

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MIKE HATCH, ATTORNEY GENERAL
FOR THE STATE OF MINNESOTA

Civil Action
Court File No. 99-872 adm/ajb

Plaintiff,

vs.

STIPULATION OF SETTLEMENT

US BANK NATIONAL ASSOCIATION ND
f/k/a/ FIRST BANK OF SOUTH DAKOTA
(NATIONAL ASSOCIATION), US BANCORP
INSURANCE SERVICES, INC. and
US BANCORP f/k/a FIRST BANK SYSTEM INC.

Defendants.

WHEREAS, Plaintiff, the State of Minnesota, by its Attorney General, Mike Hatch, has filed a Complaint in the above-captioned matter;

WHEREAS, the parties hereto have engaged in settlement discussions seeking a resolution of this matter;

WHEREAS, the parties wish to memorialize their agreement in respect to a settlement in this stipulation and the attached form of order for certain injunctive and consumer relief,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PRELIMINARY MATTERS

1. The above-named Court has jurisdiction over the subject matter of this case, having federal question jurisdiction over the claims asserted under 15 U.S.C. section 1681 and having supplemental jurisdiction over the remaining state law claims.
2. The parties consent and agree to the Court's entry of a final judgment and order in the form attached hereto as Exhibit 1 (the "Order"), and to any continuing jurisdiction of the Court necessary in respect to the Order.

3. This Stipulation and the Order are in the public interest.
4. Defendants waive all rights to appellate review or to otherwise challenge or contest the validity of the Order, except as provided therein.
5. Nothing in this Stipulation constitutes, and nothing herein shall be construed to mean or imply, that Defendants have engaged in any wrongdoing or violations of law, or that they have made any express or implied admission of any wrongdoing or violation.

DEFINITIONS

6. "Affiliate" means U.S. Bank National Association, N.D., U.S. Bancorp and any person with respect to which U.S. Bancorp directly or indirectly (e.g. through one of its subsidiaries) owns at least 80 percent of the voting securities.
7. "Unaffiliated Third Party" means any person who is not an Affiliate of U.S. Bancorp.
8. "Customer Data" means any and all personal information about an individual (natural person) customer of Defendants, including but not limited to, the following types of information:
 - a. account customer names
 - b. account customer's address
 - c. account customer's phone number
 - d. account customer's account number
 - e. account customer's last date of purchase information
 - f. account customer's account open date
 - g. account customer's account balance
 - h. account customer's credit limit
 - i. account customer's credit insurance status
 - j. account customer's social security number
 - k. account customer's year-to-date finance charge
 - l. account customer's ATM transaction count
 - m. account customer's card type (classic or gold)
 - n. account customer's brand (US Bank, Express line Rocky MT)
 - o. account customer's number of plastics (number of cards)
 - p. account customer's date of birth
 - q. account customer's cash advance amount
 - r. account customer's behavior score
 - s. account customer's bankruptcy score
 - t. account customer's date of last payment
 - u. account customer's amount of last payment
 - v. account customer's date of last statement

w. account customer's statement balance

"Customer Data" shall not include such information (1) to the extent contained in reports provided to employers of cardholders who are issued credit cards by Defendants or their Affiliates as part of a program for business, travel, purchasing, corporate or other similar cards instituted between Defendants or their Affiliates and such employers; or (2) with respect to employees of Defendants or their Affiliates, in connection with discounts or special buying programs for non-Financial Products or Services negotiated by and offered to employees of Defendants or their Affiliates.

9. "Minnesota Customer" means any natural person who, since June 1, 1997, had a credit card or depository agreement with U.S. Bancorp or its Affiliates and either had a Minnesota address or was a Minnesota resident at the time such agreement was in effect.

10. "Defendants" means U.S. Bancorp and its Affiliates.

10a. "Direct Marketing" means telemarketing and targeted direct mail solicitations (and does not include solicitations accompanying statements or other account servicing communications.)

11. "Financial Products or Services" means securities or insurance products or services which are subject to regulation under federal or state securities or insurance laws; the making of loans or extensions of credit of all types and related services which are reasonably necessary to carry out the making of the loan or extension of credit (e.g. closings, filings, appraisals, title examinations); leasing (provided that the disclosure of Customer Data pursuant to an agreement with an Unaffiliated Third Party shall not be termed a "lease" of such data); and trust and asset management services.

TERMS

12. The State of Minnesota and Defendants agree to entry of the Order in the form attached hereto as Exhibit 1 and to the terms contained therein, which are incorporated herein by reference.

