

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

FILE NO. 10CV018483

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STATE OF NORTH CAROLINA, *ex rel.* )  
Roy Cooper, Attorney General, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ASCENDONE CORPORATION, )  
AMERIX CORPORATION, )  
CAREONE SERVICES, INC., )  
FREEDOMPOINT FINANCIAL )  
CORPORATION, )  
3C, INC., and )  
BERNALDO DANCEL, )  
 )  
Defendants. )  
\_\_\_\_\_

FILED  
2010 NOV -3 PM 10:50  
WAKE COUNTY, C.9.C.

**CONSENT JUDGMENT**

Plaintiff, the State of North Carolina, by and through its Attorney General, Roy Cooper, has filed a Complaint for a permanent injunction and other relief in this matter pursuant to the North Carolina Unfair and Deceptive Practices Act, N.C. Gen. Stat. § 75-1.1, alleging Defendants AscendOne Corporation, Amerix Corporation, CareOne Services, Inc., FreedomPoint Financial Corporation, 3C, Inc. and Bernaldo Dancel (hereinafter “Defendants”), committed violations of the Act in the sale and offer for sale of debt management services to consumers.

Plaintiff, by its counsel, and Defendants, by their counsel, have agreed to the entry of this Consent Judgment (“Consent Judgment”) by this Court without trial or adjudication of any issue

of fact or law, and without admission of any wrongdoing or admission of any of the violations of the Act or any other law as alleged by Plaintiff.

Plaintiff has brought this action to conclude a multi-state investigation of Defendants conducted by the Attorneys General of Arkansas, Arizona, California, Delaware, the District of Columbia, Idaho, Indiana, Maryland, Massachusetts, Missouri, Montana, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Washington and West Virginia (hereinafter collectively referred to as the "States"). Contemporaneous with this Consent Judgment, Defendants are entering into similar agreements with the Attorneys General of States other than North Carolina.

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#### **PARTIES**

1. Plaintiff is the State of North Carolina, acting on relation of Attorney General Roy Cooper, pursuant to authority granted in Chapters 14, 75, and 114 of the General Statutes.

2. Defendant AscendOne Corporation ("AscendOne") is a Maryland corporation located at 8930 Stanford Boulevard, Columbia, Maryland 21046. AscendOne is a for-profit, tax-paying corporation.

3. Defendant Amerix Corporation ("Amerix") is a Maryland corporation located at 8930 Stanford Boulevard, Columbia, Maryland 21046. Amerix is a for-profit, tax-paying corporation and a wholly-owned subsidiary of AscendOne.

4. Defendant CareOne Services, Inc. ("CareOne"), formerly known as FreedomPoint Corporation, is a Maryland corporation located at 8930 Stanford Boulevard, Columbia, Maryland 21046. CareOne is a for-profit, tax-paying corporation and a wholly-owned subsidiary of Ascend One.

5. Defendant FreedomPoint Financial Corporation (“FreedomPoint Financial”) is a Maryland corporation located at 8930 Stanford Boulevard, Columbia, Maryland 21046. FreedomPoint Financial is a for-profit, tax-paying corporation and a wholly-owned subsidiary of AscendOne.

6. Defendant 3C, Inc. (“3CI”) is a Maryland corporation located at 8930 Stanford Boulevard, Columbia, Maryland 21046. 3CI is a for-profit, tax-paying corporation and a wholly-owned subsidiary of AscendOne.

7. Defendant Bernaldo Dancel is the President and Chief Executive Officer of AscendOne. Bernaldo Dancel owns approximately 87% of the stock of AscendOne.

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### **FINDINGS**

8. The Court has jurisdiction over the parties and the subject matter of the action. The parties have agreed to resolve their differences and the agreement of the parties is just and reasonable with respect to the parties. The Court approves the terms of the parties’ agreement and adopts them as its own determination of the parties’ respective rights and obligations.

### **DEFINITIONS**

For the purposes of this Consent Judgment, the following definitions shall apply:

9. “Consumer” for purposes of this Consent Judgment shall be an individual who resides in North Carolina and who seeks Debt Management Services for personal, family, or household purposes.

