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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

FIRM SOLUTIONS, APC,
Plaintiff,
v.
LYON FINANCIAL SERVICES, INC.;
U.S. BANCORP BUSINESS
EQUIPMENT FINANCE GROUP; and
DOES 1 through 100, inclusive,
Defendants.

Case No. GIC 831065

**NOTICE OF PENDENCY OF
NATIONWIDE CLASS ACTION AND
PROPOSED SETTLEMENT**

**THIS LEGAL NOTICE AFFECTS YOUR RIGHTS, PLEASE READ
IT CAREFULLY.**

TO: ALL CLASS MEMBERS (AS DEFINED IN SECTION III BELOW)

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I.

PURPOSE OF THIS NOTICE AND SUMMARY OF THE CASE

This Notice informs you about the above-referenced action and a proposed settlement on behalf of a certain class of persons. This Notice advises you of the benefits that may be available to you under the proposed settlement and your rights and options as a potential class member, and notifies you that a Court hearing will be held to decide whether to approve the settlement.

You are receiving this notice because you are or were a lessee of business equipment from Lyon Financial Services, Inc. Your lease may identify a trade name of Lyon Financial or the name of another entity that does business with Lyon Financial.

Plaintiff Firm Solutions, APC filed this class action lawsuit against Lyon claiming that Lyon has overcharged its lessees for certain charges, specifically for property damage surcharges, origination charges, UCC filing fees, and/or taxes. Plaintiff claims that Lyon breached the lease and violated the law.

Plaintiff and Lyon Financial have reached a proposed settlement of these claims, the details of which are described below. If you participate in this settlement, and you are eligible to receive benefits from this settlement, you may be eligible to receive 80% of property damage surcharges you paid during the period covered by the settlement. You may also be eligible to receive vouchers from Lyon which may be used toward existing or future lease payments. Finally, you may receive (or may have already received) a credit or a check in the amount of any UCC filing fee you previously paid.

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II.
THE LITIGATION

On June 7, 2004, Firm Solutions, APC ("Plaintiff" or "FSA") filed an action, styled as *Firm Solutions, APC v. U.S. Bancorp Business Equipment Finance Group, U.S. Bancorp and Does 1 through 100, inclusive*, Case Number GIC 831065 (the "Action"), on behalf of itself and all others similarly situated against Defendant Lyon Financial Services, Inc., dba U.S. Bancorp Business Equipment Finance Group ("Lyon"), in the Superior Court of California in and for the County of San Diego (the "Court").

On or about August 4, 2005, after Lyon's demurrers and motions to strike were sustained/granted as to the Complaint, the First Amended Complaint, and the Second Amended Complaint, Plaintiff filed its "Third Amended Nationwide Class Action Complaint For Injunctive Relief and Restitution Under Business & Professions Code Section 17200" in the Action. On or about August 5, 2005, Plaintiff filed a "Notice of Errata Re: Third Amended Nationwide Class Action Complaint For Injunctive Relief and Restitution Under Business & Professions Code Section 17200," attaching a revised version of the Third Amended Complaint.

In its complaint, Plaintiff alleged that Lyon imposed certain charges on its lessees that were unfair, misleading, deceptive, unlawful, not related to Lyon's actual costs, and that the fees at issue were not set in good faith. Plaintiff alleged four causes of action against Lyon for (1) breach of contract, (2) intentional misrepresentation, (3) negligent misrepresentation, and (4) violations of California's Business and Professions Code section 17200 *et seq.*

Lyon's demurrer to the nationwide class action allegations in the Third Amended Complaint was sustained without leave to amend and its motion to strike those

1 allegations was granted. Lyon thereafter answered the Third Amended Complaint. On or
2 about February 6, 2006, the Court issued an order certifying the Action as a class action
3 and, together with its Orders issued on June 7, 2006 and January 9, 2007, defined the class
4 to include, at that time, certain California lessees. The Court appointed FSA as the sole
5 class representative and appointed Gordon & Rees, LLP and Ambrecht Jackson, LLP as
6 class counsel.

7
8 On or about January 22, 2007, the Court issued an order, pursuant to the
9 stipulation of the parties, dismissing Plaintiff's claims for intentional misrepresentation and
10 negligent misrepresentation and striking certain other allegations. For purposes of this
11 settlement, the parties have agreed that the Third Amended Complaint attached to the
12 August 5, 2005 Notice of Errata is the operative complaint in the Action and that all issues
13 and allegations contained within it, regardless of the dismissal of claims or striking of
14 allegations, are addressed by the settlement.

