

IN THE MATTER OF:

**GOVERNMENT EMPLOYEES CREDIT CENTER, INC.,
BEXAR PARTNERS, INC.,
AND VINCENT NEY**

ASSURANCE OF VOLUNTARY COMPLIANCE

I. Parties Bound

1. This Assurance of Voluntary Compliance is entered into between the Attorney General of the State of Arkansas and Government Employees Credit Center, Inc. d/b/a Cash Direct Express (hereinafter 'GECC'), Bexar Partners, Inc., and Vincent Ney. This Assurance of Voluntary Compliance is entered into by the parties pursuant to the statutory provisions embodied in Ark. Code Ann. § 4-88-114 and other applicable Arkansas law.

2. Government Employees Credit Center, Inc. is an incorporated entity with its primary place of business at 750 Shipyard, Suite 200, Wilmington, DE 19801.

3. Bexar Partners, Inc. is a corporation incorporated in Delaware with its principle place of business at 4001 Kennel Pike, Suite 134-237, Greenville, DE 19807.

4. Vincent Ney is the sole shareholder of Bexar Partners, Inc.

5. This Assurance of Voluntary Compliance applies to and is binding upon the Attorney General, GECC, Bexar Partners, and Vincent Ney.

6. Any change in ownership or status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the party's responsibilities under this agreement.

II. Jurisdiction

7. For purposes of this Assurance of Voluntary Compliance, the parties agree that, should it become necessary to seek judicial enforcement of the terms of this agreement, jurisdiction shall be in the Circuit Court of Pulaski County, Arkansas. The parties waive all objections and defenses that they may have to the jurisdiction or venue of the Circuit Court of Pulaski County, Arkansas, and shall not challenge either jurisdiction or venue in any subsequent action to enforce the terms of this agreement. GECC, Bexar Partners, and Vincent Ney reserve the right to object to jurisdiction or venue in any other unrelated subsequent action filed against them by the Attorney General.

III. The Attorney General's Position

8. GECC is engaged in the business of making high interest consumer loans, more commonly known as payday loans, under the trade names GECC and Cash Direct Express.

GECC owns and operates the interactive websites www.GECC.com and www.cashdirectexpress.com, through which loans are marketed to consumers nationwide, including to Arkansas consumers.

9. In order to fund loans to Arkansas consumers, GECC obtains access to those consumers' Arkansas-based bank accounts. Loans are electronically funded by crediting a borrower's account. GECC thereafter electronically debits periodic payments from that same account in order to collect on the loans.

10. GECC offered loans of up to \$700 to Arkansas consumers. The annual percentage rate of GECC's loans regularly exceeded 600% per annum.

11. GECC charged Arkansas consumers triple-digit interest rates on short term loans; the practice of charging such ultra-high usurious rates of interest is unconscionable as a matter of Arkansas law. See *State of Ark. v R & A Investment Co., Inc.*, 336 Ark. 289, 785 S.W. 2d 299 (1999), *Ark Bd. of Collection Agencies & Old Republic Surety Co. v. McGhee, et al.*, 372 Ark. 136, 271 S.W.3d 512 (2008), *Staton v Ark Bd. of Collection Agencies & American Manufactures Mutual Insurance Co.*, 372 Ark. 387, 277 S.W.3d 190 (2008), and *McGhee v. Ark State Bd. of Collection Agencies*, 375 Ark. 52, 289 S.W.3d 18 (2008).

12. The Attorney General specifically denies the assertions of GECC set forth in its position in this Assurance of Voluntary Compliance.

IV. GECC's Position

13. GECC, Bexar Partners, and Vincent Ney deny the legal and factual assertions contained in Section III above, entitled "The Attorney General's Position."

14. GECC, Bexar Partners, and Vincent Ney have vigorously denied and continue to vigorously to deny each and all of the claims and contentions alleged by the Attorney General and otherwise, including all claims concerning GECC, Bexar Partners, and Vincent Ney's alleged conduct, as well as the contentions that such alleged conduct constitutes wrongdoing or gives rise to legal liability. GECC, Bexar Partners, and Vincent Ney also have vigorously denied and continue to vigorously to deny, *inter alia*, the allegations that Arkansas consumers have suffered any legally cognizable harm as a result of GECC, Bexar Partners, and Vincent Ney's alleged activities. GECC, Bexar Partners, and Vincent Ney deny that, but for their consent to such jurisdiction solely for the purposes of executing this agreement that an Arkansas Court could exert *in personam* jurisdiction over them. If this matter were to proceed further without this settlement contemplated hereby, the parties would have other defenses available to them.