13. Defendants shall make refunds to all Minnesota Customers who make application for a refund of any fees paid by such customer to an Unaffiliated Third Party in connection with a non-Financial Product or Service since June 1, 1997, provided Customer Data about the Minnesota Customer was shared by Defendants with the Unaffiliated Third Party and such customer did not use the program or services of the Unaffiliated Third Party for which the fees were paid. Defendants shall make reasonable efforts to notify all Minnesota Customers who, since June 1, 1997, were charged a fee for any non-Financial Product or Service of the Unaffiliated Third Party and whose Customer Data was shared by Defendants with the Unaffiliated Third Party, by mail of their rights to make application for a refund as set forth in this paragraph. The process respecting notification and refunds shall be provided to and approved by the Court, and shall thereafter be subject to oversight by Retired Judge Robert Bowen or another retired judge mutually agreed to by the parties or designated by the Court, acting as a Special Master. If Defendants fail to notify at least 90 percent of such customers, their notification efforts shall be presumed to be not reasonable, in which case the Court or special master may order further efforts at notification. The notice to customers shall apprise them of a dedicated toll-free customer service number and their right to obtain further information from the Minnesota Attorney General's Office at (651) 296-3353 or (800) 657-3787 with any questions. All costs associated with the notice, refund and fees of the retired judge shall be paid by Defendants.

14. The State of Minnesota has made claims under Minn. Stat. 8.31, including attorneys fees and costs, in the above action which the Defendants dispute. However, in order to avoid the costs and expenses of further litigation, the Defendants will pay the following:

- a. Upon the Order being executed, \$500,000 to the State of Minnesota.

b. Upon the Order being executed, \$1,500,000 to Minnesota-based chapters of Habitat for Humanity (a state in which Defendants have significant operations and therefore significant volunteer capacity), which amount is in excess of any outstanding commitment by Defendants to Habitat for Humanity. The precise allocation of the distribution of funds among Minnesota-based chapters of Habitat for Humanity shall be determined by the Minnesota Attorney General's Office.

c. Within twelve (12) months from the date of this Order, \$1,034,000 to regulated charities or public bodies in states other than Minnesota.

d. Defendants represent that the aggregate amounts in a), b) and c) above equal the total revenue, not deducting for any expense whatsoever, Defendants have received from the sharing of Customer Data for the purposes of marketing non-Financial Products or Services. Ernst and Young shall provide to the Minnesota Attorney General's Office a statement with respect to this amount and the tests it employed to arrive at this amount.

15. U.S. Bank National Association, N.D., f/k/a First Bank of South Dakota (National Association), U.S. Bancorp Insurance Services, Inc., or U.S. Bancorp f/k/a First Bank Systems, Inc. shall not enter into any future pre-verdict settlement(s) of similar actual or threatened litigation based on claims existing as of this date ("Future Settlement Agreement(s)") which provides for payments to non-Minnesota Customers unless similarly situated Minnesota Customers are afforded payments which are as favorable as those paid to non-Minnesota Customers in any such Future Settlement Agreement(s). In addition, Defendants shall not enter into any Future Settlement Agreement(s) with any state or political subdivision thereof providing for payments thereto (or to a charitable organization in such state) which totals more than \$2,000,000, unless Defendants pay to the State of Minnesota any amount by which the most favorable payment to another state or political subdivision (or charitable organization in such state) is in excess of \$2,000,000. In no event shall any obligation of the Defendants under this paragraph obligate Defendants to make any payment which is duplicative of payments already made.

16. This Stipulation of Settlement constitutes a full and final resolution between Plaintiff and Defendants of all claims set forth in the Complaint or relating to the subject matter of the Complaint. Upon approval of this Stipulation by the Court, this action shall be dismissed with prejudice.

Dated: June 30, 1999

STATE OF MINNESOTA, BY AND
THROUGH ITS ATTORNEY GENERAL,
MIKE HATCH



Mike Hatch, Attorney General

Dated: June 30, 1999

U.S. NATIONAL BANK ASSOCIATION ND
f/k/a FIRST BANK OF SOUTH DAKOTA
(NATIONAL ASSOCIATION), U.S.
BANCORP INSURANCE SERVICES, INC.
and U.S. BANCORP f/k/a FIRST BANK
SYSTEM, INC.



John Grundhofer, Its Chief Executive Officer

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MIKE HATCH, ATTORNEY GENERAL
FOR THE STATE OF MINNESOTA

Civil Action
Court File No. 99-872 adm/ajb

Plaintiff,
vs.