10. A “Credit Counseling Agency” or “CCA” is an organization that offers and provides Debt Management Services to consumers. A CCA as used in this Consent Judgment

may be, but is not necessarily, an organization that is exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

11. A “Debt Management Plan” or “DMP” is a payment plan offered by a Credit Counseling Agency through which the Credit Counseling Agency provides the consumer with Debt Management Services.

12. “Debt Management Services” means receiving funds periodically from a consumer under an agreement with the consumer for the purpose of distributing the funds among the consumer’s creditors in full or partial payment of the consumer’s debts. Debt Management Services include the negotiation of and enrollment of consumers into Debt Management Plans. Solely for the purposes of this Consent Judgment, Debt Management Services shall not include the receipt of funds for the purpose of negotiating the settlement of the principal sum of a debt through lump sum payments to a creditor.

13. “Debt Adjusting Act” shall mean North Carolina’s Debt Adjusting Act, N.C. Gen. Stat. § 14-423, *et seq.*

14. A “Service Agreement” is an agreement pursuant to which Defendants provided a range of services to CCAs to support the offering and selling of Debt Management Services to consumers and performing Debt Management Services on behalf of consumers.

15. “Writing/written,” as used herein, shall include a writing or other record that is created, generated, sent, communicated, received, or stored by electronic means.

## RECITALS

16. CCAs provide financial education and assistance to consumers through different services including, among other things, providing credit counseling, providing Debt Management Services and enrolling consumers in DMPs.

17. Under a DMP, a consumer makes monthly payments to the CCA and those payments are distributed to the consumer's creditors under terms agreed to by the CCA and the consumer's creditors. Most creditors provide financial or other benefits to a consumer who commits to making regular payments on their debt through a DMP. In exchange for establishing and processing a DMP, CCAs are generally paid fees or contributions by the consumer. The CCA also sometimes receives voluntary payments from the consumer's creditors called "Fair Share."

18. Under amendments enacted in 2005 to North Carolina's Debt Adjusting Act, N.C. Gen. Stat. § 14-426(7), CCAs that offer debt management services, including enrollment into DMPs, are required, among other requirements: (a) to provide education, individualized credit counseling, and budgeting assistance to consumers without charge prior to the consumer's enrollment in a DMP; (b) to determine that the consumer has the financial ability to make payments to complete the DMP and that the plan is suitable for the consumer; and (c) to disburse the consumer's funds to the consumer's creditors pursuant to a written agreement that the consumer has agreed to in writing and which the consumer has paid for with no more than "nominal consideration." Under the Act, G.S. § 14-423(3a), "nominal consideration" means a fee not to exceed \$40.00 for origination or setup of the DMP, and ten percent (10%) of the monthly payment disbursed under the DMP, not to exceed forty dollars (\$40.00) per month.

Further, pursuant to G.S. § 14-426(7)g., the CCA must be accredited by an accrediting organization that the North Carolina Commissioner of Banks approves as being independent and nationally recognized for providing accreditation to organizations that provide credit counseling and debt management services.

19. Amerix was founded by Bernaldo Dancel in 1996 (initially under a different corporate name) as a for-profit corporation for the purpose of providing a range of services in connection with offering, selling and performing Debt Management Services. Amerix offered its services to both existing CCAs and to individuals and entities interested in establishing new CCAs.

20. In 2002, Amerix went through a corporate reorganization in which AscendOne was organized as a parent holding company and Amerix became a wholly owned subsidiary of AscendOne. At or around the same time, 3CI, CareOne (then named FreedomPoint Corporation), and FreedomPoint Financial were organized, also as wholly owned subsidiaries of AscendOne.

