

# **Exhibit 67**

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
GUCCI AMERICA, INC.,

Plaintiff,

-against-

**AFFIDAVIT OF  
NATHAN COUNLEY**

FRONTLINE PROCESSING CORPORATION,  
WOODFOREST NATIONAL BANK, DURANGO  
MERCHANT SERVICES, LLC., d/b/a NATIONAL  
BANKCARD SYSTEMS OF DURANGO,

Index No. 09-CV-6925

Defendants.  
-----X

I, Nathan Counley, hereby declare as follows:

I am competent to testify and I have firsthand knowledge of the matters set forth herein, as I am a sales agent of Defendant Durango Merchant Services, LLC.

1. No "file scrubbing" was performed on any of the computers at Durango's main office in Durango, Colorado at any time.

2. At no point did Durango "scrub" anything relevant to this case.

3. Any "file scrubbing" performed by me was on laptop computers (which can be lost or stolen) in my home office in Wisconsin and, importantly, was after appropriate searches were made and relevant documents provided in response to Gucci's discovery requests.

4. Likewise, any "file scrubbing" by Durango member Bill Demopolis was on his computer in his home office in Toronto and, importantly, was after appropriate searches were made and relevant documents provided.

5. In fact, Bill Demopolis does not deal with merchants, and is not even a sales agent. Rather, Bill Demopolis' function is to manage payouts to independent agents as well as to manage all residual reports from credit card processing banks – responsibilities that are unrelated to the present discovery dispute.

6. Bill Demopolis and I ran the software only to protect old merchant credit card applications, not e-mails (see pages 189-190 of the Counley deposition transcript). This was to protect customer data on the applications – files that had already been deleted over the years.

7 Durango recently learned that just “deleting” the files is not enough to insure that all sensitive customer data (i.e. social security numbers) is actually removed.

8. As stated to Gucci several times (including in Durango's January 29, 2010 Answers to Interrogatories), Durango does not typically store old e-mails. If Gucci received copies of any such e-mails from *merchants'* computers, such is not a reflection on Durango or Durango's conduct during discovery.

9. Durango, in good faith, has produced no fewer than 480 relatively recent merchant-related e-mails regarding any topic that could possibly be considered relevant to this litigation.

10. I testified at deposition that I had recently found an old *backup* file that had old “lead sheets,” which I will produce to Gucci on or before Monday, June 28, 2010. Upon further inspection, the file also includes e-mails, which proves that I did not “scrub” old e-mails. Otherwise, the e-mails would not exist for production at this time. Therefore, producing images of the entire hard drives is unnecessary, especially since the hard drives

include completely irrelevant *personal* information (such as family documents and photographs) as well as privileged attorney-client communications.

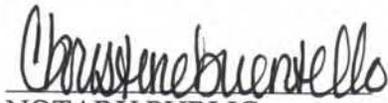
11. Durango's *profits* as a result of its 2009 revenues of approximately 2,000,000 were a mere fraction of such figure, because approximately 40--50% of its revenues is paid to sales agents, and the remainder must cover all of Durango's overhead and expenses.

12. Replica accounts – which Durango stopped servicing when served with this lawsuit – made up less than 1% of Durango's accounts.

Dated: Madison, Wisconsin  
June 23, 2010

  
NATHAN COUNLEY,  
Durango Merchant Services, LLC.

Sworn to before me this  
23rd day of June, 2010

  
NOTARY PUBLIC

*My Commission expires February 9, 2014*



# **Exhibit 68**

---

**From:** Audrey Berger - Durango Merchant Services [Audrey@Durango-Direct.com]  
**Sent:** Thursday, February 19, 2009 1:14 PM  
**To:** Brad Jess - Durango Merchant Services  
**Cc:** 'customerservice@durango-direct.com'  
**Subject:** FW: Account Pre-App (Romona Washington)

---

**From:** sales@goemerchant.com [mailto:sales@goemerchant.com]  
**Sent:** Thursday, February 19, 2009 11:10 AM  
**To:** shane@durango-direct.com  
**Subject:** Account Pre-App (Romona Washington)

## Merchant Account Pre-application

2009-02-19

Referring Agent: [sales@goemerchant.com](mailto:sales@goemerchant.com)

Agent's Domain:

Agent's Email: [sales@goemerchant.com](mailto:sales@goemerchant.com)

### personal information:

**Salutation:** Ms.  
**First Name:** Romona  
**Last Name:** Washington  
**Company:** Mirella Fly Handbags  
**Title:** Owner  
**Email Address:** [sales@mirellafly.com](mailto:sales@mirellafly.com)  
**Phone:** (866)601-7977  
**Street Address:** 14707 Main Street Store A  
**City:** Upper Marlboro  
**State/Province:** MD  
**Zip/Postal Code:** 20772  
**Country:** United States  
**Years in business:** 8  
**Has a Website:** Yes  
**Web address:** <http://mirellafly.com>  
**Type of Website:** products  
**Description of business:**  
Knockoffs - Shoes clothing jewelry handbags - sales rep gera ward additional phone - (703)225-9050 fax - (888)850-8863  
**Average ticket size:** 800  
**Estimated monthly volume:** 10k-25k  
**Currently Processing:** No

# **Exhibit 69**

---

**From:** Brad Jess - Durango Merchant Services [Brad@Durango-Direct.com]  
**Sent:** Thursday, February 19, 2009 1:41 PM  
**To:** sales@mirellaflly.com  
**Cc:** customerservice@durango-direct.com; Gera Ward  
**Subject:** Merchant Account Application - Go E Merchant - Romona Washington

Romona,

Thanks for your application for a merchant account through our partners at Go E Merchant. Below are the costs for setting up and maintaining the merchant account.

- 3.89% Discount Rate for Credit Cards
- \$0.25 per transaction
- \$10 Statement Fee Monthly
- \$20 Gateway fee monthly

Please let me know if you have any questions or if you would like to start the application process, we look forward to working together to help make your business a successful and profitable venture.

**Bradley Jess**  
Durango Merchant Services, LLC

[brad@durango-direct.com](mailto:brad@durango-direct.com)  
Direct - 505-564-2732  
Fax - 413-431-0005

CONFIDENTIALITY NOTICE: This electronic transmission (including any files attached hereto) contains information that is confidential. It is intended for use only by the individual or entity named above. If you are not the intended recipient or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying, distribution, or the taking of any action in reliance on the contents of this confidential information is strictly prohibited. If you have received this communication in error, please destroy it, remove it from your computer and/or network and immediately notify me by email. The sender disclaims liability for the content of this email unless the content has been prepared by the sender or the accuracy of the content is later confirmed in writing by the sender. The sender is San Juan Merchant Services, LLC, acting as agent of Durango Merchant Services and owned by Brad Jess

 Please consider the environment and information security before printing this or any email

<b>Salutation:</b>	Ms.
<b>First Name:</b>	Romona
<b>Last Name:</b>	Washington
<b>Company:</b>	Mirella Fly Handbags
<b>Title:</b>	Owner
<b>Email Address:</b>	
<b>Phone:</b>	(866)601-7977
<b>Street Address:</b>	14707 Main Street Store A
<b>City:</b>	Upper Marlboro
<b>State/Province:</b>	MD
<b>Zip/Postal Code:</b>	20772
<b>Country:</b>	United States
<b>Years in business:</b>	8
<b>Has a Website:</b>	Yes
<b>Web address:</b>	<a href="http://mirellaflly.com">http://mirellaflly.com</a>
<b>Type of Website:</b>	products

**Description of business:**

Knockoffs - Shoes clothing jewelry handbags - sales rep gera ward additional phone -  
(703)225-9050 fax - (888)850-8863

**Average ticket size:** 800

**Estimated monthly volume:** 10k-25k

**Currently Processing:** No

# **Exhibit 70**

	Frontline Residual	Merchant Express	Remaining residual	Nathan Counley	DMS remaining profit from Account	Woodforest Residual	Metro Merchant	Remaining Residual	Nathan Counley	DMS remaining profit from Account
Sep-06	261.80	104.72	157.08	54.98	102.10		0	0.00	0.00	0.00
Oct-06	756.80	302.72	454.08	158.93	295.15		0	0.00	0.00	0.00
Nov-06	620.60	248.24	372.36	130.33	242.03	321.11	128.44	192.67	67.43	125.23
Dec-06	643.52	257.41	386.11	135.14	250.97	511.19	204.48	306.71	107.35	199.36
Jan-07	697.55	279.02	418.53	146.49	272.04	500.47	200.19	300.28	105.10	195.18
Feb-07	703.94	281.58	422.36	147.83	274.54	441.70	0.00	441.70	154.60	287.11
Mar-07	542.91	217.16	325.75	114.01	211.73	519.83	0.00	519.83	181.94	337.89
Apr-07	821.59	328.64	492.95	172.53	320.42	474.84	0.00	474.84	166.19	308.65
May-07	725.82	290.33	435.49	152.42	283.07	518.08	0.00	518.08	181.33	336.75
Jun-07	889.39	355.76	533.63	186.77	346.86	558.27	0.00	558.27	195.39	362.88
Jul-07	976.80	390.72	586.08	205.13	380.95	527.48	0.00	527.48	184.62	342.86
Aug-07	875.79	350.32	525.47	183.92	341.56	497.09	0.00	497.09	173.98	323.11
Sep-07	801.47	320.59	480.88	168.31	312.57	647.95	0.00	647.95	226.78	421.17
Oct-07	997.58	399.03	598.55	209.49	389.06	346.01	0.00	346.01	121.10	224.91
Nov-07	1300.07	520.03	780.04	273.01	507.03	519.69	0.00	519.69	181.89	337.80
Dec-07	1314.26	525.70	788.56	275.99	512.56	450.38	0.00	450.38	157.63	292.75
Jan-08	926.74	370.70	556.04	194.62	361.43	678.32	0.00	678.32	237.41	440.91
Feb-08	937.51	375.00	562.51	196.88	365.63	349.69	0.00	349.69	122.39	227.30
Mar-08	1076.97	430.79	646.18	226.16	420.02	223.97	0.00	223.97	78.39	145.58
Apr-08	1126.74	450.70	676.04	236.62	439.43	326.92	0.00	326.92	114.42	212.50
May-08	660.53	264.21	396.32	138.71	257.61	447.86	0.00	447.86	156.75	291.11
Jun-08	273.27	109.31	163.96	57.39	106.58	0	0.00	0.00	0.00	0.00
Jul-08	185.33	74.13	111.20	38.92	72.28	22.51	0.00	22.51	7.88	14.63
Aug-08	10.34	4.14	6.20	2.17	4.03	38.36	0.00	38.36	13.43	24.93
Sep-08	0.14	0.06	0.08	0.03	0.05	14.07	0.00	14.07	4.92	9.15
Oct-08	0.07	0.03	0.04	0.01	0.03	0.21	0.00	0.21	0.07	0.14
Nov-08	0.00	0.00	0.00	0.00	0.00	-0.11	0.00	-0.11	-0.04	-0.07
<b>Total</b>	<b>18127.53</b>	<b>7251.01</b>		<b>3806.78</b>	<b>7069.74</b>	<b>8935.89</b>	<b>533.11</b>		<b>2940.97</b>	<b>5461.81</b>

Total Profi 27063.42

Agent Payouts

Nathan Co 6747.76



	Woodforest	Bag Addiction	519.83	40%	207.93
		Setup fee			0.00
					0.00
			total		<b>207.93</b>
Apr-07	Woodforest	Bag Addiction	474.84	40%	189.94
		Setup fee			0.00
					0.00
			total		<b>189.94</b>
May-07	Woodforest	Bag Addiction	518.08	40%	207.23
		Setup fee			0.00
					0.00
			total		<b>207.23</b>
Jun-07	Woodforest	Bag Addiction	558.27	40%	223.31
		Setup fee			0.00
					0.00
			total		<b>223.31</b>
Jul-07	Woodforest	Bag Addiction	527.48	40%	210.99
		Setup fee			0.00
					0.00
			total		<b>210.99</b>
Aug-07	Woodforest	Bag Addiction	497.09	40%	198.84
		Setup fee			0.00
					0.00
			total		<b>198.84</b>
Sep-07	Woodforest	Bag Addiction	647.95	40%	259.18
		Setup fee			0.00
					0.00
			total		<b>259.18</b>
Oct-07	Woodforest	Bag Addiction	346.01	40%	138.40
		Setup fee			0.00

					0.00
			total		<b>138.40</b>
Nov-07	Woodforest	Bag Addiction	519.69	40%	207.88
		Setup fee			0.00
					0.00
			total		<b>207.88</b>
Dec-07	Woodforest	Bag Addiction	450.38	40%	180.15
		Setup fee			0.00
					0.00
			total		<b>180.15</b>
Jan-08	Woodforest	Bag Addiction	678.32	40%	271.33
		Setup fee			0.00
					0.00
			total		<b>271.33</b>
Feb-08	Woodforest	Bag Addiction	349.69	40%	139.88
		Setup fee			0.00
					0.00
			total		<b>139.88</b>
Mar-08	Woodforest	Bag Addiction	223.97	40%	89.59
		Setup fee			0.00
					0.00
			total		<b>89.59</b>
Apr-08	Woodforest	Bag Addiction	326.92	40%	130.77
		Setup fee			0.00
					0.00
			total		<b>130.77</b>
May-08	Woodforest	Bag Addiction	477.86	40%	191.14
		Setup fee			0.00
					0.00
			total		<b>191.14</b>

Jun-08					
	Woodforest	Bag Addiction	0	40%	0.00
		Setup fee			0.00
					0.00
			total		<b>0.00</b>
Jul-08					
	Woodforest	Bag Addiction	22.51	40%	9.00
		Setup fee			0.00
					0.00
			total		<b>9.00</b>
Aug-08					
	Woodforest	Bag Addiction	38.36	40%	15.34
		Setup fee			0.00
					0.00
			total		<b>15.34</b>
Sep-08					
	Woodforest	Bag Addiction	14.07	40%	5.63
		Setup fee			0.00
					0.00
			total		<b>5.63</b>
Oct-08					
	Woodforest	Bag Addiction	0.21	40%	0.08
		Setup fee			0.00
					0.00
			total		<b>0.08</b>
Nov-08					
	Woodforest	Bag Addiction	-0.11	40%	-0.04
		Setup fee			0.00
					0.00
			total		<b>-0.04</b>
Dec-08					
	Woodforest	Bag Addiction	-0.11	40%	-0.04
		Setup fee			0.00
					0.00
			total		<b>-0.04</b>

Merchant Express Month by Month

Month	Provider	Account Number	Accounts	Processing V Residual	ResidualPer	Amount Paid Out
Aug-06	Frontline		Bag Addictions	0	40%	0
Sep-06	Frontline		Bag Addictions	261.80	40%	104.72
Oct-06	Frontline		Bag Addictions	756.80	40%	302.72
Nov-06	Frontline		Bag Addictions	620.60	40%	248.24
Dec-06	Frontline		Bag Addictions	643.52	40%	257.41
Jan-07	Frontline		Bag Addictions	697.55	40%	279.02
Feb-07	Frontline		Bag Addictions	703.94	40%	281.58
Mar-07	Frontline		Bag Addictions	542.91	40%	217.16
Apr-07	Frontline		Bag Addictions	821.59	40%	328.64
May-07	Frontline		Bag Addictions	725.82	40%	290.33
Jun-07	Frontline		Bag Addictions	889.39	40%	355.76
Jul-07	Frontline		Bag Addictions	976.80	40%	390.72
Aug-07	Frontline		Bag Addictions	875.79	40%	350.32
Sep-07	Frontline		Bag Addictions	801.47	40%	320.59
Oct-07	Frontline		Bag Addictions	997.58	40%	399.03
Nov-07	Frontline		Bag Addictions	1300.07	40%	520.03
Dec-07	Frontline		Bag Addictions	1314.26	40%	525.70

Jan-08	Frontline	Bag Addictions	926.74	40%	370.70	370.70
Feb-08	Frontline	Bag Addictions	937.51	40%	375.00	375.00
Mar-08	Frontline	Bag Addictions	1076.97	40%	430.79	430.79
Apr-08	Frontline	Bag Addictions	1126.74	40%	450.70	450.70
May-08	Frontline	Bag Addictions	660.53	40%	264.21	264.21
Jun-08	Frontline	Bag Addictions	273.27	40%	109.31	109.31
Jul-08	Frontline	Bag Addictions	185.33	40%	74.13	74.13
Aug-08	Frontline	Bag Addictions	10.34	40%	4.14	4.14
Sep-08	Frontline	Bag Addictions	0.14	40%	0.06	0.06
Oct-08	Frontline	Bag Addictions	0.07	40%	0.03	0.03
<b>Total</b>						<b>7251.01</b>

Aug-08	6231.32
Sep-08	5942.54
Oct-08	6831.32

# **Exhibit 71**

---

**From:** Shane Kairalla - Durango Merchant Services [ShaneK@Durango-Direct.com]  
**Sent:** Monday, October 09, 2006 8:31 AM  
**To:** Nathan Counley - Durango Merchant Services  
**Subject:** FW: Account Pre-App (Ilan Ben-menachem)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

this guy we have had before - sound familiar to you ?

