

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT ROSS, et al., :
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Plaintiffs, : 05 Civ. 7116 (WHP)
:
-against- : Judge William H. Pauley, III
:
BANK OF AMERICA, N.A. (USA), et al., :
:
Defendants. :
:
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DECLARATION OF BRYAN RENIKER

I, Bryan Reniker, declare, under penalty of perjury, as follows:

1. My name is Bryan Reniker. I am over the age of 18, and am competent to make this Declaration. I submit this Declaration on behalf of FIA Card Services, N.A., and Bank of America, N.A. (collectively, "Bank of America"). I am a vice president for marketing for small business cards at Bank of America. In this role, I have direct responsibility for the preparation and distribution of notices to cardholders regarding changes in term to their small business credit card agreements with Bank of America. Consequently, I have personal knowledge of the matters set forth herein.

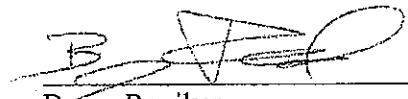
2. Pursuant to the schedule set forth below, Bank of America is in the process of mailing notices to its small business credit card cardholders (hereafter, "Cardholders") regarding amendments to their small business credit card agreements with Bank of America (hereafter, the "CIT Notice"). The CIT Notice informs each Cardholder that claims or disputes about their account will no longer be subject to mandatory arbitration and that the arbitration provision in

their agreement has been removed. Attached hereto at Exhibit A is a sample of the CIT Notice being distributed to Cardholders. All CIT Notices contain nearly identical language regarding the removal of the arbitration provision.

3. The CIT Notice will be distributed to approximately 1.75 million Cardholders in two separate mailings. The first mailing, which covered 99.99% of these Cardholders, was completed on April 20, 2010. Under current plans, a second mailing to cover remaining accounts will be completed on May 28, 2010.

4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 25, 2010



Bryan Reniker

Exhibit A

April 12, 2010

RE: Your business account ending in 9999

Sample A Sample
April 2010 CNY
Transparent/without Clarity Commitment
Call 1-FIA
Mail Date April 12-20.

FIA CARD SERVICES®

Dear Sample A Sample:

FIA Card Services values its Small Business customers and understands the challenges you face in today's environment. You have asked for more control, choice and clarity in managing your daily finances. Based on your feedback, FIA Card Services is implementing changes to your Small Business Card account to give you better value for banking with us. Below is a brief summary of the improvements we're making to serve you better.

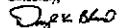
- We will no longer increase your rate on existing balances for late payments or other risk reasons. Your Annual Percentage Rate (APR) for existing balances can still change with the expiration of a promotional rate or an increase or decrease in the U.S. Prime Rate.
- We will always provide 45 days notice before we increase your rate for future transactions, except for an increase in the U.S. Prime Rate.
- Any amount you pay over the minimum payment will now be used to pay down your balances with highest APRs first. That means, if you consistently pay more than the minimum, over time you'll incur less interest and pay off your balance faster.
- We will no longer charge a fee for going over your credit limit. Remember, any transaction that would cause you to exceed your credit limit may be declined. To avoid inconvenience when using your card, it is more important than ever to know how close you are to your limit.
- Your payment due date will be at least 25 days from the statement closing date printed on your statement.

Please see the enclosed Changes to your Business Card Agreement for complete details on all changes and be sure to keep these documents for your records.

We're here to answer your questions — day and night. If you have any questions or need assistance with your account, please contact us by calling the toll free number on the back of your credit card. Our experienced associates are ready to assist you 24 hours a day, seven days a week. To access your account online, go to fiacardservices.com.

Thank you for being a valued FIA Card Services business customer.

Sincerely,



Douglas K. Bland
Business Card Strategy Executive
FIA Business Card Services

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APRIL 2010

CHANGES TO YOUR BUSINESS CARD AGREEMENT

Please read this document carefully and keep it with your new Business Card Agreement (enclosed). The terms of your new Business Card Agreement will govern your account as of July 1, 2010 (the "Effective Date"). These changes apply to all accounts in your Company's relationship except where otherwise disclosed, and will apply even if your account is already closed.