VI. Assurances

15. This Assurance of Voluntary Compliance is intended to preclude GECC, Bexar Partners, or Vincent Ney from directly or indirectly engaging in any type of lending transaction in violation of Arkansas' prohibition against usury. Accordingly, GECC, Bexar Partners, and Vincent Ney shall hereafter cease offering, funding, or collecting upon any loan with an interest

rate in excess of the then-applicable maximum rate set out in the Arkansas Constitution, where such offer or subsequent loan is made to any resident of Arkansas.

16. More specifically, GECC, Bexar Partners, and Vincent Ney are permanently restrained and enjoined from using any plan, device, model, mechanism, or other sham, to avoid the terms of this Assurance of Voluntary Compliance. Prohibited practices shall include, but are not limited to, internet-originated lending with residents of the State of Arkansas where the annual percentage rate exceeds that allowed by the Arkansas Constitution, regardless of the purported location of the lender, and regardless of any contractual term providing that the contract be interpreted or controlled by the laws of any other jurisdiction.

17. All current, delinquent, defaulted, charged-off, or outstanding lending transactions which GECC entered into with Arkansas residents are, hereafter, cancelled. For purposes of this Assurance of Voluntary Compliance, the term "Arkansas resident" is defined as a consumer borrower that was physically located and domiciled in Arkansas at the time he/she applied for or accepted an offer for a loan. GECC, Bexar Partners, or Vincent Ney will not undertake any efforts to collect on these transactions. Furthermore, they shall take no action, formal or informal, to attempt to enforce any such obligation against any Arkansas resident. Specifically, they shall take no action to enforce such contracts, or to collect any sums which might arguably be due pursuant to such contracts. Neither GECC, Bexar Partners, nor Vincent Ney shall contract with any third-party debt collectors regarding these transactions, nor sell, or transfer, any obligations arguably due based upon these transactions. None of them shall make any negative reports to any credit bureau, check clearinghouse, or other related service with respect to any of these transactions. If any negative reports to any credit bureau, check clearinghouse, or other related service with respect to an Arkansas resident have been made, the responsible party shall, within thirty (30) days of the entry of this Order, request that those negative references be removed.

18. GECC shall clearly and conspicuously disclose to all visitors to its websites, or any website that it, Bexar Partners, or Vincent Ney may own, operate, or control now or in the future, through which it offers consumer loans, that it does not make or service loans to consumers residing in the State of Arkansas. Any loan application made by a consumer providing an Arkansas home address shall be rejected. To the extent an applicant lists a work address in the State of Arkansas, the application will be further scrutinized to determine if the applicant's place of residence is in the State of Arkansas or has an Arkansas driver's license. No information provided in any such application received shall be used to market any product or service to such applicant, nor sold or provided to any third party for any marketing purpose.

19. Contemporaneously with the executions of this document, GECC shall pay the sum of \$50,000 to the Office of the Attorney General. These sums shall be held by the Attorney General and deposited in the Consumer Education and Enforcement Fund and shall be held in trust there to be used by the Attorney General in his discretion to further efforts to investigate and prosecute consumer protection, environmental, public utilities, and antitrust matters, and to educate consumers regarding such matters. The funds will be distributed in accordance with the Attorney General's settlement funds policy dated October 11, 2011. All monies shall be delivered to the Chief Financial Officer of the Attorney General's office and shall be made

payable to the Office of the Attorney General. A copy of all checks shall be delivered to Charles Saunders, Assistant Attorney General. All checks will be delivered to Carol Thompson, Chief Financial Officer, Office of the Attorney General, 323 Center Street, Suite 200, Little Rock, AR 72201.

