

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TEXAS
 MARSHALL DIVISION

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 TO EASTERN MARSHALL
 BY _____

MARY JO BARNETT, JOHN ALLEN)
 BROOKINS, AND DEWEY JACK)
 CROSSLAND, INDIVIDUALLY AND)
 ON BEHALF OF ALL OTHERS)
 SIMILARLY SITUATED,)
)
 Plaintiffs,)
)
 v)
)
 UNIFUND CORP)
)
)
 Defendant.)

CASE NO 2:00-CV-175

HON. T. JOHN WARD

FINAL ORDER AND JUDGMENT

On the 27th day of March, 2006, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated as of February 23, 2006 (the "Stipulation") are fair, reasonable and adequate for the settlement of all claims asserted by the Plaintiffs and members of the Settlement Class against Defendant Unifund Corporation ("Unifund") in the Complaint now pending in this Court under the above caption, including the release of the Released Parties, and should be approved; and (2) whether and in what amount to award Plaintiffs' Counsel attorneys' fees and expenses.

The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was published on the Internet via Unifund's website pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees requested; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Plaintiffs, all members of the Settlement Class, and Defendant Unifund.

2. The Class, although originally certified as a Rule 23(b)(3) class, is hereby changed and now certified as a Rule 23(b)(2) class.

3. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto

4. The Settlement is approved as fair, reasonable and adequate to the Settlement Class, and the Settling Parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation. Specifically, the following terms of the Settlement are hereby approved as fair, reasonable and adequate to the Settlement Class:

(a) Unifund agrees that, to the extent that it has done so, Unifund will cease its prior practice of calculating and reporting the Date of Last Activity as the Date of First Delinquency for debts that it has purchased to a more recent date than that allowed by the Fair Credit Reporting Act. Unifund agrees that, to the extent that it has not done so, Unifund will cease reporting negative credit information if the information occurred later than seven (7) years from the Date of First Delinquency, regardless of the exemptions or timing allowed under the FCRA. Unifund agrees that its present, and intended future, practice regarding the reported Date of Last

Activity is to report, as the Date of Occurrence, either the “Date of First Delinquency” as provided to it by the creditor or other reliable source; or, in the event that the “Date of First Delinquency” is not provided, Unifund will report a date certain that is prior to the Date of First Delinquency. Alternatively, Unifund will report the date the account was opened by any individual. Notwithstanding the foregoing agreements, promises, and covenants, Unifund represents that it will report all credit information as the FCRA requires

(b) Unifund will provide the following statement/notice on its website for a period of six (6) months, commencing on the Effective Date, regarding its former and current practice of reporting the Date of Last Activity as the date of First Delinquency:

i. Plaintiffs in the Class Action allege that Unifund violated the Fair Debt Collection Practices Act by purchasing obsolete, or near obsolete, debts and altering the Date of First Delinquency to a more recent date than that allowed by the FCRA. Plaintiffs further allege that this conduct allowed Unifund to report negative credit information after the information had become obsolete.

ii. As a part of the settlement of the Class Action, Unifund states that, to the extent this practice ever occurred, which Unifund denies, that it has discontinued the practice set forth above. Unifund further states that its present, and intended future, practice regarding the reported Date of First Delinquency is to report, as the Date of Occurrence, either the “Date of First Delinquency” as provided to it by the creditor or other reliable source; or, in the event that the “Date of First Delinquency” is not provided, the date the account was opened by any individual. Unifund further states that its present, and intended future, practice is to report negative credit information only when that information is more recent than seven (7) years from the

Date of First Delinquency, regardless of the exemptions or timing allowed under the FCRA.

(c) Unifund will agree to provide a class member/public written complaint procedure. Specifically, Unifund will provide a link on its website to a dedicated page named "Resolve Unifund." Unifund will also provide instructions on how to get to the Resolve Unifund page on Unifund's customer service phone lines. Resolve Unifund will allow class members and the public to lodge written complaints regarding disputes they may have, including disputes over negative credit information that may have been furnished by Unifund. Unifund will agree to have Resolve Unifund up and running within 60 days from the date of the court approval of the settlement. Unifund will provide a written statement correcting any errors when a consumer requests it. Unifund will make a statement on its website that the old practice is discontinued.

(d) Unifund will notify Defendant Experian of this Settlement and request that Experian cooperate with Unifund in compliance.

(e) Unifund further agrees that the "debt collection" issue that Plaintiffs won on summary judgment is *res judicata* on all future claims between Unifund and any member of the Settlement Class who later brings a claim for damages.

(f) Unifund agrees that this Settlement will not, in any manner, release, encumber or waive any existing claims for actual damages held by the Settlement Class.

5. The live Complaint and this Action are hereby dismissed with prejudice and without costs (except as provided in the Stipulation) as against Defendant Unifund.

6. The Plaintiffs and all members of the Settlement Class, on behalf of themselves, their heirs, executors, administrators, successors and assigns, are hereby permanently barred and

enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, all Released Claims against the Released Parties.

7. The Plaintiffs and all members of the Settlement Class, on behalf of themselves, their heirs, executors, administrators, successors and assigns, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against the Released Parties. The Released Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Final Order and Judgment

8. Neither this Final Order and Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against any Released Party as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Released Parties with respect to the truth of any fact alleged by Plaintiffs and/or any members of the Settlement Class or the validity of any claim that had been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of any Released Party;

(b) offered or received against any Released Party as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Released Party, or against the Plaintiffs and/or any members of the Settlement Class as evidence of any infirmity in the claims of Plaintiffs and the members of the Settlement Class;

(c) offered or received against any Released Party or against the Plaintiffs or any members of the Settlement Class as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the parties to the Stipulation, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that any Released Party may refer to the Stipulation to effectuate the liability protection granted them thereunder;

(d) construed against any Released Party or the Plaintiffs and/or any members of the Settlement Class as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Plaintiffs, the members of the Settlement Class or any of them that any of their claims are without merit.

9 The Released Parties may file the Stipulation and this Judgment in any other action that may be brought against any of the Released Parties raising any Released Claims in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any theory of claims preclusion or issue preclusion or similar defense

10. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to the Complaint and all other pleadings and all proceedings herein

11. Plaintiffs' Counsel are hereby awarded the sum of \$46,975.41 in attorneys' fees and \$3,024.59 in expenses, which the Court finds to be fair and reasonable. The award of

attorneys' fees shall be allocated among the law firms representing Plaintiffs in a fashion that, in the opinion of Plaintiffs' Counsel, fairly compensates such law firms for their respective contributions in the prosecution of the Action

12. Exclusive jurisdiction is hereby retained over the Released Parties, the members of the Settlement Class, and Plaintiffs' Counsel and Defendants' Counsel for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Final Order and Judgment

13 Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

14 There is no just reason for delay in the entry of this Final Order and Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SIGNED this 27th day of March, 2006



T. JOHN WARD
UNITED STATES DISTRICT JUDGE