

1 UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,)
4) No.: CV 15-00394
5 Plaintiff,)
6 v.) **CONSENT DECREE FOR**
7) **PERMANENT INJUNCTION AND**
8 PLAZA BANK,) **CIVIL PENALTY**
9 Defendant.)
10)

11
12 **WHEREAS**, plaintiff United States of America (the “United States”)
13 commenced this action against defendant Plaza Bank (“Plaza,” “Bank,” or
14 “Defendant”) by filing a civil Complaint seeking a civil money penalty pursuant
15 to the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C.
16 § 1833a (“FIRREA”) and an injunction pursuant to 18 U.S.C. § 1345 and the
17 court’s equitable powers;

18 **WHEREAS**, Defendant waives service of the Complaint;

19 **WHEREAS**, the United States and Defendant stipulate to the Court’s
20 entry of this Consent Decree for Permanent Injunction and Civil Penalty
21 (“Consent Decree”) to resolve the claims in the Complaint.

22 **NOW, THEREFORE**, the parties hereby **AGREE** and it is **ORDERED**
23 as follows:

24 **I. FINDINGS**

25 A. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331
26 (federal question) and 28 U.S.C. § 1345 (United States as plaintiff). Venue is
27 proper in the Central District of California pursuant to 28 U.S.C. § 1391(b)
28 because Defendant operates and maintains management offices and operations

1 centers in this district, and a substantial part of the events or omissions giving rise
2 to the claims alleged in the Complaint occurred in this district.

3 B. The United States alleges in the Complaint violations of FIRREA, 12
4 U.S.C. § 1833a and 18 U.S.C. § 1345.

5 C. This Consent Decree is neither an admission of liability by
6 Defendant, nor a concession by the United States that its claims are not well
7 founded. Only for purposes of this action, Defendant admits that the Court has
8 jurisdiction as to Defendant and as to this action.

9 D. Defendant knowingly and voluntarily waives any claim that it may
10 have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the
11 prosecution of this action through the date of this Consent Decree, and agrees to
12 bear its own costs and attorneys' fees. Should the United States bring, and
13 prevail in, a contempt action to enforce the terms of this Consent Decree,
14 Defendant shall, in addition to other remedies, reimburse the United States for
15 its attorneys' fees, investigational expenses, expert witness fees, travel expenses
16 incurred by attorneys and witnesses, administrative and court costs, and any
17 other costs or fees, including overhead, related to such contempt proceedings.

18 E. Defendant waives all rights to appeal or otherwise challenge or
19 contest the validity of this Consent Decree.

20 II. DEFINITIONS

21 For purposes of this Consent Decree, the following definitions apply:

22 A. "Automated Clearinghouse" or "ACH" means a facility that processes
23 debit and credit transfers under rules established by a Federal Reserve Bank
24 operating circular on automated clearinghouse items or under rules of an
25 automated clearinghouse association, such as NACHA, as further defined in and
26 governed by Regulation CC, as amended, 12 C.F.R. Part 229.

27 B. "Internet-based Business" means any entity that markets, offers, or
28 provides products or services, and that accepts authorizations for transactions from

1 consumers, exclusively via the Internet.

2 C. "Merchant" means any entity that markets, offers, or provides
3 products or services, and that accepts authorizations for financial transactions from
4 consumers.

5 D. "Originating Depository Financial Institution" or "ODFI" means a
6 depository financial institution that has made an arrangement with another entity to
7 transmit ACH, RCC, or RCPO entries into a payment system on behalf of that
8 entity or another entity, or transmits such entries into a payment system on its own
9 behalf.

10 E. "Remotely-created Check" or "RCC" means a check that is not
11 created by the paying bank and that does not bear a signature applied, or purported
12 to be applied, by the person on whose financial account the check is drawn, as
13 further defined in and governed by Regulation CC, as amended, 12 C.F.R. Part
14 229. A Remotely-created Check is often also referred to as a "demand draft,"
15 "bank draft," "bank check," or "preauthorized draft." For purposes of this
16 definition, an RCC originates as a paper-based transaction, and can be processed
17 subsequently through electronic means (such as through check imaging or
18 scanning), or through non-electronic means.

