly owed to Respondent in Collections Litigation in which an altered Declaration was filed was supported by Competent and Reliable Evidence. Further, in certain instances, Respondent, through its law firms, represented, expressly or impliedly, that the stated amount of Debt allegedly owed was accurate.
22. In fact, the altered Declarations were not valid legal documentation and did not constitute Competent and Reliable Evidence of the Debts allegedly owed to Respondent. Further, in certain instances, the amount of Debt allegedly owed as stated in the altered Declaration was not accurate and did not reflect the amount owed according to Respondent’s records.

23. Thus, Respondent's representations, as described in paragraphs 21-22, constitute deceptive acts or practices in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

ORDER

V

Conduct Provisions

IT IS ORDERED, under sections 1053 and 1055 of the CFPA, that:

24. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not violate, including by taking reasonable measures to ensure that its service providers, affiliates, and other agents do not violate, sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531 and 5536, as follows and must take the following affirmative actions:
- a. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with the collection of any Debt, may not misrepresent, or assist others in misrepresenting, expressly or impliedly:
 - i. The date of execution of any Declaration;
 - ii. The amount of the Debt owed that is listed in a Declaration;
 - iii. That the Debt that Respondent is attempting to collect is supported by Competent and Reliable Evidence; or
 - iv. Any other fact material to Consumers concerning Declarations used in Collections Litigation.

- b. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with the collection of any Debt, may not alter or file with a court Declarations altered after execution, or assist others in altering or filing with a court Declarations altered after execution.
- c. Respondent, and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with any Collections Litigation, must comply with the order dated June 10, 2014, entered by the Superior Court of New Jersey (Law Division – Mercer County) in *In re Application by Citibank, N.A., Department Stores National Bank, and CitiFinancial Servicing, LLC, to Take Curative Action in Certain Pending Unsecured Consumer Debt Collection Actions*, Docket No.: L-355-14, including:
 - i. Vacating all final judgments in actions filed by Respondent as identified in the June 10 order;
 - ii. Dismissing with prejudice all actions filed by Respondent as identified in the June 10 order;
 - iii. Ceasing acceptance of payments in all actions filed by Respondent as identified in the June 10 order; and
 - iv. Returning to Affected Consumers all amounts collected in actions filed by Respondent as identified in the June 10 order.
- d. Respondent must enhance and update, as necessary, its oversight and compliance management systems with respect to Declaration processing for the collection of Debt to ensure that its service providers, affiliates, or other

agents do not alter or file in court altered Declarations in connection with the collection of any Debt related to a consumer financial product or service on behalf of Respondent (External Declaration Processing). These measures must include:

- i. Regular supervision by Respondent of the service providers, affiliates, or other agents it engages in connection with the collection of any Debt, including on-site visits (with and without notice), document collection, interviews with law firm personnel, and oversight of curative actions and/or remediation;
 - ii. Regular review of form Declarations prepared by or for the use of Respondent's service providers, affiliates, or other agents it engages to commence or prosecute litigation attempting to collect Debt; and
 - iii. Regular review of Declarations filed by Respondent's service providers, affiliates, or other agents in litigation attempting to collect Debt.
25. Respondent must correct all violations of law, to the extent not already corrected, as described herein.

VI Compliance Plan

IT IS FURTHER ORDERED that:

26. Within 60 days of the Effective Date, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's External Declaration Processing complies with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
 - a. detailed steps for addressing each action required by this Consent Order;
 - b. written policies and procedures for conducting audits of Respondent's compliance with applicable Federal consumer financial laws, including but not limited to Sections 1031 and 1036 of the CFPB, in connection with Respondent's External Declaration Processing; these policies and procedures must specify the frequency, scope, and depth of these audits;
 - c. written policies and procedures for expanding audit sampling when exceptions based on potential violations of applicable Federal consumer financial laws are detected as part of an audit described above;
 - d. a requirement that within 90 days of completion of the actions required under the Compliance Plan, Respondent's Internal Audit department assess whether Respondent has completely and accurately implemented the Compliance Plan; the Internal Audit department's findings must be memorialized in writing; within 10 days of completing the assessment, the Internal Audit department must provide its written findings to the Regional Director; and

- e. specific timeframes and deadlines for implementation of the steps described above.
27. To the extent that Respondent believes it has satisfied elements of the Compliance Plan at the time the Compliance Plan is submitted to the Regional Director, Respondent may:
 - a. designate in the Compliance Plan those items that Respondent believes have been completed;
 - b. attach to the Compliance Plan any materials supporting such designation, including, as appropriate, documentation previously provided to the New Jersey courts; and
 - c. identify in the Compliance Plan the materials Respondent believes support each designation.
28. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct the Respondent to revise it. If the Regional Director directs Respondent to revise the Compliance Plan, Respondent must make the revisions and resubmit the Compliance Plan to the Regional Director within 30 days of the date of notification of the need for revisions.
29. After receiving notification that the Regional Director has made a determination of non-objection to the Compliance Plan, Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