LITIGATION

What is Happening:

Claims or disputes about your account will no longer be subject to mandatory arbitration, therefore we are amending Section 3 to remove the arbitration provision.

Amendment to Your Agreement:

Effective July 1, 2010, we are deleting Section 3 in its entirety and replacing it with the following:

3. LITIGATION.

You agree that any litigation brought by you against us arising from or relating in any way to this Agreement or any prior Agreement of your Account (whether under a statute, in contract, tort, or otherwise and whether for money damages, penalties or declaratory or equitable relief) shall be brought in a court located in the State of Delaware.

ILLEGAL TRANSACTIONS

What is Happening:

We are amending Section 4.2.2.

Amendment to Your Agreement:

Effective July 1, 2010, we are deleting Section 4.2.2 in its entirety and replacing it with the following:

4.2.2. Illegal Transactions. You must not use your account for illegal transactions; for example, those transactions prohibited by the Unlawful Internet Gambling Enforcement Act 31 U.S.C. Section 5901 et seq. Display of a payment card logo by an online merchant does not mean that an Internet transaction is legal where you reside. We will not be liable if you engage in an illegal transaction. You may not use your account to conduct transactions in any country or territory or with any individual or entity that is the subject of economic sanctions administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). Use of your card in those countries will be blocked.

GRACE PERIOD and FINANCE CHARGE ACCRUAL

What is Happening:

We are increasing the grace period by lengthening the time you have to make a payment.

Amendment to your Agreement:

Effective July 1, 2010, we are deleting Section 5.1 in its entirety and replacing it with the following:

5.1. Grace Period and Finance Charge Accrual.

Your Payment Due Date will be at least 25 days from your Statement closing date. "Grace Period" means the period of time during a billing cycle when you will not accrue Periodic Rate Finance Charges on certain transactions or balances. We give you a Grace Period on certain Purchases in the following instances. Finance charges will accrue on previous Purchases only if either of the two prior statement's new balance totals, if any, are not paid in full by their respective Payment Due Dates. When applicable, finance charges on each Purchase accrue daily from the transaction date until the date each Purchase is completely repaid according to the payment allocation method then in effect. There is no Grace Period on Cash Advances or Balance Transfers. There is no Grace Period for a returned promotional balance that posts to Purchase after a promotional period ends. There is no Grace Period for a returned payment amount or any other re-credit amount that posts to Purchase. Finance charges on each Cash Advance or Balance Transfer accrue daily from the transaction date until the date each Cash Advance or Balance Transfer is completely repaid according to the payment allocation method then in effect.

LOSS OF PROMOTIONAL RATES

What is Happening:

We are eliminating the triggers that result in the loss of introductory or promotional rates.

Amendment to Your Agreement:

Effective May 1, 2010, upon expiration of the Promotional Period, the Annual Percentage Rate for the remaining unpaid promotional balances will be your then-current standard contract rate.

ELIMINATION OF PENALTY APRs

What is Happening:

We are deleting the Penalty APR section of your Agreement. This means that your rate for existing balances will no longer be automatically raised if you are late with your payments.

This action will not result in a change to your current APRs. If any of your current APRs are Penalty Rates, those APRs will remain eligible for an APR decrease if, in a subsequent rolling consecutive six billing cycle period, you make all of your

required Minimum Payments by their respective Payment Due Dates. In the future, if we change your APRs we will do so pursuant to Section 10 of your Agreement titled "Change in Terms".

Amendment to Your Agreement:

Effective May 1, 2010, we are amending your Agreement to remove Section 5.3.1.c. However, if as of the effective date your current APR is a Penalty Rate, the following will apply:

Penalty APRs:

If, as of the effective date, any of your current APRs are at a Penalty APR, those rates will remain in effect until you make all of your required Minimum Payments by their respective Payment Due Dates within a rolling consecutive six billing cycle period. Notwithstanding this provision, we reserve the right to increase your APRs pursuant to Section 10 of your Agreement titled "Change in Terms".