21. Beginning in 1997, Amerix and/or other Defendants began entering into Service Agreements with CCAs, pursuant to which Defendants provided a range of services in connection with offering, selling and performing Debt Management Services. The CCAs that Defendants entered into Service Agreements with were:

- American Credit Counselors Corporation;
- North Seattle Community College Foundation, doing business as American Financial Solutions;
- Concord Credit (formerly Freedom Financial Foundation);
- Consumer Education Services, Inc.;
- Debt Management Group, Inc.;
- Foundation for Human Development, Inc., doing business as Clarion Credit Management;
- Genesis Financial Management, Inc.;

- Genus Credit Management Corporation; and
- Rock Valley College Foundation.

22. On the date of the entry of this Consent Judgment, Defendants only have Service Agreements with American Financial Solutions and Consumer Education Services, Inc.

23. The parties agree that this Consent Judgment shall not constitute an admission of law or fact by any party and that the parties are entering into this Consent Judgment based on a desire to avoid the expense and uncertainty of litigation that would be necessary to resolve the disputed issues of fact and law.

### **ALLEGATIONS**

24. The States contend that the Defendants committed unfair and deceptive trade practices in violation of the States' consumer protection laws, including North Carolina's Unfair and Deceptive Practices Act, N.C. Gen. Stat. § 75-1.1, (a) by representing that the Debt Management Services that they were offering and selling were provided by a non-profit CCA when, in fact, Defendants, which are for-profit entities, provided the Debt Management Services; and (b) by representing to consumers that they would receive credit counseling from a CCA when, in fact, consumers had little or no contact with the CCA or a credit counselor and, instead of receiving counseling regarding all of the options available to them to resolve their debt issues, consumers were enrolled into DMPs that generated fees for the Defendants but did not always benefit consumers.

### **DENIALS**

25. Defendants deny the States' allegations in paragraph 24 that they committed unfair and deceptive trade practices in violation of consumer protection laws or violated debt management laws.

26. Contrary to the States' allegations, Defendants contend the States' debt management laws permit CCAs, like other enterprises, to "outsource" and engage agents, such as Defendants, to perform services on behalf of the CCAs. Defendants offered or sold DMPs to consumers or made representations to them as lawful agents of CCAs. CareOne Services, Inc. offered or sold DMPs to consumers or made representations to them as a fully licensed, registered, and qualified debt management services provider. In all cases, Defendants contend their representations were made and services were provided in accordance with law.

27. Contrary to the States' allegations, Defendants contend their efforts greatly benefited more than a million consumers in numerous ways over a period of more than twelve years. More specifically, Defendants contend that in the overwhelming majority of cases, DMPs enabled consumers to eliminate or lower debt, avoid bankruptcy, eliminate or reduce late fees, lower monthly payments, and reduce or eliminate collection calls, and also enabled them to learn to better handle finances, improve their financial status and pay off debt in a shorter time.

#### **APPLICATION**

28. The provisions of this Consent Judgment apply to Defendants AscendOne Corporation, Amerix Corporation, CareOne Services, Inc., FreedomPoint Financial Corporation and 3C, Inc., and their officers, employees, agents, successors, assignees, affiliates, merged or acquired entities, parent or controlling entities, wholly owned subsidiaries and all other persons acting in concert or participation with Defendants.

29. The provisions of this Consent Judgment apply to Defendant Bernaldo Dancel and any partnership, corporation or entity that he (or he and one or more members of his immediate family) currently, or in the future, owns, controls or holds the power to vote 51% or more of any class voting securities or for which he individually and not as a bona fide member of a board or committee establishes policy or has the authority to establish policy with respect to the subject matter of this Consent Judgment. For purposes of this paragraph “immediate family” shall mean a spouse, father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

30. The provisions of this Consent Judgment shall apply to each of the Defendants in connection with their offer, sale or performance of Debt Management Services or their offer or provision of services to any CCA offering, selling or performing Debt Management Services.

### **INJUNCTION**

31. Defendants shall not engage in any unfair or deceptive trade practices in violation of the Unfair and Deceptive Practices Act, N.C. Gen. Stat. § 75-1.1.

32. Defendants shall comply with any and all North Carolina statutes, rules and regulations regarding the provision of Debt Management Services including, but not limited to, the Debt Adjusting Act, N.C. Gen. Stat. § 14-423, *et seq.*

33. Defendants shall not make any express or implied misrepresentations that have the capacity, tendency or effect of deceiving or misleading consumers in connection with the offer or sale of any consumer goods and/or the offer, sale or performance of any consumer services.