FINAL JUDGMENT AND ORDER
FOR INJUNCTIVE AND
CONSUMER RELIEF

US BANK NATIONAL ASSOCIATION ND
f/k/a/ FIRST BANK OF SOUTH DAKOTA
(NATIONAL ASSOCIATION), US BANCORP
INSURANCE SERVICES, INC. and
US BANCORP f/k/a FIRST BANK SYSTEM, INC.

Defendants.

The above-entitled matter came before the undersigned Judge of District Court on _____, 1999 upon the parties' joint application, based on a Stipulation of Settlement between the parties. Plaintiff State of Minnesota appeared by Deputy Attorney General Lori R. Swanson. Defendants appeared by Richard B. Solum, Esq.

Based upon the Stipulation of the parties, and upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED AND DECREED:

PRELIMINARY MATTERS

1. The above-named Court has jurisdiction over the subject matter of this case, having federal question jurisdiction over the claims asserted under 15 U.S.C. section 1681 and having supplemental jurisdiction over the remaining state law claims.
2. The parties consent and agree to the Court's entry this Order and to any continuing jurisdiction of the Court in respect to the Order.

EXHIBIT

3. **This Order is in the public interest.**

DEFINITIONS

For the purposes of this Order, the following Definitions shall apply:

4. **"Affiliate" means U.S. Bank National Association, N.D., U.S. Bancorp and any person with respect to which U.S. Bancorp directly or indirectly (e.g. through one of its subsidiaries) owns at least 80 percent of the voting securities.**
5. **"Unaffiliated Third Party" means any person who is not an Affiliate of U.S. Bancorp.**
6. **"Customer Data" means any and all personal information about an individual customer (natural person) of Defendants, including but not limited to, the following types of information:**
 - a. **account customer names**
 - b. **account customer's address**
 - c. **account customer's phone number**
 - d. **account customer's account number**
 - e. **account customer's last date of purchase information**
 - f. **account customer's account open date**
 - g. **account customer's account balance**
 - h. **account customer's credit limit**
 - i. **account customer's credit insurance status**
 - j. **account customer's social security number**
 - k. **account customer's year-to-date finance charge**
 - l. **account customer's ATM transaction count**
 - m. **account customer's card type (classic or gold)**
 - n. **account customer's brand (US Bank, Express line Rocky MT)**
 - o. **account customer's number of plastics (number of cards)**
 - p. **account customer's date of birth**
 - q. **account customer's cash advance amount**
 - r. **account customer's behavior score**
 - s. **account customer's bankruptcy score**
 - t. **account customer's date of last payment**
 - u. **account customer's amount of last payment**
 - v. **account customer's date of last statement**
 - w. **account customer's statement balance**

“Customer Data” shall not include such information (1) to the extent contained in reports provided to employers of cardholders who are issued credit cards by Defendants or their Affiliates as part of a program for business, travel, purchasing, corporate or other similar cards instituted between Defendants or their Affiliates and such employers; or (2) with respect to employees of Defendants or their Affiliates, in connection with discounts or special buying programs for non-Financial Products or Services negotiated by and offered to employees of Defendants or their Affiliates.

7. **“Minnesota Customer” means any natural person who, since June 1, 1997, had a credit card or depository agreement with U.S. Bancorp or its Affiliates and either had a Minnesota address or was a Minnesota resident at the time such agreement was in effect.**

8. **“Defendants” means U.S. Bancorp and its Affiliates.**

9. **“Direct Marketing” means telemarketing and targeted direct mail solicitations (and does not include solicitations accompanying statements or other account servicing communications.)**

10. **“Financial Products or Services” means securities or insurance products or services which are subject to regulation under federal or state securities or insurance laws; the making of loans or extensions of credit of all types and related services which are reasonably necessary to carry out the making of the loan or extension of credit (e.g. closings, filings, appraisals, title examinations); leasing (provided that the disclosure of Customer Data pursuant to an agreement with an Unaffiliated Third Party shall not be termed a “lease” of such data); and trust and asset management services.**