---

**From:** shane@durango-direct.com [mailto:shane@durango-direct.com]  
**Sent:** Saturday, October 07, 2006 1:42 PM  
**To:** shane@durango-direct.com  
**Subject:** Account Pre-App (Ilan Ben-menachem)

## Merchant Account Pre-application

2006-10-07

Referring Agent: **Durango Main Website**

Agent's Domain:

Agent's Email: [shane@durango-direct.com](mailto:shane@durango-direct.com)

### personal information:

**Salutation:** Mr.  
**First Name:** Ilan  
**Last Name:** Ben-menachem  
**Company:** Designer Luxury handbags  
**Title:** Owner/President  
**Email Address:** [ilanibm@gmail.com](mailto:ilanibm@gmail.com)  
**Phone:** 7185692657  
**Street Address:** 939 e.13th street  
**City:** Brooklyn  
**State/Province:** NY  
**Zip/Postal Code:** 11230  
**Country:** United States  
**Years in business:** 2  
**Has a Website:** Yes  
**Web address:** [www.designerluxuryhandbag.com](http://www.designerluxuryhandbag.com)  
**Type of Website:** products  
**Description of business:** designer inspired handbags (not replica!)  
**Average ticket size:** 350.00  
**Estimated monthly volume:** 600k-800k  
**Desired Currencies:** USD  
**Currently Processing:** Yes  
**Current Processor:** EPG  
**Provide Past Processing Statements:** Yes

## **Exhibit 72**

678 Ferguson Avenue, Suite 5  
 Bozeman, Montana 59718  
 www.frontlineprocessing.com

Toll Free: 1-866-651-3068  
 Fax: 406-586-5238

Type of Account (Check one):  
 Direct Account  
 Agent Bank Account  
 Bank Referral, new relationship

Control Number

Name of Bank: \_\_\_\_\_ Branch: \_\_\_\_\_

<b>Business Information</b>		<b>Merchant's Legal Name:</b> Avilan Marketing LLC	
<b>Merchant's DBA Name/Outlet Name:</b> Designer Luxury Handbags		<b>Legal Address:</b> REDACTED	
<b>Physical Street Address (No P.O. Box):</b> REDACTED		<b>City, State, Zip:</b> Brooklyn NY 11230	
<b>City, State, Zip:</b> Brooklyn NY 11230		<b>City, State, Zip:</b> Brooklyn NY 11230	
<b>DBA Phone:</b> 718-569-REDACTED		<b>Corp. Phone:</b> 718-569-REDACTED	
<b>Contact Name at this Address:</b> Ilan Ben-Menachem		<b>Contact Name at this Address:</b> Ilan Ben-Menachem	
<b>E-mail:</b> ilanibm@gmail.com		<b>E-mail:</b> ilanibm@gmail.com	
<b>Customer Service Phone # (Required for MOTO and Internet merchants only):</b> 206-350-REDACTED		<b>Website Address (Required for Internet merchants):</b> www.designerluxuryhandbag.com	
<b>Business Profile</b>		<b>Visa/MasterCard Information</b>	
<b>Type of Ownership:</b> <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Professional Assoc. <input type="checkbox"/> Corporation <input type="checkbox"/> Tax Exempt Org. (501C) <input checked="" type="checkbox"/> LLC <input type="checkbox"/> Other <b>Type or Goods or Services Sold:</b> designer inspired handbags (not replica) <b>SIC Code:</b> 5631		<b>Market Type:</b> <input type="checkbox"/> Retail <input type="checkbox"/> Supermarket <input type="checkbox"/> Restaurant <input type="checkbox"/> Emerging Mid <input type="checkbox"/> Lodging <input type="checkbox"/> Public Sector <input type="checkbox"/> MOTO <input type="checkbox"/> Auto Rental <input type="checkbox"/> P-Card <input type="checkbox"/> Cash Adv. <input checked="" type="checkbox"/> E-Commerce <input type="checkbox"/> Other	
<b>Years in business under current ownership?</b> 2		<b>Sales Profile (Must equal 100%)</b>	
<b>Federal Tax ID #</b> REDACTED		<b>Card Swiped</b> _____ %	
<b>Do you currently accept Visa/MasterCard?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO		<b>Manually Keyed with imprint</b> _____ %	
<b>Does merchant accept transactions before the customer receives product or service?</b>		<b>Mail Order/Telephone/Internet</b> 100 %	
<b>How long does customer wait before product is received?</b>		<b>Total =</b> 100%	
<b>Does merchant offer warranties, dues, subscriptions, memberships or other extended services?</b>		<b>% of cost that is prepayment:</b> _____	
<b>Annual Visa/MC Sales: \$ 3,600,000</b>		<b>Duration of extended service or benefit (in weeks):</b> _____	
<b>Average Ticket: \$ 350.00</b>		<b>Total Visa/MC Sales (multiple locations only):</b> _____	
<b>Member Bank Required Information</b>		<b>For Data Services Contact</b>	
HSBC Bank USA, National Association Merchant Support Group P. O. Box 4563 Buffalo, New York 14240 718-841-6360		Concord EFS National Bank 2525 Horizon Lake Drive Suite 120 Memphis, TN 38133 901-371-8000	
<b>Important Member Bank Responsibilities</b>		<b>Important Merchant Responsibilities</b>	
<ol style="list-style-type: none"> <li>1. A Visa Member is the only entity approved to extend acceptance of Visa products directly to a merchant.</li> <li>2. A Visa Member must be a principal (signer) to the Merchant Agreement.</li> <li>3. The Visa Member is responsible for educating Merchants on pertinent Visa Operating Regulations with which Merchants must comply.</li> <li>4. The Visa Member is responsible for and must provide settlement funds to the Merchant.</li> <li>5. The Visa Member is responsible for all funds held in reserve that are derived from settlement.</li> </ol>		<ol style="list-style-type: none"> <li>1. Ensure compliance with cardholder data security and storage requirements.</li> <li>2. Maintain fraud and chargebacks below thresholds.</li> <li>3. Review and understand the terms of the Merchant Agreement.</li> <li>4. Comply with Visa Operating Regulations.</li> </ol> <p>The responsibilities listed above do not supersede terms of the Merchant Agreement and are provided to ensure the Merchant understands these specific responsibilities.</p>	
<b>Cardholder Data Storage Obligations</b>			
<b>Is Cardholder Data Stored?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>If yes, where is Card Data Stored?</b> <input type="checkbox"/> Merchant <input type="checkbox"/> CAP Only <input type="checkbox"/> Both Merchant & CAP <input type="checkbox"/> Unknown <input type="checkbox"/> GAA Export Only			
<b>Name of Primary CAP/AR?</b> _____			
<b>Name of Secondary CAP/AR?</b> _____			

For questions regarding Card Services, contact: Frontline Processing, 678 Ferguson Ave., Suite 5, Bozeman, MT 59718 or call: 1-866-651-3068  
 Note: Billing disputes must be forwarded, in writing, to Customer Service within 90 days of the date of the statement and/or notice.

Merchant Initials: **IBM**  
 Rev. 06/05 - FP

Plan Type	New	Existing	Existing Merch. No.	Discount Rate	Per Item	Additional Auth. Fees
<input checked="" type="checkbox"/> VISA Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.5 %	\$ .25	\$
<input type="checkbox"/> Visa Bus. Card	<input type="checkbox"/>	N/A	N/A	%	\$	\$
<input type="checkbox"/> VISA Check	<input type="checkbox"/>	N/A	N/A	%	\$	\$
<input checked="" type="checkbox"/> MasterCard Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.6 %	\$ .25	\$
<input type="checkbox"/> MasterCard Bus. Card	<input type="checkbox"/>	N/A	N/A	%	\$	\$
<input type="checkbox"/> Debit MasterCard	<input type="checkbox"/>	N/A	N/A	%	\$	\$
<input type="checkbox"/> American Express	<input type="checkbox"/>	<input type="checkbox"/>		%	\$	\$
<input checked="" type="checkbox"/> Discover	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CMS VM Apply	%	\$	\$
<input type="checkbox"/> Diners Club	<input type="checkbox"/>	<input type="checkbox"/>		%	\$	\$
<input type="checkbox"/> JCB	<input type="checkbox"/>	<input type="checkbox"/>		%	\$	\$
<input type="checkbox"/> Debit (other than Visa or MC)	<input type="checkbox"/>	<input type="checkbox"/>		%	\$	\$
<input type="checkbox"/> EBT	<input type="checkbox"/>	<input type="checkbox"/>		%	\$	\$

Merchant FNS# \_\_\_\_\_ Cash Benefits:  YES  NO Daily Discount:  YES  NO

\*The foregoing fees are based upon Merchant's complying with all processing requirements as established by the applicable governing authority of the payment type which qualifies Merchant for the most favorable interchange rates available for such payment type. See the Card Services Terms & Conditions for non-qualifying surcharges.

Other Fees:

\$ 0 Non-Refundable Application Fee (one-time fixed fee)	\$30.00 Replacement Shipping Fee (per occurrence)	\$2.50 Help Desk Fee (monthly)
\$20.00 AMEX Application Fee	\$ 0 POS Equipment Warranty Fee - Per Piece/Set (monthly)	\$50.00 Annual Service Fee
\$ 0 Discover Application Fee	Variable POS Supplies	\$0.10 EDC AVS Fee (per occurrence)
\$ 0 Virtual Site Survey Fee	\$ 0 Non-Global Check Authorization Fee (per occurrence)	\$1.25 Voice AVS Fee (per occurrence)
\$ 0 Annual Membership Fee	\$ 0 Adjustment Fees (paper only - per occurrence)	\$0.80 Voice Authorization Fee (per occurrence)
\$ 1c Monthly Fee <input type="checkbox"/> Membership <input type="checkbox"/> Statement	\$ 0 Transaction Capture Set-up Fee (one-time fixed fee)	\$0.20 Internet Per Item Fee (per occurrence)
\$25.00 Minimum Monthly Discount	\$ 0 Global Access @ Advantage Set-up Fee	\$ 0 Internet Access Fee (monthly)
\$ 0 Training Fee - On-Site (one-time fixed fee)	\$ 0 Global Access @ Advantage Monthly Fee	\$ 0 Internet Setup Fee (one-time fixed fee)
\$30.00 Checkback Fees (per occurrence)	\$7.50 Retrieval Fee (per occurrence)	\$0.20 Batch/ACH Fee (per occurrence)
\$20.00 Non-Sufficient Funds (per occurrence)	\$ 0 Wireless Services Fee (monthly)	\$ 0 Minimum Monthly Debit
\$ 0 Installation/Programming Fee (one-time fixed fee)	\$ 0 Wireless Activation Fee (one-time fixed fee)	\$ 0 Other _____
\$ 0 Reprogramming Fee (one-time fixed fee)	\$ 0 Wireless Transaction Fee (per occurrence)	\$ 0 Additional Location Fee

**American Express**

By signing below, I/we represent that the information I/we have provided on the Application is complete and accurate and I/we authorize American Express Travel Related Services Company, Inc. ("American Express") to verify the information on the Application and to receive and exchange information about me, including requesting reports from consumer reporting agencies. If I/we ask American Express whether or not a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I/we understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express @ Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express card for the purchase of goods and/or services, I/we agree to be bound by the Terms and Conditions.

Merchant's Signature: \_\_\_\_\_ Name (printed): \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Global Payments Direct Merchant Application and Terms & Conditions Merchant Authorization**

Your Card Services Agreement is between Global Payments Direct, Inc. ("Global Direct"), the Merchant named above, the Member named below ("Member"), and, if applicable, the Debit Sponsor named below. Member is a member of Visa, USA, Inc. ("Visa") and MasterCard International, Inc. ("MasterCard"); Global Direct is a registered independent sales organization of Visa and a member service provider of MasterCard.

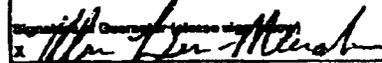
A copy of the Card Services Terms and Conditions, revision number Rev 06/05-FP, has been provided to you. Please sign below to signify that you have received a copy of the Card Services Terms & Conditions and that you agree to all terms and conditions contained therein. If this Merchant Application is accepted for card services, Merchant agrees to comply with the Merchant Application and the Card Services Terms & Conditions as may be modified or amended in the future. If you disagree with any Card Services Terms & Conditions, do not accept service.

**IF MERCHANT SUBMITS A TRANSACTION TO GLOBAL DIRECT HEREUNDER, MERCHANT WILL BE DEEMED TO HAVE ACCEPTED THE CARD SERVICES TERMS & CONDITIONS.**

By your signature below on behalf of Merchant, you certify that all information provided in this Merchant Application is true and accurate and you authorize Global Direct, and Global Direct on Member's behalf, to: (a) initiate debit entries to Merchant's checking account(s) in accordance with the Card Services Terms and Conditions, (b) initiate debit entries to Merchant's checking account(s) for the application has described herein prior to Global Direct's and Member's acceptance and execution of this Merchant Application, which application fees shall be retained by Global Direct and Member whether or not the Merchant Application is accepted and executed by Global Direct and Member, and (c) order a consumer credit report on the Merchant and you hereby authorize the reporting agency to provide such information to Global Direct and Member.

 Name (printed): Ben Ben-Merachem Title: Owner Date: 10-11-06
Signing for Global Payments Direct, Inc.: Name (printed): _____ Title: _____ Date: _____
Signing for Member: Name (printed): _____ Name of Member (printed): HSBC Bank USA, NA Date: _____
Signing for Debit Sponsor: Name (printed): _____ Name of Debit Sponsor: Concord EFS National Bank Date: _____

I/we hereby guarantee to Global Direct, Member, and to Debit Sponsor, their successors and assigns, the full, prompt, and complete performance of Merchant and all of Merchant's obligations under the Card Services Agreement, including but not limited to all monetary obligations arising out of Merchant's performance or non-performance under the Card Services Agreement, whether arising initially or after termination of the Card Services Agreement. This guaranty shall not be discharged or otherwise affected by any waiver, indulgence, composition, settlement, extension of credit, or variation of terms of the Card Services Agreement made by or agreed to by Global Direct, Member, Debit Sponsor, or Merchant. I/we hereby waive any notice of acceptance of this guaranty, notice of assignment or non-performance of any provision of the Card Services Agreement by Merchant, and all other notices or demands regarding the Card Services Agreement. I/we agree to promptly provide to Global Direct, Member, and/or Debit Sponsor any information requested by any of them from time to time concerning my/our financial condition(s), business history, business relationships, and employment information. I/we have read, understand, and agree to be bound by the Card Services Terms & Conditions provided to Merchant and those terms and conditions contained in this Merchant Application.

Signature of Guarantor (please sign below):  
  
 Name (printed): Ben Ben-Merachem  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Signature of Witness (please sign below):  
 Name (printed): \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Name <b>Ilan Ben-Menachem</b>	Title <b>Owner</b>	Date of Birth <b>REDACTED</b>	Social Security # <b>REDACTED</b>	Home Phone # <b>(718) 569-REDACTED</b>			
Home Address <b>REDACTED</b>	City <b>brooklyn</b>	State <b>ny</b>	Zip Code <b>11230</b>	Years There <b>6</b>			
Former Address (if less than 1 year at current address)	City	State	Zip Code	Years There			
Name	Title	Date of Birth	Social Security #	Home Phone #			
Home Address	City	State	Zip Code	Years There			
Former Address (if less than 1 year at current address)	City	State	Zip Code	Years There			
Routing Number <b>REDACTED</b>	DDA/Checking Account #	Deposit <input checked="" type="checkbox"/>	Discount <input type="checkbox"/>	Chargebacks <input type="checkbox"/>	Equipment <input type="checkbox"/>	Supplies <input type="checkbox"/>	Misc Fees <input type="checkbox"/>
Bank 1		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bank 2		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Merchant Location	<input type="checkbox"/> Retail Location with Store Front	<input type="checkbox"/> Office Building	<input type="checkbox"/> Residence	<input type="checkbox"/> Other			
Surrounding Area	<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Residential				
Does the amount of inventory and merchandise on shelves and floor appear consistent with the type of business?				<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO		
If no, explain:							
The Merchant <input type="checkbox"/> Owns <input checked="" type="checkbox"/> Leases the business premises							
Further comments by Inspector (must complete):							
I hereby verify that this application has been fully completed by merchant applicant and that I have physically inspected the business premises of the merchant at this address and the information stated above is true and correct to the best of my knowledge and belief.							
Verified and inspected by (print name)							
Representative Name <b>X Nathan Couney</b>		Representative Signature <b>X</b>			Date		
Sales Rep Name		Sales Rep Code		Sales Rep Phone Number		Sales Rep e-mail Address	

IBM

**CARD SERVICES TERMS & CONDITIONS****1. GENERAL.**

The "Card Services Agreement" consists of these Card Services Terms & Conditions and the Merchant Application and is made by and among Merchant, Global Payments Direct, Inc. ("Global Direct"), Member (as defined below), and Debit Sponsor (as identified in the Merchant Application). The provisions in the Card Services Agreement are applicable to Merchant if Merchant has signed the appropriate space in the Acceptance of Terms & Conditions/Merchant Authorization section of the Merchant Application. The bank identified in the Merchant Application ("Member") is a member of Visa USA, Inc. ("Visa") and MasterCard International, Inc. ("MasterCard"). Global Direct is a registered independent sales organization of Visa and a member service provider of MasterCard.

