

13.1.2 Interrogatories

IN THE COUNTY COURT IN AND FOR ORANGE COUNTY, FLORIDA

Case No.: [No.] (Div. 73)

PALISADES COLLECTION LLC,
AS ASSIGNEE OF PROVIDIAN
NATIONAL BANK,
Plaintiff

vs.
[DEFENDANT],
Defendant

_____ /

DEFENDANT’S FIRST SET OF INTERROGATORIES
(TO PLAINTIFF PALISADES COLLECTION, LLC)

TO: PALISADES COLLECTION LLC,
C/O: Zakheim & Associates, P.A.
Attn : Mr. Richard W. Battagliano, Esquire
1045 South University Drive; Suite # 202
Plantation, FL 33324

Pursuant to the Rule 1.340, Florida Rules of Civil Procedure, you are required to answer the following Interrogatories in writing under oath within the time provided by the rule. Please insert your answer in the space provided following the question. If additional space is needed, prepare your answer on a separate paper and attach.

INSTRUCTIONS

A. Each interrogatory shall be construed to include information within the knowledge, possession or control of the defendant, its attorneys, investigators, agents, owners, officers, employees, or other representatives of the defendant and/or its attorneys, as of the date of the answer given to these interrogatories and any supplemental information, knowledge, data, documents or communication responsive to these interrogatories which is subsequently generated, obtained or discovered.

B. If the response to any interrogatory consists in whole or in part of an objection

relating to or including burdensomeness, then with respect to such responses:

1. Provide such information as can be ascertained without undue burden;
2. State with particularity the basis for each such objection, including:
 - (a) a description of the process or method required to obtain any facts responsive to the interrogatory; and
 - (b) the estimated costs and time required to obtain any fact responsive to the interrogatory.
3. Describe the nature and extent of the documents or other source(s), if any, from which any fact responsive to the interrogatory can be obtained;
4. State whether the documents or other sources will be available for inspection or copying.

C. If you claim privilege as a ground for not fully answering any interrogatory, describe the factual basis for said claim or privilege in sufficient detail so as to permit the court to adjudicate the validity of the claim. If the claim of privilege relates to identification of a document, also state the date the document was prepared, the author, the addressees, all recipients and the general subject matter.

D. If the response to any interrogatory consists, in whole or in part, of an objection(s), state with specificity the full objection(s) and the particularized basis for each said objection.

II. DEFINITIONS

As used in these interrogatories, the following terms include the meaning set forth below:

A. The terms “you” or “your” means PALISADES COLLECTION LLC, your representatives, agents, assigns, affiliates, successors in interest or predecessors in interest. The term “you” expressly includes the original creditor and all subsequent assignees and assignors of the contract upon which your action arises.

B. The words “Document” and “Documents” is used in these interrogatories in the broad and liberal sense and any written, typed, printed, recorded, or graphic matter, however produced or reproduced, of any kind and description, whether sent, received, or neither, and all copies which differ in anyway from the original (whether by interlineation, stamped received,

notation, indication of copy sent or received or otherwise) regardless of whether designation confidential, privileged or otherwise and whether an original, master, duplicate or copy, including, but not limited to, materials within the purview of Florida Rules Civil Procedure 1.350, including, but not limited to, papers, notes, correspondence, letters, envelopes, signs, plaques, objects, contracts, telephone message slips, telephone logs, telephone bills, transcriptions or sound recordings of any type of personal or telephone conversations, agreements, memoranda, telegrams, telexes, cables, messages, evaluations, manuals, notes, reports, forms, communications, legal opinion, appointment logs, calenders, diaries, receipts, credit card slips, checks, drafts, wire transfers, transmittal authorizations, bank statements, ledgers, journals, accounts statements, or summaries, orders, logs, purchase orders, bills of lading, letters of credit, invoices, travel vouchers, other vouchers, itineraries, promotional materials, advertising, lists, notebooks, computer printouts, electronically or magnetically recorded or stored data, microfilm, microfiche, photographs, recordings, including tape recordings, transcripts, minutes, records, reports, schedules, affidavits, opinions, statements, studies, summaries, notices, pamphlets, procedures, rules guidelines, interviews, negotiations, meetings or conferences books, articles, newspapers, charts, magazines, periodicals, and all other documentary material including nonidentical copies (whether different from the original because of any alterations, additions, deletions attachments, notes, comments, or other differences), and drafts or other preparatory materials, whether used or not, and every non-identical copy now or formerly in your possession, custody or control. Different versions of the same documents, such as different copies of a written record bearing different hand written notations, are different documents within the meaning of the term "Documents." The term "Documents" includes all documents responsive to