15
16 On June 20, 2007, the Court called the Action for trial and trial commenced.
17 On June 25 and 26, 2007, a settlement conference was held before Judge Joan Lewis. On
18 June 26, 2007, the parties reached an agreement as to the basic terms of settlement of the
19 Action. After reaching the settlement, but before the parties sought preliminary approval
20 of that settlement by the Court, the parties agreed to seek to expand the class of lessees to
21 be included in the settlement beyond those that received notice of this Action pursuant to
22 the Court's orders of June 7, 2006 and January 9, 2007. On October 9, 2007, the parties
23 entered into an Addendum to the Release and Settlement Agreement.

24
25 Plaintiff and Lyon have settled the Action because they consider it to be in
26 their best interests to settle and dispose of, fully and completely, any and all claims,
27 demands and causes of action heretofore or hereafter arising out of, connected with or
28 incidental to the Action, including, without limitation on the generality of the foregoing,

1 any and all claims, demands and causes of action reflected in the Action, and any and all of
2 the facts and circumstances giving rise to the Action, to the extent such claims, demands,
3 and causes of action are held by Class Members for the Class Period. Lyon denies all of
4 Plaintiff's allegations of wrongdoing and no finding of liability has been made against
5 Lyon.

6
7 **III.**

8 **THE CLASS DEFINITION**

9
10 Plaintiff has agreed to settle this action on behalf of a Class, whose
11 membership is defined as follows:

12
13 "Class Members" means all lessees of Lyon or its predecessors-in-interest
14 who:

15 (1) paid a property damage surcharge ("PDS") between June 7,
16 2000 and the Preliminary Approval Date, and who have or had a lease that contains one of
the following provisions:

17 (i) You agree to provide us certificates or other evidence of
18 insurance acceptable to us[,] before this Agreement begins or, we will
19 enroll you in our property damage [coverage *or* insurance] program
and bill you a property damage surcharge as a result of our increased
[administrative costs and credit risk *or* credit risks and administrative
20 costs.]"

21 (ii) "You agree to provide us certificates or other evidence
of insurance acceptable to us, before this Agreement begins or, should
22 you waive this requirement, we will bill you and you will pay a
property [damage] surcharge as a result of our [increased
23 administrative costs and] credit risk."

24 (iii) "If you fail to provide appropriate property damage
coverage certificate, we may enroll you in our property damage
25 insurance program and bill you a property damage surcharge as a
result of our increased administrative costs and credit risks."

26 (iv) "In the event that the Lessee fails to deliver to Lessor a
27 certificate evidencing physical damage insurance, Lessor, may charge
and Lessee shall pay, because of the increased credit risks to Lessor
28 due to such failure, a property damage surcharge for such increased
risks."

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and/or

(2) paid a UCC filing charge between June 7, 2000 and the Preliminary Approval Date, and who have or had a lease that contains one of the following provisions:

(i) "[In addition] [y]ou [also] agree to pay us any filing fees prescribed by the Uniform Commercial Code[(UCC)] [or other law] and reimburse us for all costs [and expenses] involved in [completing this transaction *or* documenting and servicing this transaction]."

(ii) "You agree to pay us filing fees prescribed by the Uniform Commercial Code or other law and pay us other fees which are in effect and subject to change."

(iii) "You also agree to pay us any filing fees prescribed by the Uniform Commercial Code or other law [or, at our option, a non-filing protection fee]."

(iv) "You also agree to pay us for any filing and releasing fees prescribed by the Uniform Commercial Code or other law including filing or other fees incurred by us."

(v) "[You *or* Lessee] agree[s] to pay [our *or* all] [licensing] filing [registration *or* and other administrative and processing] fees."

(vi) "Lessee authorizes Lessor to file the informational financing statements without Lessee's signature and, if a signature is required by law, Lessee appoints Lessor as Lessee's attorney-in-fact to execute such financing statements."

and/or

(3) paid an origination charge between June 7, 2000 and the Preliminary Approval Date, and who have or had a lease that contains one of the following provisions:

(i) "You further agree to pay us [amount] on the date the first [lease *or* rental] payment is due to cover the expense of originating the Agreement."

(ii) "You further agree to pay us up to [\$100 *or* \$199] on the date the first lease payment is due to cover the expense of originating the Agreement."

(iii) "You further agree to pay us an origination fee [in an amount equal to one percent of the original equipment cost *or* \$129 *or* up to \$500] on the date the first payment is due to cover the expense of originating the [transaction *or* Agreement]."