Under the terms of the Card Services Agreement, Merchant will be furnished with the services and products described herein and in the Merchant Application and selected by Merchant therein (collectively and individually, as applicable, the "Services"). During the term of the Card Services Agreement, Global Direct will be the sole and exclusive provider of all card services to Merchant. Any Merchant accepted by Global Direct for card processing services agrees to be bound by the Card Services Agreement, including the terms of the Merchant Application and these Card Services Terms & Conditions as may be modified or amended in the future. A MERCHANT'S SUBMISSION OF A TRANSACTION TO GLOBAL DIRECT SHALL BE DEEMED TO SIGNIFY MERCHANT'S ACCEPTANCE OF THE CARD SERVICES AGREEMENT, INCLUDING THE TERMS AND CONDITIONS HEREIN.

**2. SERVICE DESCRIPTIONS.**

**Credit Card Processing Services:** Global Direct's credit card processing services consist of authorization and electronic draft capture of credit card transactions; outclearing of such transactions to the appropriate card associations under various (i.e., Visa, MasterCard, Discover), settlement; dispute resolution with cardholders' banks; and transaction-related reporting, statements and products. From time to time under this Card Services Agreement, upon Merchant's request, Global Direct may facilitate the transmission of certain payment card transactions ("Switched Transactions") to the respective card issuers, including but not limited to American Express®, Discover®, Discover Card®, and various Red, private label and commercial cards. Switched Transactions require Global Direct's prior written approval and are subject to applicable pricing; Global Direct does not purchase the indebtedness associated with Switched Transactions.

**EBT Transactions Processing Services:** Global Direct offers electronic interfaces to Electronic Benefits Transfer ("EBT") networks for the processing of such payments or credits to or for the benefit of benefit recipients ("Recipients"). Global Direct will provide settlement and outclearing services for various Point of Sale transactions initiated through Merchant for the submission on the part of the United States Department of Agriculture, Food and Nutrition Services ("FNS") food stamp benefits ("FS Benefits") and/or government delivered cash assistance benefits ("Cash Benefits," with FS Benefits, "Benefits") to Recipients through the use of a state-issued card ("EBT Card").

Provisions regarding debit card services are set forth in Section 2B below.

With respect to Visa and MasterCard products, Merchant may elect to accept credit cards or debit/prepaid cards or both. Merchant shall so elect on the Merchant Application being completed contemporaneously herewith. Merchant agrees to pay and Merchant's account(s) will be charged pursuant to Section 5 of this Agreement for any additional fees incurred as a result of Merchant's subsequent acceptance of transactions with any Visa or MasterCard product that it has elected not to accept.

**3. PROCEDURES.**

Merchant will permit holders of valid cards bearing the symbols of the cards authorized to be accepted by Merchant hereunder to charge purchases or leases of goods and services and the debt resulting therefrom shall be purchased hereunder, provided that the transaction complies with the terms of this Card Services Agreement. All indebtedness submitted by Merchant for purchase will be evidenced by an approved sales slip. Merchant will not present for purchase any indebtedness that does not arise out of a transaction between a cardholder and Merchant. Merchant agrees to follow the Card Acceptance Guide which is incorporated into and made part of this Card Services Agreement, and to be bound by the operating regulations and rules of Visa, MasterCard, and any other card association or network organization covered by this Card Services Agreement, as any of the above referenced documents may be modified and amended from time to time. Without limiting the generality of the foregoing, Merchant agrees to comply with and be bound by the rules and regulations of Visa, MasterCard and any other card association or network organization related to cardholder and transaction information security, including without limitation, Payment Card Industry (PCI) Data Security Standards, Visa's Cardholder Information Security Program and MasterCard's Site Data Protection Program. Global Direct may, from time to time, issue written directions (via mail or Internet) regarding procedures to follow and forms to use to carry out this Card Services Agreement. These directions and the terms of the forms are binding as soon as they are issued and shall form part of these Card Services Terms & Conditions. Such operating regulations and rules may be reviewed upon appointment at Global Direct's designated premises.

**4. MARKETING.**

Merchant shall adequately display the card issuer service marks and promotional materials supplied by Global Direct. Merchant shall cease to use or display such service marks immediately upon notice from Global Direct or upon termination of this Card Services Agreement.

**5. PAYMENT AND FEES.**

Fees and charges payable by Merchant shall be as set forth in the Merchant Application. Merchant will be paid for indebtedness purchased under this Card Services Agreement by credit to Merchant's account(s). Merchant's account(s) will be credited for the gross amount of the indebtedness deposited (less the amount of any credit vouchers deposited. Availability of any such funds shall be subject to the procedures of the applicable financial institution. Chargebacks and adjustments will be charged to Merchant's account(s) on a daily basis. Merchant agrees to pay and Merchant's account(s) will be charged for all fees, activation fees, fees, penalties, etc. charged by the card associations or network organizations on account of Merchant's processing hereunder. If an error occurs, Merchant's account(s) may be debited or credited therefore. Merchant represents and warrants that no one other than Merchant has any claim against such indebtedness except as authorized in writing by Member and Global Direct. Merchant hereby assigns to Member and Global Direct all of its right, title, and interest in and to all indebtedness submitted hereunder and agrees that Member and Global Direct have the sole right to receive payment on any indebtedness purchased hereunder.

**6. EQUIPMENT AND SUPPLIES.**

Any advertising material; leased equipment including impingers, authorization terminals, or printers; software; credit card authenticators; stamped forms; and Merchant deposit plastic made provided by Global Direct will not become Merchant's property. Merchant will protect them from loss, theft, damage or any legal encumbrance and will allow Global Direct and its designated representatives reasonable access to Merchant's premises for their repair, removal, modification, installation and relocation. Merchant acknowledges that any equipment provided under this Card Services Agreement is embedded with proprietary technology ("Software"). Merchant shall not obtain title, copyright or any other proprietary right to any Software. At all times, Global Direct or its suppliers retain all rights to such Software, including but not limited to update, enhancements and additions. Merchant shall not disclose such Software to any party, convey, copy, lease, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on such Software. Merchant's use of such Software shall be limited to that expressly authorized by Global Direct. Global Direct's suppliers are intended third party beneficiaries of this Card Services Agreement to the extent of any terms herein pertaining to such suppliers' ownership rights; such suppliers have the right to rely on and directly enforce such terms against Merchant.

The operating instructions will instruct Merchant in the proper use of the terminals, and Merchant shall use and operate the terminals only in such manner. If Merchant has purchased the maintenance/desk service hereunder for its terminals, Merchant will promptly notify Global Direct of any equipment malfunction, failure or other incident resulting in the loss of use of the equipment or need for repair or maintenance, whereupon Global Direct will make the necessary arrangements to obtain required maintenance. Merchant is responsible for shipping costs. Merchant shall cooperate with Global Direct in its attempt to diagnose any problem with the terminal. In the event the Merchant's terminal requires additional software, Merchant is obligated to cooperate and participate in a trial in down time procedures. With respect to any item of equipment leased to Merchant by Global Direct, Merchant will not be liable for normal wear and tear, provided, however, that Merchant will be liable to Global Direct in the event that any leased item of equipment is lost, destroyed, stolen or rendered inoperative. Merchant will indemnify Global Direct against any loss arising out of damage to or destruction of any item of equipment provided hereunder for any cause whatsoever. Merchant also agrees to hold harmless and indemnify Global Direct for any costs, expenses, and judgments Global Direct may suffer, including reasonable attorney's fees, as a result of Merchant's use of the equipment provided hereunder. Any unused equipment in its original packaging purchased from Global Direct hereunder may be returned to Global Direct at Merchant's expense within 90 days of receipt. Merchant shall receive a refund of any money paid in connection therewith subject to a re-stocking fee of an amount equal to 20 percent of the total purchase price for the returned equipment. No refunds shall be issued for any equipment returned after 90 days.

**7. FINANCIAL INFORMATION.**

Merchant agrees to furnish Global Direct and Member such financial statements and information concerning Merchant, its owners, principals, partners, proprietors or its affiliates as Global Direct may from time to time request. Global Direct, or its duly authorized representatives, may examine the books and records of Merchant, including records of all indebtedness previously purchased or presented for purchase. Merchant agrees to retain copies of all paper and electronic sales slips and credit slips submitted to Global Direct for a period of two years from submission, or such longer period of time as may be required by the operating rules or regulations of the card associations or network organizations, by law, or by Global Direct as specifically requested in individual cases.

**8. CHANGE IN BUSINESS.**

Merchant agrees to provide Global Direct and Member 60 days prior written notice of its intent to (i) transfer or sell any substantial part (10% or more) of its total stock, assets and/or to liquidate; or (ii) change the basic nature of its business; or (iii) convert all or part of the business to mail order sales, telephone order sales, Internet-based sales or to other sales where the card is not present and shipped through Merchant's terminal. Upon the occurrence of any such event, the terms of this Card Services Agreement may be modified to address issues arising therefrom, including but not limited to requirements of applicable card associations or network organizations.

**9. TRANSFERABILITY.**

This Card Services Agreement is not transferable by Merchant without the written consent of Global Direct and Member. Any attempt by Merchant to assign its rights or to delegate its obligations in violation of this paragraph shall be void. Merchant agrees that the rights and obligations of Global Direct hereunder may be transferred by Global Direct without notice to Merchant. Merchant agrees that the rights and obligations of Member hereunder may be transferred to any other member without notice to Merchant. Merchant acknowledges that the transferable rights of Global Direct and Member hereunder shall include, but shall not be limited to, the authority and right to debit the Merchant's account(s) as described herein.

Merchant Initials

IBM

Rev 06/05-FP

**10. WARRANTIES AND REPRESENTATIONS.**

Merchant warrants and represents to Global Direct and Member: (a) that each sales transaction delivered hereunder will represent a bona fide sale to a cardholder by Merchant for the amount shown on the sales slip at the time of sale and constitutes the binding obligation of the cardholder, free from any claim, demand, defense, setoff or other adverse claim whatsoever; (b) that each sales slip or other evidence of indebtedness will accurately describe the goods and services which have been sold and delivered to the cardholder or in accordance with his instructions; (c) that Merchant will comply fully with all federal, state and local laws, rules and regulations applicable to its business; (d) that Merchant will fulfill completely all of its obligations to the cardholder and will resolve any customer dispute or complaint directly with the cardholder; (e) that the signature on the sales slip will be genuine and authorized by cardholder and not forged or unauthorized; (f) that the sales transaction shall have been consummated and the sales slip prepared in full compliance with the provisions of the Card Acceptance Guide and the operating regulations and rules of the applicable card association or network organization, as amended from time to time; (g) that none of the sales transactions submitted hereunder represent rates by telephone, or mail, or internet, or where the card is not physically present at the Merchant's location and swiped through Merchant's terminal, unless Merchant is specifically authorized in writing by Global Direct to submit such sales slips for purchase; (h) that none of the sales transactions submitted hereunder for purchase represent sales to any principal, partner, proprietor, or owner of Merchant; (i) that, without limiting the generality of the foregoing, each sales transaction submitted hereunder and the handling, retention, and storage of information related thereto, will comply with the rules and regulations of Visa, MasterCard, and any other card association or network organization related to cardholder and transaction information security, including without limitation Payment Card Industry (PCI) Data Security Standards, Visa's Cardholder Information Security Program and MasterCard's Site Data Protection Program, and (j) that all of the information contained in this Card Services Agreement (including the Merchant Application) is true and correct. In the event that any of the foregoing warranties or representations are breached, the affected sales slip or other indebtedness may be refused, or prior acceptance revoked and charged back to the Merchant. Furthermore, if Merchant submits for purchase hereunder a sales transaction that is not the result of a sale of Merchant's goods or services offered to the general public or if Merchant submits any sales transaction for purchase hereunder which represents a sale to any principal, partner, proprietor, or owner of Merchant, such sales transaction may be refused or charged back, and Merchant hereby agrees to pay (and Merchant's account(s) will be debited therefore) an additional fee of \$100 for each such transaction.

Merchant must notify Global Direct if Merchant elects to use the terminal service of American Express, Novus, or any other third-party provider. If Merchant elects to use a third-party terminal provider, that provider becomes Merchant's agent for the delivery of card transactions to Global Direct via the applicable card-processing network. Merchant agrees to assume full responsibility and liability for any failure of such agent to comply with the operating regulations and rules of the applicable card association or network organization, including without limitation any violation, which results in a chargeback to the Merchant. Merchant also agrees that the obligation hereunder to reimburse the Merchant for the value of the card transactions captured by an agent is limited to the value of the transactions (less applicable fees) received by the card-processing network from the agent.

**NEITHER MEMBER, NOR GLOBAL DIRECT, NOR ANY SUPPLIER MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY TERMINAL, ANY EQUIPMENT FURNISHED IN CONNECTION THEREWITH, OR ANY OF THE SERVICES FURNISHED HEREUNDER.**

**11. INDEMNITY.**

Merchant agrees to satisfy directly with the cardholder any claim or complaint arising in connection with the card sale, regardless of whether such claim or complaint is brought by the cardholder, Global, or another party. Merchant agrees to indemnify and hold Global Direct and Member harmless from and against any and all liabilities, losses, claims, damages, disputes, offsets, claims or counterclaims arising out of or relating to the card sale, including without limitation claims and complaints made by a cardholder or any other person or entity with regard to indebtedness sold by Merchant hereunder or any other Service provided hereunder.

**12. LIMITATION OF LIABILITY.**

Neither Member nor Global Direct shall be liable for failure to provide the Service if such failure is due to any cause or condition beyond such party's reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or non-sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, localities, operational failures, electrical power failures, communication failures, unavoidable delays, the errors or failures of third party systems, or other similar causes beyond such party's control.

The liability of Global Direct and Member for any loss arising out of or relating in any way to this Card Services Agreement, including but not limited to damages arising out of any malfunction of the equipment or the failure of the equipment to operate, the unavailability or malfunction of the Service, personal injury, or property damage, shall, in the aggregate, be limited to actual, direct, and general monetary damages in an amount not to exceed one (1) month's average charge paid by Merchant hereunder (exclusive of interchange fees, assessments, and any other fees or costs that are imposed by a third party in connection with Merchant's payment processing) for Services during the previous twelve (12) months or such lesser number of months as shall have elapsed subsequent to the effective date of this Card Services Agreement. This shall be the extent of Global Direct's and Member's liability arising out of or relating in any way to this Card Services Agreement, including alleged acts of negligence, breach of contract, or otherwise and regardless of the form in which any legal or equitable action may be brought against Global Direct or Member, whether contract, tort, or otherwise, and the foregoing shall constitute Merchant's exclusive remedy. Under no circumstances shall Global Direct or Member be liable for any lost profits, lost interest, or for special, consequential, punitive or exemplary damages arising out of or relating in any way to this Card Services Agreement, including but not limited to, damages arising out of placement of a Merchant's name on any terminated merchant list for any reason, even if Global Direct or Member has been advised of the possibility of such damages. Under no circumstances shall Global Direct or Member be liable for any settlement amounts pertaining to Switched Transactions; Merchant's reserves therefore shall be to the applicable card issuer.

It is agreed that in no event will Global Direct or Member be liable for any claim, loss, billing error, damage, or expense arising out of or relating in any way to this Card Services Agreement which is not reported in writing to Global Direct by Merchant within 30 days of such failure to perform or, in the event of a billing error, within 60 days of the date of the invoice or applicable statement. Merchant expressly waives any such claim that is not brought within the time periods stated herein.