34. Defendants shall inform consumers of any material facts, the omission of which would deceive or tend to deceive consumers, in connection with the offer or sale of consumer goods and/or the offer, sale or performance of consumer services.

35. Defendants, directly or on behalf of any CCA, shall not offer or sell Debt Management Services to consumers residing in North Carolina, or perform Debt Management Services on behalf of consumers residing in North Carolina, unless Defendants have fully complied with the requirements of North Carolina's debt management laws and other laws regulating the offer and sale of Debt Management Services in North Carolina, including the Debt Adjusting Act. For the purposes of this paragraph, offering, selling and performing Debt Management Services shall include the following:

- (a) Recommending the enrollment of a consumer into a DMP; or
- (b) Proposing or communicating any alteration of a material term of a DMP to a consumer or a consumer's creditor without first receiving explicit written instructions from either a CCA or a consumer client of the CCA directing Defendants to make the specific alteration.

36. Defendants, directly or on behalf of any CCA, shall not originate any DMP on behalf of a North Carolina consumer or enroll a North Carolina consumer into any DMP unless Defendants have fully complied with North Carolina's debt management laws and other laws regulating the offer and sale of Debt Management Services in North Carolina, including the Debt Adjusting Act.

37. Defendants shall not represent that Debt Management Services are being performed by a CCA, a non-profit, or any third party, unless the CCA, non-profit or third party

are, in fact, performing the Debt Management Services. For the purposes of this paragraph, performing Debt Management Services shall include the following:

- (a) Recommending the enrollment of a consumer into a DMP; or
- (b) Proposing or communicating any alteration of a material term of a DMP to a consumer or a consumer's creditor without first receiving explicit written instructions from either a CCA or a consumer client of the CCA directing Defendants to make the specific alteration.

38. Defendants shall not expressly or impliedly represent to any consumer that any of the Defendants is a non-profit organization or that any services that are being performed by the Defendants are being performed by a non-profit organization.

39. Defendants shall not expressly or impliedly represent that Debt Management Services are being performed by a CCA, a non-profit, or any third party, if Defendants receive, deposit, or disburse consumer payments made pursuant to any Debt Management Plans provided as part of the Debt Management Services without the authorization of the CCA, non-profit, or third party. The authorization required by this paragraph shall be in writing and must be made within one week of the receipt, deposit or disbursement of any consumer payments except that, on a one time, non-recurring basis, when a consumer's payment is late, Defendants may obtain an oral authorization from a consumer as long as the authorization is subsequently documented in writing or the oral authorization is recorded and maintained by the Defendants for at least three (3) years. For purposes of this paragraph, a payment shall be considered late if it is either past due or it is due in five (5) business days and has not yet been received by the Defendants.

40. Defendants shall not enter into any agreement with any CCA that provides Defendants access to any money paid by consumers in connection with the performance of DMPs other than for the purpose of sending payments to consumers' creditors in connection with the performance of a DMP and forwarding payments made to CCAs by consumers to the CCAs.

41. Defendants shall not expressly or impliedly represent that any of their goods or services are "free" if the consumer will be asked to make any payment in connection with the goods or services, other than a payment that will be forwarded in its entirety to the consumer's creditors. Defendants may represent that a consultation or other initial contact is "free" if the consultation or contact is provided with no obligation by the consumer to make any payment in connection with the consultation or contact.

42. Defendants shall comply with the Federal Trade Commission (FTC) Guide Concerning Use of the Word "Free" and Similar Representations, 16 C.F.R. § 251.

43. Defendants shall not expressly or impliedly represent that any payments made by consumers in connection with DMPs are voluntary contributions, or are payments to support a non-profit organization, unless at least 51% of the payment is paid to or for the benefit of the non-profit organization for purposes other than to pay Defendants for services rendered to the non-profit organization.

44. Defendants shall not expressly or impliedly misrepresent the effects of a DMP on a consumer's ability to obtain credit.

