

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Civil Docket No.: 06 CA 1137 MLW

Christine Varad,
Plaintiff,

v.

Reed Elsevier Incorporated,
d.b.a. *LexisNexis, LexisNexis Risk &
Information Analytics Group, Inc.*,
Defendant.

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR A SUMMARY JUDGMENT**

Christine Varad v. Reed Elsevier Incorporated

Doc. 73 Att. 3

TAB 3

Exhibit A

ACCURINT VERIFICATION CHECKLIST

Account Number: 1265191

Customer Name: Maire Board of Peer Examiner

Account Manager: Ed Dimenna

I. Complete Accurint Application and Agreement

Industry Class Selected? Acceptable Use Selected?

Nature of Application (free trial or rollover)? R Customer Signature?

II. Supporting Documentation

Did the customer provide supporting documentation?

Describe: bus. card, letter head & sign

Does documentation match the information on the customer's application?

III. Additional Documentation

Did you locate additional documentation on the customer?

Describe: their website of accurint

Does documentation match the information on the customer's application?

Additional documentation needed: /

Notes: /

IV. Final Verification

Method of Contact: Phone or E-Mail (Circle One) Spoke with Cheryl Cuffe

Confirmed billing address? Confirmed industry class? Confirmed Email address?

Why the customer is using Accurint? verify applications for peer examine

Is described usage consistent with application?

V. Security Settings (Circle One)

GLB Mask None GLB Mask 4 Non GLB / DPPA Non GLB / Non DPPA

Verification Specialist: [Signature]
Print: _____

4/19/07
Date

APPROVED / DECLINED BY:

[Signature]
Verification Manager
Print: _____

10/29/07
Date

APPLICATION REQUIREMENTS

MAIN CONTACT LOGIN INFO:	
USER ID:	CCVLIFFE
PASSWORD:	MAINE

Account # 1265191
 Company Name Maine Board of Bar Examiners
 Account Manager Ed Dimenna Verification Specialist J.L.

The following information was not completed on the application:

Company Name/Physical Address
Contact Information
Billing Contact (If no credit card information)
Company Principals
Banking Information
Credit References
Industry Class
GLB Use
DPPA Use
Nature of Application
Signature

DOCUMENTS REQUIRED

Application missing documentation
Rollover letter
Documentation expired
License name does not match company name
License address does not match company address
Documentation not legible
Documentation not acceptable
Acceptable documentation
Other
NOTE TO VERIFICATION:

APPLICATION ON HOLD - 90 DAY RULE APPLIES
<input checked="" type="checkbox"/> APPLICATION COMPLETE
FREE APPLICATION

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MAINE BOARD BAR

04

Accurint

APPLICATION AND AGREEMENT FOR GOVERNMENT AGENCIES

To Submit Your Application:

1. Print, fill out, and sign Application or complete the Application form online and print it.
2. Include copies of documentation verifying agency identity. Examples of acceptable documentation include:
 - Tax exemption certificate
 - Agency letterhead and business card
3. Initial ALL pages of the Application, sign where indicated, and fax the Application and supporting documentation to Selint, Inc. at 861-893-9098.

AGENCY INFORMATION

Name Maine Board of Bar Examiners
 Division N/A
 Physical Address 59 Court Street
 City Augusta State ME Zip 04330
 Telephone (207) 623-2464 Agency Web Address www.mainebarexaminers.org

CONTACT INFORMATION

Last Name Cutcliffe First Name Cheryl J. Title Executive Director
 Telephone (207) 623-2464 Extension N/A Fax (207) 622-0059
 Email Address execdir@mainebarexaminers.org

CREDIT CARD APPLICATION (If you choose to be billed on a credit card, fill out this portion)

We accept MasterCard, Visa, and American Express. For security and authentication purposes, we require the account holder to provide the address to which the credit card company mails the monthly statement.