**13. TERM AND TERMINATION.**

This Agreement shall remain in full force and effect for an initial term of three (3) years and shall be automatically extended for successive one (1) year periods on the same terms and conditions expressed herein, or as may be amended, unless Merchant gives written notice of termination to the entire Card Services Agreement or a portion thereof at least 60 days prior to the expiration of the initial term or any extension or renewal thereof. Notwithstanding anything to the contrary set forth herein, in the event Merchant terminates this Card Services Agreement in breach of this Section 13 or otherwise transfers card to or greater than twenty percent (20%) of its then current processing volume to another payment processor, Merchant shall pay to Global Direct an early termination fee equal to the product of the average of monthly revenues received by Global Direct hereunder during the three (3) full months immediately preceding the date of the subject termination and the number of months remaining in the current term of the agreement. The early termination fee shall be immediately due and payable to Global Direct, and Merchant hereby authorizes Global Direct to debit the total amount from Merchant's account referenced in Section 5, or to otherwise withhold the total amount from amounts due to Merchant from Global Direct, immediately on or after the effective date of termination or the improper transfer. If the Merchant's account does not contain sufficient funds for the debit or the amount cannot be withheld by Global Direct from amounts due to Merchant, Merchant shall pay Global Direct the amount due within ten (10) days of the date of Global Direct's invoice for same. The payment of the early termination fee as described herein is not a penalty, but rather is hereby agreed by the parties to be a reasonable amount of liquidated damages to compensate Global Direct for its termination expenses and all other damages under the circumstances in which such amounts would be payable. Such amounts shall not be in lieu of but in addition to any payment obligations for Services already provided hereunder (or that Global Direct may continue to provide), which shall be an additional cost, and any and all other damages to which Global Direct may be entitled hereunder.

Notwithstanding the foregoing, Global Direct may terminate this Card Services Agreement or any portion thereof upon written notice to Merchant. Furthermore, Global Direct may terminate this Card Services Agreement at any time without notice upon Merchant's default in performing under any provision of this Card Services Agreement, upon an unauthorized encroachment of all or any part of Merchant's territory to mail order, telephone order, internet order, or to any activity where the card is not physically present and swiped through the Merchant's terminal, upon any failure to follow the Card Acceptance Guide or any operating regulation or rule of a card association or network organization, upon any misrepresentation by Merchant, upon commencement of bankruptcy or insolvency proceedings by or against the Merchant, or in the event Global Direct reasonably deems itself insecure in continuing this Card Services Agreement.

In the event that Global Direct and Member breach the terms and conditions hereof, the Merchant may, at its option, give written notice to Global Direct and Member of its intention to terminate this Card Services Agreement unless such breach is remedied within 30 days of such notice. Failure to remedy such a breach shall make this Card Services Agreement terminable, at the option of the Merchant, at the end of such 30 day period unless notification is withdrawn.

Any Merchant deposits of sales or credit slips that is accepted by Global Direct and Member or by a designated depository after the effective date of termination will be returned to Merchant and will not be credited (or debited) to merchant's account(s). If the deposit has already been posted to Merchant's account(s), said posting will be reversed and the deposit returned to Merchant. Termination of this Card Services Agreement shall not affect Merchant's obligations which have accrued prior to termination or which relate to any indebtedness purchased hereunder prior to termination, including but not limited to chargebacks even if such chargebacks occur in after termination. In the event of termination, all equipment loaned from Global Direct (but not from any other leasing agent), including but not limited to imprints, terminals, and printers; all supplies; Card Acceptance Guide; and operating instructions must be returned immediately to Global Direct at Merchant's expense.

**14. RETURNED ITEMS/CHARGEBACKS.**

If a cardholder disputes any transaction, if a transaction is charged back for any reason by the card issuing institution, or if Global Direct or Member has any reason to believe an indebtedness previously purchased is questionable, not genuine, or is otherwise unacceptable, the amount of such indebtedness may be charged back and deducted from any payment due to Merchant or may be charged against any of Merchant's accounts or the Reserve Account (as defined below). A list of some common reasons for chargebacks is contained in the Card Acceptance Guide provided, however, that such list is not exhaustive and does not limit the generality of the foregoing. If any such amount is unacceptable through withholding from any payments due hereunder or through charging Merchant's accounts or the Reserve Account, Merchant shall, upon demand by Global Direct, pay Global Direct the full amount of the chargeback. Merchant understands that obtaining a substantiation for any net shall not constitute a guarantee of payment, and such sales slips can be returned or charged back to Merchant like any other item hereunder.

**15. RESERVE ACCOUNT**

At any time, Global Direct and Member may, at their option, establish a reserve account to secure the performance of Merchant's obligations under this Card Services Agreement to each party ("Reserve Account"). The Reserve Account may be funded through any or all of the following: (a) Direct payment by Merchant - At the request of Global Direct and Member, Merchant will deposit funds in the Reserve Account; (b) The proceeds of indebtedness presented for purchase; or (c) The transfer by Global Direct and Member into the Reserve Account of funds withdrawn from any of the accounts referred to in Section 5 or any other account, including certificates of deposit, maintained by Merchant or Merchant's guarantor, if any, with any designated depository or other financial institution. Merchant and Merchant's guarantor hereby grants Member a security interest in all said accounts and authorizes Global Direct (to the extent authorized

by Member) or Member to make such withdrawals at such times and in such amounts as it may deem necessary hereunder. Merchant and Merchant's guarantor hereby instruct said financial institutions to honor any requests made by Global Direct and Member under the terms of this provision. Merchant and Merchant's guarantor will hold harmless the financial institutions and indemnify them for any claims or losses they may suffer as a result of honoring withdrawal requests from Global Direct and Member.

Merchant hereby agrees that Global Direct and Member may deduct from this Reserve Account any amount owed to each party in accordance with this Card Services Agreement. Any funds in the Reserve Account may be held until the expiration of any potentially applicable chargeback rights in respect of purchased indebtedness under the rules and regulations of the card association or network organizations, which holding period may extend beyond termination of this Card Services Agreement. The Merchant will not receive any interest on funds being held in a Reserve Account. Without limiting the generality of the foregoing, Merchant shall, upon termination of this Card Services Agreement, maintain the sum of at least five percent (5%) of gross sales for the 90 day period prior to termination to be held in a Reserve Account in accordance with the terms of this Card Services Agreement. Global may, at its discretion upon termination of this Agreement, require that the Merchant maintain more than five percent (5%) of gross sales for the 90 day period prior to termination in a Reserve Account.

#### 16. DEFAULT/SECURITY INTEREST

Upon failure by Merchant to meet any of its obligations under this Card Services Agreement (including funding the Reserve Account), any of the accounts referred to in Section 5 or any other accounts belonging to Merchant or Merchant's guarantor held by any designated depository (or by any other financial institution) may be debited without notice to Merchant, and Merchant and Merchant's guarantor gives Member and Global Direct a security interest in all such accounts for these purposes. The scope of the security interest, and Merchant's and Merchant's guarantor's instructions to its financial institutions to accept withdrawal requests from Global Direct and Member, and Merchant's agreement to hold such institutions harmless and to indemnify them are described above in Section 15(d).

Merchant also agrees that, in the event of a default by Merchant, Member has a right of setoff and may apply any of Merchant's balances or any other monies due Merchant from Member towards the payment of amounts due from Merchant under the terms of this Card Services Agreement. The rights stated herein are in addition to any other rights Global Direct and Member may have under applicable law.

#### 17. CHOICE OF LAW/ATTORNEY'S FEES/VENUE

Should it be necessary for Global or Member to defend or enforce any of its rights under this Agreement in any collection or legal action, Merchant agrees to reimburse Global and/or Member, as applicable, for all costs and expenses, including reasonable attorney's fees, as a result of such collection or legal action. Merchant waives trial by jury and the right to interpose any objections of any kind with respect to any litigation arising out of or relating to this Card Services Agreement. Global, Member, and Merchant agree that all disputes arising out of or relating to this Card Services Agreement shall be governed by the laws of the State of Georgia, notwithstanding any conflicts of law rules. Global, Member, and Merchant agree that all actions arising out of or relating to this Card Services Agreement shall be brought in the courts of the State of Georgia sitting in Fulton County and expressly agree to the exclusive jurisdiction of such courts.

#### 18. AMENDMENTS

This Card Services Agreement may be amended only in writing signed by Global Direct, Member, and Merchant, except that (a) the Card Acceptance Guide, fees, charges, and/or discounts may be changed immediately, or (b) Global Direct may email Merchant either a notice describing amendments to this Card Services Agreement or an entirely new agreement, which amendments or new agreement will be binding upon Merchant if it deposits sales or credit slips after the effective date of such amendment or new agreement set forth in Global Direct's notice.

#### 19. WAIVER

No provision of this Card Services Agreement shall be deemed waived by any party unless such waiver is in writing and signed by the party against whom enforcement is sought. No failure to exercise, and no delay in exercising on the part of any party herein, any right, power or privilege under this Card Services Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege under this Card Services Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

#### 20. EXCHANGE OF INFORMATION

Merchant authorizes Global Direct to order a credit report on Merchant or any owner, officer, shareholder, partner, proprietor, managing agent or guarantor of Merchant. Merchant hereby authorizes Member or any depository institution to release any financial information concerning Merchant or its accounts to Global Direct. Subsequent credit reports may be ordered in connection with updating, renewing or continuing this Card Services Agreement. Upon the written request of any individual who is the subject of a consumer credit report, Global Direct will provide the name and address of the consumer credit reporting agency furnishing such report, if any. Global Direct may change information about Merchant, Merchant's owners, principals, partners, proprietors, officers, shareholders, managing agents and guarantors with Member, other financial institutions and credit card associations, network organizations and any other party. Merchant hereby authorizes Global Direct to disclose information concerning Merchant's activity to any card association, network organizations, or any of their member financial institutions, or any other party without any liability whatsoever to Merchant.

#### 21. PRESS RELEASE

Upon execution of this Card Services Agreement, Global Direct shall have the right to publish a press release announcing the business relationship between Global Direct and Merchant formed by this Card Services Agreement, provided, however, that Merchant shall be given the opportunity to review the language of such press release prior to its publication, and Global Direct will honor all requests by Merchant to amend such language that Global Direct, in its sole discretion, deems reasonable.

#### 22. GENERAL

If any provision of this Card Services Agreement or portion thereof is held to be unenforceable, such a determination will not affect the remainder of this Card Services Agreement. Paragraph headings are included for convenience only and are not to be used in interpreting this Card Services Agreement.

#### 23. NOTICES

All notices required by this Card Services Agreement shall be in writing and shall be sent by airmail, by overnight carrier, or by regular or certified mail. All notices sent to Global Direct or Member shall be effective upon actual receipt by the Corporate Secretary of Global Payments Direct, Inc., 10 Columbia Parkway North Tower, Atlanta, Georgia 30328. Any notices sent to Merchant shall be effective upon the earlier of actual receipt or upon sending such notice to the address provided by Merchant in the Merchant Application or to any other e-mail or physical address to which notices, statements and/or other communications are sent to the Merchant hereunder. The parties herein may change the name and address of the person to whom notices or other documents required under this Card Services Agreement must be sent at any time by giving written notice to the other party.

#### 24. MERGER

This Card Services Agreement, including these Card Services Terms & Conditions and the Merchant Application, constitutes the entire agreement between Merchant, Global Direct, and Member and supersedes all prior memoranda or agreements relating thereto, whether oral or in writing.

#### 25. EFFECTIVE DATE

This Card Services Agreement shall become effective only upon acceptance by Global Direct and Member, or upon delivery of indebtedness at such locations as designated by Global Direct for purchase, whichever event shall first occur.

#### 26. DESIGNATION OF DEPOSITORY.

The financial institution set forth in the Merchant Application is designated by Merchant as a depository institution ("Depository") for its credit card indebtedness. Such financial institution must be a member of an Automated Clearing House Association. Merchant authorizes payment for indebtedness purchased hereunder to be made by paying Depository therefore with instructions to credit Merchant's account. Depository, Member, and/or Global Direct may change any of Merchant's accounts at Depository for any amount due under this Card Services Agreement. Global Direct must approve in writing any proposed changes to the account number or to the Depository.

#### 27. FINANCIAL ACCOMMODATION

The acquisition and processing of sales slips hereunder is a financial accommodation and, as such, in the event Merchant becomes a debtor in bankruptcy, this Card Services Agreement cannot be assumed or enforced, and Global Direct and Member shall be crossed from performance hereunder.

#### 28. DEBIT / ATM PROCESSING SERVICES: ADDITIONAL TERMS AND CONDITIONS

Debit Sponsor shall act as Merchant's sponsor with respect to the participation of point-of-sale terminals owned, controlled, and/or operated by Merchant (the "Covered Terminals") in each of the following debit card networks ("Networks"): Aeon, AYPF, Alaska Option, CUA, Interlink, Maestro, NYCE, Polaris, Starz, Star, and Tyco, which Networks may be changed from time-to-time by Debit Sponsor or Global Direct without notice. Merchant may also have access to other debit networks that do not require a sponsor. Global Direct will provide Merchant with the ability to access the Networks at the Covered Terminals for the purpose of authorizing debit card transactions from cards issued by the members of the respective Networks. Global Direct will provide access to such Networks, terminal applications, software, and reporting activities.

Merchant will comply with all federal, state, and local laws, rules, regulations, and ordinances ("Applicable Law") and with all by-laws, regulations, rules, and operating guidelines of the Networks ("Network Rules"). Merchant will execute and deliver any applications, participation, or membership agreement or other document necessary to enable Debit Sponsor to act as sponsor for Merchant in each Network, and Merchant shall obtain all accounts, approvals, authorizations, or orders of any governmental agency or body required for the execution, delivery, and performance of the Card Services Agreement. Merchant agrees to utilize the debit card Services in accordance with the Card Services Agreement, its exhibits or attachments, and Global Direct's instructions and specifications (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement), and to provide Global Direct with the necessary data in the proper format to enable Global Direct to properly furnish the Services. Copies of the relevant agreements or operating regulations shall be made available to Merchant upon request.

Merchant will provide prompt written notice to Debit Sponsor and Global Direct in the event that Merchant is subject to any of the following:

- i) Conviction for a felony offense or any other crime involving moral turpitude;
- ii) Restraining order, decree, injunction, or judgment in any proceeding or lawsuit alleging fraud or deceptive practice on the part of Merchant;

- iii) Bankruptcy filing or petition;
- iv) Federal or state tax lien;
- v) Any material adverse change in the assets, operations, or condition, financial or otherwise, of Merchant;
- vi) The threat or filing of any litigation against Merchant, the outcome of which reasonably could have a material adverse effect on the continuing operations of Merchant;
- vii) A administrative or enforcement proceeding commenced by any state or federal regulatory agency, including any banking or securities agency or entity operating an EBT Network, that reasonably could have a material adverse effect on the continuing operations of Merchant; or
- viii) Any disciplinary action taken by any Network against Merchant or any principal of Merchant.

Debit Sponsor or Global Direct may terminate or suspend, at Debit Sponsor's discretion, Debit Sponsor's sponsorship of Merchant in any Network or modify the provision of Services to Merchant:

- i) Immediately upon notice to Merchant of the occurrence of any of the conditions set forth in items (i), (ii), (iii), (v), or (viii) in the immediately preceding paragraph or if Debit Sponsor's authority to participate in such Network, or not as sponsor of Merchant in such Network is terminated by such Network;
- ii) Thirty (30) days after written notice by Debit Sponsor or Global Direct to Merchant of the occurrence of any of the conditions set forth in items (iv), (vi), or (vii) in the immediately preceding paragraph or if Debit Sponsor terminates its membership or participation in such Network;
- iii) Immediately upon notice to Merchant in the event any financial statement, representation, warranty, statement or certificate furnished is materially false or misleading; or
- iv) Immediately upon notice to Merchant of the occurrence of any other circumstance with respect to this Section that may reasonably be expected to have an adverse effect on Debit Sponsor or Global Direct.

The parties hereto acknowledge and agree that Global Direct shall pay Debit Sponsor any and all fees and charges related to or arising out of Debit Sponsor's sponsorship of Merchant in the Network; provided, however, that in the event that Global Direct fails to pay such amounts, Debit Sponsor shall be entitled to recover all such amounts directly from Merchant and Merchant agrees to pay all such amounts.

Merchant shall not in any way indicate that Debit Sponsor endorses Merchant's activities, products, or services. Debit Sponsor and Merchant are and shall remain independent contractors of one another, and neither they, nor their respective individual employees, shall have or hold themselves out as having any power to bind the other to any third party. Nothing contained in this Section shall be construed to create or constitute a partnership, joint venture, employer-employee, or agency relationship between Debit Sponsor and Merchant.

