

THE HONORABLE THOMAS S. ZILLY

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

O&R CONSTRUCTION, LLC, Individually)	Case No. 2:12-cv-02184-TSZ
and on Behalf of All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
vs.)	FIRST AMENDED CLASS ACTION
)	COMPLAINT
DUN & BRADSTREET CREDIBILITY)	
CORPORATION, DUN & BRADSTREET)	
CORPORATION AND DUN &)	
BRADSTREET, INC.,)	
)	
Defendants.)	

1 Now comes plaintiff O&R Construction, LLC, individually and on behalf of all others
2 similarly situated, through counsel, and pursuant to Fed. R. Civ. P. 15 for its first amended complaint
3 against defendants Dun & Bradstreet Credibility Corporation , Dun & Bradstreet Corporation, and
4 Dun & Bradstreet Inc., states and alleges as follows:

5 **NATURE OF THE ACTION**

6 1. This is a class action brought on behalf of thousands of small businesses who have
7 been unfairly and unlawfully deceived, misled, and cheated by the coordinated efforts of Dun &
8 Bradstreet Credibility Corporation (“DBCC”), Dun & Bradstreet Corporation and Dun & Bradstreet,
9 Inc. (together, “D&B”). The defendants employ deceptive marketing to sell a line of small
10 businesses credit self-monitoring and self-improvement products, misrepresenting the nature, need
11 and value of the products – which do not perform as the defendants promise.

12
13 2. D&B maintains databases of information about small business credit and the
14 company creates, controls, and modifies small business credit reports. DBCC markets and sells
15 internet-based “CreditBuilder” products which purport to provide small businesses with access to the
16 D&B reports – and the ability to improve those reports. That is, the CreditBuilder products DBCC
17 sells rely upon and interact with the D&B databases and reports – and the two companies work
18 together on the operation of the CreditBuilder product. Without D&B’s active participation in
19 providing database information to DBCC through the CreditBuilder products, the products would
20 not be able to provide customers with access to their credit reports or the ability to monitor them.
21 Without D&B’s active participation in modifying database information relating to the CreditBuilder
22 products, the products would be useless, inoperative and illusory. In the final analysis, D&B
23 controls the information systems with which the CreditBuilder products purport to interact, while
24 DBCC serves as the sales agent of the products under the mantle of the D&B brand.
25
26

1 3. The defendants' aggressive marketing campaign features high-pressure sales tactics,
2 including misleading form letters, e-mails and sales call scripts, which falsely claim that there are
3 problems on a small business's credit report with Dun & Bradstreet, which the CreditBuilder
4 products can remedy. The defendants sell small businesses expensive products that purport to
5 improve their credit ratings and correct problems on their reports: *e.g.*, CreditBuilder for \$799/year,
6 CreditBuilder Plus for \$1099/year, and CreditBuilder Premium for \$1599/year.
7

8 4. The CreditBuilder products do not improve credit ratings as claimed. In fact,
9 defendants conceal material information about the limitations of the products; and, in any event, the
10 products do not provide the value the defendants claim, or the benefits for which small businesses
11 purchase the products.
12

13 **PARTIES**

14 5. Plaintiff O&R Construction, LLC ("O&R") is a Washington limited liability
15 company with its principal place of business at 2141 SW Dillard Lane, Oak Harbor, Washington,
16 98277. O&R was subject to defendants' misleading marketing and was duped into purchasing a
17 CreditBuilder product that did not provide the value promised.

18 6. Defendant Dun & Bradstreet Credibility Corporation is a limited liability company
19 organized under Delaware law, with its headquarters and principal place of business at 22761 Pacific
20 Coast Highway, Malibu, California 90265.
21

22 7. Defendants Dun & Bradstreet Corporation and Dun & Bradstreet, Inc. are publicly-
23 traded corporations organized under Delaware law, with their headquarters and principal places of
24 business at 103 John F. Kennedy Parkway, Short Hills, New Jersey 07078.

25 8. At all relevant times, defendants licensed, developed, designed, made, marketed,
26 distributed, sold or otherwise introduced the CreditBuilder products into interstate commerce

1 throughout the United States, including the state of Washington and King County, either directly or
2 indirectly, including through third-parties, subsidiaries or other related entities.

3 9. For purposes of this Action, “DBCC” and “D&B” include any and all parents,
4 subsidiaries, affiliates, divisions, franchises, partners, joint ventures and organizational units of any
5 kind of those defendants, as well as their predecessors, successors and assigns, together with their
6 officers, directors, employees, agents and representatives (“related entities”). Further, DBCC, D&B
7 and their related entities acted through their agents and employees, who were within the scope of
8 their agency and employment at all relevant times. The policies and practices alleged in this
9 complaint to be unlawful were established or ratified at the defendants’ highest corporate levels.
10

11 **JURISDICTION AND VENUE**

12 10. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2). The matter in
13 controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000, and it is a class
14 action in which members of the class of plaintiffs are citizens of states different from those of the
15 defendants. Also, many of the class members reside in states other than the state in which
16 defendants are domiciled.
17

18 11. This Court is a proper venue pursuant to 28 U.S.C. §1391 because many of the acts
19 and transactions giving rise to this action occurred in this District and because: (a) defendants are
20 authorized to conduct business in this District, and have intentionally availed themselves of the laws
21 and markets within this District through the promotion, marketing, distribution and sale of their
22 products in this District; (b) defendants conduct substantial business in this District; and/or
23 (c) defendants are subject to personal jurisdiction in this District.
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FACTS

History of Dun & Bradstreet’s Credit Monitoring Products

12. The Dun & Bradstreet name has been synonymous with small business credit for over 150 years. D&B purports to maintain databases of information about the credit-worthiness of millions of small businesses. It purportedly gathers this information from public records, payment information supplied by vendors and self-reported data such as financial performance. D&B claims to compile this information into credit reports and credit ratings for small businesses. D&B licenses its credit reports and credit ratings to others for use in making credit decisions.

13. Dun & Bradstreet also carries the imprimatur of the federal government, which requires a business to have a D&B-assigned Data Universal Number System (“DUNS”) number in order to apply for a government contract. Given D&B’s age, size, reputation, and unique institutional role in American and international business, it has substantial leverage over small businesses related to their credit reports.