interrogatories, regardless of whether or not the document still exists and regardless of who has maintained custody of the document.

C. The term “Identify” has the following meaning:

1. When used in reference to a natural person, it means to state his full name, his last known residence, business address and business telephone number.

2. “Identify” when referring to corporate or other entities shall mean to set forth: (a) the name; (b) present or last known address; (c) its principal place of business; and (d) the form or manner of its organization. Once a corporation or other entity has thus been identified, it shall be sufficient thereafter when identifying that corporation or other entity to state its full name.

3. When used in referenced to a communication, it means:

(a) If such communication was oral, to identify the person speaking and the person spoken to, and to state the date and place of the communication and its substance;

(b) If such communication was contained in a document, to identify the document.

4. When used in reference to a document, it means to state the type of document (e.g., letter, telegram, magnetic tape, chart, etc.), describing it sufficiently (date, author, recipient(s) for purposes of a request to produce or subpoena duces tecum. In lieu of identification of a document, the document may be made available for inspection and copying. If such document was, but is no longer in your possession, or subject to your control, please state what disposition was made of it.

5. When used in referenced to a course of conduct it means to furnish the names, addresses, and job titles of all persons who participated.

D. The term “communication” means a transmittal of information, or request for information, by document or otherwise and includes any conversation in person, by telephone or by any other means, as well as any utterance heard by another person whether in person, by telephone otherwise.

E. The term “entity” means an individual, corporation, partnership, proprietorship,

professional corporation, association, group, governmental agency or agent, municipal corporation, state government, local government, political subdivision, or any other legal entity of any kind, whether for profit or not for profit.

F. The words “and’ and “or” shall mean “and/or”.

G. The term “relate to” means concerning, embodying, considering, mentioning, respecting, bearing on, referring to ro addressed in whole or in part to that subject.

H. The term “interest” shall mean any form of monetary investment in or control over an entity.

I. The term “affiliated” shall mean any form of business relationship, including, but not limited to, employee, director, officer, owner, agent, consultant, or contractor.

J. Words in the singular should be construed as including the plural, and plural words should be construes as including the singular.

K. The phrase “possession or control” means to have physical possession, legal or effective control, or majority or joint ownership. This includes assets that are being held by another party on behalf of an individual or entity.

L. The terms “You” and the "Company" means directors, officers, employees, agents, attorneys, consultants, or other persons compensated directly or indirectly by the company for services performed for PALISADES COLLECTION LLC,. and further includes any subsidiaries, affiliates, partners, joint ventures or subsidiaries, agents, or attorneys representing PALISADES COLLECTION LLC.

M. "Employee" means any person who performs services for PALISADES COLLECTION LLC,. regardless of classification and non-exclusively includes all persons referred to as "employee," "subcontractor," "independent contractor," "representative" or "agent." "Employee shall also include “temps” and the agency which provided such employee.

N. The term “personnel file” includes all documents and records, whether routine or non-routine, official or unofficial, whether or not placed in one central location or central file, which pertain to the terms and conditions of the employment or the terms and conditions of the termination of the employment of the person or persons referred to the request.

O. The term “person” means individuals or entities of any type, including, but not limited to, natural persons, governments (or any agencies thereof), quasi-public entities, corporations, partnerships, groups, mutual or joint ventures and other forms of organizations or associations.

P. “Date” shall mean the exact day, month and year, if ascertainable, or if not, the best approximation thereof (including by relationship or other events).