Merchant shall indemnify and hold harmless Debit Sponsor and Global Direct, their affiliates (including parents and subsidiaries), and their respective officers, directors, employees, successors and assigns, from and against any and all direct or contingent losses, costs, claims, demands, and causes of action (including, without limitation, the cost of investigating the claim, the cost of litigation, and reasonable attorneys' fees, whether or not legal proceedings are instituted) paid or incurred by or on behalf of Debit Sponsor or Global Direct as a result of Merchant's violation of any of the terms of this Section, Network Rules, or Applicable Laws, or otherwise arising from or related to Debit Sponsor's sponsorship of Merchant in any Network. Debit Sponsor shall in no way be liable for any act or omission of Global Direct under the Card Services Agreement.

In the event that Debit Sponsor's sponsorship of Merchant in any Network is terminated prior to the termination of the Card Services Agreement, Global Direct may assign Debit Sponsor's rights and obligations hereunder to a third party. All provisions in this Section necessary to enforce the rights and obligations of the parties contained in this Section shall survive the termination of Debit Sponsor's debit sponsorship of Merchant under the Card Services Agreement. Debit Sponsor may assign this Agreement to any parent, subsidiary, affiliate, or successor-in-interest.

**29. MERCHANT ACCEPTANCE OF EBT TRANSACTIONS: ADDITIONAL TERMS AND CONDITIONS.**

Merchant agrees to issue Benefits to Recipients in accordance with the procedures specified herein, and in all documentation and user guides provided to Merchant by Global Direct, as amended from time-to-time (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement), and pursuant to the Quest Operating Rules (the "Rules"), as amended from time-to-time, issued by the National Automated Clearing House Association as approved by the Financial Management Service of the U.S. Treasury Department. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Rules. Merchant will provide each recipient a receipt of each Benefit issued. Merchant will be solely responsible for Merchant's issuance of Benefits other than in accordance with such authorization. If Merchant issues PS Benefits under this Card Services Agreement, Merchant represents and warrants to Global Direct that Merchant is an FNS-authorized "Merchant" (as such term is defined in the Rules) and is not currently suspended or debarred by FNS. Merchant agrees to secure and maintain at its own expense all necessary licenses, permits, franchises, or other authorizations required to lawfully effect the issuance and distribution of Benefits under this Card Services Agreement, including without limitation, any applicable franchise fee certificate and non-governmental contractor's certificate, and agreements that Merchant will not issue Benefits at any time during which Merchant is not in compliance with the requirements of any applicable law. Merchant agrees to hold Global Direct harmless from any costs of compliance or failure to comply with any such obligation by Merchant. Global Direct may terminate or modify the provision of Services to Merchant if any of Global Direct's agreements with government EBT agencies are terminated for any reason or if any party threatens to terminate or policy of the Rules, these Card Services Terms & Conditions are subject to reasonable amendment by Global Direct, the State or its EBT Service Provider to address such conflict upon ninety (90) days written notice to Merchant, provided that Merchant may, upon written notice, terminate the Card Services Agreement upon receipt of notice of such amendment. Nothing contained herein shall preclude the State from commencing appropriate administrative or legal action against Merchant or for making any referral for such action to any appropriate Federal, State, or local agency. Any references to "State" herein shall mean the State in which Merchant issues Benefits pursuant hereto. If Merchant issues Benefits in more than one State pursuant hereto, then the reference shall mean each such State severally, not jointly.

**30. NON-QUALIFIED SURCHARGES.**

Merchant pricing appears in the Card Services Fee Schedule of the Merchant Application. T&E merchants (airline, car rental, cruise line, fast food, lodging, restaurant, travel agent, transportation) may have separate rates quoted for consumer and occasional (business) transactions. Transactions that do not clear as priced are subject to non-qualified surcharges (NQS) that are billed back to you on your monthly statement. The most predominant market sectors and applicable non-qualified surcharge rates appear below. Most non-qualified surcharges can be avoided by using a product that supports authorization and market data requirements established by the card associations and that are subject to change from time to time. Some non-qualified surcharges occur on specific types of cards (including without limitation Visa Rewards Card, Visa Signature Card, Visa Infinite Card, MasterCard World Card, and "foreign" cards issued outside the United States) and are unavoidable based on the card association requirement to accept all types of credit cards, if the merchant accepts credit cards. Unless your Card Services Fee Schedule specifically addresses commercial cards (i.e., Business Cards, Corporate Cards, Fleet Cards, GSA Cards, Purchase Cards), you will be billed back for the highest cost of acceptance of commercial cards; this is also unavoidable based on the card association requirement to accept all types of credit cards, if the merchant accepts credit cards, unless you are primarily a business-to-business supplier with corresponding pricing based on acceptance of commercial cards. The card associations require that information from the original authorization, including a Efileable identifier, be retained and returned with subsequent authorizations and/or the settled transaction data. The card associations validate this information as part of the clearing and settlement process. If authorization data is not retained and returned at settlement, then the transaction will not clear as priced and will incur NQS. For more information on processing NQS and to view market data, you may wish to check the Global Direct website ([www.globalpayment.com](http://www.globalpayment.com)) for best practices information and to license Global Access Advantage (GA@) for transaction detail review.

**NON-QUALIFIED SURCHARGES FOR PREDOMINANT MARKET SECTORS**

**Retail/Restaurant Electronic Merchant**

If you are a Retail Merchant or a Restaurant Merchant with retail-only pricing (no Business Card Rate) and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation retail commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Infinite Card, MasterCard World Card, and all Commercial Cards, will be priced at the rate quoted plus up to 2%.

- Obtain a magnetic strip read (card swipe/electronic imprint) at the time of sale.
- Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature.
- Settle and transmit batches same day via your terminal/electronic system.

**Restaurant Electronic Merchant**

If you are a Restaurant Merchant MCC 5812 or Fast Food Merchant MCC 5814 and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Infinite Card, and MasterCard World Card, will be priced at the rate quoted plus up to 2%. Commercial Card transactions that meet these requirements will be subject to the Business Card rate quoted in the Fee Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the Business Card rate quoted plus up to 2%.

- Obtain a magnetic strip read (card swipe/electronic imprint) at the time of sale.
- Obtain a single electronic authorization.
- Obtain a cardholder signature.
- Settle and transmit batches same day via your terminal/electronic system.

**Supermarket Electronic Merchant**

If you are an approved (certified) supermarket merchant and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate(s) quoted for Supermarket Credit Card and Supermarket Check Card. Each transaction not processed as outlined, in addition to

Merchant Initials IBM Rev. 05/05-FP

transactions using Visa Rewards Card, Visa Signature Card, Visa Infinite Card, and MasterCard World Card and commercial cards, will be priced at the rate quoted plus up to 2%.

- Obtain a magnetic strip read (card swipe/electronic imprint) at the time of sale.
- Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature.
- Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transacted amount on all Visa debit card transactions.

**Developing Market Electronic Merchant**

If you qualify as a Developing Market Merchant (as defined by Association guidelines from time to time) and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all the following requirements will be priced at the rates quoted. Any other transaction, including commercial card transactions, and non-magnetic stripe read foreign transactions will be priced at the rate quoted plus up to 2%. In addition, each Visa transaction not processed as outlined, but transmitted same day or next day via your terminal/electronic system, will be priced at the rate quoted plus up to 2%.

- Obtain a single electronic authorization.
- Settle and transmit batches same day via your terminal/electronic system.
- Provide market data as required. See Note.

**NOTE:** If card is not present and a magnetic stripe read does not occur, then Merchant may be required to comply with "Direct Merchant" market data requirements including AVS request on cardholder billing address at time of authorization. If card is present and cardholder signature is obtained, however the magnetic stripe is damaged, then Merchant may be required to obtain AVS match on cardholder billing address zip code.

**Direct Merchant Electronic Merchant**

If you are a Direct Mail/Telephone Order Merchant (non-magnetic stripe read transactions), and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all the following requirements will be priced at the rate quoted. Any other transaction, including all foreign transactions and commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Infinite Card, and MasterCard World Card, will be priced at the rate quoted plus up to 2%.

- Obtain an electronic authorization and settle for authorized amounts (see reversal permitted on Visa transactions to make authorization amount equal to settled amount).
- Address Verification Request in authorization on cardholder billing address.
- Purchase date (settlement date) is ship date.
- Send order number with each transaction.
- Settle and transmit batches same day via your terminal/electronic system.
- Send Level 2 data (line item detail, sales tax, customer code) with every eligible commercial card transaction.

**NOTE:** Card Not Present transactions involving non-time, recurring, or installment bill payment transactions are subject to additional card association requirements which must be complied with to avoid NQS. Electronic commerce transactions are also subject to additional card association requirements which must be complied with to avoid NQS. Please refer to Card Acceptance Guide for additional requirements.

**Purchase Card Electronic Merchant**

If you are a Purchase Card Merchant (non-magnetic stripe read transactions) and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets the following requirements will be priced at the rate quoted. Each Visa transaction not processed as outlined, but transmitted same day or next day via your terminal/electronic system, will be priced at the rate plus up to 2%. Each Visa business and commercial card transaction will be priced at the rate quoted plus up to 2%. Any other transaction that does not meet the following requirements, including without limitation on foreign transactions, will be priced at the rate quoted plus up to 2%.

- Obtain an electronic authorization and settle for authorized amounts (see reversal permitted on Visa transactions to make authorization amount equal to settled amount).
- Address Verification Request in authorization on cardholder billing address.
- Purchase date (settlement date) is ship date.
- Send order number (customer code) with each transaction.
- Send tax amount with every transaction.
- Send Level 2 data (line item detail) with every eligible commercial card transaction.
- Settle and transmit batches same day via your terminal/electronic system.

**Lodging/Auto Rental Electronic Merchant**

If you are a Lodging or Auto Rental Merchant utilizing a terminal or electronic system for authorization and settlement through Global Direct, each commercial card transaction you submit which meets the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation non-magnetic stripe read foreign transactions, and transactions using Visa Rewards Card, Visa Signature Card, Visa Infinite Card, and MasterCard World Card, will be priced at the rate plus up to 2%. Commercial Card transactions that do not meet these requirements will be subject to the Business Card rate quoted in the Fee Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the Business Card rate quoted plus up to 2%.

- Obtain a magnetic stripe read (card swipe/electronic imprint) at the time of check-in.
- Obtain additional electronic authorization or send partial reversals to bring total authorized amount within 15% of settled amount. Authorizations must meet card association requirements.
- Obtain a cardholder signature for final transaction amount.
- Purchase Date is hotel check-out date/into return date.
- Length of stay emphasized in initial authorization.
- Hotel Follow/Cancel Agreement Number and check-in date/check-out date transmitted with each transaction.
- Additional market data may be required for commercial card transactions to avoid NQS. Lodging merchants who (1) accept credit cards for advance payment; (2) guarantee reservations using a credit card; (3) provide express check-out services to guests; or (4) subject charges to final audit and bill for amenities/additional charges must comply with additional bank card association requirements for those services in addition to additional authorization and settlement market data requirements to avoid NQS. These transactions may also be subject to the rate quoted plus up to 2%. Please see Card Acceptance Guide for requirements and best practices for these transactions.

**Touch Tone Capture Merchant**

Transactions, which utilize any TouchTone Capture system for authorization and settlement, settle beyond 48 hours, or are not transmitted via the TouchTone Capture system, will be priced at the rate quoted in the Card Services Fee Schedule of the Merchant Application plus up to 2%.

**Paper Deposit Merchant**

Non-terminal/electronic paper deposit transactions will be priced at the rate quoted in the Card Services Fee Schedule of the Merchant Application.

**Debit Card Merchant**

Each debit card transaction will be assessed the network's acquirer fee in addition to the debit card per item fee quoted in the Card Services Fee Schedule of the Merchant Application.

**Card Present / Mag Stripe Failure:**

A magnetic stripe read is also referred to as an electronic imprint. If the magnetic stripe is damaged, then other validation means may be required to protect against counterfeit cards. Most products will prompt for cardholder billing zip code and perform an AVS check for a zip code match. Key-stored retail transactions are subject to higher interchange and NQS.

The foregoing information regarding NQS is not comprehensive and is subject to change by the card association. Additional or different rates or fees may apply based on the details of a subject transaction.

All questions regarding Card Services should be referred to Profibus Processing, 676 Ferguson Ave., Suite 3, Bozeman, MT 59718, or call: 1-866-651-3068.

Note: Billing disputes must be forwarded, in writing, to Customer Service within 60 days of the date of the statement and/or notice.

For Member contact:  
 HSBC Bank USA, National Association  
 Merchant Support Group  
 P.O. Box 4563  
 Buffalo, NY 14240  
 716-841-6360

For Debit Sponsor contact:  
 Concord EFS National Bank  
 2525 Horizon Lake Drive, Suite 120  
 Memphis, TN 38133  
 901-371-3008

Merchant Initials IBM

Rev. 06/05/FP

**Processing History**  
Designer Luxury HandBags-CLOSED

8788370010789

2/15/2010 3:34:19 PM

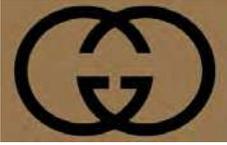
YrMo	Items	Sales Vol	Credit Cnt	Credit Vol	Credit Cnt / Sales	Credit Amt / Sales	CB Cnt	CB Vol	CB Cnt / Sales	CB Amt / Sales	
<b>G.T.</b>	<b>2,477</b>	<b>\$1,086,118.37</b>	<b>321</b>	<b>150,494</b>	<b>12.96%</b>	<b>13.86%</b>	<b>75</b>	<b>\$37,828.88</b>	<b>3.03%</b>	<b>3.48%</b>	
2007 - 12							1	\$760.50		0.00%	Visa MasterCard Discover
							1	\$760.50		0.00%	
2007 - 10							1	\$190.00		0.00%	Visa
							2	\$1,315.00		0.00%	MasterCard Discover
							3	\$1,505.00		0.00%	
2007 - 09	14	\$3,468.00	4	\$1,475.00	28.57%	42.53%	1	\$665.00	7.14%	19.18%	Visa
	10	\$2,252.00	1	\$530.00	10.00%	23.53%	1	\$765.00	10.00%	33.97%	MasterCard Discover
	24	\$5,720.00	5	\$2,005.00	20.83%	35.05%	2	\$1,430.00	8.33%	25.00%	
2007 - 08	42	\$14,001.30	6	\$2,932.50	14.29%	20.94%	3	\$1,272.00	7.14%	9.08%	Visa
	42	\$20,645.55	8	\$4,364.30	19.05%	21.14%	2	\$887.53	4.76%	4.30%	MasterCard Discover
	84	\$34,646.85	14	\$7,296.80	16.67%	21.06%	5	\$2,159.53	5.95%	6.23%	
2007 - 07	67	\$25,363.40	10	\$4,375.00	14.93%	17.25%	2	\$915.00	2.99%	3.61%	Visa
	40	\$18,415.55	4	\$1,750.75	10.00%	9.51%	3	\$1,595.85	7.50%	8.67%	MasterCard Discover
	107	\$43,778.95	14	\$6,125.75	13.08%	13.99%	5	\$2,510.85	4.67%	5.74%	
2007 - 06	68	\$24,039.88	14	\$4,506.78	20.59%	18.75%	5	\$2,470.00	7.35%	10.27%	Visa
	57	\$26,349.10	11	\$6,853.75	19.30%	26.01%	4	\$985.00	7.02%	3.74%	MasterCard Discover
	125	\$50,388.98	25	\$11,360.53	20.00%	22.55%	9	\$3,455.00	7.20%	6.86%	
2007 - 05	244	\$93,050.35	28	\$9,907.00	11.48%	10.65%	8	\$4,413.50	3.28%	4.74%	Visa
	131	\$60,617.10	22	\$8,234.00	16.79%	13.58%	6	\$4,157.00	4.58%	6.86%	MasterCard Discover
	383	\$157,208.45	50	\$18,141.00	13.05%	11.54%	14	\$8,570.50	3.66%	5.45%	
2007 - 04	202	\$77,026.08	24	\$10,310.20	11.88%	13.39%	5	\$2,185.00	2.48%	2.84%	Visa
	143	\$64,719.20	14	\$10,563.00	9.79%	16.32%	5	\$2,020.00	3.50%	3.12%	MasterCard Discover
	351	\$144,591.53	38	\$20,873.20	10.83%	14.44%	10	\$4,205.00	2.85%	2.91%	