VARIABLE RATE INFORMATION

What is Happening:

The variable Periodic Rates and corresponding Annual Percentage Rates associated with your Account will be tied to the monthly U.S. Prime Rate. This means the variable Periodic Rates and corresponding Annual Percentage Rates will increase if the Index increases and decrease if the Index decreases. An increase to your Periodic Rate and the corresponding Annual Percentage Rate will increase the amount of Finance Charges on your Account and may also increase your Minimum Payment Due.

Amendment to Your Agreement:

Effective July 1, 2010, we are deleting Section 5.3.2 in its entirety and replacing it with the following:

5.3.2. Variable Rate Information. One or more of the APRs described on your Additional Disclosure may vary with changes in the Prime Rate. All such variable APRs are determined by adding the appropriate Margin, as set forth on your Additional Disclosure, to the Index. The Margin is the percentage that we add to the Index to calculate your APRs. The Index is the highest prime rate published in the Money Rates section of *The Wall Street Journal* on the last publication day of each month (the "Determination Date(s)"). This rate does not necessarily represent the lowest prime rate or FIA Card Services' lowest rate. The variable Periodic Rates and corresponding Annual Percentage Rates will increase if the Index increases and decrease if the Index decreases. All rate changes take effect on the first day of the billing cycle that ends in the calendar month following the most recent Determination Date. An increase to your Periodic Rate and the corresponding Annual Percentage Rate will increase the amount of Finance Charges on your Account and may also increase your Minimum Payment Due. If *The Wall Street Journal* discontinues publishing the U.S. Prime Rate, or if it changes the definition of the U.S. Prime Rate, we may, in our sole discretion, substitute another index.

OVERLIMIT FEE

What is Happening:

We will no longer charge a fee for going over your credit limit. Transactions that would cause you to exceed your credit limit may be declined, therefore, it is important to know how close you are to your limit.

Amendment to your Agreement:

Effective July 1, 2010, we are deleting subsection 6.1.3 in its entirety.

ALLOCATION OF PAYMENTS

What is Happening:

We are changing the order in which we apply payments.

Amendment to your Agreement:

Effective July 1, 2010, we are deleting Section 7.2.7 in its entirety and replacing it with the following:

7.2.7. Allocation of Payments.

7.2.7.1 Allocation of Minimum Payment. We may choose the order in which the Minimum Payment is applied to your Account. We may apply your Minimum Payment to amounts outstanding on your Account, including but not limited to fees and finance charge, before any Purchases, Balance Transfers, and/or Cash Advances. In applying your Minimum Payment to any outstanding balance of Purchases, Balance Transfers, and/or Cash Advances, we may apply your payment to each balance outstanding at the lowest Annual Percentage Rate until it is paid in full before allocating any payment to any other balance outstanding on your Account.

7.2.7.2 Allocation Excess Payment. If the amount of payment(s) received for a billing cycle exceeds the amount of the Minimum Payment for that billing cycle, the amount in excess ("Excess Payment") will be applied first to any outstanding balance with the highest Annual Percentage Rate and any remaining portion to the other balances in ascending order based on the applicable Annual Percentage Rate. Within each category of APR balances, we may apply the payments in the order we choose to any subcategories of balances having the same APR.

CHANGE IN TERMS

What is Happening:

We are adding a new paragraph to this section of your Agreement to more clearly reflect the circumstances under which we may amend your Agreement including raising Annual Percentage Rates on existing balances.

Amendment to Your Agreement

Effective July 1, 2010, we are adding the following paragraph to Section 10:

The reasons we may change the terms of this Agreement or your Account include the following: your risk profile based on your payment patterns, transaction patterns, balance patterns, and utilization levels of this and other accounts, credit bureau information including the age, history and type of other accounts, and relationships between each and all of these measures of risk. We may also change terms for reasons not related to your individual credit history, such as overall economic and market trends, product design, and business needs. APR increases will not impact existing balances.

OTHER CHANGES

What is Happening:

One additional section of your Agreement has been revised effective July 1, 2010. Please read Section 6.1.8 in the enclosed new Business Card Agreement closely.