Cardholder Name _____
 Card Number _____ Expiration (MM/YY) _____
 Credit Card Statement Address N/A
 City _____ State _____ Zip _____
 Card Type: MasterCard Visa American Express

By choosing to have a credit card billed directly by Selint, I hereby authorize Selint to bill this credit card for the charges incurred for use of Selint's Accurint service. Additionally, I hereby agree that if the credit card company refuses to pay Selint for such charges incurred for use of the Accurint Service, the applicant shall be responsible for the payment of such charges.

DIRECT BILLING INFORMATION (If you choose to be billed directly, fill out this portion)

By submitting this direct billing application, I certify that I am authorized to apply for credit on behalf of the agency named in this Application. I further certify that the information I provide relating to this credit application is true and complete. I hereby grant permission to Selint to verify the credit data relating to the credit information provided herein.

BILLING CONTACT

Last Name Cutcliffe First Name Cheryl J. Title Executive Director
 Telephone (207) 623-2464 Extension N/A Fax (207) 622-0059
 Email Address execdir@mainebarexaminers.org
 Billing Address P.O. Box 140
 City Augusta State ME Zip 04332-0140

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MAINE BOARD BAR

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GLB ACCEPTABLE USES (CHECK ALL THAT APPLY—AT LEAST ONE MUST BE CHECKED)

The information that the Account Service provides to the Agency may contain consumer identification information governed by the Gramm-Leach-Bliley Act (GLB). In accordance with GLB, such information may only be used for the following purposes:

- Completion of a transaction authorized by the consumer including but not limited to the collection of delinquent accounts.
- Application Verification including but not limited to (a) employment application information verification (however, Account data cannot be used to make an employment decision as outlined in the Fair Credit Reporting Act (16 U.S.C. § 1681 et seq.)), Agency represents and warrants that Account data will not be used for purposes governed by the Fair Credit Reporting Act.
- Law firm and attorney functions
- Insurance purposes including (a) account administration, (b) reporting, (c) fraud prevention, (d) premium payment processing, (e) claim processing and investigation, (f) benefit administration, or (g) research projects
- Fraud detection and prevention
- Required institutional risk control/dispute resolution for resolving Agency disputes or inquiries
- I have no GLB permitted use.

DPPA ACCEPTABLE USES (CHECK ALL THAT APPLY - AT LEAST ONE MUST BE CHECKED)

The Account database also contains driver's license and motor vehicle registration information governed by the Driver's Privacy Protection Act (DPPA). In accordance with DPPA, such information may only be used for the following purposes:

- Use by a court or other government agency or entity, acting directly on behalf of a government agency. 18 U.S.C. § 2721(b)(1).
- Use for any matter regarding motor vehicle or driver safety or theft; to inform an owner of a towed or impounded vehicle. 18 U.S.C. § 2721(b)(2).
- Use in the normal course of business, to verify the accuracy of personal information submitted by the individual to the business and, if the submitted information is incorrect, to obtain correct information, but only for the purpose of preventing fraud by, or pursuing legal remedies against, or recovering on a debt or security interest against, the individual. 18 U.S.C. § 2721(b)(3).
- Use in connection with a civil, criminal, administrative, or arbitral proceeding. 18 U.S.C. § 2721(b)(4).
- Use by an employer or its agents or insurers to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1981. 18 U.S.C. § 2721(b)(5).
- Use by an insurer or insurance support organization, in connection with claims investigation activities, anti-fraud activities, rating or underwriting. 18 U.S.C. § 2721(b)(6).
- Use by a licensed private investigative agency, or licensed security service, for a purpose permitted in Items 1 through 6 above. 18 U.S.C. § 2721(b)(7).
- I have no DPPA permitted use.