1 (iv) "[You *or* Lessee] further agree to pay [us *or* Lessor]
2 [\$49.50 *or* \$99.50] on the date the first lease payment is due to cover
the expense of originating the Agreement."

3 (v) "You will also pay us when you sign the Agreement a
4 one-time nonrefundable processing fee in such amount as we
determine no less than \$100."

5 (vi) "On the Commencement Date of this Lease and any
6 additional Schedule to this Lease, you shall pay to us a one-time
administrative fee, not to exceed \$75."

7 (vii) "You agree to reimburse us for our reasonable expenses
8 incurred in connection with this Lease, including, but not limited to, a
documentation fee based on our current fee schedule which is
9 available to you upon your request."

10 (viii) "We may charge you and you shall pay to us a one-time
11 administrative fee of up to \$75.00 to reimburse us for documentation
and investigation costs."

12 and/or

13 (4) paid personal property tax and/or a processing fee related to
14 personal property taxes between June 7, 2000 and the Preliminary Approval Date and who
15 have or had a lease that contains one of the following provisions:

16 (i) "You agree to pay when due all taxes (including
17 personal property tax, fines and penalties) [and fees] relating to this
18 Agreement or the Equipment. If we pay any of [these fees or taxes *or*
the above] for you, you agree to reimburse us and to pay us a [\$15]
19 processing fee for each payment we make on your behalf."

20 (ii) "You shall pay when due all charges and taxes (federal,
21 state and local) that may at any time be imposed or assessed upon the
ownership, leasing, rental, sale, possession or use of the Equipment.
22 If we pay any of the above for you, you agree to reimburse us and to
pay us a processing fee for each payment we make on your behalf.
23 You also agree that we are not obligated to contest any taxes, fines or
penalties."

24 (iii) "You agree to pay when due all sales and use taxes,
25 personal property taxes and all other taxes and charges, license and
26 registration fees, relating to the ownership, leasing, rental, sale,
27 purchase, possession or use of the Equipment as part of this Rental or
as billed by us. You agree to pay us any estimated taxes when we
28 request payment. You agree that if we pay any taxes or charges on
your behalf in excess of the estimated taxes previously collected, you
shall reimburse us for all such payments and shall pay us a late charge
(as described in the paragraph titled Payment) on such payments if
applicable with the next payment. You agree to pay us a monthly fee
up to 150 thousandths of one percent (.150%) of the original
Equipment cost to reimburse us for our costs of preparing, reviewing

1 and filing any such returns. You agree, and we have the right to (i)
2 bill monthly the estimated applicable personal property taxes together
3 with the fees described herein and (ii) bill any remaining estimated
4 amount due upon assessment of such taxes, without regard to any
5 discounts we may obtain. You also agree to appoint us as your
6 attorney-in-fact to sign your name to any document for the purposes
7 of such filing, so long as the filing does not interfere with your right to
8 use the Equipment."

9 (iv) "You agree to pay when due all taxes, fees, fines,
10 assessments and penalties relating to this Lease, including, without
11 limitation, documentation fees, filing fees, credit fees, equipment
12 inspection fees, early termination or assumption fees, title fees, name
13 change fees, sales or property taxes, use taxes and business taxes.
14 You also agree that we may estimate the yearly personal property
15 taxes that will be due for the Equipment, and you agree to pay us the
16 estimated taxes together with a processing fee as invoiced by us. If
17 we pay any taxes, fines or penalties, you agree to reimburse us,
18 together with a processing fee, on demand."

19 (v) "You agree to pay when due all taxes, fines and
20 penalties relating to this Lease. You also agree that we may estimate
21 the yearly personal property taxes that will be due for the Equipment.
22 You agree to pay us a monthly fee not to exceed 150 thousandths of
23 one percent (.150%) of the original equipment cost or a comparable
24 annual fee if we bill you annually to reimburse us for our costs of
25 preparing, reviewing and filing any such returns. In either event, if
26 we pay any taxes, fines or penalties for you, you agree to reimburse us
27 on demand, and your payment will be based on the full amount of
28 such taxes, without regard to any discounts we may obtain due to
early payment or otherwise. You also agree to appoint us as your
attorney-in-fact to sign your name to any document for the purpose of
such filing, so long as the filing does not interfere with your right to
use the Equipment."

(vi) "Debtor shall when due pay and make filings with
respect to all taxes, fees, including registrations, fines, penalties and
other governmental assessments based on the ownership or use of the
Collateral and shall pay as directed by Creditor or reimburse Creditor
for all other governmental assessments (including gross receipts taxes
but exclusive of Federal and State taxes based on Creditor's net
income) related to amounts due hereunder, the Collateral or otherwise
related hereto. Filings with respect to such other assessments shall, at
Creditor's option, be made by Creditor or by Debtor as directed by
Creditor."