Q. As used herein, the words or phrases, “explaining,” “describing,” “defining,” “concerning,” “reflecting” or “relating to” when used separately or in conjunction with one another mean directly or indirectly mentioning, pertaining to involving, being connected with or embodying in any way or to any degree the stated subject matter.

R. The term “Complaint” refers to the complaint filed in this action by plaintiff.

S. Any document called for herein which defendant claims to be privileged against discovery on any grounds shall be identified by giving:

- (1) the general type of document, i.e., letter, memorandum, report, miscellaneous notes, etc.
- (2) the date;
- (3) each author;
- (4) each organization, if any, with which each author was when connected;
- (5) each addressee or recipient;

- (6) each other distribute thereof;
- (7) each organization, if any, with which each addressee, recipient or distribute was then connected;
- (8) a general summary of the subject matter;
- (9) the grounds for refusal to respond to interrogatory;

T. Every response called for herein of which plaintiff has knowledge or information, but which is not in plaintiff's possession, custody or control, or the possession, custody or control of counsel for the plaintiff, shall be identified in the manner set forth in the preceding paragraph.

U. The terms "and" and "or" as used in these interrogatories are not intended as words of limitation and shall **not** be interpreted to create an election whereby the reader may choose one or more alternatives, but shall be interpreted to add and continue the subjects expressed and encompasses all matters therein. Thus, any sentence or phrase herein formed in the disjunctive shall also be taken in the conjunctive, and vice versa. Similarly, any word formed in the singular shall also be taken in the plural, and vice-versa. Also, any verb in the present tense shall also be taken in the past, imperfect and future tenses, and vice-versa. Finally, any pronoun in the masculine gender shall also be taken in the feminine gender and vice versa.

V. Unless otherwise specified, each interrogatory requires a full answer for every period of time beginning November 1, 2000, through the present time.

INTERROGATORIES

1. Identify all Communications and Documents which YOU possess which concern the account or contract at issue in Your Complaint by providing:

- A. Title or general description of the Communication or Document;
- B. Date of the Communication (including Document);
- C. Parties to the Communication (including name, address, and job title);
- D. Custodian of any Documents (including name, address, and job title);
- E. Location where You store the Document.

This request expressly includes all documents which concern, describe, involve, or purport to transfer any legal or beneficial interest (including security interest) in the contract (upon which you are suing) as well as all communications by YOU (to Defendant). This Interrogatory also expressly includes all correspondence between Plaintiff and Defendant and any correspondence between Defendant and the attorneys representing Plaintiff. This Interrogatory also expressly includes all communications in any form whatsoever to any consumer credit reporting agency (“CRA”) (e.g., Equifax, Experian, TransUnion) concerning the account at issue in this case.

2. Do You contend that any documents were lost, destroyed? (If you do NOT contend that any documents were lost or destroyed, you may simply state so.) If You contend that any document(s) were lost or destroyed, please state:

- A. Whether the document was loss or destroyed;
- B. The time (date) that the document was lost or destroyed.
- C. Identify all facts concerning the last time that You observed the document including the employee’s name (home address), date, and location the document was observed.
- D. The method or type of loss or destruction;

E. If the document was destroyed, please state who ordered the destruction, their title in YOUR organization, the place, date and manner of such destruction;

F. Identify all documents concerning, referencing or arising from the loss or destruction of the document;

G. Identify all persons who were custodians of the document.

3. Identify all entities who possessed or were assigned any interest in the contract by stating:

1. Name, address and job title of each such person;

B. The dates on which each person was assigned an interest in the contract;

C. The date on which each person assigned their interest in the contract to any other person;

D. The location where the contract or account was stored;

E. Whether any such person gave any statement or account, either orally or in writing, of his or her knowledge of the existence of the contract.

4. State the basis for the amount You allege that was owed to the assignor on this account when the Company allegedly acquired it by providing :

A the amount of each charge, fee, interest, or other monies which you contend the assignor was entitled to;

B identify the type of charge, fee, or interest or assessment;

C the date each such unpaid charge, fee, interest, or other monies accrued;

D as to the funds paid by Defendant to Providian or to You, the application of such funds;
and

E the amount of each such charge which remained unpaid when Plaintiff allegedly acquired the account at issue in this case.

