

To: David W. Nelms

Discover Bank

Certified Mail Receipt # 7005 0390 0000 7693 7426

PO Box 15192

Wilmington, DE 19850-5192

NOTICE AND JUDGMENT OF DEFAULT

Jointly, individually and personally:

Regarding Account Number 6011 0087 5032 9382, the following statements are true.

On May 4, 2006 a Sight Draft was sent to Discover Bank to pay off the above referenced account in the amount stated by Discover Bank. Discover Bank received it on May 8, 2006. Discover Bank had 22 days as of this writing to present it but has failed to do so.

U.C.C. §3-603 Tender of payment.

(a) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

Further, the United States Supreme Court has ruled:

"His tender, as we have already seen, was equivalent to payment, so far as concerns the legality of all subsequent steps by the collector to enforce payment by distraint of his property." Poindexter v. Greenhow, 114 U.S. 270 quoted in AYERS. SCOTT. MCCABE., 8 S. Ct. 164, 123 U.S. 443 (U.S. 12/05/1887)

Further:

"Silence can only be equated with fraud when there is a legal or moral duty to speak, or when an inquiry left unanswered would be intentionally misleading... We cannot condone this shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately" U.S. v. Tweel, 550 F2d 297, 299-300.

Based on the foregoing evidence Discover Bank is hereby deemed to be in default.

DECISION

Decision in favor of CARDHOLDER is hereby granted and it is hereby ordered that:

It is ordered that the agreement involving the above mentioned account has been lawfully surrendered and is void;

Pursuant to U.C.C. § 3-603 (a) the Discover Bank's failure to present tendered Sight Draft is a breach of contract;