14. Some years ago, D&B developed a credit monitoring product called “Self Awareness Solutions” (“SAS”), which it marketed and sold to small businesses. Upon information and belief, the SAS product was identical or substantially similar to the CreditBuilder products at issue in this case.

15. A large number of dissatisfied customers castigated D&B for using “high-pressure, bait-and-switch tactics” to sell SAS products to small businesses. Customers also complained in droves that the SAS products failed to perform as promised. By April 2009, the criticism was so harsh that D&B planned “killing [off the credit monitoring] products” because complaints about the products were driving down the company’s “Voice of the Customer” score, and dissatisfaction with the products were resulting in high rates of annual customer attrition.

1 16. In order to avoid further scrutiny and litigation over the SAS products, while
2 continuing to reap profits from the credit monitoring products, D&B sold its credit monitoring line
3 of business to DBCC in August 2010 for \$10 million in cash and annual royalties; a deal estimated
4 at \$100 million.

5 17. D&B continues to maintain post-sale control over the business credit information,
6 database(s), credit reporting system, and credit rating services that are integral to the CreditBuilder
7 products. DBCC is nothing more than a “front office” spin-off from D&B that serves as the
8 marketing and sales arm of the SAS products, now re-packaged as the CreditBuilder products. The
9 symbiotic relationship between D&B and DBCC to license, market, develop, design, solicit and sell
10 the CreditBuilder products is, according to the terms of the sales agreement, “a long term strategic
11 alliance to develop and co-market products and services.” Indeed, as part of the agreement, D&B
12 granted DBCC a unique license to use the Dun & Bradstreet name, and singular access to D&B’s
13 database and credit rating information systems.

14 18. To wit, DBCC licenses from D&B the Dun & Bradstreet name and brand, and
15 employs trade dress nearly identical to that long used by D&B. Defendants’ joint venture trades on
16 the Dun & Bradstreet name, reputation and position in order to market the CreditBuilder products to
17 small businesses across the country:

18 (a) Defendants share the Dun & Bradstreet logo on their websites and corporate
19 letterhead;

20 (b) Defendants use strikingly similar web domains, www.dandb.com for DBCC,
21 and www.dnb.com for D&B and the websites link to each other, along with a third website,
22 iupdate.dnb.com, operated by D&B;

23 (c) DBCC claims that it offers “D&B solutions” to track the credit and
24 creditworthiness of business; and
25
26

1 (d) DBCC, which was formed in 2010, claims that it has been a primary source of
2 business credibility and credit scoring since 1841, and it dresses itself in the name, reputation and
3 history of D&B: “For over 170 years, millions of businesses have relied on these credit services to
4 pave their path to business success. By 2010, Dun & Bradstreet Credibility Corp. launched a new
5 chapter in this storied history as the company began to offer products to help businesses monitor,
6 manage and build their credit and credibility. In that respect, we consider Dun & Bradstreet
7 Credibility Corp. a ‘175 year-old startup.’”

8 (e) DBCC further represents itself to the public as being one and the same as
9 D&B. For instance, DBCC presents written materials to consumers stating, among other things, “At
10 D&B Credibility Corp., we make over 1.5 million updates to our database on a daily basis.” In
11 reality, DBCC does not make any updates to D&B’s database, the operative database which
12 businesses rely upon to determine credit worthiness, however, DBCC, in concert with D&B, uses
13 information licensed to it by D&B in order to solicit small businesses to purchase “credit building”
14 products to the mutual benefit of D&B and DBCC.

15 **Defendants Deceptively Induce Class**
16 **Members to Purchase CreditBuilder Products**

17 19. Defendants unfairly leverage Dun & Bradstreet’s unique position in the minds of
18 small businesses to sell the CreditBuilder products. DBCC claims it “provides the only real solution
19 available to companies looking to monitor and impact their business credit profile.” According to
20 DBCC, “perhaps most important, CreditBuilder gives companies the ability to add favorable credit
21 references to their files to enhance credit scores and ratings.” In fact, DBCC trains its sales agents to
22 present CreditBuilder products as those a small business “can’t live without.” Further, DBCC
23 represents to small businesses the following:

24
25 At D&B Credibility Corp., we make over 1.5 million updates to our database
26 on a daily basis. It could be major transactions like paying vendors or making lease
or mortgage payments, but it could also be seemingly smaller transactions like
equipment leasing, advertising, shipping packages or underwriting insurance.

* * *

1
2 With all this information flooding into D&B, it's critical that you keep on top
3 of your profile and credit score to help ensure you keep your reputation solid as you
4 forge the relationships and partnerships that will enable your business to grow
5 profitably.

6 As a result, small businesses are misled into believing that defendants will maintain daily updates on
7 their credit profile and only accurate and up to date information when in reality defendants fail to
8 maintain accurate and updated information on small businesses.

9 20. At bottom, defendants lead businesses to believe that, unless they purchase the
10 CreditBuilder products, they will not be able to properly monitor, verify or improve their D&B
11 ratings, thereby running the risk that they will not be able to obtain credit, loans or contracts. Since
12 small businesses rely on their Dun & Bradstreet credit profiles to secure new business and to apply
13 for loans or credit, defendants essentially hold the target customer's credit rating hostage unless the
14 small business buys a CreditBuilder product.

15 21. The defendants go so far as to create false information on small businesses credit
16 information, including, negative payment experiences like late payments and vendor delinquencies,
17 unpaid invoices, and other false and/or inaccurate information – all in order to sell CreditBuilder
18 products through its sales arm, DBCC. DBCC, in turn, with full knowledge of the false and
19 erroneous credit information, uses the false payment experiences and other inaccurate information to
20 pressure unknowing (and sometimes unsophisticated) small business owners into purchasing
21 defendants' credit "repair" products.

22 22. Defendants try to capitalize on the importance of D&B-issued DUNS numbers¹ when
23 soliciting customers for CreditBuilder products. D&B provides DBCC periodic rosters of DUNS
24

25
26 ¹ A DUNS number is "a unique nine-digit identification sequence used by the world's most influential standards-
setting organizations and recognized, recommended, and often required by global corporations, governments, industry,

1 numbers, which form lists of target customers for sales agents (“sales queues”). By referencing a
 2 business’s DUNS number, defendants mislead the target customer to believe that the CreditBuilder
 3 products are necessary to monitor, verify, and dispute items on their Dun & Bradstreet business
 4 credit profile.

