



## AMERICAN ARBITRATION ASSOCIATION

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In the Matter of the Arbitration between

Case Number: 01-25-0000-5812

[REDACTED] Small, Claimant

-vs-

Green Dot Bank, N.A., Respondent

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### INTERIM AWARD OF ARBITRATOR

I, [REDACTED], THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the above-named parties, and having been duly sworn, and oral evidentiary hearings having been waived in accordance with the Rules, and having fully reviewed and considered the written documents submitted to me by the parties, the Claimant, [REDACTED] Small, being represented by her attorney, [REDACTED], Esquire, and Respondent, Green Dot Bank, N.A., being represented by its attorney, [REDACTED], Esquire, do hereby issue this INTERIM AWARD as follows:

#### Background

This case arose after Claimant purchased a MoneyPak on January 11, 2025, for \$460, plus a \$5.95 fee, from a Walgreens store. A MoneyPak is a product issued by Respondent which allows the purchaser to load it with the funds paid and then direct the funds however they choose. Claimant refers to the item as an “account.” Respondent denies it is an account. Although it appears the transaction necessarily creates some type of account, the designation does not matter for purposes of this case.

On the same day Claimant purchased the product, she attempted to use the funds for several purposes. Claimant previously bought MoneyPaks and knew the activation process. Despite multiple efforts on her part, Claimant could not access the funds. She telephoned Respondent for assistance that evening. *Resp. Declaration Exhibit 2.* That started a series of unsuccessful telephone and email attempts by Claimant to resolve the problem and access her funds. In essence, Respondent repeatedly told Claimant that she, or someone else to whom she provided the information necessary to activate the account and use the funds, had already transferred the money somewhere else. Claimant could never access her funds.

Claimant asserts two claims. In the first, she asserts Respondent violated the Utah common-law claim of money had and received. That means Respondent possessed Claimant’s funds with the obligation to provide it to Claimant or to any person or place she directed. By failing to do so, Respondent violated the law. In the second, Claimant asserts Respondent failed to comply with provisions of Utah Code § 13-11-1, *et seq.*, the Utah Consumer Sales Practices Act (UCSPA). The UCSPA prevents the use of deceptive and unconscionable acts or practices in connection with a consumer sales transaction.

## Claimant's Claims

### a. Violation of the UCSPA

The UCSPA provides protections to consumer from loss arising out of the use of deceptive or unconscionable acts and practices. Utah Code § 13-11-2, 13-11-4 and 13-11-5. Here, Claimant asserts Respondent engaged in both types of prohibited practices relating to her MoneyPak purchase.

Claimant bases this claim on the series of deceptive statements made to her in response to her contacts with Respondent. She also cites to the Refunds section of the MoneyPak Terms and Conditions. *Resp. Declaration Exhibit 2*. That section provides that Respondent may give a refund when a purchaser makes a request prior to completion of the transaction. In addition, Claimant argues Respondent's various acts are unconscionable.

Respondent generally disputes Claimant's UCSPA contentions. It says the alleged statements made are accurate. It also asserts Respondent in no way acted knowingly or intentionally, requirements to sustain a UCSPA claim.

Respondent submitted as exhibits several sets of records made to reflect Claimant's repeated disputes and requests for refund of her funds. *Resp. Declaration Exhibit 2, pp. 10-13*. In them, Claimant consistently stated she purchased the funds to provide money to relatives who were victims of California wildfires and to pay her own bills. She stated only she had the credentials to establish and use the account. Respondent's representatives told her that the account was registered and used by a person named "Paris." Claimant stated she had registered the account and did not know such a person.

According to Respondent's exhibits, as early as the day following Claimant's purchase of the MoneyPak, Respondent's personnel noted in their system, "Amount \$460 already used. Funds posted to wrong account." *Resp. Declaration Exhibit 2, p. 13*. However, according to Claimant's Declaration, throughout the time period in which she continued to dispute the matter – which was from January 11, 2025, through February 5, 2025, Respondent's personnel never informed her of that. *Cl. Exhibit A, p. 2*.