19 F. "Remotely-created Payment Order" or "RCPO" means a payment
20 instruction or order drawn on a person's financial account that is initiated or
21 created by the payee and that does not bear a signature applied, or purported to be
22 applied, by the person on whose financial account the order is drawn, and which is
23 deposited into or cleared through the check clearing system. For purposes of this
24 definition, unlike a Remotely-created Check, a Remotely-created Payment Order
25 does not originate as a paper-based transaction. A RCPO is created when a seller,
26 Merchant, payment processor, or other entity enters financial account and routing
27 numbers into an electronic check template that is converted into an electronic file
28 for deposit into the check clearing system.

1 G. "Return Rate Threshold" means, for any Merchant with more than 50
2 debit transactions in a calendar month, a debit return ratio during that calendar
3 month of:

- 4 1. one-half of one percent (0.5%) for Unauthorized returns
5 (NACHA Reason Codes R05, R07, R10, R29, R37, and R51);
- 6 2. three percent (3%) for Account Data Quality returns (NACHA
7 Return Reason Codes R03, R04, or R20); or
- 8 3. fifteen percent (15%) for returns for any reason (excluding
9 RCK entries).

10 H. "Telemarketing" means a plan, program, or campaign which is
11 conducted to induce the purchase of goods or services or a charitable contribution
12 by use of one or more outbound telephone calls, whether or not covered by the
13 Federal Trade Commission Telemarketing Sales Rule, 16 C.F.R. Part 310.

14 I. "Third-party Payment Processor" means: (a) a non-financial
15 institution entity or person that is a customer or vendor of a financial institution
16 and that holds a deposit account at that financial institution directly or on behalf of
17 its Merchant clients (except entities and persons that have an express agency
18 agreement with a financial institution); (b) that provides, directly or indirectly, the
19 means used to debit accounts through credit cards, the ACH network, or the check
20 payment system, through that financial institution acting as the ODFI; and (c) that
21 is, in whole or in part, in the business of (i) providing the means to transmit money
22 from a financial institution to any Merchant; (ii) providing the means to transmit
23 transaction data from Merchants to financial institutions; (iii) transmitting,
24 clearing, settling, or distributing proceeds of transactions from financial institutions
25 to Merchants; or (iv) processing returned transactions for Merchants. Provided,
26 however, that "Third-party Payment Processor" shall not include entities whose
27 primary business is: (1) providing management services for homeowners'
28 associations; (2) providing payroll services; (3) providing medical billing services;

1 or (4) providing real estate or property management services.

2 **III. PROHIBITED CONDUCT**

3 **IT IS ORDERED** that the Bank, its officers, agents, employees, contractors,
4 and attorneys, and all other persons in active concert or participation with any of
5 them who receive actual notice of this Consent Decree, whether acting directly or
6 indirectly, are, in connection with any activities conducted by or through the Bank,
7 **PERMANENTLY RESTRAINED** and **ENJOINED** from:

8 A. Providing bank accounts or banking services to any Third-party
9 Payment Processor, except where the Bank certifies to the United States before the
10 start of banking activity, and quarterly thereafter, in accordance with Section IV.C,
11 that the Third-party Payment Processor is: (i) licensed as a money transmitter in
12 the state(s) into and from which money is transferred, or has provided to the Bank
13 documentation created by state licensing authorities stating that no state licensing
14 is required; and (ii) registered with the Financial Crimes Enforcement Network of
15 the U.S. Department of the Treasury (“FinCEN”) as a “Money Services Business,”
16 or has provided to the Bank documentation from FinCEN stating that no
17 registration is required.

18 B. Failing to establish, maintain, implement, enforce, or monitor
19 compliance with policies, procedures, and controls requiring all Bank directors,
20 officers, or agents to disclose to the Bank’s Board of Directors in writing any
21 conflicts of interests with any Third-party Payment Processor or employee thereof
22 for which the Bank directly or indirectly provides banking services or a bank
23 account.

