

IN THE CIRCUIT COURT OF THE SECOND  
JUDICIAL CIRCUIT IN AND FOR LEON  
COUNTY, FLORIDA

CASE NO. 2004 CA 002515

STATE OF FLORIDA, OFFICE  
OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

vs.

COMMERCE COMMERCIAL LEASING, LLC,  
COURT SQUARE LEASING CORP., DOLPHIN  
CAPITAL CORP., IFC CREDIT CORP., NATIONAL  
CITY COMMERCIAL CAPITAL CORP. formerly  
known as, INFORMATION LEASING CORP., IRWIN  
BUSINESS FINANCE, LIBERTY BANK LEASING,  
PATRIOT LEASING CO., IN., POPULAR LEASING  
U.S.A., INC. PREFERRED CAPITAL LLC,  
STERLING NATIONAL BANK, and WELLS FARGO  
FINANCIAL LEASING, INC.,

Defendants.

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AGREEMENT OF VOLUNTARY COMPLIANCE AND STIPULATION  
FOR ENTRY OF CONSENT FINAL JUDGMENT AS TO  
DEFENDANT WELLS FARGO FINANCIAL LEASING, INC.

The STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL (hereinafter "Attorney General"), has filed suit, alleging violations of Chapter 501, Part II, Florida Statutes, Florida's Deceptive and Unfair Trade Practices Act (FDUTPA), against and now enters into this Agreement of Voluntary Compliance (AVC) with Defendant, WELLS FARGO FINANCIAL LEASING, INC. (WFFL). WFFL denies that it has violated the law, including FDUTPA.

The Attorney General, by the signature of his Deputy, affixed hereto, does in this matter accept this AVC in termination of this investigation and lawsuit, which the Attorney General brought, alleging violations of Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Office of the Attorney General of Florida.

## **1. JURISDICTION AND VENUE**

1.1. The Attorney General has authority to file this action against WFFL pursuant to his authority under the provisions of Chapter 501, Florida Statutes.

1.2. WFFL and the Attorney General agree that the Court has jurisdiction over WFFL.

1.3. Leon County, Florida shall be the sole venue for any matter arising out of or relating to this AVC.

1.4. The Second Judicial Circuit, State of Florida shall be sole jurisdiction for any matter arising out of or relating to this AVC.

## **2. SETTLEMENT TERMS**

2.1. WFFL agrees that, because of the alleged injury to certain Florida businesses caused by the conduct of the now bankrupt telecommunications company Norvergence, Inc. (“Norvergence”) WFFL will afford Florida businesses an opportunity, subject to the terms and conditions described below, to be released from their continuing obligations under the Equipment Rental Agreements (“Rental Agreements”) that those businesses executed with WFFL to rent Norvergence telecommunications equipment. These Florida businesses will

be referred to as WFFL's "Norvergence customers" or as "customers" A list of the Norvergence customers is attached hereto as Exhibit A.

2.2. WFFL will comply with the provisions of Chapter 501, Part II, Florida Statutes (2003), Florida Deceptive and Unfair Trade Practices Act. Each of WFFL's Florida Norvergence customers will be offered the settlement terms described in this AVC. WFFL will engage in collection activities as to Florida Norvergence customers only as consistent with this AVC.

### **3. TERMS FOR RELEASE FROM RENTAL AGREEMENT**

3.1. Within twenty (20) days of the Court's approval of the Consent Final Judgment between the Attorney General and WFFL, WFFL will offer each of its Florida Norvergence customers, by U.S. mail, a termination of the Rental Agreement for the Norvergence equipment so long as the customer makes all payments due on its Rental Agreement through January 31, 2005. This offer will be referred to as the "Release From Rental Agreement" offer. To obtain the release the customer must make the required payments and must execute a General Release that releases WFFL from any claim that the customer may have against WFFL in connection with the rental of Norvergence equipment.

3.2. WFFL will afford each Norvergence customer thirty (30) days from receipt of the offer to accept the Release From Rental Agreement offer. Acceptance of the WFFL offer must be effectuated by notarized signature of the customer on the Acceptance Form and General Release to be provided by WFFL. Any customer who accepts the Release From Rental Agreement offer shall, as a condition to the effectiveness thereof, dismiss, with prejudice any legal action it has commenced or participated in against WFFL, and upon payment of all

amounts to make that acceptance effective, WFFL shall dismiss, with prejudice, any legal action it has brought against any accepting customer.

3.3. Each customer who accepts the offer will have thirty (30) days from Acceptance to bring payments current through January 31, 2005, in order to make its acceptance of the Release From Rental Agreement offer effective. Any late fees or penalties on the customer's account which were charged after July 15, 2004, will be forgiven by WFFL. All other amounts due under the terms of the Rental Agreement must be paid within the time frame specified to obtain the Release From Rental Agreement. This Agreement does not preclude WFFL and the customer from agreeing to mutually acceptable terms by which any required payment can be made in installments.

