

VT SUPERIOR COURT  
WASHINGTON UNIT  
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STATE OF VERMONT  
SUPERIOR COURT  
WASHINGTON UNIT

In Re: Billing Tree )

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Civil Division

Docket No. 304-S-16Wncv

**ASSURANCE OF DISCONTINUANCE**

The State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Billing Tree, Inc. ("Billing Tree" or "Respondent"), hereby enter into this Assurance of Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

**Background**

***Respondent***

1. Billing Tree, Inc. is an Arizona corporation with its corporate office located at 2800 N 44th St, Phoenix, Arizona, 85008.
2. Prior to May 2014, Respondent processed electronic payments in connection with consumer loans made to Vermont residents by lenders, some of whom did not hold a state lending license in the state of Vermont.

***Regulatory Framework***

3. The Vermont Consumer Protection Act ("the Act") authorizes the Attorney General to take actions to restrain unfair and deceptive acts in commerce. 9 V.S.A. §§ 2453 & 2458.

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4. On May 18, 2012, the Vermont Legislature added section 2481w to the Act (the unlicensed lender law), to address unlicensed loan transactions. 9 V.S.A. § 2481w.
5. Under section 2481w(b), it is an unfair and deceptive act in commerce for any lender to solicit or make loans in Vermont unless the lender is in compliance with all statutory requirements under Vermont's lending and banking laws contained in Title 8, chapter 73 of the Vermont Statutes Annotated.
6. Under section 2481w(c), it is an unfair and deceptive act in commerce for a processor to process checks or debits, or to transfer any electronic funds in connection with a loan, unless the lender is in compliance with all requirements under Title 8, chapter 73.
7. Chapter 73 of Title 8 requires all lenders to obtain a state license from the Vermont Department of Financial Regulation. 8 V.S.A. § 2201.
8. Lenders who are not licensed under 8 V.S.A. § 2201 are hereinafter referred to as "unlicensed lenders."
9. Chapter 73 of Title 8 also requires that all loans made in Vermont comply with the interest rate limits contained in Title 9, chapter 4. 8 V.S.A. § 2233(b).
10. Chapter 4 of Title 9 caps the interest any person may charge on loans at between 12-24% per annum, depending on the type of loan. 9 V.S.A. § 41a.

***Respondent's Payment Processing Practices***

11. Respondent processes electronic financial transactions using the Automated Clearing House ("ACH") Network. The ACH Network is a system that allows electronic transfer of funds for participating financial institutions.
12. During 2012-2014, Respondent engaged in processing electronic transfers from various financial institutions employing routing numbers associated with Vermont, withdrawing a total of approximately \$1,686,920 in net transfers from individual bank accounts located in Vermont.
13. The total amounts processed were collected on behalf of approximately 43 separate lenders (the amounts vary for each lender) in connection with high-interest, small-dollar consumer loans made via the internet.
14. The Attorney General's Office determined that none of the lenders were licensed to make loans in Vermont.
15. As of May 2014, Respondent ceased processing electronic payments in connection with online consumer loans in Vermont.
16. Respondent admits the truth of the facts described in ¶¶ 1-2, 11-13, and 15.

***The State's Allegations***

17. The Vermont Attorney General's Office alleges the Respondent processed electronic transfers from Vermont consumers' bank accounts

on behalf of unlicensed lenders and said processing violated the Vermont Consumer Protection Act, 9 V.S.A. §§ 2453(a) and 2481w(c).

18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices in commerce under 9 V.S.A. § 2453.
19. The parties agree that this AOD is entered into for settlement purposes only and does not constitute an admission of the violation of any law, rule, or regulation by Respondent.

#### Assurances and Relief

20. The Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter.
21. To the extent not already done, Respondent shall immediately cease processing any electronic transfers from Vermont financial accounts on behalf of any unlicensed lender.
22. Prior to doing any future business in Vermont, Respondent shall provide written notice to the Attorney General's Office of its intent to do business in Vermont and comply with all applicable state law requirements, including without limitation, the following sections of the Vermont Statutes Annotated: Title 9, Chapter 63 (Consumer Protection statutes).

#### *Payments to Consumers*

23. The parties have agreed on a list of lenders (see Exhibit A) whose borrowers shall be entitled to a payment. Billing Tree shall attempt to

make restitution totaling \$153,282 to 3,903 eligible consumer bank accounts.

24. Within 15 days of filing this AOD, Billing Tree shall attempt to credit each eligible consumer's bank account as agreed between the parties; in issuing the credit(s) Billing Tree shall use its best efforts to include a notation or other indication listing the lender's name and the term "VTsettlement refund" in any applicable transaction note.
25. Within 30 days of filing this AOD, Billing Tree shall provide the Attorney General's Office with a list of the payments made, including the lender's name, consumer's name, bank account or routing number, and the amount credited.
26. Any of the credits made by Billing Tree pursuant to ¶ 24 that are returned or undeliverable shall be treated as unclaimed property, pursuant to Vermont's unclaimed property statute, Title 17, Vermont Statutes Annotated, Chapter 14. Within 30 days of filing this AOD, Billing Tree shall send (via mail or email) to the Attorney General's Office:
  - (a) a single check, payable to "Vermont State Treasurer" in the total dollar amount of all credits that were returned or undeliverable;
  - (b) a list, in electronic Excel format, of the consumers whose credits were returned or were not delivered (which list shall set out the first and last names of the consumers in distinct fields or

columns), and for each such consumer, the lender's name, the bank account and routing numbers, and dollar amount due, and

- (c) Billing Tree's principal company address and federal tax identification number.