45. Defendants shall not enroll a consumer into a DMP unless, prior to enrollment, the consumer has received credit counseling that includes access to a credit counselor who has sufficient experience and training to counsel consumers in financial literacy, money management,

budgeting and responsible use of credit and is advised of the various options available to the consumer for addressing the consumer's financial problems. Credit counseling pursuant to this paragraph may be provided by the Defendants through an Internet process that requires the consumer to access information covering the specific topics identified herein and provides the consumer with an opportunity to consult with a credit counselor.

46. Defendants shall not enroll any consumer into a Debt Management Plan if the consumer's estimated monthly living expenses and estimated monthly DMP payments exceed their income. A consumer in this situation may be enrolled into a DMP if the consumer is specifically advised not to enroll into a DMP because the consumer cannot afford the DMP payment and the consumer independently states that the consumer believes that the consumer can afford the DMP payment by reducing expenses, obtaining additional income or funds from another source, or otherwise adjusting the budget estimate to make the DMP affordable.

47. Defendants shall not fund or otherwise financially aid the establishment of any CCA, other than a CCA that is owned and will be operated by Defendants. Nothing contained in this paragraph shall prohibit Defendants from deferring or reducing amounts due from a CCA under a Service Agreement to enable the CCA to manage a difficult financial situation or to promote the CCA's non-profit purpose and mission.

48. Defendants shall not disclose or use any consumer's private financial and personal information that they receive in connection with providing Debt Management Services or in providing services to or on behalf of a CCA except in accordance with and as permitted by applicable law including, but not limited to, the Gramm Leach Bliley Act, 15 U.S.C.A. § 6801, *et seq.*

49. Defendants shall not limit the rights of any CCA to cancel any Service Agreement it enters into with Defendants, except that this provision does not prohibit Defendants including as a condition precedent in its agreements that a CCA must give reasonable notice of its intent to cancel the agreement under which a Defendant is providing services to the CCA in order to permit an orderly transition to a new service provider. Under this paragraph, reasonable notice shall not exceed ninety (90) days. Nothing contained in this paragraph shall prevent the Defendants from seeking to recover actual damages against a CCA arising from the CCA's cancellation of any Service Agreement, including any costs that Defendants incurred in reliance that the CCA would fulfill its Service Agreement with Defendants. This Consent Decree is not intended to and does not foreclose Defendants from negotiating with a CCA a formula for the calculation of actual damages as long as such agreement complies with this paragraph.

50. Defendants shall not enter into any agreement with any CCA that gives Defendants the right to reassign consumers' accounts to another CCA.

51. Defendants shall not enter into any agreement with any CCA that contains any standards or criteria under which the CCA must enroll consumers into a DMP.

52. Defendants shall not enter into any agreement with any CCA that sets any minimum enrollment rate, or other standard mandating the numbers of consumers who must be enrolled into DMPs or an amount that the CCA must collect from consumers.

53. Defendants shall not enter into any agreement with any CCA that sets any minimum revenues, or other standards mandating the amount of revenue that must be generated through a DMP.

54. Defendants shall not expressly or impliedly represent to any consumer that the Defendants are the CCA on whose behalf they are performing any Debt Management Services. Nothing contained in this paragraph shall prevent any of the Defendants from representing to any consumer that it has been hired by any CCA or that it is acting on behalf of any CCA as long as such a representation is truthful and is not misleading to the consumer.

55. Defendants shall not use the name or mark of any of their CCA clients when communicating with consumers or creditors in connection with the performance of Debt Management Services unless Defendants identify themselves as acting on behalf of the CCA in connection with their use of the name or mark.

56. Defendants shall identify themselves each time they have any contact with consumers on behalf of a CCA in connection with the performance of Debt Management Services, including, but not limited to, through their IVR telephone system, customer service representatives and written communications.

57. Defendants shall not enter into any Service Agreement with any CCA that gives Defendants authority to negotiate with consumers the amounts of any contributions or fees paid to a CCA.