5 23. Defendants routinely stress the importance of a DUNS number and mislead customers
 6 into believing that they can obtain a DUNS number by purchasing a CreditBuilder product. In truth,
 7 DUNS numbers are automatically generated by D&B prior to any solicitation of the customer.
 8

9 24. Defendants also uniformly mislead customers by referencing D&B’s propriety ratings
 10 when marketing the CreditBuilder products.² DBCC will issue “credit alerts” to target customers,
 11 claiming that one of their D&B ratings should cause the customer a concern which only
 12 CreditBuilder products can remedy.
 13

14 25. After bringing the weight of the Dun & Bradstreet name to bear upon target
 15 customers, the defendants employ other unlawful and deceptive sales tactics to instill fear in the
 16 minds of target customers. As set forth below, defendants issue uniform solicitations which falsely
 17 claim that: (a) “inquiries” have been made about the target customer’s credit; (b) the target customer
 18 has an “incomplete” credit profile with D&B; (c) the target customer has a Supplier Evaluation Risk
 19 (“SER”) rating of “High Risk of Financial Stress” and (d) “Customer Complaints” whereby the
 20

21
 22 and trade associations.” DUNS numbers are identifiers similar to a federal tax ID number, but DUNS numbers are only
 23 distributed by D&B. When applying for credit, loans or government bids, businesses are asked to provide their DUNS
 24 number. Vendors use a company’s DUNS number to pull information on the business, including its financial and credit
 25 risks.

26 ² D&B uses several ratings relevant to extensions of credit: (i) a PAYDEX® Score, which is a predictive
 indicator for paying bills on time; (ii) the Financial Stress Score, which is an indicator of financial stress to the business
 in the next 12 months; (iii) the Credit Limit Recommendation, which provides guidelines for extending business credit;
 and (iv) an overall D&B Rating, which addresses the overall assessment of a business.

1 small business is sent a facsimile and/or email falsely stating that D&B has received a “complaint”
2 by “one of your customers regarding their dealings with you,” and advising the small business owner
3 to contact D&B (through D&B’s website, dnb.com) to “advise us of your position.” These
4 solicitations are based on false and inaccurate information and they are delivered in order to increase
5 direct contact between D&B’s sales arm, DBCC, and the prospective small business customer.
6

7 26. The deceptive solicitations also come in the form of email alerts (“elerts”) to existing
8 customers, which seek to sell additional products, renewal of products, or upsells of current
9 products. The elerts advise customers that their credit score has been lowered based on a negative
10 payment experience. These negative payment experiences, however, are fabricated by defendants.
11 These elerts are sent by both DBCC and D&B and they are delivered by both defendants’ websites,
12 dandb.com and dnb.com. Each of these claims causes a small business owner reasonable and
13 understandable concern, especially coming from Dun & Bradstreet. In the end, defendants strong-
14 arm thousands of small businesses into purchasing CreditBuilder products each year by falsely
15 claiming that the products will solve the “problem” or dramatically improve the customer’s credit
16 profile.
17

18 27. Further, DBCC and/or D&B purchase customer lists from third-party entities, like
19 LegalZoom.com, to capture the identity and contact information of “business start-ups” so that the
20 defendants can solicit new customers.
21

22 **Defendants’ Misleading Solicitations Are Based
on Uniform Training, Scripts, Form Letters and Emails**

23 28. Defendants train their sales force extensively on how to hard-sell CreditBuilder
24 products to businesses. Sales agents are required to attend a corporate orientation, which includes
25 courses and materials that teach them how to plan, execute and close a sales call, including what
26 talking points to use and how to overcome a target customer’s objections.

1 29. Sales agents are given very little information about the small businesses listed in their
2 sales queues. Despite this lack of meaningful information about the credit profile or needs of
3 individual target customers, defendants train their sales agents to falsely tell every target customer
4 that there have been multiple “inquiries” into the small business’s credit profile. So universal and
5 indiscriminate is this tactic that sales agents frequently inform brand new businesses that there have
6 been inquiries, when the business is too young to have had any, or that a defunct business has had
7 inquiries, when it has been non-operational long enough not to have had any. By way of example, in
8 June, 2011, sales agents from DBCC solicited a small business called “Pansophist” in order to
9 “improve” credit. However, the business had been extinct for over 30 years.

11 30. Defendants give their sales agents scripts on how to sell the CreditBuilder products.
12 Sales agents are also given form letters and elerts to solicit new customers. These scripts and letters
13 make one or more of three false statements to solicit customers: (a) the customer’s D&B business
14 credit profile is “incomplete”; (b) the customer’s SER rating in its D&B business credit profile
15 indicates a “high risk” of financial stress; and/or (c) there has been “an increase in the number of
16 companies both purchasing and monitoring your commercial credit report to assess the risk of
17 working with your business.”

19 31. Defendants instruct their sales agents to advise target customers that, in order to (a)
20 complete their credit profile, (b) improve their SER rating and/or (c) update and protect their credit
21 profile, they must purchase a CreditBuilder product. In the telephone script, sales agents tell
22 potential customers, “[w]e need to go over what is currently being sent out, and get your report
23 completed.” Defendants instruct sales agents to go so far as to claim that “[w]e provide the credit
24 reports that dictate the terms that get extended out to businesses.”
25
26

1 32. For example, one set of form solicitation letters reads: “You are receiving this
2 notification because the following Supplier Evaluation Risk (SER) rating has been noted in your
3 D&B business credit profile.” In truth, the SER is merely a sales tool; it is a “sub-score” that does
4 not impact the D&B credit rating. Moreover, the SER given to a target customer is false, inaccurate,
5 out-dated and/or irrelevant to the target customer’s business. In most cases, defendants lack the
6 vendor information which would be needed to ascribe the target customer a high SER.
7

8 33. Elerts are also used by defendants claiming that customers’ credit ratings, like the
9 SER rating, had declined. These form elerts were sent on a routine, periodic basis and were not
10 prompted by real negative payment experiences and/or actual declines in a customers credit. These
11 elerts were sent based on an internal DBCC sales schedule intended to solicit business and generate
12 additional revenue and function as a mere marketing ploy.
13