TERMS AND CONDITIONS OF USE

1. **Scope of Services:** Selint provides nationwide public record information, document retrieval and related services (the "Account Services") using Selint's proprietary and licensed databases and information. Selint hereby grants to the Agency a restricted license to use the Account Services in accordance with the acceptable use(s) identified by the Agency in the Account Application and Agreement. The Account Application and Agreement has identified industry-specific appropriate uses for which the Account Services are to be used, and the Agency agrees to state its appropriate use for any requested information prior to accessing it, to limit its use to those stated purposes, and to take appropriate measures so as to protect against the misuse of information provided pursuant to the Account Services. The Agency shall not use the information provided hereunder for any purpose that would violate the privacy obligation policy and any other terms and provisions of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.), the Federal Drivers Privacy Protection Act (18 U.S.C. § 2721 et seq.), or any similar state or local statute, rule, or regulation. The Agency shall not use the Account Services for purposes governed by the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) including the purpose of serving as a factor in establishing a consumer's eligibility for (a) credit or insurance to be used primarily for personal, family, or household purposes; (b) employment purposes; or (c) any other purpose authorized under the federal Fair Credit Reporting Act. The Agency shall also abide by such legislation and rules and regulations as may be enacted or adopted after the date hereof that regulate its use of the Account Services.
2. **Performance:** Selint will use reasonable efforts to compile the information gathered from selected public records and other sources used in the provision of the Account Services; provided, however, that the Agency accepts all information "AS IS." The Agency hereby acknowledges and agrees that Selint obtains its data from third party sources, which may or may not be completely thorough and accurate, and that the Agency shall not rely on Selint for the accuracy or completeness of the information provided by the Account Services.
3. **Charges:** For each response to a request for information the Agency agrees to pay to Selint for use of the Account Services the applicable charge published for the information requested. The Agency shall pay to Selint fees in accordance with the prices as updated from time to time through online announcements and Agency bulletins, as thereafter reflected in the Account Services published price schedules.
4. **Intellectual Property:** The Agency agrees that the Agency shall not reproduce, retransmit, republish or otherwise transfer for any commercial purpose any information that the Agency receives from the Account Services, other than as permitted by this Agreement. The Agency acknowledges that Selint (and/or Selint's third party data providers) shall retain all right, title and interest in and to the data and information provided by the Account Services, under applicable contract, copyright and related laws, and the Agency shall use such materials consistent with Selint's interests and notify Selint of any threatened or actual infringement of Selint's rights.
5. **Use Limitations:** The Agency agrees that it will use the Account Services only in the performance of, or in the furtherance of, law enforcement activities, including without limitation, criminal investigations, witness location, and other purposes reasonably related to provision of law enforcement by the Agency.

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Revised March 4, 2004
[Signature] (initial)

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6. Payment of Fees: The Agency shall be responsible for payment for all services obtained through the Agency's access identification code, whether or not such code is used by the Agency or a third party, whether with or without the Agency's consent. The Agency shall pay Seisint for all charges incurred for the use of the Account Services on a monthly basis, and the Agency agrees to be electronically invoiced for those charges. At the Agency's request, paper invoices can be mailed via the United States Postal Service at a cost of Ten Dollars (\$10) per month, which will be included in the Agency's monthly invoice as an additional itemized charge. All payments are due within 30 days of the date of an invoice for the Account Services. The Agency understands that it will be notified via electronic mail regarding all unpaid balances due. The Agency shall pay interest at the rate of eighteen percent (18%) per annum from the date due on any charges not paid by the payment due date. All remittances shall be sent to Seisint, Inc., 6601 Park of Commerce Boulevard, Boca Raton, Florida, 33487. Seisint reserves the right to terminate this Agreement and the right of the Agency to use any information provided hereunder with prior notice to the Agency upon any non-payment of fees by the due date.

7. Terms: This Agreement shall remain in full force and effect during such periods of time during which Seisint is providing services to the Agency. The Agency agrees that if it is found to be in violation of any specifications of this Agreement, Seisint has the right to terminate the Agency's access to the Account Services.

8. Assignment: The license granted to the Agency to use the Account Services may not be assigned by the Agency, in whole or in part, without the prior written consent of Seisint.

9. Disclaimer of Warranties: SEISINT DOES NOT MAKE AND HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED WITH RESPECT TO THE ACCOUNT SERVICES AND INFORMATION PROVIDED THEREBY. SEISINT DOES NOT GUARANTEE OR WARRANT THE CORRECTNESS, COMPLETENESS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE ACCOUNT SERVICES OR THE COMPONENTS THEREOF OR INFORMATION PROVIDED THEREUNDER.