58. Defendants shall not enter into any agreement with a CCA that permits Defendants to withhold any documentation of the Defendants' performance of Debt Management Services, including data reflecting the payments Defendants have processed or are processing in connection with a DMP except that, to the extent that any such data has been organized by the Defendants or maintained by the Defendants in a manner or form that is proprietary, then the Defendants are only required to produce the data in a form or format that is not proprietary.

Defendants cannot avoid their obligation under this paragraph to produce documentation of their performance of any Debt Management Services under this paragraph by only maintaining such documentation in a proprietary fashion.

59. Defendants shall not enter into any agreement with a CCA that permits Defendants to limit a CCA's use of any data reflecting Defendants' performance of any Debt Management Services, including data reflecting the payments Defendants have processed or are processing in connection with a DMP.

60. Defendants shall not expressly or impliedly misrepresent the purpose of any fee or contribution that is paid by consumers to any CCA.

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**PAYMENT TO THE STATES**

61. Defendants shall pay the States \$4,500,000.00 dollars (Four and One-Half Million Dollars). Defendants shall make the payment required under this paragraph pursuant to the payment terms provided in paragraph 62 of this Consent Judgment. Defendants shall be jointly and severally liable for all amounts that are due and owed under this paragraph. Such sum is to be divided among the States as they may agree and said payment shall be used by the States for attorneys' fees and other costs of investigation and litigation and/or for future consumer protection purposes, or be placed in, or applied to, the consumer protection enforcement fund, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of each of the Attorneys General.

62. Defendants shall make the payment required under paragraph 61 in five installments. Defendants shall make their first installment payment, which shall be in the amount

of \$1,500,000.00 (One and One-Half Million Dollars), no later than thirty (30) days after the date of the entry of the Maryland Consent Decree. Thereafter, Defendants shall pay the remaining \$3,000,000.00 (Three Million Dollars) that is due and owing under paragraph 61 in four installments payable as follows:

<u>Date</u>	<u>Amount</u>
December 15, 2011	\$750,000.00
December 15, 2012	\$750,000.00
December 15, 2013	\$750,000.00
December 15, 2014	\$750,000.00

Any payment amount due hereunder shall be made payable to the Attorney General of Maryland, as representative of the States, and shall be delivered on or before the due date to Office of the Maryland Attorney General, Consumer Protection Division, 200 St. Paul Place, 16<sup>th</sup> Floor, Baltimore, MD 21202 attn: Philip D. Ziperman, or at such other places as the States may from time to time designate in writing, and shall be made in lawful money of the United States in immediately available funds.

#### **DEFAULT**

63. If Defendants fail to make a payment required under paragraph 62 of this Consent Judgment or any Defendant makes an assignment for the benefit of their creditors, file or have filed against them any proceedings under any reorganization, bankruptcy act or similar law, are adjudicated bankrupt, or becomes insolvent, then all amounts due hereunder shall become immediately due and payable without notice. Provided, however, that in the event of a failure to make timely payments, Defendants shall be entitled to a written notice from the State of

Maryland on behalf of the States of any such delinquent payment and shall be given a period of ten (10) days to make the payment before their payment obligations may be declared in default. Any notice to Defendants provided under this paragraph shall be made by mailing such notice, first class mail, to the person(s) designated by Defendants for the purpose of receiving notice pursuant to paragraph 69 of this Consent Judgment.

64. Upon the occurrence of any default in payment required under the terms of this Consent Judgment, Defendants hereby irrevocably authorize and empower any attorney-at-law or Clerk of any court of competent jurisdiction in the State of Maryland, to appear at any time for the Defendants in any action brought against the Defendants on this Consent Judgment at the suit of the States, by and through the State of Maryland, Office of the Attorney General, with or without declaration filed, as of any term, to waive the issuing of service of process, and therein to confess or enter judgment against Defendants, jointly and severally, for the entire unpaid sum of amounts due hereunder, together with all costs and expenses of enforcing this Consent Judgment, including reasonable attorney's fees. This authority to confess judgment shall not be exhausted by any exercise thereof but shall continue from time to time and at all times until payment in full or all the amounts due hereunder have been made.