14 34. Moreover, since sales agents have little to no information on the businesses provided
15 to them in their sales queue, they are trained and scripted to “DRILL DOWN” on target customers,
16 prying into their businesses. With this information, sales agents can better manipulate potential
17 customers. For example, when defendants solicit target customers by falsely claiming that there
18 have been numerous inquiries about the customer’s credit recently, customers will often ask who
19 would have made such an inquiry. Depending on the information “DRILLED” out of the customer
20 throughout the sales call, the sales agent is scripted to claim that the inquiries came from a
21 competitor in the same line of business, a potential vendor inquiring on the creditworthiness of the
22 company or a potential source of new business for the company. For example, if a target customer
23 discloses that it works with the general public, the script instructs the agent to tell the business
24 “[s]ince you work mostly with the general public, more than likely companies pulling your
25 information are the companies you pay your bills to.”
26

1 35. The DRILL DOWN method is simply a slick way of carrying out the con. When
2 confronted with a difficulty in closing the sale, sales agents are instructed to “START
3 OVERCOMING ANY OBJECTIONS USING THE INFO YOU HAVE GAINED” about the
4 business during the cold call.

5
6 **Defendants Resort to Pure Deception to Induce
Class Members to Purchase CreditBuilder Products**

7 36. Defendants employ a variety of misleading tactics, including the use of false and/or
8 inaccurate vendor payment information, “phantom” delinquencies on credit reports and “slow pay”
9 entries. A “slow pay” entry is an untimely payment made to an unidentified vendor. “Phantom”
10 delinquencies artificially lower a businesses credit score, in an effort to generate additional sales. In
11 turn, these phantom delinquencies and slow pay entries damage a businesses reputation and business
12 with its customers.

13
14 37. According to a DBCC insider, part of defendants’ sales script includes telling target
15 customers that there had been a specific number of inquiries (as many as 25) about the customer’s
16 business credit report, and that there was negative information in the report. Of course, the only way
17 to update or improve the report, according to the agent, was to purchase a CreditBuilder product.

18
19 38. In truth, sales agents are actually given little information regarding the businesses on
20 their sales queue and do not have real or accurate information on the number of inquiries made about
21 a given business. When a potential customer asks who has been pulling their credit reports, the sales
22 agents are scripted to reply, “I don’t have access to see the companies pulling your information, but
23 when we validate your file, you will have the ability to see who each one of these companies are by
24 industry, as well as what they are looking at so you know where their priorities lie [sic] and where
25 you need to focus your attention.” Of course, the only way to “validate your file” is to purchase a
26 CreditBuilder product.

1 39. In truth, even after purchasing a CreditBuilder product, customers are *not* able to see
2 who has made inquiries into their credit or what the priorities of the supposed inquirers are.

3 40. Defendants also solicit customers by inputting inaccurate vendor payment
4 information and “phantom” delinquencies in credit reports and falsely reporting to the customer that
5 they have delinquent or unpaid vendor accounts posted on their credit file. Customers are
6 understandably shocked to hear the claim that they have a delinquent account when they know their
7 accounts payable are current. Once again, sales agents do not really have information about
8 delinquencies and are trained to respond that they cannot give out further information about the
9 delinquencies. Of course, sales agents tell the target customers that the only way a customer can
10 discover and truly dispute these “delinquencies” is by purchasing a CreditBuilder product.
11

12 41. In truth, even after purchasing a CreditBuilder product, customers are *not* able to
13 discover or truly dispute supposed delinquencies. The defendants and their websites direct
14 customers who wish to determine the source of negative payment experiences purported to be
15 negatively affecting the customers’ credit ratings to an internet portal. The portal does not offer
16 customers a meaningful opportunity to dispute negative payment experiences, delinquencies, or the
17 like, as the defendants claim.
18

19 42. Further, after being forced to purchase the CreditBuilder products in order to repair
20 and/or improve the inaccurate credit information, and after reviewing their credit reports, customers
21 discover that there were no real delinquencies or inaccurate references in their credit profile. In
22 those cases where the customer disputes vendor delinquencies and demands to know the identity of
23 the vendor reporting the delinquency, DBCC refuses to identify the phantom vendor (often citing
24 “privacy concerns”) and ultimately will remove the false vendor delinquency from the report but
25 only after the customer has paid for the product. On other occasions, defendants tell the customer
26

1 that the vendor did not answer the dispute; in these cases, defendants let the delinquency dispute “die
2 on the vine.” Taking one example, small business owner Eitan Shmueli has maintained a successful
3 and profitable business in Hollywood, Florida named Super Color, Inc. for over 20 years. After
4 attempting to lease a piece of equipment and being denied by all major companies, Mr. Shmueli
5 came to discover that Super Color, Inc.’s D&B report showed a very low Paydex score, as well as
6 seven “delinquent” vendor payments. This information was false. After being forced to purchase
7 D&B’s CreditBuilder products in order to correct the inaccurate information, Mr. Shmueli opened up
8 disputes on each “unpaid” invoice and ultimately each were removed, albeit without explanation by
9 defendants as to how or why the inaccurate information got in the report, and further without
10 identifying the purported vendors who purportedly reported the delinquent payments. Plaintiff is
11 informed and believes that hundreds, if not thousands, of small businesses have been subjected to the
12 same fraudulent systematic practice by defendants concerning “delinquent” vendor payments.
13
14

15 43. Indeed, defendants’ customer service representatives, sales agents and websites throw
16 up numerous road blocks to those business owners who attempt to dispute inaccurate
17 “delinquencies” *without* purchasing a CreditBuilder product. Defendants make it virtually
18 impossible for a business owner to dispute negative credit references even though business owners
19 should be allowed to dispute negative references for free.
20

21 44. DBCC also applies a nonsense category called DUNS Support Status (“DS Status”) to
22 any business who has not purchased a CreditBuilder product, implying that the business is in credit
23 jeopardy or there is something wrong with its DUNS number. Defendants train their sales agents to
24 tell target customers that a business in “DS Status” will be perceived by the business community as
25 either a start-up with no financial record or a struggling company that is on the verge of failure. Of
26 course, sales agents offer “verification” to remove this false and misleading appellation through the

1 CreditBuilder products for the cost of one of the products, as well as a “one time activation fee of
2 \$149 just to set up the account.”