10. Survival of Agreement: Provisions hereof related to (a) the use of the Account Services information and data by the Agency, (b) the payment for the Account Services, and (c) the disclaimer of warranties by Seisint, shall survive any termination of the license to use the Account Services.

11. Audit: The Agency understands and agrees that in order to ensure compliance with applicable law, Seisint will on a random basis contact the Agency to provide documentation of executed searches. Such audit will be performed only when legally permissible, and in accordance with such laws regarding confidentiality of criminal investigations as govern the Agency's dissemination of such information. The Agency agrees to cooperate fully with any and all investigations when legally permissible. Violations discovered in any review by Seisint will be subject to immediate action including, but not limited to, termination of the license to use Account Services, legal action, and/or referral to federal or state regulatory agencies.

12. Attorney Fees: The prevailing party in any action brought pursuant to the terms and conditions of this Agreement shall be entitled to receive from the other party such reasonable fees and costs expended by such party in the action, including appellate fees and costs (if any).

13. Entire Agreement: This Agreement constitutes the final written agreement and understanding of the parties and is intended as a complete and exclusive statement of the terms of the agreement which shall supersede all prior representations, agreements, and understandings, whether oral or written. Any new, oral, or different terms supplied by the Agency beyond the Terms contained herein, including those contained in purchase orders issued by the Agency, are specifically and expressly rejected by Seisint unless Seisint agrees to them in a signed writing specifically including those new, oral, or different terms. The Terms contained herein shall supersede and govern in the event of a conflict between these Terms and any new, oral, or different terms in any contract which this Agreement is referenced or made a part of. In the event any one or more provisions of this Agreement or of any order is held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired.

AUTHORIZATION AND ACCEPTANCE OF TERMS

I HEREBY CERTIFY that I am authorized to execute this Account Application and Agreement for Government Agencies on behalf of the agency listed above and that the statements I have provided in this Application are true and correct. Further, I hereby certify that the Agency agrees to the terms and conditions set forth in this Application.

NATURE OF APPLICATION AND AGREEMENT (YOU MUST CHECK ONE)

- Free Trial Application Only (If you check this box, additional information or documentation will be required prior to becoming an active Account customer.)
- Free Trial and Billing Application (If you check this box, upon the expiration of your Free Trial, your account will be converted into an active Account account for billing purposes without supplying additional documentation, provided all needed documentation has been approved.)

APPLICANT

Signature Cheryl J. Cutcliffe
 Print Name Cheryl J. Cutcliffe
 Title Executive Director
 Dated 4/19/04 (mm/dd/yyyy)

Renewal
Page 1 of _____

COPY

40A 306015
Agreement No:

~~40A - 306015~~

STATE OF MAINE
JUDICIAL BRANCH
Agreement to Purchase Services

THIS AGREEMENT, made this 23 day of February, 2006, is by and between the State of Maine, Administrative Office of the Courts, hereinafter called "Department," and LexisNexis, a division of Reed Elsevier Inc. located at 9443 Springboro Pike, Miamisburg, OH 45342, telephone number 937-865-6800 hereinafter called "Provider", for the period of March 1, 2006 to February 29, 2008 (including an option to extend for one additional two year period).

The Employer Identification Number of the Provider is 52-1471842 B.

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Work to be Performed
- Rider B - Payment and Other Provisions

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in 3 original copies.

DEPARTMENT : Judicial Branch

By:

Deborah Carson, Financial Operations Officer

and

LexisNexis, a division of Reed Elsevier Inc.

By:

Name and Title, Provider Representative *

* Subject to Rider C, attached hereto

Total Agreement Amount: \$28,980 per year

Approved:

MAR 15 2006

Chair, State Purchases Review Committee

State Controller
BP54 (Rev 6/04)

ENC \$28,980 FY06

ENCUMBERED
MAR 16 2006
STATE CONTROLLER

LEXISNEXIS LEGAL DEPT
REVIEWED BY: [Signature]
DATE: 2-29-06