24 C. Delegating to a Third-party Payment Processor responsibility to
25 conduct due diligence (including but not limited to Customer Identification
26 Program requirements under 31 C.F.R. § 1020 et seq.) and monitoring of the
27 Third-party Payment Processor’s Merchants, or conducting due diligence and
28 monitoring in any respect differently than would be required if the Merchants were

1 direct customers of the Bank.

2 D. Providing banking accounts, banking services, ACH or credit card
3 services, access, or processing, to any Merchant through a Third-party Payment
4 Processor, except where the Bank, in advance of providing bank accounts or
5 banking services and quarterly thereafter, has:

- 6 1. completed all due diligence and underwriting of the Merchant
7 as would be required of the Bank if the Merchant was a direct
8 customer of the Bank;
- 9 2. established, after reasonable inquiry, in good faith, and to the
10 best of the Bank's ability and knowledge, that the Merchant is
11 not engaged in fraudulent, unfair, deceptive, or abusive
12 business practices against consumers in violation of federal law
13 or any such law of the state(s) (or tribal territory) in which the
14 Merchant is located, and any such law of the state(s) (or tribal
15 territories) in which the Merchant's consumers are located;
- 16 3. established, after reasonable inquiry, in good faith, and to the
17 best of the Bank's ability and knowledge, that the Merchant is
18 in compliance with: (a) all licensing, registration, and other
19 legal standards and requirements of the state(s) in which the
20 Merchant is located (or if the Bank has independently
21 established that the Merchant is a tribal business, exclusively
22 owned, operated by, and benefitting a federally-recognized
23 sovereign Native American nation, the laws of that Native
24 American nation); (b) all licensing, registration and other legal
25 standards and requirements of the states (or tribal territories) in
26 which each of the Merchant's consumers reside; and (c) the
27 rules of NACHA, the Electronic Payments Association; and
28

1 4. memorialized in writing the conclusions of the activities in
2 subparagraphs 1 through 3, and notified the United States that
3 such information is available to the United States for
4 inspection.

5 E. Providing banking accounts, banking services, ACH or credit card
6 services, access, or processing to any Third-party Payment Processor that
7 processes payments for any Merchant that has surpassed the Return Rate Threshold
8 for any one month period; unless, within 45 days after the Merchant has surpassed
9 the Return Rate Threshold, the Bank certifies to the United States (in accordance
10 with Section IV.C, below) that the Bank has:

- 11 1. completed all due diligence and underwriting of the Merchant
12 as would be required of the Bank if the Merchant was a direct
13 customer of the Bank;
- 14 2. established, after reasonable inquiry, in good faith, and to the
15 best of the Bank's ability and knowledge, that the Merchant is
16 not engaged in fraudulent, unfair, deceptive, or abusive
17 business practices against consumers in violation of federal law
18 or any such law of the state(s) (or tribal territory) in which the
19 Merchant is located, and any such law of the state(s) (or tribal
20 territories) in which the Merchant's consumers are located;
- 21 3. sampled consumers by: (a) individually or jointly with the
22 Merchant, directly communicating by telephone with no fewer
23 than twenty-five consumers of the Merchant selected by the
24 Bank who purportedly purchased the Merchant's goods or
25 services within the previous three months, and inquired of the
26 consumers whether the consumers knowingly authorized debits
27 by the Merchant and whether the consumers believe they were
28 the victim of fraud or abusive practices by the Merchant; and

1 provided the Merchant's name and address, and the 25 or more
2 consumers' names and telephone numbers, to the United States;
3 or (b) another method of consumer sampling agreed upon in
4 writing by the Bank and the United States;

5 4. memorialized in writing the conclusions of the research and due
6 diligence required under this paragraph; and

7 5. notified the Bank's Board of Directors of the Merchant's
8 identity, due diligence results, total and unauthorized return rate
9 history, and results of consumer sampling.