3 45. Small business credit reports accessed through CreditBuilder products contain
4 similar, unexplained and unidentified negative items; *e.g.*, uniform \$50 or \$2500 account
5 delinquencies, which are inconsistent with the customer’s business practices.
6

7 **Defendants Solicit Class Members with**
8 **Inaccurate, Outdated or Fabricated Information**

9 46. According to a former DBCC employee, the information in the sales queues is
10 gathered from outdated D&B files or is merely basic information from a Secretary of State’s
11 website. Defendants’ information is so unreliable that sales agents frequently solicit businesses that
12 have filed for bankruptcy, no longer exist or have changed ownership.

13 47. At bottom, DBCC sales agents are conducting “cold calls” to the businesses on their
14 sales queues. The information contained in the queues lacks accurate substantive information on the
15 business or its credit profile; sometimes the contact information in the queue is also incorrect. In
16 fact, sales agents are trained to use the words “commercial credit report” in their sales pitch even
17 though sales agents often have little or no information on the business’s credit history.
18

19 48. Nor do defendants conduct any meaningful investigation on a business’s credit report
20 in order to confirm that their “proprietary” scores and ratings are accurate before publishing the
21 results – or before DBCC solicits businesses to purchase its CreditBuilder products.

22 49. Most important, the sales queues do not provide the sales agents with an actual or
23 accurate number of commercial credit inquires (if any) made for a given business. That is, one of
24 the fundamental aspects of the DBCC sales pitch is the intentional misrepresentation of the number
25 of inquires made about a business’s credit profile. Defendants have adopted this grossly dishonest
26

1 scheme as policy, instructing their sales agents to simply fabricate a number of inquires out of thin
2 air, in order to scare customers into purchasing CreditBuilder products.

3 50. Over the years, class members have complained that their credit has been artificially
4 downgraded, misrepresented and ultimately ruined by false and inaccurate credit reporting or
5 phantom inquires that never appeared on their credit profile.

6
7 51. In the final analysis, defendants are colluding to negligently, recklessly or
8 intentionally falsify information in small business credit reports, which defendants use to persuade
9 small businesses to purchase an unneeded CreditBuilder product. Upon information and belief, Dun
10 & Bradstreet's small business credit reports contain inaccurate information.

11 52. Dun & Bradstreet's proprietary ratings are time-sensitive and need to be updated with
12 current information from a sufficient number of sources. The "Paydex score" for credit worthiness
13 is based upon payment history and *current* re-payment capabilities, as reported by trade references.
14 D&B must have *three or more* pieces of trade information in order to calculate a Paydex score.
15 Defendants do not keep the information about small businesses' re-payment capabilities current, and
16 they issue scores without sufficient trade information.

17
18 53. Similarly, Dun & Bradstreet's "commercial credit score" is time sensitive, since it is
19 based on the likelihood of a business becoming severely delinquent in its payments over *the next*
20 *12-month period*. Again, D&B's information is not kept up to date, so this score is inaccurate.

21
22 54. Dun & Bradstreet also "predicts" the likelihood that a business will experience
23 financial stress over *the next 12-month period*. Financial stress is defined as legal action by a
24 creditor, out-standing debts, receivership or reorganization or arrangements with creditors. This
25 information must necessarily be updated frequently to determine whether any of these contingencies
26 have or are likely to occur.

1 55. In fact, Dun & Bradstreet fails to perform even the most basic updates of a business's
2 change of address or trade references.

3 56. In summary, Dun & Bradstreet's credit reports, scores and ratings are lacking critical
4 data needed to compile a true and accurate snapshot of a business's credit profile. Rather, small
5 businesses must battle D&B to keep their business information accurate and up-to-date. To profit on
6 this discrepancy, defendants have introduced the CreditBuilder products, seeking to capitalize on a
7 problem of their own creation. To compound the injuries defendants inflict on class members, those
8 who buy the CreditBuilder products and update their profiles with true and accurate information find
9 that their credit scores and rating stay the same.
10

11 **Class Members Purchase Worthless Products**
12 **that Fail to Work as Defendants Promise**

13 57. Customers are also solicited to purchase CreditBuilder products as a way to add
14 "trade references" to their credit profile.³ Sales agents solicit customers by informing them that, if
15 they add trade references to their credit profile through a CreditBuilder product, their D&B scores
16 will improve. Defendants' sales script states:

17 So while you have access to your information, you are going to submit to us
18 what we call trade references. Basically you are going to give us the names and
19 basic information about the companies you are paying your bills to, we will contact
20 and gather all your payment history for the last two years, and based off this
21 information create your scores. This way the companies will have the information
22 they need to make these evaluations, and you know you will be getting the best terms
23 and rates with your vendors and suppliers.

24 58. At no time do defendants or its sales agents disclose a critical myriad of restrictions
25 and limitations on the trade references that can be submitted through the CreditBuilder products. In
26

24 ³ "Trade references" are evidence of a business's commercial payment history with its vendors and suppliers.
25 DBCC claims this history is a component of a business's D&B ratings. DBCC offered to add additional trade references
26 to a business's profile through the CreditBuilder products (four references for the standard product, 12 for the Plus
edition and 25 for the Premium edition).

1 fact, defendants disqualify many trade references submitted through the CreditBuilder products
2 according to internal rules that are never disclosed to customers at the time of solicitation and sale of
3 the product. One such restriction is this. D&B already independently collects trade references from
4 over 8,000 creditors that regularly report to D&B. D&B calls these “trade tape.” Defendants do not
5 disclose to customers that any reference submitted through the CreditBuilder products will be
6 rejected if it is trade tape. Thus, sufficient trade references are available to defendants without the
7 need for active companies like plaintiff to purchase CreditBuilder products. Defendants nevertheless
8 mislead companies such as plaintiff into purchasing CreditBuilder products to add unneeded
9 references to their D&B profiles. In addition, defendants disqualify many trade experiences as an
10 “invalid trade,” including bank references, payments to utilities and gas companies, credit card
11 companies and landlords. Again, no conditional trade reference qualifications are disclosed to the
12 customer at any time during the sales process.
13
14

15 59. Despite following the CreditBuilder product protocols, customers find that the
16 product has failed to improve their business credit score or report, or otherwise perform as
17 defendants promised.