3.4. Upon the customer's payment of all amounts required to effectuate the Release From Rental Agreement offer through January 31, 2005, WFFL will notify the customer in writing that the Rental Agreement has been terminated. In the event that any customer does not accept the Release From Rental Agreement offer from WFFL or does not satisfy the acceptance requirements described above, this Agreement will have no impact on any of the terms of the contract between WFFL and the customer, and each shall be free to pursue its rights and remedies thereunder.

3.5. Models of the Release From Rental Agreement offer letter to be sent by WFFL, the Acceptance and General Release to be executed by the customer, and final notice of Release From Rental Agreement are appended as Attachments B, C and D.

3.6. For a period of six months from the Effective Date of the AVC, the Attorney General reserves the right to request inspection of WFFL records as is reasonably necessary to monitor compliance with this AVC.

3.7. Within ten (10) days of the Court's approval of the Consent Final Judgment between the Attorney General and WFFL, WFFL will deliver attorneys fees and costs in the amount of \$7,500.00 by check made out to the Legal Affairs Revolving Trust Fund, and delivered to the Attorney General pursuant to the notice provisions within this AVC.

3.8. In consideration of the fulfillment of the Release From Rental Agreement terms set forth above, no Chapter 501 penalties or remedies are to be imposed under this AVC. However, the Attorney General reserves the right to seek Chapter 501 penalties against WFFL should WFFL in the future violate Chapter 501. Additionally, the Attorney General reserves the right to seek its attorneys' fees and costs upon default of this AVC, or upon any future noncompliance with Chapter 501 and/or this AVC.

#### **4. CONSENT FINAL JUDGMENT**

4.1. The parties stipulate that upon execution of this AVC, the Consent Final Judgment attached hereto, as Exhibit E, may be immediately entered by the Court, without necessity of hearing, without amendment of the Complaint, and without further service or process.

4.2. Upon execution of this AVC, the Office of the Attorney General agrees to close its investigation into the activities of WFFL, concerning the following issue: whether WFFL engaged in illegal collections of void and unenforceable contracts against Novergence

Customers, at any time up to and including the date that this AVC is executed. Any other contracts, rental agreements and/or leases held by WFFL fall outside the scope of this AVC. This AVC does not otherwise impact the current business practices of WFFL and neither the AVC nor the Court's approval of the Consent Final Judgment may be cited as proof or indication that any of WFFL's business practices violated Florida law.

## **5. GENERAL TERMS**

5.1. The parties further agree that future violations of this AVC may subject the Defendants to any and all civil penalties and sanctions as provided by law.

5.2. Nothing herein shall be construed as a waiver of any private rights, causes of action or remedies of any private person against WFFL. Nor does this Agreement impact the rights of WFFL to enforce the terms of any of its contracts, or to alter any of its current business practices, other than as specifically described herein. Notwithstanding the foregoing, Customers and any guarantors who accept the Release From Rental Agreement offer from WFFL will be bound by the terms of the Release From Rental Agreement as described herein .

5.3. The parties jointly participated in the negotiations of the terms which are articulated within this AVC. No provision of this AVC shall be construed for or against either party on the grounds that one party or another was more heavily involved in the preparation of the AVC.

5.4. All notices required hereunder shall be sufficient if given as follows:

**As to the Attorney General**

Office of the Attorney General

Attn: Lisa M. Raleigh  
Senior Assistant Attorney General  
Complex Litigation Unit  
The Capitol PL-01  
Tallahassee, Florida 32399-1050

**As to Defendant WFFL**

Ruth C. Saunders  
Assistant General Counsel  
Wells Fargo Financial, Inc.  
800 Walnut Street  
Des Moines, Iowa 50309

5.5. This AVC shall become effective upon its execution by all persons whose signatures appear below and all exhibits referenced above are attached to this AVC and copies of the fully executed documents are provided to WFFL.

5.6. This AVC is entered into solely for the purpose of settlement of disputed claims, and to avoid the expense, uncertainty, delay and inconvenience that would be associated with continued litigation of the issues and action being resolved hereby. This AVC does not constitute any admission, by any party, of any liability or wrongdoing, or the absence or lack thereof, or the existence or non-existence of any facts that would or might lead to, cause or constitute any violation of law. Neither the existence of, nor the terms of this AVC nor of any offer to any customer made pursuant hereto shall, in any future proceeding other than for enforcement, default or breach of this AVC, be referred to or offered in evidence, for any purpose, by any party hereto.