ORDER

11. Defendants and their Affiliates shall not share Customer Data with Unaffiliated Third Parties for purposes of marketing non-Financial Products or Services of an Unaffiliated Third Party.
12. Defendants shall comply with applicable antitying restrictions under the law as it relates to cross-marketing activities between Defendants and their Affiliates.
13. The terms of any cross-marketing agreement between a depository institution controlled by U.S. Bancorp and any other Affiliate of U. S. Bancorp shall be on market terms and otherwise consistent with the limitations of federal law which govern transactions between depository institutions and their other Affiliates.
14. U.S. Bancorp and its Affiliates shall, in writing, upon the opening of a credit card or depository account (or promptly thereafter if not opened in person) and at least annually thereafter, provide individual customers with notice of the opportunity to "opt-out" of cross-marketing activities by electing not to allow the sharing of Customer Data with Unaffiliated Third Parties for purposes of marketing Financial Products or Services of an Unaffiliated Third Party and with an Affiliate for Direct Marketing purposes. Such notice shall be given to customers in clear language in at least 14 point type and shall be contained on a single document which is no more than two sides (e.g. front and back and not folded to contain multiple panels.) The form of such notice and any subsequent revisions thereto shall be approved by the OCC.
15. Defendants shall maintain all data bases in a manner that allows their separation in the event of divestiture and the preservation of confidentiality of Customer Data in such event.
16. Defendants shall establish training, audit and compliance programs for their personnel to prepare, monitor and maintain compliance with this Order and the provisions of law governing sales, sharing of Customer Data with Affiliates and privacy. Defendants shall file with the OCC their manual utilized to ensure compliance with applicable laws and this Order.

17. U.S. Bancorp and its Affiliates shall comply with all applicable disclosure requirements of federal and state laws with respect to cross-marketing activities.

18. Defendants shall make refunds to all Minnesota Customers who make application for a refund of any fees paid by such customer to an Unaffiliated Third Party in connection with a non-Financial Product or Service since June 1, 1997, provided any Customer Data about the Minnesota Customer was shared by Defendants with the Unaffiliated Third Party and such customer did not use the program or services of the Unaffiliated Third Party for which the fees were paid. Defendants shall make reasonable efforts to notify all Minnesota Customers who, since June 1, 1997, were charged a fee for any non-Financial Product or Service of the Unaffiliated Third Party and whose Customer Data was shared by Defendants with the Unaffiliated Third Party, by mail, in a format approved by the Court, of their rights to make application for a refund as set forth in this paragraph. The process respecting notification and refunds shall be provided to and approved by the Court, and shall thereafter be subject to oversight by Retired Judge Robert Bowen or another retired judge mutually agreed to by the parties or designated by the Court, acting as a special master. If Defendants fail to notify at least 90 percent of such customers, their notification efforts shall be presumed to be not reasonable, in which case the Court or special master may order further efforts at notification. The notice to customers shall apprise them of a dedicated toll-free customer service number and their right to obtain further information from the Minnesota Attorney General's Office at (651) 296-3353 or (800) 657-3787. All costs associated with the notice, refund and fees of the retired judge shall be paid by Defendants.

19. In addition to the disclosure required in paragraph 14, Defendants shall conspicuously and clearly, in written communications, disclose their privacy policy to their individual (natural person) customers:

- a. Defendants shall make all reasonable efforts to provide a written disclosure to each such customer when the customer initially purchases any product provided by Defendants (or promptly thereafter if the purchase is not made in person.)

- b. The disclosure shall thereafter be given at least annually.
- c. The above disclosures shall clearly list each category of information the Defendants propose to share with any Affiliate for Direct Marketing Purposes, or Unaffiliated Third Party for purposes of marketing Financial Products or Services of the Unaffiliated Third Party, and the specific purpose for the sharing of information, disclosed in separate paragraphs as it relates to Affiliates and Unaffiliated Third Parties.
- d. Each privacy disclosure shall provide such customers with an easily available method to "opt-out" of the sharing of Customer Data with Affiliates for Direct Marketing purposes and with Unaffiliated Third Parties for purposes of marketing Financial Products or Services of the Unaffiliated Third Party. The "opt-out" system shall include both toll-free telephone numbers and addresses where customers may notify the Defendants of their desire to "opt-out" of such sharing of Customer Data. Defendants shall also accept "opt-out" notices submitted to tellers or other consumer representatives. Simple "opt-out" forms shall be made available in conspicuous public locations in each branch office of U.S. Bank. The form of such disclosure documents shall be filed with and approved by the OCC.

20. Customers who elect to "opt-out" of cross-marketing shall not appear on Direct Marketing lists thereafter created by U.S. Bancorp or its Affiliates or any marketing lists thereafter provided by Defendants to any Unaffiliated Third Party for purposes of marketing Financial Products or Services.