5. Explain how You (including your agents and attorneys) calculated the total amount due (e.g., account balance) on each date You made a statement to Defendant or any third party (including but not limited to any Consumer Credit Reporting Agencies) concerning the amount due to any CRA or to the Defendant in this case by stating the :

A the effective date of each account balance;

B the balance which You (including your agents and attorneys) stated was due;

C identify the amount and type of any charges, fees, interest or other monies added to the balance since the effective date of the prior balance;

D state the interest rate used in calculating any interest which was included in each balance;

E identify the specific method used to calculate the interest rate;

G identify the entity and person who calculated each of these amounts.

(For purposes of convenience and not of limitation, Defendant received communications alleging balances owed as of the following dates : (1) December 5, 2003; (2) January 28, 2004; (3) March 23, 2004; (4) July 19, 2004; (5) August 27, 2004; (6) January 10, 2004; (7) February 16, 2005; (8) March 11, 2005. Furthermore, Plaintiff may have knowledge of other communications with Defendant and

has knowledge of the communications with the Credit Reporting Agencies.)

PALISADES COLLECTION LLC,
Office held: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgments, personally appeared _____, who did take an oath and who produced _____ as identification, and says that he/she is the person who executed the foregoing instrument.

Notary Public
My Commission Expires:_____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded vis U.S. Mail this _____ day of _____, 200____, to Donald E. Petersen, P.O. Box 1948, Orlando, FL 32802-1948.

By: _____ Esq.

13.1.3 Requests for Production of Documents

IN THE COUNTY COURT IN AND FOR ORANGE COUNTY, FLORIDA

Case No.: [No.]

PALISADES COLLECTION LLC,
ASSIGNEE OF PROVIDIAN NATIONAL BANK,
a corporation,

Plaintiff

vs.

[DEFENDANT],

Defendant

**DEFENDANT'S FIRST REQUEST FOR PRODUCTION
TO PLAINTIFF PALISADES COLLECTION L.L.C.**

COME NOW the Defendant, [DEFENDANT], pursuant to Rule 1.350, Fla.R.Civ.P., and requests the Plaintiff, PALISADES COLLECTION, L.L.C. ("PALISADES"), produce the originals of each of the following documents which are in the possession, custody or control of said party, or as are in the possession, custody or control of any agent, servant or representative of said party, for the purposes of inspection and/or copying and that same shall be done within the time prescribed by Rule 1.350, at the Law Offices of Donald E. Petersen, 801 North Magnolia Avenue; Suite 221, Orlando, Florida at a mutually convenient time when Defendant can inspect the originals.

**Definitions and Instructions To Be Applied To
Request for Admissions and Request for Production**

As used herein:

1. "Person" means and includes natural persons, corporations, partnerships, associations, or any type of entity, and agents, servants, employees and representatives thereof.

2. The term "identify" when used in reference to an individual person means to state his full name and present business and home address, his present business and home phone number, and his present or last known business affiliation.

3. As used herein, the term "document" means every writing and record of every type and description, including, but not limited to, correspondence, memoranda and written notes, checks, check registers, books and accounting, computer cards, printouts, tapes, discs and records of all types, minutes of meetings, studies, books, pamphlets, pictures and voice recordings or every other device or medium on which or through which information of any type is to be transmitted, recorded or preserved. The term "document" also means a copy where the original is not in your possession, custody or control, and every copy of the document if such copy is not an identical duplicate of the original.

4. Each request to describe or identify a document shall be deemed to include a request for information sufficient to enable plaintiff to obtain the documents with a subpoena, including but not limited to the date of the document, a physical description of the document, a brief description of the content of the document, the identity of the custodian of the document, the location of the document, and any title given to the document. If an interrogatory calls for a description of a document, you may, if you prefer, instead of identifying it, simply attach to your answer a clear copy, front and reverse, of document.

