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American Arbitration Association

Siaki v. NetSpend and MetaBank
Case # 01-15-0002-8294

AWARD OF ARBITRATOR

I, PEGGY W. RASMUSSEN, the undersigned Arbitrator, have been designated in accordance with the arbitration agreement entered into by the above-named parties, and have been duly sworn. Oral hearings have been waived in accordance with the Consumer Arbitration Rules of the American Arbitration Association (AAA). I have fully reviewed and considered the briefs and documents submitted to me by the parties, and I hereby make the following Award:

1. Jurisdiction. The parties' relationship is governed by the Cardholder Agreement between Claimant Faasiulagi Siaki and Respondents MetaBank, the issuer of the NetSpend Card to Claimant, and NetSpend Corporation, the servicer of the card program. The Agreement authorizes Claimant to resolve any claim through arbitration administered by the American Arbitration Association.

2. Form of Hearing and Award. At the Preliminary Hearing on August 24, 2015, the parties agreed that the arbitration will be conducted through submission of documents, without in-person or telephonic hearings, pursuant to AAA Consumer Arbitration Rule R-29, as stated in the Report of Preliminary Hearing and Scheduling Order #1 issued August 26, 2015. The parties have accordingly filed their briefs and supporting declarations and documents pursuant to the Scheduling Order. The hearing was declared closed as of December 3, 2015. The parties have agreed that the form of the Award will not be a full reasoned award but will briefly indicate the grounds for the decision.

3. Claims for Decision. The Claimant has asserted claims of breach of contract; deceptive trade practice in violation of the Washington Consumer Protection Act, RCW 19.86.020; and violation of the Electronic Funds Transfer Act, 15 U.S.C. § 1693.

a. Breach of Contract. The Agreement gives the Claimant a right to access to the funds in her account. Respondents blocked her account for an extended period of time and provided no evidence that they had a reasonable belief of fraudulent, suspicious or criminal conduct. In twelve contacts with the Claimant, Respondents insisted on a specific form of identification she did not possess, when nothing in the contract required that specific form of identification without substitution. Respondents' actions were a violation of the Agreement and their contractual obligation to act reasonably and in good faith under the Agreement.

b. Washington Consumer Protection Act. Respondents engaged in an unfair and deceptive act or practice by providing the card to Claimant as a means for her to receive her tax refund, then demanding that the Claimant provide identification in the form of a utility bill in her name, showing her address, as a condition of removing the block on her account, and by refusing substitute forms of identification she offered. Respondents had issued a card to Claimant without requiring that form of identification, or even requiring proof that she had any utility account in her own name, and without informing the Claimant that Respondents would require that form of identification without substitution if

she ever sought to remove a block on her account. The acts were committed in the course of Respondents' business and there exists a substantial potential for repetition of Respondents' conduct.

4. Damages and Attorneys Fees. The Claimant has not proved out-of-pocket monetary loss, but has proved facts showing Respondents caused her to lose the use of her funds, which the facts indicate the Claimant had previously been drawing on frequently for her expenses. She also incurred the lost time, disruption of her life, and the frustration and inconvenience of attempting, in twelve separate telephone calls with Respondents over two weeks, to meet the Respondents' unreasonable demands for a specific form of identification that she did not possess. Because such damages are not capable of precise calculation, it is just and reasonable to award Claimant nominal damages of \$734.84, the amount improperly withheld from her, plus the "plan charge" of \$9.95, for a total of \$744.79, pursuant to her claims of breach of contract and violation of the Washington Consumer Protection Act. Claimant is entitled to treble damages pursuant to RCW 19.86.090, for a total of \$2,234.37.

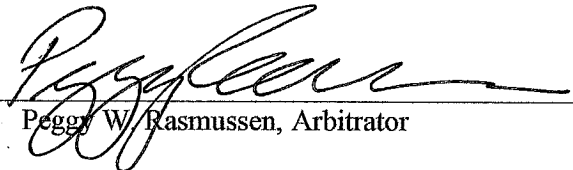
Award

1. Respondents MetaBank and NetSpend Corporation are jointly and severally liable to Claimant, Faasiulagi Siaki, the prevailing party, for damages in the amount of \$ \$2,234.37, and attorneys fees of \$4,500, as shown by the declaration of her counsel..

2. The administrative fees of the American Arbitration Association, totaling \$1,700.00, and the compensation of the Arbitrator, totaling \$750.00, shall be borne as incurred.

This Award is in full settlement of all claims and defenses submitted to this Arbitration. All claims and defenses not expressly granted are hereby denied.

Dated: December 17, 2015



Peggy W. Rasmussen, Arbitrator