10 If the Bank establishes that the Merchant has been engaged in fraudulent,
11 unfair, deceptive, or abusive conduct against consumers, or elects not to conduct
12 the activities in subparagraphs 1 through 5 and instead to discontinue providing
13 bank accounts or banking services to such Merchant, the Bank shall, within three
14 business days, cease all debiting of consumers' bank accounts, and shall terminate
15 all banking services to such Merchant of the Third-party Payment Processor no
16 later than 45 days after the Merchant of the Third-party Payment Processor has
17 surpassed the Return Rate Threshold, except that nothing in this Consent Decree
18 shall prevent the Bank from holding funds from such Merchant, for up to 12
19 months, to be used to cover returned items by consumers who conducted
20 transactions with such Merchant.

21 F. As an ODFI, accepting from a Third-party Payment Processor,
22 directly or indirectly through its customer, any RCCs or RCPOs in connection with
23 Telemarketing or Internet-based Businesses.

24 G. Processing payments or providing banking services to any Third-party
25 Payment Processor that the Bank suspects or should reasonably suspect is engaged
26 in any fraudulent, abusive, misleading, or deceptive practices involving consumers.

27 **IV. CERTIFICATION REQUIREMENTS**

28 A. As long as the Bank is not providing bank accounts or banking

1 services to any Third-party Payment Processor, the Bank shall certify to these
2 facts, on an annual basis, in the form of the “Absence of Third-party Payment
3 Processor Certification” attached hereto as Exhibit A.

4 B. If the Bank begins to provide bank accounts or banking services to
5 any Third-party Payment Processor, then within 60 days following the date on
6 which the Bank first provides such accounts or services, and continuing at month-
7 end every six months thereafter, the Bank shall certify that it is in compliance with
8 this Consent Decree. The certification shall be in the form of the “Consent Decree
9 Compliance Certification” attached hereto as Exhibit B.

10 C. All certifications required under this Consent Decree shall be in
11 writing, executed by a Bank official with authority to bind the Bank, and executed
12 in accordance with 28 U.S.C. § 1746. All certifications required under this
13 Consent Decree shall be delivered to the United States within fifteen days of the
14 certification in the manner specified in Section XV below.

15 D. Five years after the Court’s entry of this Consent Decree, the Bank
16 shall not be required to certify compliance with this Consent Decree.

17 E. After ten years from the date on which the Bank stopped processing
18 transactions for any Third-party Payment Processor (but in no case earlier than
19 June 1, 2020), this Consent Decree shall automatically terminate, provided that
20 during this time period the Bank has not provided bank accounts or banking
21 services to any Third-party Payment Processor, except as provided in Section XIV
22 of this Consent Decree.

23 V. **CIVIL MONEY PENALTY**

24 **IT IS FURTHER ORDERED** that:

25 A. The Clerk is hereby ordered to enter judgment in the amount of One
26 Million Dollars (\$1,000,000) (the “Penalty Amount”) in favor of the United
27 States and against Defendant as a civil money penalty.

28 B. The Bank shall pay the Penalty Amount to the United States by

1 payment to the United States Treasury within seven days of the Court's entry of
2 this Consent Decree by electronic funds transfer in accordance with instructions to
3 be provided by a representative of the United States.

4 **VI. PAYMENT IN LIEU OF ADMINISTRATIVE FORFEITURE**

5 **IT IS FURTHER ORDERED** that:

6 A. The Bank shall pay Two Hundred Twenty-Five Thousand Dollars
7 (\$225,000) (the "Forfeiture Amount") to the United States Postal Inspection
8 Service's Consumer Fraud Fund as proceeds of the conduct described in the
9 Complaint. Such payment must be made within seven days of the Court's entry of
10 this Consent Decree by electronic funds transfer in accordance with instructions to
11 be provided by a representative of the United States. Such funds shall be moneys
12 in which the Bank possesses exclusive ownership interest.

13 B. The Bank relinquishes all right, title, and interest in the funds
14 described in Section VI.A, above. The Bank agrees and states that the funds
15 described in Section VI.A, above, are forfeitable under 18 U.S.C. § 981(a)(1)(C)
16 without need for further proceedings in support of such payment or forfeiture.