20. In addition to the \$50,000 payment, GECC, Bexar Partners, and Vincent Ney each agree to be contingently liable for the payment of an additional \$50,000. However, the imposition of the additional \$50,000 sum will be suspended for a period of five years. The payment of said additional sum shall be contingent upon a specific finding by a Circuit Court of Pulaski County, Arkansas that GECC, Bexar Partners, or Vincent Ney has materially breached, intentionally or otherwise, a substantive term of this Assurance of Voluntary Compliance within said five-year period, commencing on the date this Assurance of Voluntary Compliance is executed. A material violation of a substantive provision of this Assurance of Voluntary Compliance shall cause the sum to be immediately due and payable. After the expiration of five years from the entry of this Assurance of Voluntary Compliance, this contingent liability shall expire and the contingent payment of \$50,000 shall no longer be collectable by the Attorney General. However, neither the suspension of such payment nor the expiration of such contingency shall prevent the Attorney General from pursuing any and all actions and claims available to the Attorney General for any conduct occurring after the entry of this Assurance of Voluntary Compliance, and the injunctive provisions of this Assurance of Voluntary Compliance shall remain in effect unless and until modified by agreement of the parties.

21. This Assurance of Voluntary Compliance constitutes the entire agreement between the Attorney General and GECC, Bexar Partners, and Vincent Ney. The undersigned acknowledge that there are no communications or oral understandings contrary, different, or which in any way restrict this Assurance of Voluntary Compliance, and that any and all prior agreements or understandings within the subject matter of this Assurance of Voluntary Compliance are, upon the effective date of the Assurance of Voluntary Compliance, superseded, null and void.

22. This Assurance of Voluntary Compliance resolves and releases all civil claims, causes of action, or proceedings which were or could have been asserted by the Attorney General against GECC, its agents, owners, employees or officers, for its lending practices set out in the Attorney General's Position. This Assurance of Voluntary Compliance resolves and releases all claims which could have been asserted by the Attorney General against Bexar Partners its agents, owners, employees or officers, and Vincent Ney for their involvement with GECC and Sure Advance, LLC. It does not release Bexar Partners or Mr. Ney for claims related to the business practices of individuals or entities other than GECC or Sure Advance, LLC. This release shall not in any way limit the authority of the Attorney General to conduct such investigations as he deems advisable or to bring any enforcement action regarding alleged violations of law unrelated to the subject of this AVC or occurring after the date of this Assurance of Voluntary Compliance. Also, the Attorney General is empowered to seek enforcement of any and all sections of this Assurance of Voluntary Compliance by appropriate petition to the Circuit Court of Pulaski County.

23. Nothing in this Assurance of Voluntary Compliance shall be construed to deprive any person or entity not a signatory hereto of any private right of action of any kind whatsoever; nor shall this Assurance of Voluntary Compliance be construed to create any private right of action for any person or entity not a signatory hereto. This Assurance of Voluntary Compliance does not constitute an admission by GECC, Bexar Partners, or Vincent Ney of any fact or the existence or application of any law, regulation or legal principle. This Assurance of Voluntary Compliance represents solely a compromise of disputed claims within the meaning of Rule 408 of the Federal and Arkansas Rules of Evidence. The AVC is not admissible to prove liability for, invalidity of, or amount of the claim or any other claim. This Assurance of Voluntary Compliance and all actions of the parties pursuant to this Assurance of Voluntary Compliance are intended by the parties to be exclusively a compromise and resolution of existing and disputed claims.

24. Nothing herein shall be construed as the endorsement of or acquiescence in, any trade practices of GECC or Bexar Partners, past, current, or future; and, GECC, Bexar Partners, nor Vincent Ney shall make any representations to the contrary.

25. This Assurance of Voluntary Compliance will be construed and enforced under the laws of the State of Arkansas.

VII. Signatories

26. Each undersigned representative of a party certifies that he or she is fully authorized to enter into the terms and conditions of this Assurance of Voluntary Compliance and legally bind such parties to its terms.

27. This Assurance of Voluntary Compliance is made and entered into by and between the parties hereto and on this 11th day of February, 2013.



Charles Saunders
Assistant Attorney General



Justin Allen
Attorney for Government Employees Credit Center, Inc.,
Bexar Partners, Inc., and Vincent Ney



Vincent Ney, individually,
and on behalf of Government Employees Credit Center, Inc.
and Bexar Partners, Inc.

PREPARED BY:

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