5. "Oral Statement" means and includes any face to face communication, conversation, meeting, conference or any such communication by telephone, radio, or other means of verbal communication.

6. In each case where you are requested to "identify" an oral statement or where your answer to the interrogatory refers to the "identity" of an oral statement, this is a request to give the identity of the person who made the statement and the persons hearing the statement, and the date, time, and place of its occurrence, and to briefly describe the content of the statement.

7. "STATE IN FULL DETAIL" means to set out in the fullest detail possible all knowledge or information available to you on the subject. The words "STATE IN FULL DETAIL" are capitalized so as to emphasize their full scope as so defined.

8. "You" in these interrogatories refers to PALISADES COLLECTION, L.L.C. (including its predecessors, subsidiaries and affiliates) and, where appropriate, persons acting at the direction of or on behalf of PALISADES COLLECTION, L.L.C.. The term "you" expressly includes PALISADES COLLECTION, L.L.C., the original creditor (identified in Plaintiff's Complaint as, PROVIDIAN NATIONAL BANK) along with any assignees of the contract or other persons who you have attempted to collect the account on your behalf (e.g., NATIONWIDE CREDIT, LAW OFFICE OF DAVID E. BORAK, P.A., WOLPOFF & ABRAMSON, L.L.P., and LAW OFFICE OF ZAKHEIM & ASSOCIATES, P.A.)

(Continued on Page 3)

DOCUMENTS REQUESTED

1. All documents which evidence any payments on this account since the inception of the loan;
2. All documents which evidence all charges and applications of funds paid to this account;
4. At least one document which contains the codes, accronymns, and abbreviations used by You in recording or describing loan payments, loan histories and applications of funds;
5. All correspondence between PALISADES COLLECTION, L.L.C. and Defendant.
5. All correspondence between You (including any persons acting on your behalf) and Defendant.
6. The complete Providian Card Agreement including all amendments thereto.
7. The complete Accounts Receivable Purchase Agreement (including all attachments and appendices thereto) between PROVIDIAN and PALISADES COLLECTION, L.L.C.
8. All documents which evidence, describe or tend to prove the amount that PALISADES COLLECTION, L.L.C. paid PROVIDIAN (or other assignor who assigned the contract to PALISADES COLLECTION, L.L.C.) for the account at issue in this case.
9. The complete Purchase and Sale Agreement (inlcuding all attachments and appendices thereto) between PROVIDIAN NATIONAL BANK and any assignees prior to the assignment to PALISADES COLLECTION, L.L.C..
10. All account documents signed by Defendant including any account application(s).

11. All documents which tend to prove or disprove the amount of interest charged on this account.
12. All documents evidencing statements made by You to any third parties, including but not limited to a consumer credit reporting agencies (Experian, Equifax, and TransUnion).
13. All documents which contain or describe the method used to calculate each of the balances which You (including anyone acting on your behalf) provided to the Defendant [DEFENDANT] in any correspondence, affidavit, or complaint.
14. All documents which contain or describe the method used to calculate each of the balances which You (including anyone acting on your behalf) provided to any third party (including but not limited to any consumer credit reporting agencies including Equifax, Experian and TransUnion).
15. All documents that You intend to introduce into evidence in support of any dispositive motion or at trial in this case.

Dated: JANUARY 3, 2006.

DONALD E. PETERSEN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Palisades Collection L.L.C. via First Class United States Mail to:

ZAKHEIM & ASSOCIATES, PA.
Attn : Mr. Richard W. Battagliano, Esquire
1045 South Universtiy Drive; Suite 202

Plantation, FL 33324

on this 3rd day of JANUARY, 2006, and *via facsimile* to Mr. Battagliano at (954) 735-0227 also on this 3rd day of JANUARY, 2006.

DONALD E. PETERSEN

Law Office Of Donald E. Petersen
P.O. Box 1948
Orlando, Florida 32802-1948
F.B.N. [No.]
Voice : (407) 648-9050
Facsimile : (407) 648-4316