17 **VII. ADDITIONAL MONETARY PROVISIONS**

18 **IT IS FURTHER ORDERED** that:

19 A. The Bank relinquishes dominion and all legal and equitable right, title,
20 and interest in all assets transferred pursuant to this Consent Decree and may not
21 seek the return of any assets.

22 B. In the event that the Bank defaults on the Civil Money Penalty
23 provision of Section V, or the Payment in Lieu of Administrative Forfeiture
24 provision of Section VI, the facts alleged in the Complaint will be taken as true in
25 any subsequent civil litigation by or on behalf of the United States to enforce its
26 right to any payment or forfeiture.

27 C. The Bank acknowledges that its Taxpayer Identification Number,
28 which the Bank shall submit to the United States, may be used to collect and report

1 on any delinquent amount arising out of this Consent Decree, in accordance with
2 31 U.S.C. § 7701.

3 **VIII. COOPERATION IN FURTHER INVESTIGATIONS**

4 **IT IS FURTHER ORDERED** that, for a period ending five years after the
5 date of the Court's entry of the Consent Decree, the Bank shall cooperate fully and
6 truthfully with the United States in any civil, criminal, and/or administrative
7 investigations that involve the Bank's former officers, directors, and employees,
8 the Bank's former Third-party Payment Processor, and the Bank's former Third-
9 party Payment Processor's Merchants. Upon reasonable notice, the Bank shall
10 encourage and not impair the cooperation of its directors, officers, and employees,
11 and shall not impair the cooperation of former directors, officers, and employees,
12 for interviews and testimony, consistent with the rights and privileges of such
13 individuals.

14 The Bank's cooperation requires that it incur only reasonable costs or burden
15 associated with its cooperation, and shall include: (1) promptly providing to the
16 United States upon request, without formal legal process (subject to any
17 restrictions imposed by applicable law), all non-privileged documents, reports,
18 memoranda of interviews, and records in its possession, custody, or control,
19 concerning any matter under investigation by the United States, and (2) for a
20 period of time ending three years after the Court's entry of the Consent Decree,
21 providing the Bank's officers, directors, and employees to be interviewed by the
22 United States in Washington, D.C., or another mutually agreed upon location,
23 without waiver of the employees' individual rights or privileges.

24 **IX. SCOPE OF RESOLUTION**

25 **IT IS FURTHER ORDERED** that this Consent Decree resolves and
26 releases only the United States' civil claims against the Bank under FIRREA, 12
27 U.S.C. § 1833a, and 18 U.S.C. § 1345, in connection with the conduct alleged in
28 the Complaint.

1 The Consent Decree does not release, or in any manner affect, other actual
2 or potential claims of the United States, including the following, which are
3 specifically reserved: (1) any criminal liability against the Bank, its officers,
4 directors, or employees, or any other individual or corporate entity; (2) any civil
5 liability against any of the Bank's current or former officers, directors, or
6 employees, or any other individual or corporate entity not named as a defendant in
7 the Complaint; (3) any liability arising under Title 26, U.S. Code (Internal Revenue
8 Code); (4) any administrative liability, including the suspension and debarment
9 rights of any federal agency; and (5) any liability to the United States (or its
10 agencies) whatsoever for any conduct other than civil claims against the Bank
11 under FIRREA, 12 U.S.C. § 1833a and 18 U.S.C. § 1345.

12 Nothing in this section or any other provision of this Consent Decree
13 constitutes an agreement by the United States concerning the characterization of
14 the civil money penalty for purposes of the Internal Revenue laws, Title 26 of the
15 United States Code.

16 The injunctive provisions of this Consent Decree are intended to
17 supplement, and not supersede, due diligence and other legal requirements
18 imposed by state and federal law.

19 **X. CONSENT DECREE ACKNOWLEDGMENTS**

20 **IT IS FURTHER ORDERED** that the Bank obtain acknowledgments of
21 receipt of this Consent Decree:

22 A. The Bank, within seven days of the Court's entry of this Consent
23 Decree, must submit to the United States an acknowledgment of receipt of this
24 Consent Decree.