18 **Businesses Must “Pay to Play” to Maintain**
19 **a Favorable Credit Rating and Score**

20 60. CreditBuilder products must be renewed on an annual basis. When existing
21 customers are satisfied with a strong credit score and report, they may choose not to renew their
22 CreditBuilder product subscription. After expiration, these customers find that their D&B credit
23 rating has fallen dramatically and they have been classified by DBCC as in financial risk and
24 possibly failure. This occurs because, when a customer stops paying for CreditBuilder services,
25 defendants intentionally lower the customer’s D&B score and rating.
26

TRANSACTIONS OF THE NAMED PLAINTIFF**Plaintiff O&R**

61. O&R has been owned by Orin and Robyn Kolaitis since 2004. The company relies on government contracts for much of its business, and is required to have a DUNS number in order to remain eligible to contract with the federal government.

62. O&R has been subjected to defendants' entry of intentionally false and/or inaccurate vendor payment information. This information was generated by D&B and maintained in its database, and was published by D&B via its "Business Information Report." This same intentionally false and/or inaccurate vendor payment information is maintained and published by DBCC via its own "Dun & Bradstreet Credibility Corp" report (bearing D&B's logo), and is used by DBCC in order to, among other things, solicit existing customers like O&R to purchase additional "credit building" products and services. The false information included "negative payment experiences" including: (i) a cash account purportedly opened in 2011 in the amount of \$50 and (ii) a "slow pay" account.

63. In an effort to repair O&R's credit and correct the false information, Mrs. Kolaitis contacted the defendants. One of the defendants' sales agents told Mrs. Kolaitis over the phone that O&R's credit rating was very low, that the company was rated a "severe risk" and that there were some "negative payment experiences" on its credit report. This is a uniform sales misrepresentation used by defendants to induce plaintiff to purchase the CreditBuilder products. O&R's "negative payment experiences" included (i) a cash account purportedly opened in 2011 in the amount of \$50 and (ii) a "slow pay" account. As mentioned above, these negative payment experiences were erroneous.

1 64. When Mrs. Kolaitis explained that the claims were untrue, the sales agent told her
2 that she could (a) contest the erroneous items on her report and (b) submit trade references to
3 improve her score – if she bought the CreditBuilder product.

4 65. Defendants’ sales agent failed, by design, to inform Mrs. Kolaitis that any
5 government-related credit reporting issue can be addressed for free. Instead, the agent misled her
6 into buying a product that she did not need. The sales agent also failed to inform Mrs. Kolaitis that
7 there were restrictions on the trade references which could be submitted.

8 66. On or about May 24, 2012, O&R bought a CreditBuilder product for (a) an activation
9 fee of approximately \$150 and (b) 12 monthly \$60 payments.

10 67. When Mrs. Kolaitis negotiated the sales contract of the CreditBuilder product with
11 the defendants, she did so over the phone. The defendants’ sales agent did not disclose any terms,
12 limitations, or conditions on the rights of O&R to pursue statutory, contract, tort, or equitable claims
13 arising from her purchase of the product, the failure of the product, or the actions of the defendants.
14 And no such terms, limitations, or conditions were made available to her during her negotiation of
15 the sales contract.

16 68. Through the CreditBuilder product, Mrs. Kolaitis contested the erroneous items on
17 O&R’s credit report. Mrs. Kolaitis also submitted trade references for O&R to improve its credit
18 score, but before she did so, she contacted each reference to confirm that the information she was
19 submitting was correct.

20 69. When the trade references did not appear on O&R’s credit profile, Mrs. Kolaitis
21 contacted defendants for an explanation. Defendants told her that they could not confirm any of the
22 trade references, something Mrs. Kolaitis had been able to do.

1 70. While at The Home Depot, Mrs. Kolaitis learned The Home Depot had decreased
2 O&R's business credit line by \$8,000 solely based on her business's D&B report. The Home Depot
3 told her that until the credit report improved, it would not increase the line of credit to what it had
4 been prior to the negative report. Based on D&B's representations that CreditBuilder could improve
5 her credit, Mrs. Kolaitis then purchased one of the products.
6

7 71. Mrs. Kolaitis was shocked to hear this news since O&R had always had good credit.
8 She soon learned that defendants had *not* removed all of the erroneous items from O&R's credit
9 profile and had instead placed the company in a "1400 high risk category."

10 72. Defendants also listed O&R as having no PAYDEX number, since they had rejected
11 the trade references Mrs. Kolaitis had submitted. The reason for this rejection was that: Dun &
12 Bradstreet independently collects trade references from about 8,000 creditors that regularly report to
13 it; these references are called "trade tape." Defendants have a secret, internal rule that trade
14 references submitted through CreditBuilder will be rejected if they already appear on trade tape.
15 This restriction is not disclosed to customers when purchasing CreditBuilder products.
16

17 73. As stated above, defendants apply additional hidden restrictions to trade references
18 submitted through CreditBuilder, including, (i) D&B will only consider trade references from
19 companies that it already monitors and (ii) D&B will not accept trade references from
20 internationally-based companies.
21

22 74. Due to defendants' undisclosed restrictions on trade reference submissions, they
23 rejected the trade references submitted by Mrs. Kolaitis and her purchase of the CreditBuilder
24 product did nothing to improve her Dun & Bradstreet rating and scores.

25 75. On November 24, 2012, and six months to the day after plaintiff purchased the
26 CreditBuilder product, O&R received a purported "inquiry" on its business as reflected in its DBCC

1 report. The business purportedly making an “inquiry” on O&R’s credit was not identified by DBCC
 2 or D&B, and upon information and belief, is false and/or inaccurate information which defendants
 3 input into customers’ reports in order to generate additional sales leads. Upon further information
 4 and belief, defendants, as a matter of policy and practice, generate false “inquiries” to make it appear
 5 as though the small businesses’ credit profiles are being reviewed by banks, suppliers, and/or
 6 customers when in reality they are not, in order to persuade small business owners to seek to
 7 maintain and/or improve their credit rating.
 8

9 76. On January, 3, 2012, plaintiff received another email alert from DBCC stating that
 10 there had been another “inquiry” on O&R’s business. The business purportedly making an “inquiry”
 11 on O&R’s credit was not identified by DBCC or D&B, and upon information and belief, is false
 12 and/or inaccurate information which defendants input into customers’ reports in order to generate
 13 additional sales leads.
 14

15 CLASS ACTION ALLEGATIONS

16 77. Plaintiff brings this lawsuit on behalf of itself and the following proposed class (the
 17 “Class”), pursuant to Federal Rule of Civil Procedure 23(b)(2) and (3):

18 ***(A) WASHINGTON CLASS: ALL PERSONS WHO PURCHASED***
 19 ***DEFENDANTS’ CREDITBUILDER PRODUCTS IN THE STATE OF***
WASHINGTON.