21. Defendants engage in certain co-branded and affinity credit card programs (e.g. Northwest Airlines WorldPerks) with various companies and organizations. A co-branded or affinity credit card program is one where the credit card contains the name of one or more of the Defendants and the name of no more than a single co-brand and/or a single affinity partner (e.g. the names of U.S. Bank and Northwest Airlines.) Nothing herein shall prohibit Defendants from sharing Customer Data of a particular customer enrolled in a co-brand or affinity card program with the co-branded or affinity partner of the program in which the particular customer is enrolled, or any reward fulfillment vendor retained in connection with the same program, provided that Defendants may not disclose such Customer Data to any other Unaffiliated Third Party.

22. Within sixty (60) days after the date of entry of this Order, Defendants shall file a report with the Court setting forth in detail the manner and form in which they have complied with this Order.

23. The Stipulation of Settlement filed by the parties with the Court is approved, and this matter is dismissed with prejudice.

24. Notwithstanding anything to the contrary in this Order, certain provisions contained in this Order may be modified according to the terms set forth in this paragraph:

(A) After January 1, 2002 paragraphs 14 and 19 may be modified by the Office of the Comptroller of the Currency (OCC) (by a writing provided to the parties) if it deems so appropriate in respect to the ability of Defendants to conduct their business relative to the use or disclosure of Customer Data in a manner comparable to that of other national banks. After January 1, 2003 paragraphs 14 and 19 may be modified by the Court upon petition by the Defendants (with 30 days' advance written notice to the Minnesota Attorney General's Office and the OCC) upon a demonstration to the Court's satisfaction by Defendants that they are at a competitive disadvantage to other national banks in respect to their ability to conduct their business relative to the use or disclosure of Customer Data; provided that any modification shall conform to the minimum requirements of any then-existing applicable laws.

(B) Paragraph 11 may be modified after July 1, 2000 by the Office of the Comptroller of the Currency (OCC) (by a writing provided to the parties) if it deems so appropriate in respect to the ability of Defendants to conduct their business relative to the use or disclosure of Customer Data in a manner comparable to that of other national banks. In such event, paragraphs 14, 19 and 20 shall apply to the disclosure of Customer Data with Unaffiliated Third Parties for purposes of marketing non-Financial Products or Services of an Unaffiliated Third Party, subject to such modification as may be permitted herein.

(C) The provisions of paragraphs 11, 14, 15, 16, 19 and 20 shall not be binding on a successor corporation in a merger between U.S. Bancorp and another corporation, nor on such successor corporation's affiliates, provided that the transaction value at the time of the

announcement of such merger is an amount equal to 25 percent of the pre-announcement market capitalization of U.S. Bancorp; in such event, however, the successor corporation and its affiliates shall comply with any then-existing applicable laws.

(D) In the event new federal legislation or regulation applicable to national banks and respecting the specific subject matter of any paragraph herein is passed or adopted, Defendants may provide written notice to the Minnesota Attorney General's Office that they believe that such new federal legislation or regulation should result in a modification of this Order. If the Attorney General's Office fails within 30 days to notify Defendants in writing that it disagrees with Defendants' notice, then such modification as specified in Defendants' notice shall be deemed effective with no further judicial action. However, in the event the Attorney General's Office notifies Defendants in writing within the 30 day period that it disagrees with Defendants' notice, then Defendants may petition on 30 days notice to the Minnesota Attorney General's Office the Court for a modification such that this Order is no more restrictive than the minimum requirements of such new laws or regulations.

(E) Defendants may petition the Court for a modification of this Order in the event that the OCC should impose upon these Defendants specifically any obligation which renders Defendants reasonably unable to comply with any provision of this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Dated: June 30th, 1999

UNITED STATES DISTRICT COURT

JMR/sj

The Honorable James M. Roscabaum
Judge of District Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MIKE HATCH, ATTORNEY GENERAL
FOR THE STATE OF MINNESOTA

Civil Action
Court File No. 99-872 adm/ajb

Plaintiff,

vs.

**AMENDED FINAL JUDGMENT
AND ORDER FOR INJUNCTIVE
AND CONSUMER RELIEF**

US BANK NATIONAL ASSOCIATION ND
f/k/a/ FIRST BANK OF SOUTH DAKOTA
(NATIONAL ASSOCIATION), US BANCORP
INSURANCE SERVICES, INC. and
US BANCORP f/k/a FIRST BANK SYSTEM INC.

Defendants.