VII

Role of the Board

IT IS FURTHER ORDERED that:

30. The Board must review all submissions (including plans, reports, programs, policies, and procedures) required by this Consent Order prior to submission to the Bureau.
31. Although this Consent Order requires the Respondent to submit certain documents for the review or non-objection by the Regional Director, the Board will have the ultimate responsibility for proper and sound management of Respondent and for ensuring that Respondent complies with Federal consumer financial law and this Consent Order.
32. In each instance that this Consent Order requires the Board to ensure adherence to, or perform certain obligations of, Respondent, the Board must:
 - a. Authorize whatever actions are necessary for Respondent to fully comply with the Consent Order;
 - b. Require timely reporting by management to the Board on the status of compliance obligations; and
 - c. Require timely and appropriate corrective action to remedy any material non-compliance with Board directives related to this Section.
33. The Board may delegate the authority to perform the obligations required by Paragraphs 30 to 32 to an appropriate committee of at least three Board directors. At formation and thereafter in the event of a change in membership, the names of the members of this committee must be submitted to the Regional Director.

COMPLIANCE PROVISIONS
VIII
Reporting Requirements

IT IS FURTHER ORDERED that:

34. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. Respondent must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.
35. Within 120 days of the Effective Date, and again one year after the Effective Date, Respondent must submit to the Regional Director an accurate and written compliance progress report (Compliance Report) that has been approved by the Board, which, at a minimum:
 - a. describes in detail the manner and form in which Respondent has complied with this Consent Order; and
 - b. attaches a copy of each Consent Order acknowledgment obtained under Section IX, unless previously submitted to the Bureau.

IX

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

36. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of the Consent Order.
37. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section VIII, any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.
38. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

X
Recordkeeping

IT IS FURTHER ORDERED that

39. Respondent must create, or if already created, must retain for at least 5 years from the Effective Date, the following business records:
 - a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau.
 - b. All documents and records necessary to establish a factual basis for any Declaration.
40. Respondent must retain the documents identified in Paragraph 39 for the duration of the Consent Order.
41. Respondent must make the documents identified in Paragraph 39 available to the Bureau upon the Bureau's request.

XI
Notices

IT IS FURTHER ORDERED that:

42. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re Citibank, N.A., et al.*, File No. 2016-CFPB- 0004 ,” and send them either:
 - a. By overnight courier (not the U.S. Postal Service), as follows:

Regional Director, CFPB Northeast Region
140 East 45th Street
New York, NY 10017, and

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1625 Eye Street, N.W.
Washington D.C. 20006; or

- b. By first-class mail to the below addresses and contemporaneously by email to
Enforcement_Compliance@cfpb.gov:

Regional Director, CFPB Northeast Region
140 East 45th Street
New York, NY 10017, and

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

XII
Cooperation with the Bureau

IT IS FURTHER ORDERED that:

43. Respondent must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. Respondent must provide such information in its or its agents' possession or control within 14 days of receiving a written request from the Bureau.
44. Respondent must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in Section IV. Respondent must provide truthful and complete information, evidence, and testimony. Respondent must cause Respondent's officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 5 days

written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XIII Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Respondent's compliance with this Consent Order:

45. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional compliance reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
46. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.
47. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XIV Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

48. Respondent may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.
49. The Regional Director may, in his/her discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and

changes to reporting requirements) if he/she determines good cause justifies the modification. Any such modification by the Regional Director must be in writing.

ADMINISTRATIVE PROVISIONS

XV

Administrative Provisions

50. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondent, except as described in Paragraph 51.
51. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent and its affiliates, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.
52. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.

53. This Consent Order will terminate 5 years from the Effective Date or 5 years from the most recent date that the Bureau initiates an action alleging any violation of the Consent Order by Respondent. If such action is dismissed or the relevant adjudicative body rules that Respondent did not violate any provision of the Consent Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Consent Order will terminate as though the action had never been filed. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.
54. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
55. Should Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, Respondent must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.
56. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondent wherever Respondent may be found and Respondent may not contest that court's personal jurisdiction over Respondent.

57. This Consent Order and the accompanying Stipulations contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulations. This Consent Order and the accompanying Stipulations supersede any prior oral or written communications, discussions, or understandings.
58. Nothing in this Consent Order or the accompanying Stipulations may be construed as allowing the Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 22 day of February, 2016.



Richard Cordray
Director
Consumer Financial Protection Bureau