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December 15, 2010

Via Federal Express

John R. Read, Esq.
Chief, Litigation III Section
Antitrust Division, U.S. Department of Justice
450 Fifth Street N.W.
Suite 4000
Washington D.C. 20530

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LITIGATION III, ANTITRUST DIV.
U.S. DEPT. OF JUSTICE

Re: *United States v. American Express Co., et al.*, CV-10-4496 (E.D.N.Y.);
Tunney Act Comments On Proposed Final Judgment As To Visa And MasterCard

Dear Mr. Read:

My firm represents the merchant plaintiffs in *In re: American Express Anti-Steering Rules Antitrust Litigation*, 06-CV-2974 (S.D.N.Y.). I am writing on behalf of our merchant clients pursuant to Section 2(b) of the Antitrust Procedures and Penalty Act, 15 U.S.C. § 16(b)-(h), to submit public comments with respect to the Proposed Final Judgment As To Defendants MasterCard International Incorporated and Visa Inc. that was filed in the above captioned action.

In particular, our comment is that it would provide helpful clarity to merchants and other participants in the payment card industry to receive an answer to the following question:

If the Antitrust Division is successful in its action seeking to force American Express to rescind its "anti-steering rules" (as described in the Complaint filed in the above titled action), would the Proposed Final Judgment prevent the Antitrust Division at that point from seeking to compel Visa and MasterCard to rescind their no-surcharge rules?

Thank you for your consideration of this public comment.

Respectfully submitted,



Gary B. Friedman