***Payment to the State of Vermont***

- 27. Within 15 days of the filing of this AOD, Billing Tree shall pay to the State of Vermont \$25,000. Payment shall be made by check to the "State of Vermont" and shall be sent to the Vermont Attorney General's Office at the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

**Other Terms**

- 28. Respondent shall, upon request by the Attorney General, provide all documentation and information necessary for the Attorney General to confirm compliance with, and assist in implementation of, this AOD.
- 29. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.
- 30. This AOD and all terms therein shall be binding on Respondent, all of its affiliate companies doing business in Vermont, their officers, directors, owners, managers, successors and assigns.

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31. The undersigned authorized agent(s) of Respondent shall promptly take reasonable steps to ensure that copies of this document are provided to all relevant officers, directors, owners and managers of the company, and all of its affiliate companies doing business in Vermont.
32. This AOD constitutes a complete settlement and general release by the Attorney General of all claims, causes of action, damages, restitution, fines, costs, attorneys' fees, penalties and other remedies, monetary or otherwise, that the Vermont Attorney General could have asserted or obtained under any applicable law, state or federal, including but not limited to the Vermont Consumer Protection Act and Vermont common law, for the conduct described in the Background section prior to the date of this AOD.
33. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the limited purpose of enabling any of the parties to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. Respondent does not otherwise waive any defense it may have to the jurisdiction of Vermont state courts.
34. All notices related to this AOD shall be given to:

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Montpelier, VT  
05609**

(a) **Respondent** at: Glen Donath, Katten Muchin Rosenman LLP,  
2900 K Street NW, North Tower - Suite 200, Washington, D.C.  
20007-5118.

(b) **The Attorney General** at: Justin Kolber, Assistant Attorney  
General, Office of the Attorney General, 109 State Street  
Montpelier, VT 05609, justin.kolber@vermont.gov.

35. For a period of two years beginning from the date of this AOD,  
Respondent shall notify the Attorney General of any change of business  
name or address within 20 business days.

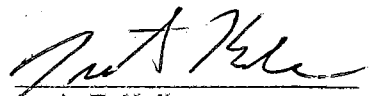
\*\*\* SIGNATURES APPEAR ON NEXT PAGE \*\*\*

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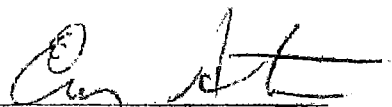
DATED at Montpelier, Vermont this 19<sup>th</sup> day of May, 2016.

STATE OF VERMONT  
WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:   
Justin E. Kolber  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609  
(802) 828-5620  
justin.kolber@vermont.gov

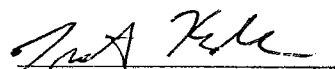
DATED this 16<sup>th</sup> day of May, 2016

**BILLING TREE**

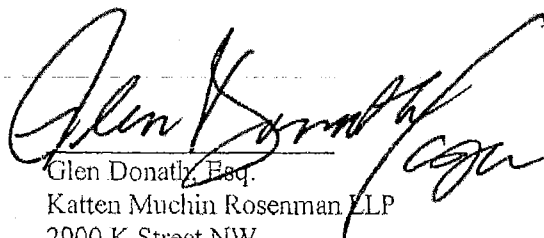
By:   
Its Authorized Agent

Edgars Sturans, CEO  
Name and Title of Authorized Agent

APPROVED AS TO FORM:

  
Justin E. Kolber  
Assistant Attorney General  
Office of Attorney General  
109 State Street  
Montpelier, VT 05609

For the State of Vermont

  
Glen Donath, Esq.  
Katten Muchin Rosenman LLP  
2900 K Street NW  
North Tower Suite 200  
Washington, D.C. 20007

For Respondent

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Exhibit A

**List of Lenders**

1	Access
2	Anasazi Group
3	Archway Group
4	Camosun
5	Cornerstone Grp
6	CP Investors
7	Cutter Group
8	First West Coast
9	Gateway
10	Global Group
11	Great Plains Lending
12	Greenwood
13	GTI Holdings
14	Highland
15	Horizon Opp
16	Huskhawk Group
17	HYDRA FUND I
18	HYDRA FUND II
19	HYDRA FUND III
20	HYDRA FUND IV
21	JHS Marketing
22	L.GP
23	Lansbridge
24	MassStreetGroup
25	MNE Services Inc. ACS
26	MNE Services Inc. SCP
27	MobiLoans LLC
28	Namakan Capital
29	National Group
30	OPD
31	Pack Mgmt
32	Plain Green Loans
33	Sandpoint Capital
34	SDS Processing
35	SGQ, LTD.
36	Shoreline Online
37	St. Armands

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38	Triple Services
39	United Holdings
40	Vandelier Group
41	Vince Enterprise
42	Vista Group
43	Westgate

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