The UCSPA does not define "unconscionable." Claimant cites a Utah Supreme Court which discusses unconscionability in the context of contract law. The court approved of a standard from a contracts law treatise that one of the purposes of unconscionability law is to prevent "oppression." *Resource Management Co. v. Weston Ranch and Livestock*, 706 P.2d 1028, 1041 (Utah 1985).

I find it unconscionable that Respondent, knowing as of the day after Claimant purchased its product that her funds had been posted to the wrong account, not only failed to refund the money to her, but withheld the fact of that error from Claimant. Those acts are, at a minimum, oppressive.

Claimant met her burden as to her claim for violation of the UCSPA. As a result of Respondent's violation, Claimant suffered a loss in the form of actual damages in the amount of \$465.95. Pursuant to UCSPA § 13-11-19, she is entitled to recover \$2,000.00. Utah Code § 13-11-19(2).

b. Violation of the Utah common-law equitable doctrine of money had and received

Because of the finding that Respondent violated the UCSPA, I need not decide Claimant's equitable common-law claim of money had and received. The parties agree that claim means "that one has money in hand belonging to another which, in equity and with good conscience, should be paid over." *Cig Exploration v. Hill*, 824 F. Supp. 1532, 1546 (D. Utah 1993).

I again note the statement in Respondent's documents, "Amount \$460 already used. Funds posted to wrong account." By knowing that and refusing to refund the money to Claimant, Respondent failed to meet its legal responsibility. Therefore, based upon the information the parties presented, including the recordings of telephone conversations between Claimant and Respondent's personnel, I would have found Claimant prevailed on her claim for money had and received.

### **Respondent's Claim**

Respondent requests an award of attorney's fees and the costs of arbitration. It claims entitlement to those awards on two bases: first, that Claimant brought this action in bad faith and for purposes of harassment, which entitle Respondent to recover attorney's fees under the Electronic Fund Transfer Act, 15. U.S.C. § 1693, *et seq.*; and, second, under AAA Consumer Arbitration Rule 44,<sup>1</sup> that Claimant brought her case for purposes of harassment or it is patently frivolous.

Because Claimant succeeded in her UCSPA claim, it cannot recover attorney's fees under either theory. In fact, if Claimant did not prevail in this case, Respondent would not be entitled to any recovery under the EFTA, as Claimant did not file under that Act.

I also find no basis to reallocate arbitration costs.

Therefore, Respondent's claim for fees and costs is denied.

### **Interim Award**

For the foregoing reasons, I issue the following Interim Award:

1. Claimant's claim for violation of the Utah Consumer Sales Practices Act is GRANTED, in the amount of \$2,000.
2. Claimant's common-law claim for money had and received is DENIED.
3. Respondent's claim for attorney's fees and costs is DENIED.

As a result of Claimant's success under the UCSPA, she may be entitled to an award of reasonable attorney's fees under § 13-11-19. I will provide Claimant's counsel the opportunity to file an attorney's fee request as provided in part 1.G. of the July 11, 2025, Report of Preliminary Management Hearing and Scheduling Order. Due to the Thanksgiving holiday and closure of AAA's office the entire week of November 24, Claimant's counsel must submit their request not later than December 1, 2025. Respondent's counsel may file a response not later than December 17, 2025.

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<sup>1</sup> Respondent refers to R-46 in its brief. However, as this case was subject to the September 1, 2014, version of the AAA Consumer Arbitration Rules, the applicable rule is R-44.

This Interim Award is in full settlement of the merits of all claims submitted to this arbitration, except for the determination of reasonable attorney fees and costs in favor of Claimant as set forth above. The arbitrator retains jurisdiction to address Claimant's claims for reasonable attorney fees and costs.

The matter shall be deemed submitted to the arbitrator for determination in a Final Award upon and after such submissions.

This Interim Award shall remain in full force and effect until the arbitrator renders a Final Award.

November 14, 2025

Date

/s/

[REDACTED], Arbitrator

I, [REDACTED], do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my Award.

November 14, 2025

Date

/s/

[REDACTED], Arbitrator