25 B. The Bank, within fourteen days of the Court's entry of this Consent
26 Decree, must deliver a copy of this Consent Decree to each Bank executive officer,
27 director, and and/or senior manager.

28 C. If the Bank begins to provide bank accounts or banking services to

1 any Third-party Payment Processor, then for five years after the Court's entry of
2 this Consent Decree, the Bank must deliver a copy of this Consent Decree to: (1)
3 each executive officer, director, and/or manager who has not otherwise received a
4 copy of this Consent Decree; (2) each employee, agent, and representative who
5 reviews or approves agreements and applications of Third-party Payment
6 Processors with which the Bank transacts business, or the Merchants with which
7 the Third-party Payment Processor does business; and (3) any business entity
8 resulting from any change in structure as set forth in Section XII -- Compliance
9 Reporting. Delivery must occur within fourteen days of the time they assume their
10 responsibilities covered by Section X.C.

11 D. From each individual or entity to which the Bank delivers a copy of
12 this Consent Decree, the Bank must obtain within 30 days a signed and dated
13 acknowledgment of receipt of this Consent Decree.

14 **XI. COMPLIANCE MONITORING**

15 **IT IS FURTHER ORDERED** that, for the purpose of monitoring the
16 Bank's compliance with this Consent Decree, the Bank must, within 30 days of
17 receipt of request from a representative of the United States Department of Justice:
18 (a) submit additional compliance reports or other requested information; (b) appear
19 for depositions; and (c) produce documents for inspection. Nothing in this section
20 shall preclude the Bank from redacting from such documents any materials it
21 reasonably believes is protected by the attorney work-product doctrine, attorney-
22 client privilege, or other applicable privilege.

23 **XII. COMPLIANCE REPORTING**

24 **IT IS FURTHER ORDERED** that the Bank make timely submissions to
25 the United States:

26 A. One year after the Court's entry of this Consent Decree, the Bank
27 must submit to the United States a compliance report in which it: (a) designates the
28 primary physical, postal, and email address and telephone number, as designated

1 points of contact, which representatives of the United States may use to
2 communicate with the Bank; (b) provides a copy of the Absence of Third-party
3 Payment Processor Certification or describes in detail whether and how the Bank is
4 in compliance with each Section of this Consent Decree; and (c) provides a copy of
5 each Consent Decree Acknowledgment described in Section X of this Consent
6 Decree, unless previously submitted to the United States.

7 B. For five years after the Court's entry of this Consent Decree, the Bank
8 must submit a compliance notice within 30 days after any change in the following:
9 (a) any designated point of contact; and (b) the structure of the Bank or any entity
10 that the Bank has any ownership interest in or that it controls directly or indirectly
11 that may affect compliance obligations arising under this Consent Decree,
12 including: creation, merger, sale, or dissolution of the entity or any subsidiary or
13 parent that engages in any acts or practices subject to this Consent Decree.

14 C. The Bank must submit to the United States notice of the filing of any
15 bankruptcy petition, insolvency proceeding, or any similar proceeding by or
16 against such the Bank within 30 days of its filing.

17 **XIII. RECORDKEEPING**

18 **IT IS FURTHER ORDERED** that the Bank must retain the following
19 records created during or relating to the time period of January 1, 2008, to the
20 present, for five (5) years from the Court's entry of the Consent Decree:

21 A. All records relating to Third-party Payment Processors with which the
22 Bank has done business, and the Merchants that have used such processors to
23 transact business through the Bank's facilities;

24 B. Personnel records showing, for each person who corresponded with,
25 reviewed, or authorized, transactions through Third-party Payment Processors,
26 whether as an employee or acting in another capacity on behalf of the Bank, that
27 person's: name; addresses; telephone numbers; job title or position; dates of
28 service; and (if applicable) the reason for termination;

1 C. Records of all returns for transactions processed through Third-party
2 Payment Processors;

3 D. Records of all consumer complaints, whether received directly or
4 indirectly, such as through a third party, and any response; and

5 E. All records necessary to demonstrate full compliance with each
6 provision of this Consent Decree, including all submissions to the United States.