20 ***(B) MULTISTATE CLASS: ALL PERSONS WHO PURCHASED***
 21 ***DEFENDANTS’ CREDITBUILDER PRODUCTS IN THE UNITED STATES.***

22 78. Subject to additional information obtained through further investigation and
 23 discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or
 24 amended complaint.

25 79. Specifically excluded from the Class are defendants, their officers, directors, agents,
 26 trustees, parents, children, corporations, trusts, representatives, employees, principals, servants,

1 partners, joint venturers or entities controlled by defendants, and their heirs, successors, assigns or
2 other persons or entities related to or affiliated with defendants and/or their officers and/or directors,
3 the judge assigned to this action and any member of the judge's immediate family.

4 80. **Numerosity:** The members of the Class are so numerous and geographically diverse
5 that joinder of all of them is impracticable. While the exact number and identities of members of the
6 Class are unknown to plaintiff at this time and can only be ascertained through appropriate
7 discovery, plaintiff believes and avers that there are thousands of class members.

8 81. **Commonality:** Plaintiff and class members' claims derive from a common core of
9 salient facts and share many of the same legal claims. There are questions of fact or law common to
10 members of the Class, which predominate over any questions affecting any individual members,
11 including, but not limited to, the following:
12

13 (a) whether defendants co-marketing of CreditBuilder products and services to
14 the marketplace deceptively induced plaintiff and members of the Class into purchasing the product
15 under the mistaken belief that the purchase of CreditBuilder products would improve credit ratings
16 and solve purported problems with credit reports;

17 (b) whether defendants were unjustly enriched through the above mentioned
18 conduct of selling CreditBuilder products without disclosing restrictions;

19 (c) whether defendants breached their express and implied contracts with small
20 business consumers who purchased CreditBuilder products;

21 (d) whether plaintiff and members of the Class have sustained ascertainable losses
22 by reason of defendants breach of contract and, if so, the proper measure of those losses;

23 (e) whether plaintiff and members of the Class have a right to collect damages
24 and/or a refund; and

25 (f) whether plaintiff and members of the Class are entitled to injunctive and/or
26 other equitable relief.

1 82. **Typicality:** Plaintiff's claims are typical of the claims of other members of the Class
2 in that plaintiff's claims arise from the same course of conduct by DBCC that affects class members.
3 Plaintiff, like other class members, purchased CreditBuilder products through unlawful marketing
4 practices by defendants, including through the deceptive, misleading and false solicitations and/or
5 representations regarding the customer's credit worthiness and false inquiries on a customer's credit.
6 Plaintiff and members of the Class were fraudulently induced to purchase CreditBuilder products
7 through promises of "improving," "repairing" and/or "monitoring" credit by, among other things,
8 adding trade references but were denied that benefit due to DBCC's internal rules that were
9 undisclosed to customers. Plaintiff, like other class members, purchased CreditBuilder products and
10 did not receive the full value promised by defendants, which is deceptive, misleading, constitutes a
11 breach of contract and unjustly enriched the defendants. Plaintiff and class members suffered
12 monetary losses as a result of defendants' above mentioned course of conduct. Further, plaintiff's
13 claims are typical in that all were harmed by defendants' negligent, reckless and/or fraudulent
14 practice of maintaining inaccurate and even intentionally false information on customers' business
15 credit reports, including falsely reporting "delinquent" vendor payments and that a business was in
16 severe financial distress and/or was "likely to fail."

19 83. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the Class.
20 Plaintiff's claims are coextensive with, and not antagonistic to, the claims of other class members.
21 Plaintiff is willing and able to vigorously prosecute this action on behalf of the Class. Plaintiff's
22 attorneys are experienced in the area of representative and class actions and have successfully
23 represented plaintiffs in numerous such actions.
24
25
26

1 84. Plaintiff brings this action under Rule 23(b)(3) because common questions of law and
2 fact predominate over issues that are individual to members of the Class. The proposed Class is
3 sufficiently cohesive to warrant class and representative treatment.

4 85. Upon information and belief, defendants have the technology and records which
5 would permit plaintiff a plausible class-wide method for proving the case. Certification under Rule
6 23(b)(3) is also appropriate because a class action is superior to other available methods for the fair
7 and efficient adjudication of this action. Given the small damage amounts per class member, the
8 expense of litigating each class member's claim individually would be so cost prohibitive as to deny
9 class members a viable remedy. Plaintiff envisions no unusual difficulty in the management of this
10 action as a class action.

11
12 86. Plaintiff also brings this action under Rule 23(b)(2) because defendants have acted or
13 refused to act on grounds generally applicable to all members of the Class, thereby making final
14 injunctive relief concerning the Class as a whole appropriate. In the absence of appropriate
15 injunctive relief, defendants will continue their unfair and deceptive business practices. Defendants'
16 uniform conduct towards plaintiff and the other members of the Class makes certification under Rule
17 23(b)(2) appropriate.

18
19 **COUNT I**

20 **Violation of Washington's Consumer Protection Act**

21 (As to Washington State Purchasers of CreditBuilder Products Only)

22 87. Plaintiff realleges and incorporates by reference the allegations contained in the
23 above-referenced paragraphs as if fully set forth herein.

24 88. As set forth throughout this Complaint, defendants engaged in unfair and deceptive
25 acts and practices, in violation of Rev. Code Wash. §19.86.020.
26

1 89. "Person" shall include, where applicable, natural persons, corporations, trusts,
2 unincorporated associations and partnerships. Rev. Code Wash. §19.86.010.

3 90. Defendants' unfair and deceptive acts described in this Complaint were undertaken in
4 the course of commerce, and involve the public's interest in transparency, accurate information and
5 products with value promised. The unfair and deceptive acts had the capacity to deceive a
6 substantial portion of the public, and did in fact so deceive.

7
8 91. As a direct and proximate result of the unfair and deceptive acts, the class members'
9 businesses, suffered injury to their business and/or property, viz. the purchase price of the
10 CreditBuilder products.

11 COUNT II

12 Negligent Misrepresentation/Concealment

13 (As to All Persons Who Purchased Defendants' CreditBuilder Products in the United States)

14 92. Plaintiff realleges and incorporates by reference the allegations contained in the
15 above-referenced paragraphs as if fully set forth herein.