(vii) "Lessee agrees to pay all other licensing, filing and
registration fees; to keep the Equipment free of all liens and
encumbrances; [TO SHOW THE EQUIPMENT AS LEASED
EQUIPMENT ON TAX RETURNS;] TO PAY LESSOR FOR ALL
PERSONAL PROPERTY TAXES ASSESSED AGAINST THE
EQUIPMENT; to pay all other taxes, assessments, fees and penalties
which may be levied or assessed in respect to the Equipment, its use
or any interest therein, or any lease payments, including but not
limited to all federal, state and local taxes, however designated, levied

1 or assessed, whether upon Lessee or Lessor or the Equipment or upon
2 the sale, ownership, use or operation, excepting any income taxes
3 levied on the lease payments to Lessor. [Lessor may at its option
4 collect from Lessee an escrow fee of up to .35% of the equipment cost
5 per month for a tax escrow fund.] Lessor will pay on Lessee's behalf
6 such taxes and other amounts and file applicable returns. [In addition,
7 Lessee authorizes Lessor to file at Lessor's option informational
8 financing statements without Lessee's signature and, if a signature is
9 required by law, Lessee appoints Lessor as Lessee's attorney-in-fact to
10 execute such financing statements. *Or* Lessee shall pay Lessor a
11 charge for Lessor's handling or collecting of property and/or use
12 taxes.] Lessee and any guarantor agree to reimburse Lessor for
13 reasonable costs incurred in collecting taxes, assessments, or fees for
14 which Lessee is liable, and any collection charges attributed thereto,
15 including reasonable attorney fees. [Lessee agrees that Lessor is
16 entitled to all tax benefits resulting from ownership of the Equipment.
17 Lessee agrees that, should any of such tax benefits be disallowed,
18 Lessee shall indemnify Lessor for such loss by paying Lessor an
19 amount equal to the value of the lost benefits]."

20 and

21 (5) have not elected to be excluded from the class, in accordance
22 with the Court's Orders dated June 7, 2006 and January 9, 2007 or the notices sent
23 pursuant to orders issued in connection with this Agreement.

24 (6) "Class Members" specifically excludes any lessee of Lyon for
25 which Lyon received a Notice of Automatic Stay or other notice that the lessee has filed
26 for bankruptcy protection.

27 IV.

28 DEFINITIONS

In addition to the term "Class Members" defined in Section III above, the
following are additional definitions used in this Notice:

1. "Class Period" means the period from June 7, 2000 through
_____ (the Preliminary Approval Date).

2. "Language Match" means that a Class Member has a lease with a
provision pertaining to a PDS charge, a UCC filing charge, an origination charge and/or a

1 personal property tax charge which is identical to the corresponding language set forth
2 within the definition of "Class Member" above.

3 3. "PDS Settlement Payment" means a payment to each individual Class
4 Member with a Language Match with respect to the property damage surcharge, in the
5 amount of 80% of Lyon's gross PDS revenue received from that Class Member over the
6 Class Period. The PDS Settlement Payments will be paid by credit to lease accounts in the
7 case of Class Members with an open lease account and by check in the case of Class
8 Members whose lease(s) has/have been paid to term.

9 4. "UCC Settlement Payment" means a voucher in the amount of \$2.50
10 for each individual Class Member with a Language Match with respect to a UCC filing
11 charge and who paid a UCC filing charge over the Class Period. The Class Member may
12 use the voucher with Lyon for any purpose related to a current or future lease account.

13 5. "Origination Settlement Payment" means a voucher in the amount of
14 \$5.00 for each individual Class Member with a Language Match with respect to an
15 origination charge and who paid an origination charge over the Class Period. The Class
16 Member may use the voucher with Lyon for any purpose related to a current or future lease
17 account.

18 6. "Tax Settlement Payment" means a voucher in the amount of \$5.00
19 for each individual Class Member with a Language Match with respect to personal
20 property taxes and/or a processing fee regarding personal property taxes and who paid
21 personal property taxes and/or a processing fee regarding personal property taxes over the
22 Class Period. The Class Member may use the voucher with Lyon for any purpose related
23 to a current or future lease account.

24 7. "Individual Distribution Amount" means the sum of the PDS
25 Settlement Payments, the UCC Settlement Payments, the Origination Settlement Payments
26 and the Tax Settlement Payments.