7 F. The records retention requirements of this Section are in addition to,
8 and not in lieu of, any other requirements imposed by state or federal law.

9 **XIV. ACQUISITIONS INVOLVING ANOTHER INSURED**
10 **DEPOSITORY INSTITUTION**

11 A. If the Bank, directly or indirectly, acquires another federally-insured
12 depository institution (“Acquired Bank”), then the resulting combined entity shall
13 either:

14 (1) submit to the United States Department of Justice (the “Department”) a
15 certification executed by an official with authority to bind the Bank that the
16 Acquired Bank is not providing bank accounts or banking services to any
17 Third-party Payment Processor as of the date of the closing of the
18 transaction; or

19 (2) submit to the Department and the Bank’s primary federal regulator a plan
20 within 60 days of closing of the transaction, describing how the resulting
21 combined entity will either:

22 (a) stop providing bank accounts and banking services to any Third-
23 party Payment Processor; or

24 (b) come into compliance with the remaining terms of this Consent
25 Decree.

26 If within 60 days the Department advises the Bank in writing of its objection
27 to this plan, the Bank must submit a revised plan to the Department and the
28 Bank’s primary federal regulator within 60 days thereafter. If within 60

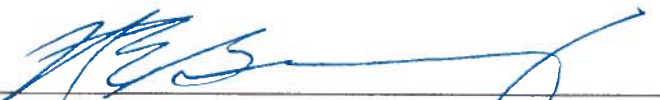
1 days of receiving this revised plan, the Department advises the Bank in
2 writing of its objection to the revised plan, the Bank shall have 90 days
3 thereafter to come into compliance with this Consent Decree.

4 B. If the Bank, directly or indirectly, is acquired by a larger federally-
5 insured depository institution that is not otherwise affiliated with the Bank
6 (“Acquiring Bank”), and if the Bank has not provided bank accounts or banking
7 services to any Third-party Payment Processor for three years prior to being
8 acquired by the Acquiring Bank, then this Consent Decree will automatically
9 terminate at the time the Bank is acquired. If the Bank is acquired by an Acquiring
10 Bank, and within the preceding three years the Bank has acquired a bank that
11 provided bank accounts or banking services to any Third-party Payment Processor,
12 then this Consent Decree will terminate at the time the Bank is acquired by the
13 Acquiring Bank provided that the Bank stopped providing bank accounts and
14 banking services to Third-party Payment Processor in accordance with Section
15 XIV.A.1 or Section XIV.A.2.a.

16 **XV. SUBMISSIONS TO THE UNITED STATES**

17 **IT IS FURTHER ORDERED** that all submissions to the United States
18 Department of Justice required under this Consent Decree shall be in writing and
19 delivered by hand or overnight courier to: Director, Consumer Protection Branch,
20 U.S. Department of Justice, 450 Fifth Street, Washington, D.C. 20001. The Bank
21 expressly acknowledges that the information obtained by the United States in
22 connection with its investigation of the Bank, including information submitted by
23 the Bank to the United States pursuant to this Consent Decree, may be shared for
24 official purposes with federal, state, and local law enforcement, and other agencies
25 and entities of the United States (including but not limited to the Federal Trade
26 Commission, the Consumer Finance Protection Bureau, and other bank regulatory
27 agencies).