16 93. Defendants made the following negligent representations of fact:

- 17 (a) that DBCC was a part of D&B in a way that it was not;
- 18 (b) that there had been "inquiries" into potential customers' credit profiles when
19 there had not been;
- 20 (c) that a potential customer's credit profile was "incomplete" when it was not;
- 21 (d) that a potential customer's SER rating indicated "high risk" when it did not, or
22 when that rating was inappropriate;
- 23 (e) that a potential customer's credit report contained a "delinquency" or
24 "inaccuracy" when it did not;
- 25
26

1 (f) that customers would be able to dispute in a meaningful way inaccurate
2 information on their credit profiles after purchasing CreditBuilder products, and/or that those
3 products would improve credit scores;

4 (g) that a potential customer's "DS Status" exposed them to risk, when it did not;
5 and/or

6 (h) that DBCC had accurate, up-to-date information relevant to a potential
7 customer's business, when it did not.

8 94. Despite a duty to disclose, defendants concealed the following facts:

9 (a) that DBCC was not a part of D&B;

10 (b) that there were restrictions on "trade references" submitted through the
11 CreditBuilder product;

12 (c) that non-renewal of a CreditBuilder product subscription could harm a
13 customer's credit report or rating;

14 (d) that CreditBuilder's dispute process was ineffective; and/or

15 (e) that CreditBuilder would not improve a customer's credit profile or rating.

16 95. Each of the representations or concealments of fact referred to in the preceding
17 paragraphs was material to the transaction at hand, *viz.*, whether to purchase a CreditBuilder product.

18 96. Each of the representations or concealments were made negligently or with utter
19 disregard and recklessness as to their falsity.

20 97. Each of the representations or concealments were made negligently and/or recklessly,
21 misleading another into relying upon them, or with knowledge that the representations or
22 concealments was likely to be relied upon by a reasonable customer.

23 98. Class members suffered injury proximately caused by defendants' misrepresentations
24 or concealments of material fact.
25
26

COUNT III

Fraudulent Concealment

(As to All Persons Who Purchased Defendants' CreditBuilder Products in the United States)

99. Plaintiff realleges and incorporates by reference the allegations contained in the above-referenced paragraphs as if fully set forth herein.

100. Defendants withheld and suppressed material facts as set forth throughout this Complaint, and as identified in Count IV, which are incorporated herein by reference.

101. Defendants had a duty to disclose the truth about these matters, but failed to do so.

102. Defendants were aware that their claims regarding CreditBuilder products were false.

103. Nevertheless, defendants concealed the material facts as set forth throughout this Complaint, and as identified in Court IV, and took steps to prevent plaintiff and the Class from learning the true facts regarding CreditBuilder.

104. The concealment of the true facts from plaintiff and members of the Class was done with the intent to induce plaintiff and members of the Class to purchase CreditBuilder products.

105. The reliance by plaintiff and the Class was reasonable and justified in that defendants appeared to be, and represented themselves to be, reputable businesses.

106. As a direct and proximate result of the fraud and deceit alleged, plaintiff and members of the Class suffered actual damages in that they have been deprived of the benefit of their bargain and have spent money purchasing CreditBuilder at a price premium when it actually had significantly less value – indeed, no value – than was reflected in the price they paid for it.

107. Each of the concealments was made falsely, with knowledge of its falsity, or with utter disregard and recklessness as to its falsity.

1 108. Each of the concealments was made with the intent of misleading another into relying
2 upon it, or with knowledge that the concealment was likely to be relied upon by a reasonable
3 customer.

4 **COUNT IV**

5 **Breach of Contract**

6 (As to All Who Purchased Defendants' CreditBuilder Products in the United States)

7 109. Plaintiff realleges and incorporates by reference the allegations contained in the
8 above-referenced paragraphs as if fully set forth herein.

9
10 110. Defendants offered and the class members accepted sales of the CreditBuilder
11 products. As part of this agreement, defendants promised to provide a product that would provide
12 value related to credit monitoring and credit building. These promises are set forth throughout this
13 Complaint; *e.g.*, defendants promised that the product would allow class members to submit trade
14 references.

15 111. In exchange, class members promised to pay defendants the purchase price of the
16 product together with any activation fee. The class members performed their obligations.

17 112. Defendants breached their obligations by providing a product which failed to perform
18 as promised.

19 113. As a result of this breach of contract, the class members suffered injury.

20 **COUNT V**

21 **Unjust Enrichment**

22 (As to All Who Purchased Defendants' CreditBuilder Products in the United States)

23 114. Plaintiff realleges and incorporates by reference the allegations contained in the
24 above-referenced paragraphs as if fully set forth herein.

25 115. As set forth throughout this Complaint, defendants have been unjustly enriched.
26

1 116. The class members conferred on defendants a benefit, *viz.*, the purchase price of the
2 CreditBuilder products together with any activation fees.

3 117. Defendants appreciated or knew that they were receiving a benefit.

4 118. Defendants accepted and retained the benefit. Under the circumstances described in
5 this Complaint, it is inequitable for defendants to retain benefit.
6

7 **PRAYER FOR RELIEF**

8 WHEREFORE plaintiff O&R, individually and on behalf of the Class, demands judgment as
9 follows:

10 A. An order certifying this as a class action, appointing the plaintiff as class
11 representative and appointing undersigned counsel as class counsel;

12 B. Statutory damages, attorneys fees and costs, as appropriate, pursuant to the
13 Washington Consumer Protection Act;

14 C. Compensatory and/or actual damages;

15 D. Punitive and/or Treble damages, as appropriate;

16 E. Remedies in equity, including disgorgement, as appropriate;

17 F. Pre- and post-judgment interest, as appropriate; and

18 G. An order enjoining defendants from committing further wrongful marketing and sale
19 of the credit monitoring products at issue in this case, including, *inter alia*, failing to disclose
20 restrictions on trade references.

21 **JURY DEMAND**

22 Plaintiff demands a trial by jury on all issues so triable.
23
24
25
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1 DATED: April 5, 2013
2

3 By: s/Christopher Collins

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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 5, 2013.

s/ CHRISTOPHER COLLINS
CHRISTOPHER COLLINS

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- (No manual recipients)