The above-entitled matter came before the undersigned Judge of the District Court on the
22nd day of September 2000, upon the Parties' joint application, based on an Amended
Stipulation of Settlement between the Parties. Plaintiff State of Minnesota appeared by Assistant
Attorney General Prentiss Cox. Defendants appeared by Richard B. Solum, Esq. Based on the
Amended Stipulation of the Parties, and upon all the files, records and proceedings herein,
IT IS HEREBY ORDERED AND DECREED:

PRELIMINARY MATTERS

1. The above named Court has jurisdiction over the subject matter of this case, having
federal question jurisdiction over the claims asserted under 15 U.S.C. section 1681 and having
supplemental jurisdiction over the remaining state law claims.

2. The Parties have stipulated to the intervention and joinder of the Signatory States as Parties herein, and agree to the Court's entry of this Amended Final Judgment and Order (hereafter "Amended Order").

3. This Amended Order is in the public interest and shall apply to Defendants' operations and activities in Minnesota and in the Signatory States.

DEFINITIONS

For purposes of this Amended Order, the following Definitions shall apply:

4. "Affiliate" means U.S. Bank National Association, N.D., U.S. Bancorp and any person with respect to which U.S. Bancorp directly or indirectly (*e.g.* through one of its subsidiaries) owns at least 80 percent of the voting securities.

5. "Unaffiliated Third Party" means an person who is not an Affiliate of U.S. Bancorp.

6. "Customer Data" means any and all personal information about an individual customer (natural person) of Defendants, including but not limited to the following types of information:

- a. account customer names
- b. account customer's address
- c. account customer's phone number
- d. account customer's account number
- e. account customer's last date of purchase information
- f. account customer's account open date
- g. account customer's account balance
- h. account customer's credit limit
- i. account customer's credit insurance status
- j. account customer's social security number
- k. account customer's year-to-date finance charge
- l. account customer's ATM transaction count
- m. account customer's card type (classic or gold)
- n. account customer's brand (US Bank, Express line Rocky MT)
- o. account customer's number of plastics (number of cards)
- p. account customer's date of birth
- q. account customer's cash advance amount

- r. account customer's behavior score
- s. account customer's bankruptcy score
- t. account customer's date of last payment
- u. account customer's amount of last payment
- v. account customer's date of last statement
- w. account customer's statement balance

"Customer Data" shall not include such information (1) to the extent contained in reports provided to employers of cardholders who are issued credit cards by Defendants or their Affiliates as part of a program for business, travel, purchasing, corporate or other similar cards instituted between Defendants or their Affiliates and such employers; or (2) with respect to employees of Defendants or their Affiliates, in connection with discounts or special buying programs for non-Financial Products or Services negotiated by and offered to employees of Defendants or their Affiliates.

7. "Customer" means any natural person who, since June 1, 1997, had a credit card or depository agreement with U.S. Bancorp or its Affiliates and either had an address in Minnesota or one of the Signatory States or was a resident of Minnesota or one of the Signatory States at the time such agreement was in effect.

8. "Defendants" means U.S. Bancorp and its Affiliates.

9. "Attorney General" or "Attorneys General" as used herein means the Attorneys General of the States of Arizona, California, Colorado, Connecticut, Delaware, Georgia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming; the Corporation Counsel of the District of Columbia; Office of

Consumer Protection of the state of Hawaii; and the Department of Commerce of the state of Montana.

10. "Signatory States" means the above listed states, which are signatories to the Amended Stipulation of Settlement. The Signatory States are hereby permitted to intervene and are hereby joined as Parties plaintiff herein.

11. "Parties" means Minnesota, the Signatory States and Defendants.

12. "Direct Marketing" means telemarketing and targeted direct mail solicitations (and does not include solicitations accompanying statements or other account servicing communications).

13. "Financial Products or Services" means securities or insurance products or services which are subject to regulation under federal or state securities or insurance laws; the making of loans or extensions of credit of all types and related services which are reasonably necessary to carry out the making of the loan or extension of credit (e.g. closings, filings, appraisals, title examinations); leasing (provided that the disclosure of Customer Data pursuant to an agreement with an Unaffiliated Third Party shall not be termed a "lease" of such data); and trust and asset management services.

ORDER

14. Defendants and their Affiliates shall not share Customer Data with Unaffiliated Third Parties for purposes of marketing non-Financial Products or Services of an Unaffiliated Third Party.

15. Defendants shall comply with applicable antitying restrictions under the law as it relates to cross-marketing activities between Defendants and their Affiliates.

16. The terms of any cross-marketing agreement between a depository institution controlled

by U.S. Bancorp and any other Affiliate of U.S. Bancorp shall be on market terms and otherwise consistent with the limitations of federal law which govern transactions between depository institutions and their other Affiliates.