65. The injunctive provisions of this Consent Judgment shall be enforceable by the State of North Carolina before this Court and any objections to venue are hereby waived.

66. No delay or failure by a party in exercising any right, power or privilege under this Consent Judgment shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such right, power or privilege preclude any further exercise thereof, or any other right, power or privilege.

67. Defendants hereby waive demand, diligence, presentment, protest and notice of every kind, except as expressly provided herein. Any notice to Defendants that the States are required to make shall be made by mailing such notice, first class mail, to the person(s) designated by the States or the Defendants for the purpose of receiving notice pursuant to paragraph 69 of this Consent Judgment.

### ENFORCEMENT

68. If the State of North Carolina determines that Defendants have failed to comply with the terms of this Consent Judgment, and if, in the State of North Carolina's discretion, it determines that the failure to comply does not threaten the health or safety of the citizens of the State, the State of North Carolina shall not bring any action to enforce any provision of this Consent Judgment without first giving the Defendants written notice of the alleged violation and then allowing the Defendants at least thirty (30) days from the date of the notice to address the alleged violation before the State of North Carolina commences any enforcement action.

69. Whenever notice is required under this Consent Judgment, notice shall be provided in writing, including electronic mail or facsimile.

Notice to the States shall be directed to:

Philip D. Ziperman  
Deputy Chief  
Consumer Protection Division  
200 Saint Paul Place, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202  
(410) 576-6374  
(410) 576-6566 (facsimile)  
[pziperman@oag.state.md.us](mailto:pziperman@oag.state.md.us)

Notice to the State of North Carolina shall be directed to:

M. Lynne Weaver  
Assistant Attorney General  
Consumer Protection Division  
114 West Edenton Street  
Raleigh, North Carolina 27603  
(919) 716-6039  
(919) 716-6050 (facsimile)  
[lweaver@ncdoj.gov](mailto:lweaver@ncdoj.gov)

Notice to the Defendants shall be directed to:

Robert A. Miller  
Executive Vice-President and Chief Financial Officer  
AscendOne Corporation  
8930 Stanford Boulevard  
Columbia, Maryland 21046  
(410) 910-2766  
(410) 910-2781 (facsimile)  
[rmiller@ascendone.com](mailto:rmiller@ascendone.com)

Carla Stone Witzel, Esquire  
Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC  
233 East Redwood Street  
Baltimore, Maryland 21202  
(410) 576-4291  
(410) 576-4196 (facsimile)  
[cwitzel@gfrlaw.com](mailto:cwitzel@gfrlaw.com)

Any party may change its designated notice recipients by written notice to the other party.

#### **MODIFICATION**

70. The parties may apply to the Court to modify this Consent Judgment by agreement at any time.

71. Any party may apply to the Court, without the other party's agreement, to modify this Consent Judgment for good cause shown based on a substantial change in law or fact occurring after the date this Consent Judgment is entered.

## MONITORING AND RECORD KEEPING

72. On the first and second anniversary dates of this Consent Judgment, Defendants shall provide the State of Maryland, as representative of the States, with copies of the following documents:

- a. all existing agreements Defendants have entered into with CCAs for which Defendants are providing Debt Management Services;
- b. a copy of each version of every manual and any other materials used by Defendants to train their employees regarding Debt Management Services during the previous year or that was provided to any CCA during the previous year;
- c. a copy of each version of every written script and guideline used by Defendants' employees when contacting consumers regarding Debt Management Services during the previous year or that was provided to any CCA during the previous year;
- d. a copy of each form Debt Management Services agreement, form DMP agreement, or other form agreement used by Defendants' employees when contacting consumers regarding Debt Management

Services during the previous year or that was provided to any CCA during the previous year; and

- e. a copy of each form Debt Management Services agreement, form DMP agreement, or other form agreement provided to any CCA during the previous year.