CONSENTED TO BY:



HARRY E. (GENE) GALLOWAY

President and Chief Executive Officer, Plaza Bank
On behalf of Plaza Bank

D. JEAN VETA (pending admission *pro hac vice*)

HEATHER L. FINSTUEN (pending admission *pro hac vice*)

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On behalf of the United States of America

CONSENTED TO BY:

HARRY E. (GENE) GALLOWAY

President and Chief Executive Officer, Plaza Bank
On behalf of Plaza Bank



D. JEAN VETA (pending admission *pro hac vice*)

HEATHER L. FINSTUEN (pending admission *pro hac vice*)

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On behalf of the United States of America

CONSENTED TO BY:

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On behalf of Plaza Bank

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On behalf of the United States of America

1 UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,)
4) No.:
5 Plaintiff,)
6)
7 v.)
8 PLAZA BANK,)
9 Defendant.)
10 _____)

11
12 ABSENCE OF THIRD-PARTY PAYMENT PROCESSOR
13 CERTIFICATION

14 The undersigned certifies, pursuant to Section IV of the Consent Decree entered
15 by the United States District Court Central District of California on
16 _____, 2015, in the above captioned matter that, during the preceding
17 twelve months, Plaza Bank has not provided bank accounts or banking services
18 to any Third-party Payment Processor, as defined in Paragraph I of Section II of
19 the aforementioned Consent Decree. The undersigned further certifies that
20 he/she has authority to bind Plaza Bank for the purposes of this certification.

21
22 I declare under the penalty of perjury that the foregoing is true and correct.
23

24 _____
25 Name: _____
26 Title: _____
27 Date: _____
28

1 UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,)
4) No.:
5 Plaintiff,)
6 v.)
7)
8 PLAZA BANK,)
9 Defendant.)
10 _____)

11
12 CONSENT DECREE COMPLIANCE CERTIFICATION

13 The undersigned certifies, pursuant to Section IV of the Consent Decree
14 entered by the United States District Court for the Central District of California
15 on _____, 2015, in the above captioned matter that:

16 1. Plaza Bank has provided or is providing bank accounts or banking
17 services to the following Third-party Payment Processor(s), as defined in
18 Paragraph I of Section II of the aforementioned Consent Decree:

19 _____
20 _____
21 _____;

22 2. The Third-party Payment Processor(s) identified above is: (i) licensed as a
23 money transmitter in the state(s) into and from which money is transferred,
24 or has provided to Plaza Bank documentation created by state licensing
25 authorities stating that no state licensing is required; and (ii) registered with
26 the Financial Crimes Enforcement Network of the U.S. Department of the
27 Treasury ("FinCEN") as a "Money Services Business," or has provided to
28 the Bank documentation from FinCEN stating that no registration is

1 required;

2 3. Prior to providing any banking accounts or banking services and quarterly
3 thereafter, Plaza Bank has conducted due diligence of the Merchants (as
4 defined in Section II of the Consent Decree) of the Third-party Payment
5 Processor(s) identified above, as if these entities were direct customers of
6 Plaza Bank;

7 4. Prior to providing any banking accounts or banking services and quarterly
8 thereafter, Plaza Bank has established, after reasonable inquiry, in good
9 faith, and to the best of Plaza Bank's ability and knowledge, that the
10 Merchant(s) of the Third-party Payment Processor(s) identified above:

11 a. Is in compliance with any applicable licensing or registration
12 requirement of the state(s) (or tribal territories) in which the Merchant
13 is located and in which each of the Merchant's customers reside; and

14 b. Is not engaged in fraudulent, unfair, deceptive, or abusive business
15 practices against consumers in violation of federal law or any such
16 law of the state(s) (or tribal territory) in which the Merchant is
17 located, and any such law of the state(s) (or tribal territories) in which
18 the Merchant's customers are located;

19 5. Plaza Bank has memorialized in writing the conclusions of the due
20 diligence and investigation of the Merchant(s) of the Third-party Payment
21 Processor(s) identified above, as required by Section III.D.4 and, if
22 applicable, Section III.E.4, of the Consent Decree, and such information
23 is available to the United States Department of Justice for inspection; and

24 6. Plaza Bank is conducting monitoring of the Merchants of the Third-party
25 Payment Processor(s) identified above, as if these entities were direct
26 customers of Plaza Bank;

27

28 The undersigned further certifies that he/she has authority to bind Plaza Bank

1 for the purposes of this certification.

2

3 I declare under the penalty of perjury that the foregoing is true and correct.

4

5

6

Name: _____

7

Title: _____

8

Date: _____

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