27 8. "Proof of Claim Form" means the form attached hereto as Exhibit A.
28

1 9. "Claims Administrator" means The Information Consulting Group of
2 U.S. Bank, 289 Bell Branch Lane, Jacksonville, Florida 32559.

3 10. "Class Representative" means FSA.

4 11. "Class Counsel" means Gordon & Rees, LLP and Armbrecht Jackson,
5 LLP.

6 12. "Preliminary Approval Date" means _____, the date on which the
7 Court entered an order preliminary approving this Agreement and certifying a nationwide
8 settlement class to include all Class Members.

9 13. "Certification and Preliminary Approval Order" means a Court order
10 certifying a nationwide settlement class to include all Class Members and for preliminary
11 approval of this Settlement Agreement.

12 14. "Class Notice" means this Notice of Pendency of Nationwide Class
13 Action and Proposed Settlement.

14 15. "Final Settlement Hearing" means a hearing before the Court for final
15 approval of this Settlement Agreement, currently scheduled for _____.

16 16. "Opt-Out and Objection Date" means _____, the last
17 business day at least twenty (20) days prior to the Final Settlement Hearing.

18 17. "Private Label Lessors" means those leasing entities that originated
19 leases and subsequently sold or assigned the leases to Lyon, and which Lyon bills under
20 the originating lessor's name. The Private Label Lessors include, but are not necessarily
21 limited to, the entities identified on Exhibit B to this Notice.

22 18. "Claims Period" means the period between the mailing of the Class
23 Notices and Proof of Claim Form by Lyon and _____ (240 days after the
24 Preliminary Approval Date).

25 19. "Yamamoto and Annor Cases" means and refers to *Yamamoto*
26 *Radiography, Inc. etc. v. Lyon Financial Services, Inc., etc.*, United States District Court
27 for the Central District of California, Case No. 06-08093GHK and *Emmanuel Annor, etc.*
28

1 *v. Lyon Financial Services, Inc., etc.*, United States District Court for the Southern District
2 of Texas, Houston Division, Case No. H-07 2308.

3
4 **V.**

5 **RIGHTS AND OPTIONS OF CLASS MEMBERS**

6
7 **A. Proof of Claim.**

8
9 If you wish to share in the benefits of the settlement, you must submit a
10 completed and signed Proof of Claim to the Claims Administrator (form and address
11 provided below). You must submit a copy of your lease(s) with the Proof of Claim Form.
12 Your Proof of Claim Form must be received by the Claims Administrator no later than
13 _____ [240 days after the preliminary approval hearing]. You need not appear in
14 Court to receive any of the benefits of this settlement. If the settlement is approved by the
15 Court, for each participating Class Member who submits a valid and timely Proof of Claim
16 and whose claim is accepted by the Claims Administrator, Lyon has agreed to pay the
17 Class Member and/or provide an appropriate voucher in accordance with the terms in
18 Section VII, below.

19
20 **B. Request for Exclusion.**

21
22 If you do not wish to participate in the Class or be bound by the settlement,
23 you must request exclusion from the Class. Exclusion means that you will not receive any
24 benefits from the settlement, you will not be bound by the settlement or any Judgment
25 entered thereon, and you cannot object to the settlement. To exclude yourself, you must
26 send a written request for exclusion to the Claims Administrator that must be received on
27 or before _____ [Opt-Out and Objection Date]. In the case of individuals requesting
28 exclusion, your request must include your name, address and lease number. In the case of

1 corporations or other legal entities (including partnerships or associations) requesting
2 exclusion, your request must include the entity's name, principal place of business and
3 lease number. For both individuals and corporations or other legal entities, the request for
4 exclusion must include the signature of the individual or an authorized signer for the entity
5 requesting exclusion.

6
7 Any Class Member who previously opted out of the class pursuant to the
8 notices sent following the Court's Orders of June 7, 2006 or January 9, 2007 will be treated
9 as opting out of this settlement, unless the Class Member submits a Proof of Claim Form,
10 in which case Lyon will pay the Class Member's Individual Distribution Amount and that
11 Class Member will be bound by the terms of the settlement.

12
13 If more than one thousand (1000) lessees opt-out of the Class and the
14 settlement, Lyon may at its election, deem the settlement null and void.