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Plaintiff,

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COMMERCE COMMERCIAL LEASING, LLC,  
COURT SQUARE LEASING CORP., DOLPHIN  
CAPITAL CORP., IFC CREDIT CORP., NATIONAL  
CITY COMMERCIAL CAPITAL CORP. formerly  
known as, INFORMATION LEASING CORP., IRWIN  
BUSINESS FINANCE, LIBERTY BANK LEASING,  
PATRIOT LEASING CO., IN., POPULAR LEASING  
U.S.A., INC. PREFERRED CAPITAL LLC,  
STERLING NATIONAL BANK, and WELLS FARGO  
FINANCIAL LEASING, INC.,

Defendants.

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CONSENT FINAL JUDGMENT BETWEEN  
STATE OF FLORIDA AND WELLS FARGO FINANCIAL LEASING, INC.

THIS CONSENT FINAL JUDGMENT was entered upon the stipulation entitled Agreement of Voluntary Compliance and Stipulation for Entry of Consent Final Judgment as to Defendant Wells Fargo Financial Leasing, Inc. ("AVC"), which has been attached as Exhibit A, between Plaintiff, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA (hereinafter referred to as the "ATTORNEY GENERAL")

and Defendant, WELLS FARGO FINANCIAL LEASING, INC. (“WFFL”) (“ATTORNEY GENERAL and WFFL collectively are the “Parties”)

Solely with respect to and for the purpose of the settlement of this action, the Parties have consented in writing to the jurisdiction of this Court and hereby consent to the relief provided by this order. The Parties waive the necessity of hearing prior to entry of this Consent Final Judgment.

By consent of the aforementioned Parties, this Court does ORDER AND ADJUDGE:

### **1. JURISDICTION AND VENUE**

1. The ATTORNEY GENERAL filed suit pursuant to the Florida Deceptive and Unfair Trade Practices Act (“FDUPTA”), Chapter 501, Part II, Fla. Stat. (2001). The complaint alleges enforcement and attempted enforcement of allegedly void and unconscionable contracts and various other allegedly Unfair and Deceptive Trade Practices. WFFL denies that it has violated the law, including FDUPTA, and denies the applicability of Chapter 501, Florida Statutes.

2. The Parties agree that this Court has jurisdiction to enter this Consent Final Judgment and to enforce the provisions of the AVC. The approval of the settlement terms is within the jurisdiction of the Circuit Court and the amounts in controversy meet the jurisdictional threshold of the Circuit Court.

3. The Parties submit to the venue of this Court for entry of this Consent Final Judgment and enforcement of the AVC.

**2. TERMS OF CONSENT FINAL JUDGMENT**

4. Ratification of AVC: The Parties have entered into an AVC, which has been filed with the Court. The terms of the AVC fully resolve the controversy solely between the ATTORNEY GENERAL and WFFL. This Court hereby ratifies the terms of the AVC and directs the Parties to comply with the terms and conditions thereof.

5. Injunction: Without determining whether WFFL has violated any provision of the law, the Court enters the following injunction:

a. WFFL and the Attorney General shall fully comply with all terms and conditions of the AVC.

6. Except as provided herein, as against WFFL this action shall be, and it hereby is DISMISSED, with prejudice. Each party shall bear its own costs and expenses, including attorneys' fees, in connection with this Action.

7. This Court reserves jurisdiction to enforce the terms of the AVC.

ORDERED AND ADJUDGED in Leon County on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Circuit Court Judge

cc: Lisa M. Raleigh, AAG  
Richard E. Doran, Esq.  
David Dunn, Esq.

## **CONSENT TO FINAL JUDGMENT**

1. WFFL is aware of its right to a trial in this matter and has waived that right by settlement of this action.

2. WFFL admits the jurisdiction of the Court for purposes of this settlement only and consents to the immediate entry of this Consent Final Judgment, waiving any necessity of amending the complaint, serving process, or setting hearing.

3. WFFL states that no promise of any kind or nature whatsoever (other than the written terms of this Consent Final Judgment and of the AVC) was made to it to induce it to enter into this Consent Final Judgment, that it has entered into this Consent Final Judgment voluntarily, and that this Consent Final Judgment constitutes the entire agreement between the Parties.

4. WFFL enters into this Consent Final Judgment without any admission that it has violated the law, and indeed denies the same and only for the purposes of settling this matter. WFFL disputes the allegations of the Complaint, and neither the AVC nor this Final Judgment may be cited, referred to or offered in evidence for any purpose (other than enforcement of the AVC or in an action for breach thereof) as proof or indication that any of WFFL's business practices violated Florida law.

5. WFFL represents that the person below is duly authorized to execute this Consent Final Judgment, and that all consents necessary to make this a binding obligation of WFFL have been or will be complied with.

6.

WELLS FARGO FINANCIAL LEASING, INC.

\_\_\_\_\_  
By:  
Title:

STATE OF IOWA )  
 )  
COUNTY OF \_\_\_\_\_ )

**[ORIGINAL DOCUMENT CONTAINS NOTARY INFORMATION]**