**Processing History**  
**Designer Luxury HandBags-CLOSED**  
**8788370010789**

2/15/2010 3:34:19 PM

YrMo	Items	Sales Vol	Credit Cnt	Credit Vol	Credit Cnt / Sales	Credit Amt / Sales	CB Cnt	CB Vol	CB Cnt / Sales	CB Amt / Sales	
2007 - 03	169	\$68,400.11	21	\$8,816.65	12.43%	12.89%	4	\$1,595.50	2.37%	2.33%	Visa
	122	\$60,278.95	17	\$7,530.50	13.93%	12.49%	5	\$2,475.00	4.10%	4.11%	MasterCard Discover
	<b>291</b>	<b>\$128,679.06</b>	<b>38</b>	<b>\$16,347.15</b>	<b>13.06%</b>	<b>12.70%</b>	<b>9</b>	<b>\$4,070.50</b>	<b>3.09%</b>	<b>3.16%</b>	
2007 - 02	209	\$88,299.80	33	\$16,814.00	15.79%	19.04%	5	\$2,167.00	2.39%	2.45%	Visa
	131	\$74,391.45	26	\$13,277.00	19.85%	17.85%	3	\$1,600.00	2.29%	2.15%	MasterCard Discover
	<b>340</b>	<b>\$162,691.25</b>	<b>59</b>	<b>\$30,091.00</b>	<b>17.35%</b>	<b>18.50%</b>	<b>8</b>	<b>\$3,767.00</b>	<b>2.35%</b>	<b>2.32%</b>	
2007 - 01	115	\$47,175.40	20	\$8,648.30	17.39%	18.33%	2	\$1,115.00	1.74%	2.36%	Visa
	64	\$28,282.75	16	\$7,182.30	25.00%	25.39%	3	\$1,350.00	4.69%	4.77%	MasterCard Discover
	<b>179</b>	<b>\$75,458.15</b>	<b>36</b>	<b>\$15,830.60</b>	<b>20.11%</b>	<b>20.98%</b>	<b>5</b>	<b>\$2,465.00</b>	<b>2.79%</b>	<b>3.27%</b>	
2006 - 12	305	\$141,222.55	25	\$12,685.50	8.20%	8.98%	4	\$2,930.00	1.31%	2.07%	Visa
	187	\$88,379.60	16	\$9,512.00	8.56%	10.76%				0.00%	MasterCard Discover
	<b>492</b>	<b>\$229,602.15</b>	<b>41</b>	<b>\$22,197.50</b>	<b>8.33%</b>	<b>9.67%</b>	<b>4</b>	<b>\$2,930.00</b>	<b>0.81%</b>	<b>1.28%</b>	
2006 - 11	65	\$34,431.00	0	\$0.00	0.00%	0.00%				0.00%	Visa
	35	\$18,872.00	1	\$225.00	2.86%	1.19%				0.00%	MasterCard Discover
	<b>100</b>	<b>\$53,303.00</b>	<b>1</b>	<b>\$225.00</b>	<b>1.00%</b>	<b>0.42%</b>				<b>0.00%</b>	
2006 - 10	1	\$50.00	0	\$0.00	0.00%	0.00%				0.00%	Visa
	0	\$0.00	0	\$0.00	0.00%	0.00%				0.00%	MasterCard Discover
	<b>1</b>	<b>\$50.00</b>	<b>0</b>	<b>\$0.00</b>	<b>0.00%</b>	<b>0.00%</b>				<b>0.00%</b>	

# **Exhibit 73**



Pursuant to a Final Default Judgment of the U.S. District Court of the Southern District of Florida, the owner of the website previously appearing at this web address was held to have been selling replica Gucci products, including replica Gucci handbags. To purchase genuine Gucci merchandise, please visit the official Gucci website at [www.gucci.com](http://www.gucci.com).

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CV-60622-SEITZ/O'SULLIVAN

GUCCI AMERICA, INC.,

Plaintiff,

vs.

RICHARD XXX; XXX XXXXXXX XXXXX, INC,

and DOES 1-10,

Defendants.

**FINAL DEFAULT JUDGMENT**

For the reasons set forth in the Court's concurrently issued Order Granting Plaintiffs' Motion for Final Default Judgment, it is hereby

ORDERED that:

(1) Final Default Judgment is ENTERED in favor of Plaintiff Gucci America, Inc. ("Gucci"), against Defendant XXX XXXXXXX XXXXX, Inc. ("Defendant").

(2) Defendant XXX XXXXXXX XXXXX shall pay Plaintiff Gucci America, Inc. the sum of **\$1,130,224.20** in statutory damages. In addition, Defendant XXX XXXXXXX XXXXX, Inc. shall pay Plaintiff Gucci America, Inc. the sum of **\$4,200.00** in attorney's fees, **\$500.00** in costs, and **\$436.99** in investigative fees. Plaintiff shall be entitled to post-judgment interest at the statutory rate contained in 28 U.S.C. § 1961, until such Judgment is satisfied.

(3) Defendant XXX XXXXXXX XXXXX, Inc. and its respective officers, agents, servants, employees and attorneys, and all persons in active concert and participation with it, are hereby restrained and enjoined from:

(A) Manufacturing or causing to be manufactured, importing, advertising, or promoting, distributing, selling or offering to sell counterfeit and infringing goods using the Gucci Marks as identified below:

Mark	Registration No.	Registration Date
SQUARE G MONOGRAM	2,042,805	March 11, 1997
NON-INTERLOCKING GG MONOGRAM DESIGN	1,107,311	November 28, 1978

GUCCI	0,876,292	September 9, 1969
GUCCI (STYLIZED)	3,061,918	February 28, 2006
FACING GG MONOGRAM	3,039,630	January 10, 2006
REPEATING GG DESIGN	3,072,549	March 28, 2006
ROUNDED G MONOGRAM	3,052,779	January 31, 2006
ELONGATED INTERLOCKING GG MONOGRAM	3,376,129	January 29, 2008
NON-INTERLOCKING GG MONOGRAM DESIGN	3,378,755	February 5, 2008
ROUNDED INTERLOCKING GG MONOGRAM	3,391,739	December 18, 2007
BAMBOO HORSEBIT DESIGN	3,243,972	May 22, 2007
HALF HORSEBIT DESIGN	3,238,962	May 8, 2007
TWO TONE HORSEBIT DESIGN	3,274,316	August 7, 2007
REPEATING HORSEBIT DESIGN	3,274,315	August 7, 2007
GREEN RED GREEN STRIPE DESIGN	1,122,780	July 24, 1979

(B) Using the Gucci Marks in connection with the sale of any unauthorized goods;

(C) Using any logo, and/or layout which may be calculated to falsely advertise the services or products of XXX XXXXXX XXXXX, Inc., LeeLuxuryLines.com, LeeLuxuryBags.com, and/or any other website or business, as being sponsored by, authorized by, endorsed by, or in any way associated with Gucci;

(D) Falsely representing itself as being connected with Gucci, through sponsorship or association;

(E) Engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of XXX XXXXXX XXXXX, Inc., LeeLuxuryLines.com, LeeLuxuryBags.com and/or any other website or business, are in any way endorsed by, approved by, and/or associated with Gucci;

(G) Using any reproduction, counterfeit, copy, or colorable imitation of the Gucci Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by XXX XXXXXX XXXXX, Inc., LeeLuxuryLines.com, LeeLuxuryBags.com, and/or any other website or business, including, without limitation, handbags and wallets;

(H) Affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent goods by XXX XXXXXX XXXXX, Inc., LeeLuxuryLines.com, LeeLuxuryBags.com and/or any other website or business, as being those of Gucci, or in any way endorsed by Gucci;

(I) Otherwise unfairly competing with Gucci, or offering counterfeit goods in commerce;

(J) Secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting or displaying of all unauthorized products which infringe the Gucci Marks; and

(K) Effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.

(5) The domain names LeeLuxuryBags.com and LeeLuxuryLines.com shall be transferred to Gucci's control.

DONE AND ORDERED in Miami, Florida this 25th day of November, 2008.

# **Exhibit 74**

---

**From:** Nathan Counley [Nathan@Durango-Direct.com]  
**Sent:** Monday, August 11, 2008 2:53 PM  
**To:** Halter, Jennifer Colgan  
**Cc:** 'Shane Kairalla'; 'Bill Demopolis'  
**Subject:** Laurette Company, Inc--Gibson, Dunn & Crutcher LLP  
**Attachments:** a07bbf45.pdf

Jennifer Halter,

In regards to your fax (attached) received today, please note that Durango Merchant Services, LLC, is a "broker" for merchant accounts (as clearly stated in the invoice you have). We do not process transactions, remit funds, complete underwriting, or etc. We referred the merchant to the bank that they signed up with, and charged a referral fee per se for this service. I believe you are already in contact with the actual processor/bank.

Thank you,

**Nathan Counley**

National Bankcard Systems of Durango

(p) 866.415.2636 ext 4

(f) 413.431.2720

[www.Durango-Direct.com](http://www.Durango-Direct.com)

The information transmitted, including any attachments, is intended only for the person or entity to which it is addressed and may contain information that is confidential, proprietary, legally privileged, or otherwise protected by law from disclosure. Any unauthorized review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

**GIBSON, DUNN & CRUTCHER LLP**

A Registered Limited Liability Partnership  
Including Professional Corporations  
200 Park Avenue, 47th Floor  
New York, New York 10166-0193

TELEPHONE: (212) 351-4000  
FACSIMILE: (212) 351-4035

**FACSIMILE TRANSMISSION INFORMATION**

August 11, 2008

TO: Mr./Ms.: Shane Kairalla  
Company: National Bankcard Systems of Durango  
City, State: Durango, CO  
Facsimile No.: 413 431-2720  
Main Telephone: 970 259-8660

FROM: Jennifer C. Halter Room: NY-4953 Direct Dial: (212) 351-3927  
Our File Number: T 35409-00025 Fax: (212) 351-6324 Email: JHalter@gibsondunn.com

TOTAL NUMBER OF PAGES, INCLUDING COVER LETTER: 17

If you do not receive all the pages transmitted, please contact the facsimile operator immediately at telephone number (212) 351-4050.

Fax Operator: \_\_\_\_\_

The written message is for the exclusive use of the addressee and contains confidential, privileged and non-disclosable information. If the recipient of this message is not the addressee, or a person responsible for delivering the message to the addressee, such recipient is prohibited from reading or using this message in any way. If you have received this message by mistake, please call us immediately and destroy the facsimile message.

SPECIAL INSTRUCTIONS/MESSAGE:

**GIBSON, DUNN & CRUTCHER LLP****LAWYERS**A REGISTERED LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

200 Park Avenue New York, New York 10166-0193

(212) 351-4000

www.gibsondunn.com

JHalter@gibsondunn.com

August 11, 2008

Direct Dial  
(212) 351-3927Fax No.  
(212) 351-6324Client No.  
T 35409-00025VIA EXPRESS DELIVERY AND FACSIMILEShane Kairalla  
National Bankcard Systems of Durango  
2855 Main Avenue  
Suite B-105  
Durango, Colorado 81301  
Phone: (970) 259-8660  
Fax: (413) 431-2720Re: *Gucci America, Inc. et al. v. Laurette Company, Inc., et al., 08 Civ. 5065*  
(LAK) (S.D.N.Y.)

Dear Mr. Kairalla:

Attached as Exhibit A is a preliminary injunction on consent ("Preliminary Injunction") that was signed on June 13, 2008 in the above-captioned lawsuit. This puts you on notice that the Preliminary Injunction directs a freeze of all money held by or for the defendants named in the lawsuit: Laurette Company, Inc.; Jennifer Marie Mattchen a/k/a Jennifer Marie Kirk a/k/a Jennifer Besson, doing business as TheBagAddiction.com; and Patrick B. Kirk, doing business as TheBagAddiction.com (collectively "Defendants"). As evidenced by Exhibit B (see attached), Defendants maintain, or maintained, a merchant services account with National Bankcard Systems of Durango.

As you will see, the Preliminary Injunction specifically provides that "any banks, savings and loan associations, credit card companies, credit card processing agencies, or other financial institutions or agencies that engage in the transfer of real or personal property . . . who receive actual notice of this order by personal service or otherwise, are, without prior approval of the Court, restrained and enjoined from transferring, disposing of, or secreting any money, stocks, bonds, real or personal property, or other assets of Defendants or otherwise paying or

## GIBSON, DUNN &amp; CRUTCHER LLP

Durango  
August 11, 2008  
Page 2

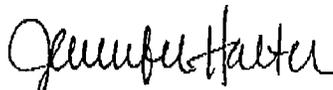
transferring any money, stocks, bonds, real or personal property, or other assets to any of the Defendants.”

The Preliminary Injunction further provides that any banks, savings and loan associations, credit card companies, credit card processing agencies, or other financial institutions “that (a) maintain any money, stocks, bonds, real or personal property, letters of credit, or other assets for or payable to any of the Defendants, who receive actual notice of this order by personal service or otherwise, and (b) have not already fully complied [with] any subpoenas for document production that issued prior to the entry of this Preliminary Injunction on Consent shall provide to Plaintiffs all records in their possession, custody, or control, concerning any and all assets of Defendants or any other entities acting in concert or participation with Defendants . . . and that such records be produced within five (5) business days of receiving actual notice of this Preliminary Injunction on Consent unless such [credit card processing agency] first appl[ies] to this Court for relief from the terms of this paragraph.”

Please make sure that National Bankcard Systems of Durango takes all steps necessary to comply with the Preliminary Injunction and provides confirmation of such compliance, along with all records in its possession required by the Preliminary Injunction, as soon as possible and no later than Monday, August 18, 2008. Of course, if you have any questions, please do not hesitate to call me to discuss this.

Thank you in advance for your attention and anticipated cooperation.

Sincerely,



Jennifer C. Halter

Attachments

# **EXHIBIT A**

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/13/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GUCCI AMERICA, INC. and CHLOÉ SAS,

Plaintiffs,

-against-

LAURETTE COMPANY, INC. and JENNIFER  
MARIE MATTCHEM a/k/a JENNIFER MARIE  
KIRK a/k/a JENNIFER BESSON d/b/a  
THEBAGADDICTION.COM; PATRICK B KIRK  
d/b/a THEBAGADDICTION.COM, ABC  
COMPANIES; and JOHN DOES.

Defendants.