15
16 **C. Representation and Objections.**

17
18 If you want to represent yourself or hire an attorney to represent you in this
19 matter, and/or if you wish to object to the settlement, you may do so at your own expense.
20 You should submit your appearance and/or objection to the Superior Court of California,
21 County of San Diego. If you decide to appear and/or object, you or your attorney must file
22 and serve your appearance and/or objection with the Court and provide copies to all the
23 attorneys for the parties at the addresses listed below, all of which must be filed with the
24 Court and received by counsel for the parties by _____ [Opt-Out and Objection Date].
25 If you intend to present evidence at the hearing, you must include with your notification a
26 list identifying the witnesses whom you may call to testify and true copies of any exhibits
27 you intend to offer into evidence. All objections must contain the objector's name,
28 address, telephone number, lease number, the name and number of the action as set out

1 above, and the factual basis and legal grounds for the objection, and must be signed by the
2 objecting entity or person.

3
4 **VI.**

5 **EFFECT OF SETTLEMENT APPROVAL – RELEASED CLAIMS**

6
7 If the settlement is approved, each Class Member who does not request
8 exclusion, shall automatically and without further action or notice be deemed to have
9 released and forever discharged Lyon and its respective successors, assigns, attorneys,
10 accountants, insurers, representatives, affiliates, parents, partners, officers, directors,
11 stockholders, employees, and agents, as well as the Private Label Lessors listed on Exhibit
12 B to this Notice, from any and all claims, debts, liabilities, demands, obligations, promises,
13 acts, agreements, costs, and expenses (including but not limited to attorneys’ fees),
14 damages, actions, causes of action and claims for relief (referred to hereafter collectively
15 as “claims”) of whatever kind or nature, under any theory, whether legal, equitable or
16 other, under the law, either common, constitutional, statutory, administrative, regulatory,
17 or other, of any jurisdiction, foreign or domestic, whether such claims are known or
18 unknown, suspected or unsuspected, arising out of, or in connection with the matters or
19 facts alleged, or set forth in the Action described within this Agreement for the Claims
20 Period, including claims that they have brought or could have brought pertaining to the
21 charges at issue in the Action, regardless of whether or not the Class Member submits a
22 claim.

23
24 Class Members who do not request exclusion will further be deemed to
25 understand and to have waived provisions and principals of law such as Section 1542 of
26 the Civil Code of the State of California (as well as any and all provisions, rights and
27 benefits conferred by any law of any state or territory of the United States, or principle of
28 common law, which is similar or comparable to Section 1542):

1 **“A GENERAL RELEASE DOES NOT EXTEND TO**
2 **CLAIMS WHICH THE CREDITOR DOES NOT KNOW**
3 **OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
4 **THE TIME OF EXECUTING THE RELEASE, WHICH**
5 **IF KNOWN BY HIM OR HER MUST HAVE**
6 **MATERIALLY AFFECTED HIS OR HER**
7 **SETTLEMENT WITH THE DEBTOR.”**

8 Class Members who do not request exclusion expressly waive and release
9 any right or benefit which they have or may have under Section 1542 of the Civil Code of
10 the State of California, or other comparable authority in other jurisdictions, to the full
11 extent that they may waive all such rights and benefits pertaining to the matters released
12 herein. In connection with such waiver and relinquishment, FSA and the Class Members
13 acknowledge that they are aware that they may hereafter discover claims presently
14 unknown or unsuspected, or facts in addition to or different from those which they now
15 know or believe to be true, with respect to the matters released herein. Nevertheless, it is
16 the intention of FSA and the Class Members by the settlement, and with the advice of
17 counsel, fully, finally, and forever to settle and release all such matters, and all claims
18 relative thereto, which do now exist, may exist, or heretofore have existed between the
19 parties, to the extent set forth within the settlement. In furtherance of such intention, the
20 release contained in the settlement shall be and remain in effect as a full and complete
21 release of such matters notwithstanding the discovery or existence of any such additional
22 different claims or facts relative thereto. This is an essential term of the settlement without
23 which there would have been no settlement.

24 **VII.**

25 **NO ADMISSION OF LIABILITY BY SETTLING THIS LAWSUIT**

26 By entering into the proposed settlement, Lyon does not admit that it did
27 anything wrong. Lyon denies all allegations of wrongdoing, believes the charges at issue
28

1 were entirely appropriate, and denies that any Class Member has suffered damages or is
2 entitled to any recovery whatsoever.

3
4 **VIII.**

5 **THE PROPOSED SETTLEMENT**

6
7 The Parties have agreed to a proposed settlement which, if approved by the
8 Superior Court of California, County of San Diego, will result in dismissal of this action
9 with prejudice and the provision of certain benefits to the members of the Class. The
10 details of the settlement are set forth in the Release and Settlement Agreement attached to
11 the parties' Joint Motion for Preliminary Settlement Approval, which is on file with and
12 available for public inspection at the San Diego County Superior Court located at 330
13 West Broadway, San Diego, California 92101. You may also request a copy of the
14 Release and Settlement Agreement by calling The Information Consulting Group, toll free
15 [at _____].

