

**U.S. BANKRUPTCY COURT
District of South Carolina**

Case Number: 05-10053-hb

ADV. PROCEEDING NO: 08-80037-hb

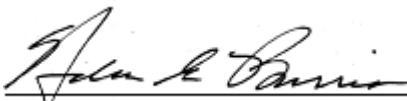
CONSENT ORDER OF SETTLEMENT AND DISMISSAL WITH PREJUDICE

The relief set forth on the following pages, for a total of 7 pages including this page, is hereby **ORDERED**.

**FILED BY THE COURT
10/14/2008**



Entered: 10/15/2008


US Bankruptcy Court Judge
District of South Carolina

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Daniel Maurice Fowler
Marsha Dean W. Fowler

Debtor(s).

Daniel Maurice Fowler
Marsha Dean W. Fowler,

Plaintiff(s),

v.

First Federal Savings and Loan
Association

Defendant.

CASE NO: 05-10053-hb

Adv. Pro. No.: 08-80037-hb

CHAPTER: 13

CONSENT ORDER OF SETTLEMENT
AND DISMISSAL WITH PREJUDICE

THIS MATTER came before the undersigned United States Bankruptcy Judge by consent of the parties to this Adversary Proceeding to resolve this matter; and

IT APPEARING TO THE COURT that the parties have agreed to resolve and dismiss this matter based on the following terms:

1. This matter was filed by the Plaintiffs on March 15, 2008, alleging that Defendant had improperly disclosed both Plaintiffs' social security numbers in filings with this court on two occasions in violation of the applicable privacy standards.

2. The parties agree that this Court has personal jurisdiction over the parties and subject matter jurisdiction over the Adversary Proceeding pursuant to 28 U.S.C. §§1334 and 157(b)(2) and that this is a core proceeding.

3. The Defendant, while denying any liability for any violations of the applicable privacy standards set forth in the complaint or any others that may have occurred, hereby consents to the settlement of this action upon the following terms and conditions, without adjudication of any issue of fact and without admission of liability for any of the matters alleged in the Complaint.

4 The Court previously denied the Defendant's Motion to Dismiss under Bankruptcy Rule 7012 upon the grounds that one or more of the claims and/or causes of action set forth therein, including applicable privacy standards enumerated in the Complaint, presented a claim upon which relief may be granted.

5. The Plaintiffs contend that applicable privacy standards which regulate the improper disclosure of nonpublic personal identifiers include the following:

- A. The Gramm-Leach Bliley ("GLB") Act, 15 U.S.C. Chapter 94, Subchapter I, Sec. 6801-6809, 16 C.F.R. Sec. 313, effective November 13, 2000, compliance date July 1, 2001;
- B. Defendant's privacy policy enacted pursuant to the GLB Act;
- C. The E-Government Act of 2002, 44 U.S.C. Sec. 3500, effective April 17, 2003;
- D. The privacy policy of the Judicial Conference of the United States;

E. The privacy policy of the United States District Court for the District of South Carolina;

F. The privacy policy of the Bankruptcy Court for the District of South Carolina as made applicable by Local Bankruptcy Rule (“LBR”) 9029-1;

G. 11 U.S.C. 107(c), effective December 1, 2007;

H. Federal Rule of Bankruptcy Procedure (“FRBP”) 9037, effective December 1, 2007;

I. Federal Rule of Civil Procedure (“FRCP”) 5.2, effective December 1, 2007;
and

6. The Defendant agrees that these standards set forth applicable requirements regarding disclosure of personal information and that the Court has the authority pursuant to 11 U.S.C. §105 to enforce these standards as well as the inherent authority to regulate the conduct of parties that appear before it.

7. The parties agree that all but the last four digits of an individual’s Social Security Number (“SSN”) or Taxpayer Identification Number (“TIN”) shall not be disclosed in pleadings or filings with the Court and that the disclosure of other nonpublic personal identifiers is prohibited by applicable privacy standards and polices including that of the Defendant.

8. Defendant is a state-wide savings and loan association and has made an appearance in this case by filing both a proof of claim on September 13, 2005, and a motion for relief from stay on March 3, 2008.

9. In those two documents filed with this Court mentioned above, Defendant inadvertently and improperly disclosed both Plaintiffs' full SSNs in violation of applicable privacy standards. These disclosures were made without the knowledge or consent of the Plaintiffs herein.

10. Defendant is a financial institution in the business of making consumer loans and made a consumer loan to the Plaintiffs in this case.

11. Defendant is a sophisticated creditor with knowledge of bankruptcy rules and procedures, and has filed numerous documents with this Court. Defendant has an obligation to comply with the applicable privacy standards when filing documents in this Court. In general, Defendant has complied with the rules of practice and is in good standing before this Court.

12. The protection of debtors' nonpublic personal identifiers is a fundamental and pervasive federal public policy as is evidenced by a wide variety of laws, regulations, and federal policies.

13. Applicable Fourth Circuit case law supports the notion that the harm that can be inflicted from the disclosure of a social security number to an unscrupulous individual is alarming and potentially financially ruinous and the parties recognize the severity of such harm.

14. Bankruptcy Courts must protect debtors from financial harm and prevent the disclosure of debtors' nonpublic personal identifiers.

15. The disclosure of a debtor's nonpublic personal identifiers, whether intentional or not, may expose a debtor to an increased risk of identity theft.

16. The Debtors in this case purchased identity theft protection. The Debtors maintain that such a purchase is a reasonable expense for a debtor whose nonpublic personal identifiers have been improperly disclosed in order to protect himself from the increased risk of identity theft by obtaining credit monitoring services which are designed to detect and prevent the theft of his identity.

17. The parties agree that there should be no finding in this case that the Defendant's inadvertent and improper disclosure of Plaintiffs' SSN's resulted in any damage to Plaintiffs or that any damages that Plaintiffs may have suffered were caused by Defendant's actions and Defendant denies liability both for damages and causation of any damages.

18. However, by way of settlement of these disputed claims, Defendant has agreed and shall pay the amount of \$7,500.00 to Plaintiffs to reimburse Plaintiffs for the cost of credit monitoring services at the rate of \$500.00 per year for a period of fifteen years, which amount and duration is reasonable under the circumstances of this case. Plaintiffs shall release Defendant from all claims arising from the documents previously filed in this matter and sign a full and complete release for all claims arising out of the facts that give rise to this matter.

19. Defendant shall pay the amount indicated above and Plaintiffs shall sign an appropriate release within fifteen (15) days from the entry of this Order.

20. That upon receipt of the amount set forth herein and filing of this Consent Order, this case shall be dismissed with prejudice.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the agreement of the parties set forth herein is APPROVED and the case is hereby DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

THE UNDERSIGNED PARTIES HEREBY CONSENT:

/s/ Daniel Maurice Fowler
Daniel Maurice Fowler, Plaintiff

/s/ Marsha Dean W. Fowler
Marsha Dean W. Fowler, Plaintiff

/s/ John R. Cantrell, Jr.
John R. Cantrell, Jr.
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First Federal Savings and Loan Association

By: /s/ Diane Guthrie
Diane Guthrie

Its: Vice President

/s/ J. Ronald Jones, Jr.
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