### **RELEASE AND CONSENT TO JUDGMENT**

73. Upon full payment of the amounts due under this Consent Judgment, the State of North Carolina (“State”), through its Attorney General, releases and discharges Defendants from all civil causes of action that the State could have brought under North Carolina’s Unfair and Deceptive Practices Act related to the allegations set forth in paragraphs 14 through 20 of its Complaint concerning the provision of Debt Management Services, as that term is defined by this Consent Judgment, prior to the date of the entry of this Consent Judgment. The term “debt management services” as used in the Complaint shall have the same definition as the one contained in paragraph 12 of this Consent Judgment. As long as Defendants perform their obligations under this Consent Judgment, the State shall not bring any claim that it could have brought for conduct prior to the entry of this Consent Judgment related to the allegations asserted in paragraphs 19 through 22 and paragraph 24 of this Consent Judgment. Defendants agree that if Defendants default on any monetary payment herein or file for bankruptcy and seek to either avoid or recover any payment made herein, the State may move to set aside this Consent Judgment and seek full restitution, costs, civil penalties and other remedies that would have been available to the State prior to entry of this Consent Judgment. Nothing contained in this

paragraph shall be construed to limit the ability of the State to enforce the non-monetary obligations that Defendants and their officers, agents, servants and employees acting on their behalf, have under this Consent Judgment. Further, nothing contained herein shall release any private cause of action that any citizen of the States may have against any of the Defendants.

74. Defendants, by and through their counsel, acknowledge that they have read the foregoing Consent Judgment, are aware of their right to a trial in this matter and have waived that right.

75. Defendants admit to the jurisdiction of the Court and consent to the entry of this Consent Judgment.

76. Defendants state that no promise of any kind or nature whatsoever (other than the written terms of this Consent Judgment) was made to them to induce them to enter this Consent Judgment, that Defendants have entered into this Consent Decree voluntarily, and that this Consent Judgment constitutes the entire agreement between Defendants and the State of North Carolina.

CONSENTED TO:

PLAINTIFF

STATE OF NORTH CAROLINA,  
*Ex rel.* Roy Cooper, Attorney General

DEFENDANTS

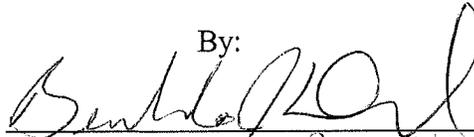
ASCENDONE CORPORATION  
8930 Stanford Boulevard  
Columbia, MD 21046

By:



M. Lynne Weaver  
Assistant Attorney General  
Consumer Protection Division

By:



NAME Bernaldo J. Dancel  
TITLE Chief Executive Officer/President

AMERIX CORPORATION  
8930 Stanford Boulevard  
Columbia, MD 21046

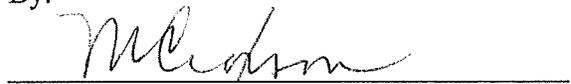
By:



NAME Robert Miller  
TITLE Chief Operating Officer/President

CAREONE SERVICES, INC.  
8930 Stanford Boulevard  
Columbia, MD 21046

By:



NAME Michael Croxson  
TITLE President

FREEDOMPOINT FINANCIAL  
CORPORATION

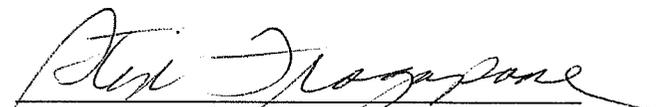
8930 Stanford Boulevard  
Columbia, MD 21046

By:

  
NAME Bernaldo J. Dancel  
TITLE Chief Executive Officer/President

3C, Inc.  
8930 Stanford Boulevard  
Columbia, MD 21046

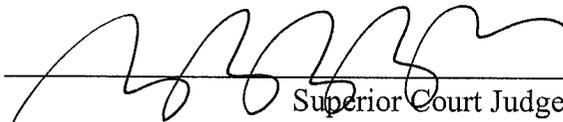
By:

  
NAME Stephen Fragapane  
TITLE President

  
Bernaldo Dancel, Individually  
8930 Stanford Boulevard  
Columbia, MD 21046

SO ENTERED:

Date Entered: 11-2-2010

  
Superior Court Judge  