16
17 This is a claims made settlement. **No Class Member will be entitled to**
18 **recover under the settlement unless the Class Member submits a Proof of Claim**
19 **within the Claims Period providing the information and documentation described**
20 **below and the payment is approved by the Claims Administrator.**

21
22 Under the terms of the settlement, Lyon has agreed to pay to each individual
23 participating Class Member with a Language Match with respect to the property damage
24 surcharge 80% of Lyon's gross PDS revenue received from that Class Member over the
25 Class Period. The PDS Settlement Payment will be paid by credit to lease accounts in the
26 case of Class Members with an open lease account and by check in the case of Class
27 Members whose lease(s) has/have been paid to term. In addition, Lyon will provide a
28 voucher in the amount of \$2.50 for each individual Class Member with a Language Match

1 with respect to the UCC filing charge and who paid a UCC filing charge over the Class
2 Period. The Class Member may use the voucher with Lyon for any purpose related to a
3 current or future lease account. Further, Lyon will provide a voucher in the amount of
4 \$5.00 for each individual Class Member with a Language Match with respect to the
5 origination charge and who paid an origination charge over the Class Period. The Class
6 Member may use the voucher with Lyon for any purpose related to a current or future lease
7 account. Finally, Lyon will provide a voucher in the amount of \$5.00 for each individual
8 Class Member with a Language Match with respect to personal property taxes and/or a
9 processing fee regarding personal property taxes and who paid personal property taxes
10 and/or a processing fee regarding personal property taxes over the Class Period. The Class
11 Member may use the voucher with Lyon for any purpose related to a current or future lease
12 account.

13
14 If the settlement is finally approved by the Court, within sixty (60) days of
15 the close of the Claims Period and the expiration of any applicable time period within
16 which to appeal (or, in the case of an appeal, after the appeal has been finally resolved and
17 remittitur has taken place) with respect to any order of the Court, including but not limited
18 to an award of attorneys' fees, Lyon will provide to each participating Class Member its
19 Individual Distribution Amount if the Claims Administrator has received from the Class
20 Member a Proof of Claim Form, with all requested information provided and enclosing a
21 copy of the Class Member's Lease(s), within the Claims Period. The Claims Administrator
22 shall be responsible for verifying whether the Class Member has a Language Match with
23 respect to any and each of the four charges at issue and whether the Class Member paid
24 one or more charges where the Class Member has a Language Match for that charge.

25
26 The Individual Distribution Amount (or evidence thereof in the case of
27 credits) shall be mailed to the Class Member by First Class United States Mail. If the
28 account was for a lease payable by multiple parties, then any payment or voucher

1 thereunder shall be made jointly in the names of all those parties. The proceeds of any
2 checks not cashed before 180 days from the date of their issuance shall be disposed of in
3 accordance with law.

4
5 No settlement fund or common fund is created or implied by the settlement,
6 and there shall be no unpaid residual whether under California Code of Civil Procedure
7 section 384 or any other statutory or case authority. Any amounts not provided to Class
8 Members due to a failure to submit a Proof of Claim Form will not be provided to any
9 third party. Any such amounts will remain solely with Lyon. If, for any reason, a court
10 determines otherwise, the settlement shall be null and void.

11
12 As to any Class Members with a UCC Language Match who were charged a
13 UCC filing charge where no UCC financing statement was initially filed with the
14 California Secretary of State, Lyon either has since filed or will file a UCC financing
15 statement; alternatively (at Lyon's election), Lyon has refunded or will refund \$35 to those
16 Class Members. On or before final approval of the settlement, Lyon will provide a
17 declaration from one of its officers, attesting that all UCC filings have been made and/or
18 UCC refunds or credits have been given to Class Members.

19
20 Lyon will change its provisions in its future leases regarding the property
21 damage surcharge, the UCC filing charge and the origination charge to state that it may
22 make a profit on such charges. Lyon will also set forth in its leases the formula for the
23 property damage surcharge and the amount of the UCC filing charge.

24
25 The correspondence typically sent by Lyon upon the inception of a lease
26 (commonly referred to as the "Welcome Letter") will be amended to state the formula for
27 the property damage surcharge and that Lyon may make a profit on the property damage
28 surcharge.

