

IN THE COUNTY COURT IN AND FOR DUVAL COUNTY, FLORIDA

CASE NO.:

MIDLAND CREDIT MANAGEMENT, INC.

Plaintiff,

vs.

COMPLAINT

BRIANA MCCLENDON-DU A/K/A BRIANA MCCLENDON-DUFFY,

Defendant.

_____ /

COMES NOW the Plaintiff, MIDLAND CREDIT MANAGEMENT, INC., by and through its undersigned counsel, and sues Defendant, BRIANA MCCLENDON-DU A/K/A BRIANA MCCLENDON-DUFFY, and states as follows:

GENERAL ALLEGATIONS

1. This is an action for damages that are within the jurisdictional limits of this court exclusive of costs.
2. Venue of this action is proper in the county named above because the Defendant is a resident of this county and/or because the Defendant executed the subject agreement in this county.
3. Plaintiff, MIDLAND CREDIT MANAGEMENT, INC. (hereinafter "Plaintiff"), is a DELAWARE LIMITED LIABILITY COMPANY, authorized to do business in Florida.
4. Plaintiff and its predecessors have duly performed all promises and conditions precedent as required.
5. This is an attempt to collect a debt and any information obtained herein will be used for that purpose.

COUNT I – ACCOUNT XXXXXXXXXXXXXXX2709
ACCOUNT STATED

Plaintiff readopts and re-alleges allegations one (1) through five (5) above and further states as follows:

6. This is an action for damages that are within the jurisdictional limits of this court exclusive of costs.

7. Upon Defendant's request, the original creditor, THE BANK OF MISSOURI, issued a credit account in the name of Defendant bearing the account number XXXXXXXXXXXXX2709.
8. Prior to the commencement of this action, Plaintiff acquired Defendant's account originated by THE BANK OF MISSOURI and as such is entitled to all rights originally bestowed upon the original creditor. See attached Exhibit "A".
9. Although demands have been made by Plaintiff upon Defendant for payment, Defendant has failed or refused to pay the amount due and owing on the account.
10. Before the institution of this action, Plaintiff's predecessor in interest and the Defendant had business transactions between them where the parties agreed upon a resulting balance. Plaintiff is an assignee and as such obtains all rights of the original creditor to be repaid.
11. There are no unresolved billing disputes made in response to receiving the account statements and, therefore, there is a prima facie case establishing the correctness of the account balance. *See, Farley v. Chase Bank, USA, NA*, 37 So. 3d 936 (Fla. 4th DCA 2010). Copies of any available statements are attached hereto and incorporated herein as Composite Exhibit "B".
12. By submitting payments in response to the monthly statements rendered and delivered by the original creditor, the Defendant accepted the resulting balance.
13. After adjustment for any credits or payments made after charge-off of the account, Defendant owes Plaintiff the amount of \$2,698.05.

WHEREFORE, as to Count I, Plaintiff respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$2,698.05 together with Court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

COUNT II- ACCOUNT XXXXXXXXXXXXXXXXXXXX0002
ACCOUNT STATED

Plaintiff readopts and re-alleges allegations one (1) through five (5) above and further states as follows:

14. This is an action for damages that are within the jurisdictional limits of this court exclusive of costs.
15. Upon Defendant's request, the original creditor, COMENITY CAPITAL BANK, issued a credit account in the name of Defendant bearing the account number XXXXXXXXXXXXXXXXXXXX0002.
16. Prior to the commencement of this action, Plaintiff acquired Defendant's account originated by COMENITY CAPITAL BANK and as such is entitled to all rights originally bestowed upon the original creditor. See attached Exhibit "C".
17. Although demands have been made by Plaintiff upon Defendant for payment, Defendant has failed or refused to pay the amount due and owing on the account.

18. Before the institution of this action, Plaintiff's predecessor in interest and the Defendant had business transactions between them where the parties agreed upon a resulting balance. Plaintiff is an assignee and as such obtains all rights of the original creditor to be repaid.
19. There are no unresolved billing disputes made in response to receiving the account statements and, therefore, there is a prima facie case establishing the correctness of the account balance. *See, Farley v. Chase Bank, USA, NA*, 37 So. 3d 936 (Fla. 4th DCA 2010). Copies of any available statements are attached hereto and incorporated herein as Composite Exhibit "D".
20. By submitting payments in response to the monthly statements rendered and delivered by the original creditor, the Defendant accepted the resulting balance.
21. After adjustment for any credits or payments made after charge-off of the account, Defendant owes Plaintiff, the amount of \$1,145.98.

WHEREFORE, as to Count II, Plaintiff respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$1,145.98 together with Court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

WHEREFORE in aggregate of the amounts owed in Count I, and Count II of the Complaint, Plaintiff, respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$3,844.03 together with court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

Respectfully submitted,
ANDREU, PALMA, LAVIN, & SOLIS, PLLC

/s/ Jorge L. Palma, esq. - FBN 597708

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EXHIBIT A

BILL OF SALE

THIS BILL OF SALE dated July 25, 2022, is by Fair Square Financial, LLC, a Delaware limited liability company ("Seller") to Midland Credit Management, Inc., a Kansas corporation ("Buyer").

For value received and subject to the terms and conditions of that certain Credit Card Accounts Sale Agreement, dated December 20, 2019, by and between Seller and Buyer (the "Agreement"), which by reference is incorporated herein, Seller does hereby transfer, sell, assign, convey, grant, bargain, set over and deliver to Buyer, and to Buyer's successors and assigns, the Accounts identified in the Sale File named Ally Credit Card Debt Sale File 202207 and dated on or about July 18, 2022 and as further described in the Agreement. Capitalized terms not defined herein shall have the definition ascribed in the Agreement.

The information contained in the Sale File (collectively, "Seller's Accounts Information") is true and complete as of the Closing Date. Further, all of the information contained in Seller's Accounts Information (a) constitutes Seller's own business records regarding the Accounts, and (b) accurately reflects in all material respects the information about the Accounts in Seller's possession. All of Seller's Accounts Information has been kept in the regular course of Seller's business, and was made or compiled at or near the time of the event and recorded by (or from information transmitted by) a person (i) with knowledge of the data entered into and maintained in Seller's business records, or (ii) who caused the data to be entered into and maintained in Seller's business records.

SELLER:

FAIR SQUARE FINANCIAL LLC

By: Steve Linehan
Steve Linehan (Oct 19, 2022 13:59 EDT)
Name: Steve Linehan
Title: Chief Financial Officer

BUYER:

MIDLAND CREDIT MANAGEMENT, INC.

By: Danielle Wohlfahrt
Name: Danielle Wohlfahrt
Title: VP of Business Development

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