

Certified Mail No: 9171 0714 6991 0024 0102 08  
To: George F. Schmelzel, Sr. VP  
First National Bank of Omaha  
P.O. Box 3696  
Omaha, NE 68103-0696

### NOTICE OF DEFAULT

Regarding Account Number 4418409161530093, the following statements are true.

On September 22, 2005 a Check was sent to First National Bank of Omaha to pay off the above referenced account in the amount stated by First National Bank of Omaha. First National Bank of Omaha received it on October 06, 2005 had 90 days 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.

(b) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

(c) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

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." *Pointexter 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 First National Bank of Omaha is hereby deemed to be in default.

**DECISION**

Decision in favor of the Barbara A. Thomas is hereby granted:

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

Pursuant to U.C.C. § 3-603 (b) it is determined that this alleged debt is hereby discharged;

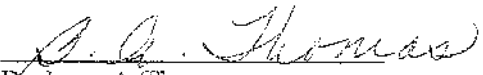
It is hereby ordered that First National Bank of Omaha shall report the instant account to all credit bureaus as "paid as agreed" and show the balance owed as zero (0);

It is hereby ordered that Borins, Halpern & Paskowitz, Attys. at Law will discontinue all collection efforts and harassment of CARDHOLDER regarding the instant account;

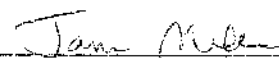
Failure to comply with this decision will result in the undersigned taking any and all action necessary under natural law to protect their rights, life, and property.

I, Barbara A. Thomas, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of my knowledge and belief and do affix my signature in testimony of the foregoing default judgment.

EXECUTED THIS 6th<sup>st</sup> day of January, 2006

  
Barbara A. Thomas  
11 Briggs Street  
Rochester, NY 14611

Signatory, Barbara A. Thomas, personally appeared before me and is known to me and did affix her signature to this document. In witness thereof I set my hand and seal

  
Notary Public in and for the State of New York  
My commission expires:

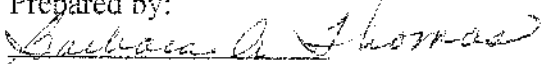
JAMES MILLER  
Reg. # 01M10105006  
Notary Public, State of New York  
Qualified in Monroe County  
My Commission Expires 02/23/2008

This document has been recorded at PeoplesRecorder.com for the world to see.

Record #: *ba - thomas 3*

Date: *01/07/06*

Prepared by:

  
Barbara A. Thomas  
11 Briggs Street  
Rochester, NY 14611