1 Any charges placed against an account for the property damage surcharge,
2 the UCC filing charge, the origination charge, and/or the tax charge, but subsequently
3 canceled, reversed or otherwise credited to the Class Member for reasons not requiring
4 payment by or obligation of the Class Member, shall be disregarded in the calculation of
5 the PDS Settlement Payments, UCC Settlement Payments, Origination Settlement
6 Payments and Tax Settlement Payments to the extent of such reversal or credit. Those
7 Class Members with accounts including charges that were discharged in bankruptcy shall
8 not be entitled to receive any benefits under the Settlement. Lyon has the right to offset
9 against an Individual Distribution Amount otherwise owed to a Class Member any
10 amounts owed by the Class Member to Lyon, including any amounts for which the Class
11 Member is delinquent.

12
13 On condition that this Agreement is finally approved by the Court at the
14 Final Settlement Hearing, Class Counsel may bring on for hearing an application for an
15 award of attorneys' fees and costs in the Action, as may be allowed by California law. Any
16 application for fees and costs incurred in the Yamamoto and Annor Cases will be brought
17 only in this Action, if at all, in accordance with this provision. All such attorneys' fees
18 awarded, if any, shall be determined by the Court pursuant to the lodestar method as
19 applied under California law. Lyon reserves the right to oppose any such application for
20 attorneys' fees and costs. The hearing of any such application may take place immediately
21 after the Court's final approval of the settlement. The application shall be filed and served
22 no later than twelve (12) weeks prior to the hearing.

23
24 If ordered by the Court, Lyon will pay to FSA a private attorney general's fee
25 as determined by the Court. Lyon may oppose any application for such a fee.
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IX.

FINAL SETTLEMENT HEARING

On _____, 2007 at _____, a hearing will be held in the Superior Court of California, County of San Diego before Judge Jeffrey B. Barton in Department 69 to determine whether the settlement should be approved by the Court. This hearing may be continued from day to day at the discretion of the Court. You need not appear at the hearing to receive settlement benefits.

X.

EFFECT OF DISAPPROVAL

If the settlement is not approved, the nationwide settlement class will be decertified and the parties will return to the positions they occupied as of the time the settlement was reached, and the litigation will continue as if there had not been a proposed settlement.

XI.

RELATED CASES

There are certain cases pending and/or closed in other courts that the parties believe are related to this case. The related cases include:

1. *Yamamoto Radiography, Inc. etc. v. Lyon Financial Services, Inc., etc.*, United States District Court for the Central District of California, Case No. 06-08093GHK.

1 2. *Emmanuel Annor, etc. v. Lyon Financial Services, Inc., etc., United*
2 States District Court for the Southern District of Texas, Houston Division, Case No. H-07
3 2308.

4
5 3. *Wooten Law Firm, P.C. etc. v. U.S. Bancorp; U.S. Bancorp*
6 *Equipment Finance, Inc., etc.,* Circuit Court of Chambers County, Alabama, Civil Action
7 No. CV-05-221.

8
9 4. *Thrift Auto Repair, Inc. v. U.S. Bancorp; U.S. Bancorp Equipment*
10 *Finance, Inc., etc.,* United States District Court for the Northern District of Georgia,
11 Atlanta Division, Civil Action No. _____.

12
13 **XII.**

14 **ADDRESSES OF THE COURT AND ATTORNEYS FOR THE PARTIES**

15
16 The address for the Superior Court of California, County of San Diego is:
17 Superior Court of San Diego County, California / Hall of Justice / 330 W. Broadway /
18 San Diego, CA 92101.

19
20 The addresses for Class Counsel are: M.D. Scully, Esq. / Gordon & Rees
21 LLP / 101 W. Broadway, Suite 1600 / San Diego, CA 92101; Edward A. Dean, Esq. /
22 Ambrecht Jackson LLP / P.O. Box 290 / Mobile, AL 33601.

23
24 The address for Lyon's counsel is: James J. Mittermiller, Esq. / Sheppard,
25 Mullin, Richter & Hampton LLP / 501 W. Broadway, 19th Floor / San Diego, CA 92101.

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XIII.

FOR MORE INFORMATION ABOUT THIS CLASS ACTION

This notice is only a summary of the proposed settlement, which is fully set forth in the Release and Settlement Agreement and in the Addendum to Release and Settlement Agreement. To obtain more information about this settlement, or to obtain a copy of the Release and Settlement Agreement and the Addendum to Release and Settlement Agreement you may contact The Information Consulting Group at _____, or you may contact Class Counsel at the above addresses.

Do not contact Lyon's counsel, the Court clerks or Judge Barton regarding this Notice.

THE COURT HEREBY APPROVES THIS NOTICE.

DATED: _____, 2007

JUDGE OF THE SUPERIOR COURT