08 Civ. 5065 (LAK)

PRELIMINARY INJUNCTION  
ON CONSENT

FILED
JUN 13 2008
JUDGE KAPLAN'S CHAMBERS

WHEREAS, plaintiffs Gucci America, Inc. ("Gucci") and Chloé SAS ("Chloé") (collectively, "Plaintiffs"), commenced this action by the filing of a complaint on June 2, 2008 (the "Complaint") against Defendants Laurette Company, Inc. and Jennifer Marie Matthen a/k/a Jennifer Marie Kirk a/k/a Jennifer Besson, doing business as TheBagAddiction.com; ABC Companies; Patrick B Kirk and John Does (collectively, "Defendants"), alleging, *inter alia*, that Defendants are manufacturing, importing, exporting, distributing, marketing, advertising, offering for sale, and/or selling goods bearing counterfeit reproductions of Plaintiffs' federally registered trademarks, trade names, and/or logos,

WHEREAS, on June 3, 2008, the Honorable Lewis A. Kaplan of this Court issued a Temporary Restraining Order and Order to Show Cause on June 2, 2008 (the "June 2 Order") setting forth certain specified injunctive relief, providing for expedited discovery, and setting

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 2 of 10

forth a schedule for Plaintiffs' application to convert the Temporary Restraining Order into a preliminary injunction; and

WHEREAS, on June 6, 2008, Plaintiffs filed their First Amended Complaint adding Patrick B. Kirk as a Defendant; and

WHEREAS, for the purposes of this Preliminary Injunction on Consent, "Plaintiffs' Marks" is defined to include all Plaintiffs' trademarks, trade names, logos, and other source-indicating indicia, as set forth in Plaintiffs' Complaint in this action; and

WHEREAS, for the purposes of this Preliminary Injunction on Consent, "Counterfeit Products" is defined to include all goods or services, including but not limited to totes, satchels, top handle bags, shoulder bags, hobos, clutches, evening bags, exotic bags, wristlets, belt bags, watches, passport covers, business card holders, belts, women's wallets, men's wallets, diaper bags, sunglasses, cosmetic pouches, and messenger bags, that: (a) are or were manufactured, exported, imported, distributed, marketed, advertised, offered for sale and/or sold by any of the Defendants or otherwise in connection with the website TheBagAddiction.com; and (b) make or made use of any of Plaintiffs' Marks, and

WHEREAS, Defendants Laurette Company, Inc., Patrick B. Kirk and Jennifer Marie Matchen hereby agree that: (a) Defendants Laurette Company, Inc., Patrick B. Kirk and Jennifer Marie Matchen have been properly served with process in this action; (b) TheBagAddiction.com will not be operational at least as long as this action is pending; (c) Laurette Company, Inc. and Jennifer Marie Matchen will not be involved in any additional sales of the merchandise at issue; and (d) all banks and other Designated Third Parties (as the term is defined below) that maintain accounts, letters of credit, or other assets for or payable to Laurette Company, Inc., Jennifer Marie Matchen and/or Patrick B. Kirk, wherever in the world such

Case 1:08-cv-05065-LAK Document 6 Filed 08/13/2008 Page 3 of 10

Designated Third Parties, accounts, letters of credit, or other assets are located have the express permission of Laurette Company, Inc., Patrick B. Kirk and Jennifer Marie Matthen agree to comply with this Court's orders and discovery powers, including but not limited to the disclosure provisions of the June 2 Order and below; and

WHEREAS, Plaintiffs expressly reserve their rights to pursue appropriate sanctions for violations of this Court's June 2 Order or this Preliminary Injunction on Consent, and

WHEREAS, All signatories to this Preliminary Injunction on Consent warrant that they have the authority to enter into this Stipulation, and

WHEREAS, Plaintiffs and Defendants Laurette Company, Inc., Patrick B. Kirk and Jennifer Matthen (collectively, "the Parties") have consented to the issuance of a preliminary injunction on consent as set forth below:

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Rule 65 of the Federal Rules of Civil Procedure, without any final adjudication on the merits but with the consent of the parties, Defendants, including Laurette Company, Inc., Patrick B. Kirk and Jennifer Marie Matthen a/k/a Jennifer Marie Kirk a/k/a Jennifer Besson, doing business as TheBagAddiction.com, and any ABC Companies and John Doe defendants who receive notice of this Order, are immediately PRELIMINARILY ENJOINED AND RESTRAINED from

- (a) manufacturing, distributing, delivering, shipping, importing, exporting, advertising, marketing, promoting, selling or otherwise offering for sale Counterfeit Products or any other products produced by Plaintiffs or confusingly similar to Plaintiffs' Products, or that otherwise bear, contain, display or utilize any of Plaintiffs' Marks, any derivation or

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 4 of 10

- colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiffs' Marks; and
- (b) making or employing any other commercial use of Plaintiffs' Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiffs' Marks; and
- (c) using any other false designation of origin or false description or representation or any other thing calculated or likely to cause confusion or mistake in the mind of the trade or public or to deceive the trade or public into believing that Defendants' products or activities are in any way sponsored, licensed or authorized by or affiliated or connected with Plaintiffs; and
- (d) doing any other acts or things calculated or likely to cause confusion or mistake in the mind of the public or to lead purchasers or consumers or investors into the belief that the products or services promoted, offered or sponsored by Defendants come from Plaintiffs or their licensees, or are somehow licensed, sponsored, endorsed, or authorized by, or otherwise affiliated or connected with Plaintiffs; and
- (e) diluting and infringing all Plaintiffs' Marks and damaging Plaintiffs' goodwill, and
- (f) otherwise competing unfairly with Plaintiffs or any of their authorized licensees in any manner; and

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 5 of 10

- (g) moving, returning or otherwise disposing of, in any manner, any Counterfeit Products or any other products confusingly similar to Plaintiffs' Products, or that otherwise bear, contain, display or utilize any of Plaintiffs' Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiffs' Marks; and
- (h) secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting or displaying of all unauthorized products which infringe Plaintiff's Trademarks; and
- (i) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs (a) through (h), or effecting any assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs (a) through (h); and
- (j) transferring, disposing of, or secreting any money, stocks, bonds, real or personal property, or other assets of Defendants or otherwise paying or transferring any money, stocks, bonds, real or personal property, or other assets to any of the Defendants, or into or out of any accounts associated with or utilized by any of the Defendants, as set forth

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 6 of 10

further herein, except that Defendants shall not be prohibited from engaging in activities reasonably necessary for the maintenance of their home and personal and business activities unrelated to the activities that are the subject matter of this Action.

2. IT IS FURTHER ORDERED that the hearing set for Thursday, June 12, 2008 at 10:00 a.m. in Courtroom 12D of the United States District Court for the Southern District of New York at 500 Pearl Street is hereby rendered moot.

3. IT IS FURTHER ORDERED that Defendants shall provide to counsel for the Plaintiff's no later than 4:00 p.m. on June 25, 2008:

- (a) an accurate inventory of all Counterfeit Products: (i) remaining in Defendants' possession and control and (ii) known by Defendants to exist in the custody of any third-parties; and
- (b) a complete accounting of all sales of Counterfeit Products, including but not limited to all documentation reasonably necessary for Plaintiff's independently to verify the profits associated with such sales; and
- (c) any and all documents responsive to Plaintiff's First Request to Defendants for Discovery and Inspection of Documents, attached as Exhibit A to the June 2 Order.

4. IT IS FURTHER ORDERED that in accordance with Rule 64 of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a), this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, and the express consent granted herein by Defendants Laurette Company, Inc. and Jennifer Marie Matchen, Defendants and their officers, directors, agents, representatives, successors or assigns, and all

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 7 of 10

persons acting in concert or in participation with any of them, and (a) any banks, savings and loan associations, credit card companies, credit card processing agencies, or other financial institutions or agencies that engage in the transfer of real or personal property; (b) any websites, online search engines, online shopping price comparison services, or any other businesses or publications that advertise for Defendants' website TheBagAddiction.com or sell advertisements to Defendants; and (c) any website hosts, domain name owners, internet protocol supporters, or any other business supporting or hosting Defendants' website TheBagAddiction.com (collectively, "Designated Third Parties"), who receive actual notice of this order by personal service or otherwise, are, without prior approval of the Court, restrained and enjoined from transferring, disposing of, or secreting any money, stocks, bonds, real or personal property, or other assets of Defendants or otherwise paying or transferring any money, stocks, bonds, real or personal property, or other assets to any of the Defendants, or into or out of any accounts associated with or utilized by any of the Defendants. This includes but is not limited to: (i) any and all Woodforest National Bank accounts that are associated with or utilized by any of Defendants, (ii) any and all Wells Fargo Bank accounts that are associated with or utilized by any of Defendants, and (iii) any and all Patelco Credit Union accounts that are associated with or utilized by any of Defendants; (iv) any and all MasterCard, Visa, Discover and/or American Express card payment accounts that are associated with or utilized by any of Defendants; (v) any and all CyberSource Corporation a/k/a Authorize.Net accounts that are associated with or utilized by any of Defendants; and (vi) any and all Volusion, Inc. accounts that are associated with or utilized by any of Defendants; (vii) any and all Google, Inc. accounts that are associated with or utilized by any of Defendants; (viii) any and all NexTag, Inc. accounts that are associated with or utilized by any of Defendants, (ix) any and all Shopzilla, Inc. accounts that are associated

Case 1:08-cv-05065-LAK Document 6 Filed 06/13/2008 Page 8 of 10

with or utilized by any of Defendants; (x) any and all Become, Inc. accounts that are associated with or utilized by any of Defendants; (xi) any and all Kaplan Domain Name Trust accounts that are associated with or utilized by any of Defendants; (xii) any and all Rackspace.com, Ltd. accounts associated with or utilized by any of Defendants. The limitations in this Section 4 shall not bar the Defendants, or any of them, from paying up to a maximum of \$10,000 per month for reasonable and necessary living expenses or for legal representation in connection with this Action. Such payments are to be taken from the Bank of America account with the last four digits 6098.

5. IT IS FURTHER ORDERED that any Designated Third Parties that: (a) maintain any money, stocks, bonds, real or personal property, letters of credit, or other assets for or payable to any of the Defendants, who receive actual notice of this order by personal service or otherwise, and (b) have not already fully complied any subpoenas for document production that issued prior to the entry of this Preliminary Injunction on Consent shall provide to Plaintiffs all records in their possession, custody, or control, concerning any and all assets of Defendants or any other entities acting in concert or participation with Defendants, including but not limited to all Designated Third Parties, accounts and assets fairly described in Paragraph 4 above, and that such records be produced within five (5) business days of receiving actual notice of this Preliminary Injunction on Consent unless such Designated Third Parties first apply to this Court for relief from the terms of this paragraph.

6. IT IS FURTHER ORDERED that Defendants shall provide to any Designated Third Parties that may be located outside the United States or its territories such authorizations or other forms as such Designated Third Parties may request in order to facilitate compliance with this Preliminary Injunction on Consent.

7. IT IS FURTHER ORDERED that no bond is required and the bond issued in connection with the temporary restraining order shall be discharged

8. IT IS FURTHER ORDERED that the Defendants' stipulation to entry of this injunction is not to be deemed as an admission of any fact, or of the possession of any relevant or incriminating information, and is without prejudice to their right to assert their Fifth Amendment right against self-incrimination, attorney-client privilege, attorney work product protection, spousal privilege, and trade secret and privacy rights for themselves and for third parties whose information is in their possession, custody, or control and production of which is sought by this injunction

Dated: June 11, 2008

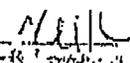
GIBSON, BLOOM & CRUTCHER LLP  


By: Robert L. Weigel  
200 Park Avenue, 47th Floor  
New York, New York 10166-0193  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035

Attorneys for Plaintiffs *Quest America, Inc.* and  
*Club SIS*

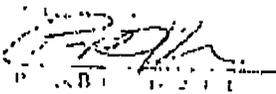
Formatted

Dated: June 11, 2008

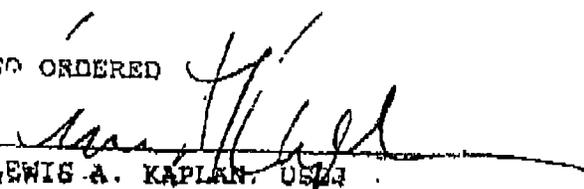
By:   
[Faint typed text]

[Faint typed text]

[Faint typed text]



10

SO ORDERED  
  
LEWIS A. KAPLAN, USDC

6/13/08 11:23 am

# **EXHIBIT B**



# Durango Merchant Services Agreement

FORM #3

"Service you can depend on and people you can trust"

2855 N. Main Ave Suite B105  
Durango, CO 81301

Phone (970) 259-8660  
Toll Free (877) 367-2006  
Fax (413) 431-

2720

To: TheBagAddiction.com  
Pat Kirk

Date: 9/20/06

Paid by (circle one) Cash  Check Draft (below) Other

REPRESENTATIVE NAME: Nathan Counley

QUANTITY	DESCRIPTION	AMOUNT
	APPLICATION FEE <input type="checkbox"/>	n/a
	TRANZ 330 TERMINAL by VERIFONE <input type="checkbox"/>	n/a
	VERIFONE PRINTER 250 <input type="checkbox"/>	n/a
	TRANZ 460 <input type="checkbox"/>	n/a
1	NURIT 2085--No Shipping Charges <input type="checkbox"/>	n/a
	ACCOUNT SET UP including Authorize.net setup X	\$285.00
	MANUAL IMPRINTER <input type="checkbox"/>	n/a
	GATEWAY SETUP <input type="checkbox"/>	n/a
	<input type="checkbox"/>	n/a
	<input type="checkbox"/>	
	<input type="checkbox"/>	

BANK (DEPOSITORY) Bank of America

ROUTING#: \_\_\_\_\_

ACCOUNT#: \_\_\_\_\_

Account Type: Savings  Checking

Check #: 101

ACCOUNT TITLED Pat Kirk

SUB TOTAL

TAX

TOTAL

DEPOSIT

BALANCE

\$285.00

n/a

\$285.00

n/a

\$285.00

DUE

Terms - Please note that Durango Merchant Services LLC is an Internet Merchant Account broker service and we are not responsible for any issues that arise with any provider. This is the sole responsibility of the Provider and all final agreements signed are between the client and the provider of the account, By signing this agreement, you authorize Durango Merchant Services to debit your checking account for the amount due.

# Durango Merchant Services Agreement

FORM #3

Print Name: Pat Kirk

Title: Owner

Date: 9/20/06

Signature: \_\_\_\_\_

# **Exhibit 75**



# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
GUCCI AMERICA, INC.	:
	:
Plaintiff,	:
	:
-against-	:
	:
FRONTLINE PROCESSING CORPORATION;	:
WOODFOREST NATIONAL BANK; DURANGO	:
MERCHANT SERVICES LLC d/b/a NATIONAL	:
BANKCARD SYSTEMS OF DURANGO; ABC	:
COMPANIES; and JOHN DOES,	:
	:
Defendants.	:
-----X	

09 Civ. 6925 (HB)

**PLAINTIFF’S RESPONSES AND OBJECTIONS TO DEFENDANT  
WOODFOREST NATIONAL BANK’S FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Rule 33.3 of the Local Rules for the United States District Court for the Southern District of New York, Plaintiff Gucci America, Inc. (“Plaintiff” or “Gucci”) responds and objects to Defendant Woodforest National Bank’s (“Woodforest”) First Set of Interrogatories, dated January 11, 2010, as set forth below.

**GENERAL RESPONSES AND OBJECTIONS**

1. Plaintiff’s responses to Woodforest’s First Set of Interrogatories (the “Interrogatories”) are based on the documents, facts, and contentions presently known and available to it. Plaintiff has not completed its investigation of the facts relating to this case, has not completed discovery in this action, and has not completed preparation for trial in this matter. Further investigation, research, and analysis may disclose the existence of additional documents, facts or contentions, add meaning to known documents, facts or contentions, or possibly lead to

**SPECIFIC RESPONSES AND OBJECTIONS**

**INTERROGATORY NO. 1:**

Provide a calculation of all statutory damages under 15 U.S.C. § 1117(c) sought by Gucci from WNB, including a listing of each counterfeit mark and each type of goods or services sold, as used for the calculation.

**ANSWER TO INTERROGATORY NO. 1:**

Subject to its continuing and ongoing investigation, Plaintiff responds by identifying the six trademarks listed in Paragraph 25 of the Complaint, the registration certificates for which are attached as Exhibit 1 to the Complaint. Plaintiff further identifies the following two additional trademarks:

Mark	Reg./Serial No.	Date of Registration
GUCCI 	3,061,918	02/28/2006
INTERLOCKING FACING GG DESIGN 	1,158,170 1,300,373 1,464,522 3,376,129	06/23/1981 10/16/1984 11/10/1987 01/29/2008

Plaintiff will be able to provide a more accurate computation of damages at the completion of discovery concerning the extent of Defendants' infringement, including any additional counterfeiters whose sales Woodforest knowingly facilitated. Subject to its continuing and ongoing investigation, Plaintiff provides the following calculation of statutory damages under 15 U.S.C. § 1117(c), which is limited to the infringing items offered for sale on the website, [www.TheBagAddiction.com](http://www.TheBagAddiction.com) ("TheBagAddiction.com") and uses the statutory maximums in place prior to the October 13, 2008 amendments to the Lanham Act, which increased the maximum statutory damages amount to \$200,000 per counterfeit mark per type of

good under 15 U.S.C. § 1117(c)(1) and \$2,000,000 per counterfeit mark per type of good under 15 U.S.C. § 1117(c)(2):

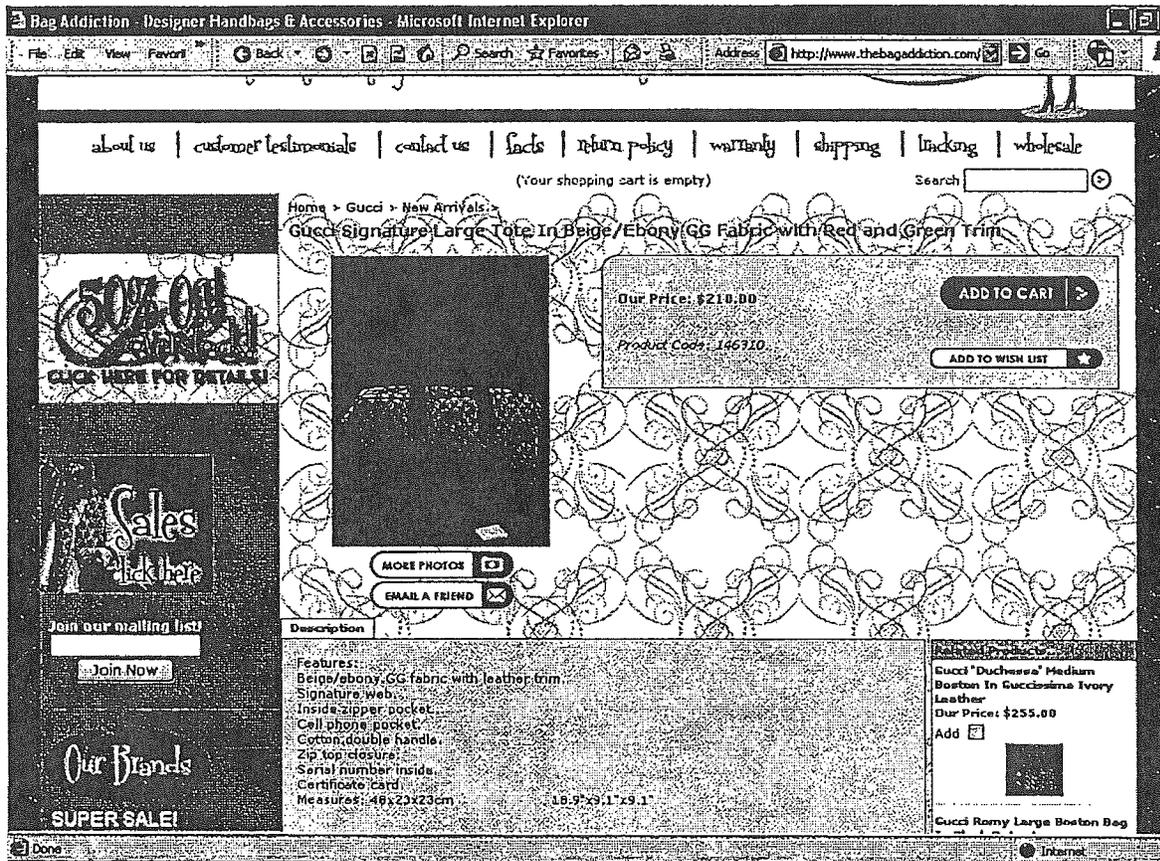
Statutory Damages Amount	Number of Marks Infringed	Number of Types of Goods	TOTAL DAMAGES
\$1,000,000	8	20	\$160,000,000
\$100,000	8	20	\$16,000,000

Types of goods: (1) totes; (2) satchels; (3) top handle bags; (4) shoulder bags; (5) hobos; (6) clutches; (7) evening bags; (8) exotic bags; (9) wristlets; (10) belt bags; (11) watches; (12) passport covers; (13) business card holders; (14) belts; (15) women's wallets; (16) men's wallets; (17) diaper bags; (18) sunglasses; (19) cosmetic pouches; and (20) messenger bags.