17. U.S. Bancorp and its Affiliates shall, in writing, upon the opening of a credit card or depository account (or promptly thereafter if not opened in person) and at least annually thereafter, provide individual Customers with notice of the opportunity to "opt-out" of cross-marketing activities by electing not to allow the sharing of Customer Data with Unaffiliated Third Parties for purposes of marketing Financial Products or Services of an Unaffiliated Third Party and with an Affiliate for Direct Marketing purposes. The privacy policy attached to the Defendants' supplemental 60-day report is in compliance with the requirements of this Amended Order and will facilitate the disclosures contemplated by this paragraph.

18. Defendants shall maintain all data bases in a manner that allows their separation in the event of divestiture and the preservation of confidentiality of Customer Data in such event.

19. Defendants shall establish training, audit and compliance programs for their personnel to prepare, monitor and maintain compliance with this Amended Order and the provisions of law governing sales, sharing of Customer Data with Affiliates and privacy. Defendants shall file with the Office of the Comptroller of the Currency (OCC) their manual utilized to ensure compliance with applicable laws and this Amended Order.

20. U.S. Bancorp and its Affiliates shall comply with all applicable disclosure requirements of federal and state laws with respect to cross-marketing activities.

21. Defendants shall make refunds to all Customers who make application for a refund of any fees paid by such Customer to an Unaffiliated Third Party in connection with a non-Financial

Products or Services since June 1, 1997, provided any Customer Data about the Customer was shared by Defendants with the Unaffiliated Third Party and such Customer did not use the program or services of the Unaffiliated Third Party for which the fees were paid. Defendants shall make reasonable efforts to notify all Customers who, since June 1, 1997, were charged a fee for any non-Financial Product or Service of the Unaffiliated Third Party and whose Customer Data was shared by Defendants with the Unaffiliated Third Party, by mail, in a format approved by the Court, of their rights to make application for a refund as set forth in this paragraph. The process respecting notification and refunds shall be provided to and approved by the Court, and shall thereafter be subject to oversight by Retired Judge Patrick Fitzgerald or another retired judge mutually agreed to by the Parties or designated by the Court, acting as a special master. If Defendants fail to notify at least 90 percent of such Customers, their notification efforts shall be presumed to be not reasonable, in which case the Court or special master may order further efforts at notification. The notice to Customers shall apprise them of a dedicated toll-free customer service number. In addition, the notice to customers who had a Minnesota address or were Minnesota residents at the time their agreement with U.S. Bancorp or its Affiliates was in effect shall inform such customers of their right to obtain further information from the Minnesota Attorney General's Office at (651) 296-3353 or (800) 657-3787. All costs associated with the notice refund and fees of the retired judge shall be paid by Defendants.

22. In addition to the disclosure required in paragraph 17, Defendants shall, in written communications, disclose their privacy policy to their individual (natural person) Customers:

- a. Defendants shall provide such notice upon the opening of an account and at least annually thereafter.

- b. Each privacy disclosure shall provide such customers with an easily available method to "opt-out" of the sharing of Customer Data with Affiliates for Direct Marketing Purposes and with Unaffiliated Third Parties for purposes of marketing Financial Products or Services of the Unaffiliated Third Party. The "opt-out" system shall include both toll-free telephone numbers and addresses where customers may notify the Defendants of their desire to "opt-out" of such sharing of Customer Data. Defendants shall also accept "opt-out" notices submitted to tellers or other consumer representatives. Simple "opt-out" forms shall be made available in conspicuous public locations in each branch office of U.S. Bank.
- c. The privacy policy attached to the Defendants' supplemental 60-day report is in compliance with the requirements of this Amended Order and will facilitate the disclosures contemplated by this paragraph.

23. Customers who elect to "opt-out" of cross-marketing shall not appear on Direct Marketing lists thereafter created by U.S. Bancorp or its Affiliates or any marketing lists thereafter provided by Defendants to any Unaffiliated Third Party for purposes of marketing Financial Products or Services.

24. Defendants engage in certain co-branded and affinity credit card programs (e.g., Northwest Airlines WorldPerks) with various companies and organizations. A co-branded or affinity credit card program is one where the credit card contains the name of one or more of the Defendants and the name of no more than a single co-brand and/or a single affinity partner (e.g. the names of U.S. Bank and Northwest Airlines). Nothing herein shall prohibit Defendants from sharing Customer Data of a particular customer enrolled in a co-brand or affinity card program with the co-branded or affinity partner of the program in which the particular customer is enrolled, or any reward fulfillment vendor retained in connection with the same program, provided that Defendants may not disclose such Customer Data to any other Unaffiliated Third Party.