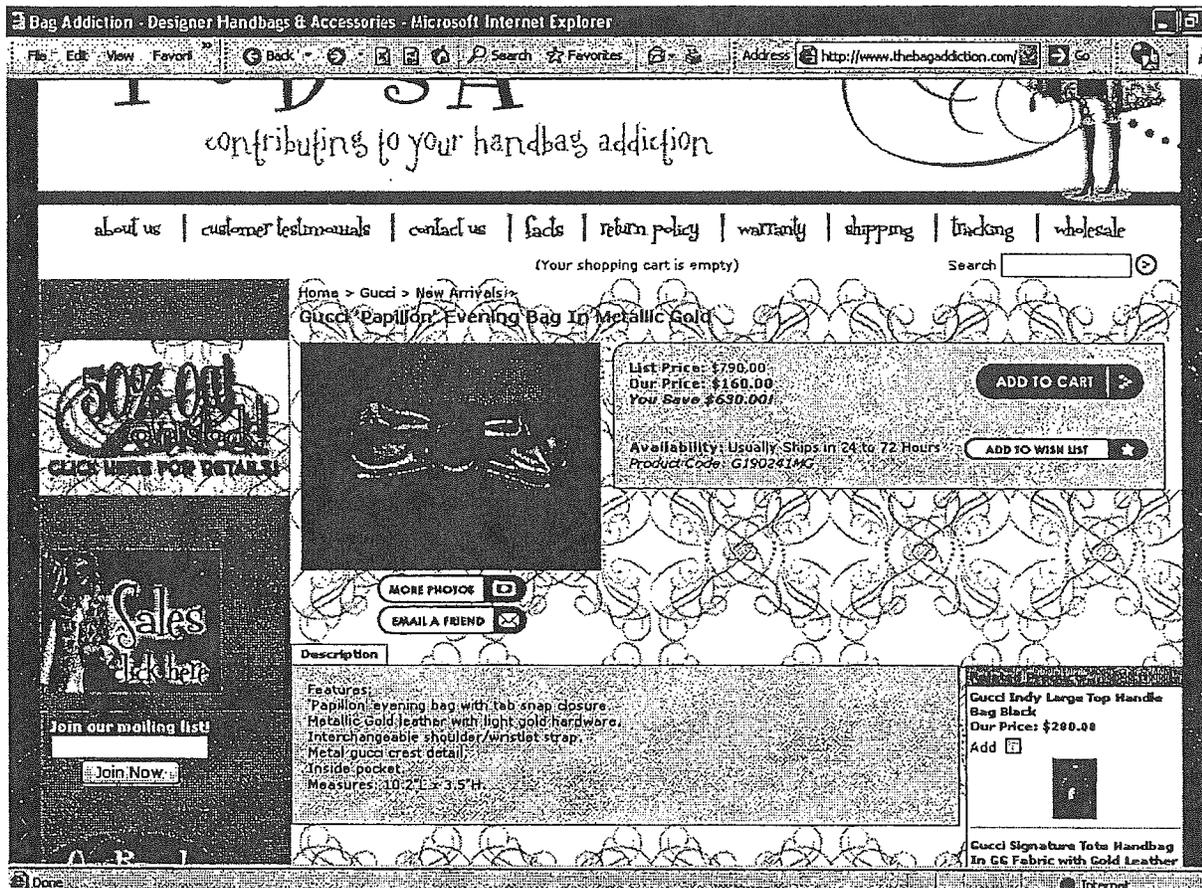
Although the damages listed above are calculated under the statutory damages provided by the earlier version of 15 U.S.C. 1117(c), the increased statutory damages would apply to any infringement in which Woodforest participated on or after October 13, 2008.

Plaintiff further responds by referring Woodforest to the Declaration of Michael F. Falsone (the "Falsone Declaration"), filed in the Laurette Litigation. In particular, Plaintiff refers Woodforest to Paragraphs 11-30 of the Falsone Declaration, which set forth screen shots from TheBagAddiction.com offering for sale each of the twenty types of goods referenced above and displaying counterfeit versions of various Gucci trademarks.

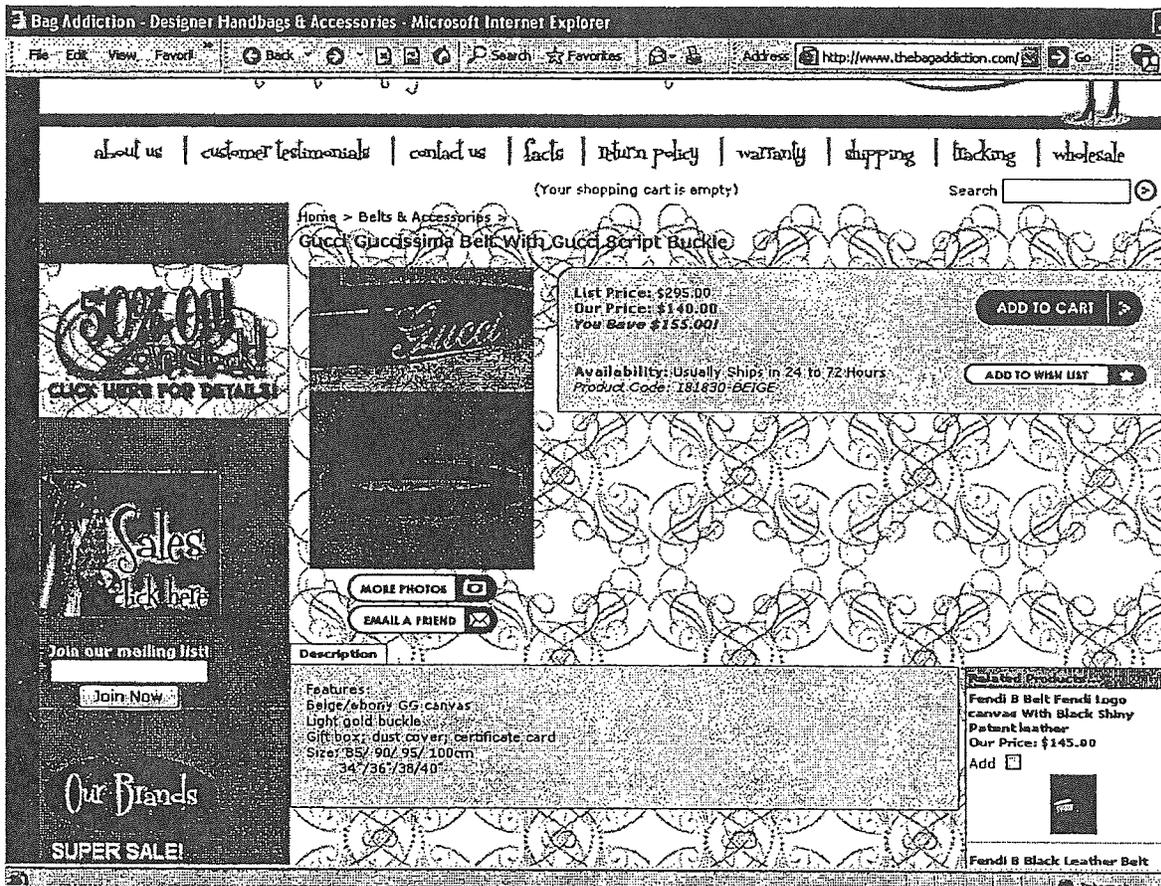
For example, set forth below is the screen shot that appears at Paragraph 11 of the Falsone Declaration, which shows a "Gucci" tote being offered for sale on TheBagAddiction.com that displays counterfeit versions of at least the following Gucci trademarks: (1) GUCCI trademark name (U.S. Reg. No. 876,292); (2) non-interlocking GG monogram (U.S. Reg. Nos. 1,107,311; 3,378,755); (3) green-red-green strip (U.S. Reg. No. 1,122,780); and (4) repeating GG design (U.S. Reg. No. 3,072,549).



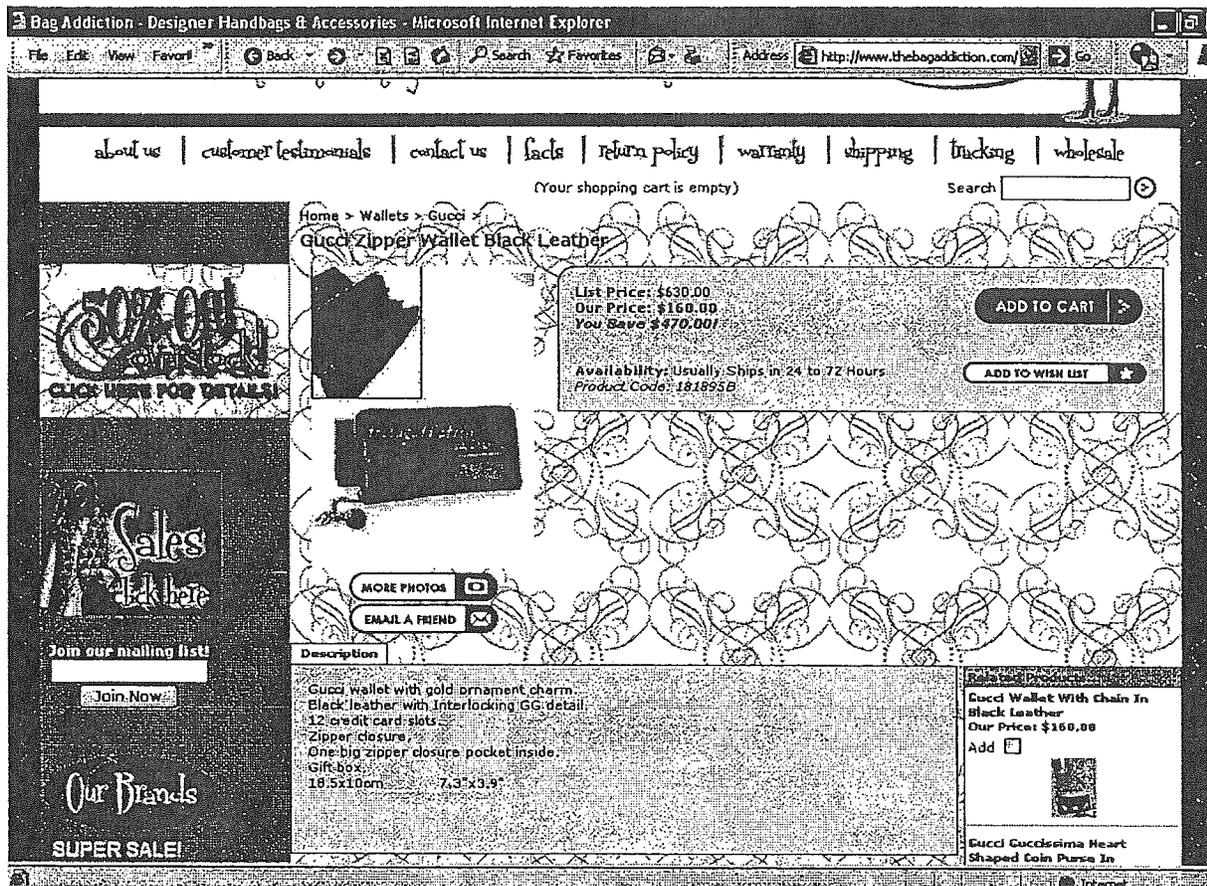
Similarly, set forth below is the screen shot that appears at Paragraph 17 of the Falsone Declaration, which shows a “Gucci” evening bag being offered for sale on TheBagAddiction.com that displays counterfeit versions of at least the following Gucci trademarks: (1) GUCCI trademark name (U.S. Reg. No. 876,292); and (2) Gucci crest (U.S. Reg. No. 1,097, 483).



Likewise, set forth below is the screen shot that appears at Paragraph 24 of the Falsone Declaration, which shows a “Gucci” belt being offered for sale on TheBagAddiction.com that displays counterfeit versions of at least the following Gucci trademarks: (1) non-interlocking GG monogram (U.S. Reg. Nos. 1,106,722; 3,378,755); (2) repeating GG design (U.S. Reg. No. 3,072,549); and 3) GUCCI in stylized form (U.S. Reg. No. 3,061,918).



Additionally, set forth below is the screen shot that appears at Paragraph 25 of the Falsone Declaration, which shows a “Gucci” wallet being offered for sale on TheBagAddiction.com that displays counterfeit versions of at least the following Gucci trademarks: (1) non-interlocking GG monogram (U.S. Reg. Nos. 1,107,311; 3,378,755); (2) repeating GG design (U.S. Reg. No. 3,072,549); and (3) interlocking facing GG design (U.S. Reg. No. 3,376,129).



**INTERROGATORY NO. 2:**

Identify all persons having knowledge or information relevant to the actual steps taken by WNB in processing of credit card payments for sales by Laurette companies.

**ANSWER TO INTERROGATORY NO. 2:**

Plaintiff objects to this Interrogatory's request to identify "all persons" because it improperly seeks to require Plaintiff to marshal its evidence. Further, Plaintiff objects to this Interrogatory on the ground that it asks Plaintiff to identify persons "having knowledge or information" relevant to Woodforest's business practices, which is information that is more readily available from Woodforest than Plaintiff.

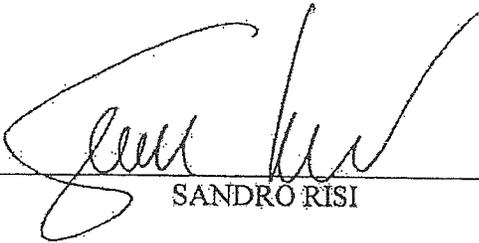
Subject to and without waiving the foregoing objections, Plaintiff states that it can identify the following individuals as having knowledge or information regarding Woodforest's

VERIFICATION

Sandro Risi, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury:

I am the Chief Financial Officer and Vice President of Gucci America, Inc. and make this declaration as an agent of Plaintiff Gucci America, Inc. I have reviewed the answers to the interrogatories set out in the foregoing Plaintiff's Responses and Objections to Defendant Woodforest National Bank's First Set of Interrogatories. They are true and correct to the best of my knowledge.

Dated:           New York, New York  
                  February 19, 2010

  
\_\_\_\_\_  
SANDRO RISI