25. Defendants shall not, by means of oral, written or any other type of communication, misrepresent their policies or practices with respect to the sharing of Customer Data with

Unaffiliated Third Parties.

26. Within sixty (60) days after the date of entry of this Amended Order, Defendants shall file a report with the Court setting forth in detail the manner and form in which they have complied with this Amended Order.

27. The Amended Stipulation of Settlement filed by the parties with the Court is approved, and this matter is dismissed with prejudice.

28. Notwithstanding anything to the contrary in this Amended Order, certain provisions contained in this Amended Order may be modified according to the terms set forth in this paragraph:

(A) After January 1, 2002 paragraphs 17 and 22 may be modified by the Office of the Comptroller of the Currency (OCC) (by a writing provided to the Minnesota Attorney General's office and to the offices of the Attorneys General¹) if it deems so appropriate in respect to the ability of Defendants to conduct their business relative to the use or disclosure of Customer Data in a manner comparable to that of other national banks. After January 1, 2003 paragraphs 17 and 22 may be modified by the Court upon petition by the Defendants (with 30 days' advance written notice to the Minnesota Attorney General's Office and the OCC and to the Attorneys Generals) upon a demonstration to the Court's satisfaction by Defendants that they are at a competitive disadvantage to other national banks in respect to their ability to conduct their business relative to the use or disclosure of Customer Data; provided that any modification shall conform to the

¹ For purposes of giving the notices required by this Amended Order, the Attorneys General shall provide Defendants with the name(s) and address(es) to which such writing shall be directed; if any Attorney General fails to do so, the notice shall be directed to the Office of the Attorney General.

minimum requirements of any then-existing applicable laws.

(B) Paragraph 14 may be modified after January 1, 2001 by the Office of the Comptroller of the Currency (OCC) (by a writing provided to the Minnesota Attorney General's office and the Attorneys General) if it deems so appropriate in respect to the ability of Defendants to conduct their business relative to the use or disclosure of Customer Data in a manner comparable to that of other national banks. In such event, paragraphs 17, 22 and 23 shall apply to the disclosure of Customer Data with Unaffiliated Third Parties for purposes of marketing non-Financial Products or Services of an Unaffiliated Third Party, subject to such modification as may be permitted herein.

(C) The provisions of paragraphs 14, 17, 18, 19, 22 and 23 shall not be binding on a successor corporation in a merger between U.S. Bancorp and another corporation, nor on such successor corporation's affiliates, provided that the transaction value at the time of the announcement of such merger is an amount equal to 30 percent or more of the pre-announcement market capitalization of U.S. Bancorp; in such event, however, the successor corporation and its affiliates shall comply with any then-existing applicable laws.

(D) In the event new federal legislation or regulation applicable to national banks and respecting the specific subject matter of any paragraph herein is passed or adopted after June 30, 1999, Defendants may provide written notice to the Minnesota Attorney General's Office that they believe that such new federal legislation or regulation should result in a modification of this Amended Order. If the Minnesota Attorney General's Office fails within 30 days to notify Defendants in writing that it disagrees with Defendants' notice, then such modification as specified in Defendants' notice shall be deemed effective with no further judicial action.

However, in the event the Minnesota Attorney General's Office notifies Defendants in writing within the 30 day period that it disagrees with Defendants' notice, then Defendants may petition on 30 days notice to the Minnesota Attorney General's Office the Court for a modification such that this Amended Order is no more restrictive than the minimum requirements of such new laws or regulations.

(E) Defendants may petition the court for a modification of this Amended Order in the event that the OCC should impose upon these Defendants specifically any obligation which renders Defendants reasonably unable to comply with any provision of this Amended Order.

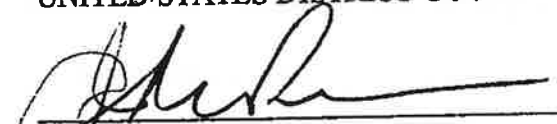
29. The Parties' joint motion and stipulation for the intervention and joinder of the Signatory States as Parties plaintiff herein is granted, and the Signatory States are hereby plaintiffs in this action.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Dated: September 22nd, 2011

UNITED STATES DISTRICT COURT


The Honorable James M. Rosenbaum
Judge of the District Court