

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

_____)	
IN RE VISA CHECK/MASTERMONEY)	
ANTITRUST LITIGATION)	
_____)	MASTER FILE NO. CV-96-5238
)	
This Document Relates To:)	(Gleeson, J.) (Orenstein, M.J.)
)	
ALL ACTIONS)	
_____)	

SUPPLEMENTAL DECLARATION OF ALLEN P. GRUNES

I, Allen P. Grunes, hereby declare that:

1. I am an attorney with the Antitrust Division of the United States Department of Justice. I submit this declaration in connection with the United States' Reply Memorandum in Support of Government Merchants' Participation in the Distribution of the Net Settlement Funds.
2. I attended a meeting with Lloyd Constantine of Constantine Cannon at the offices of the Litigation III Section of the Antitrust Division in Washington, D.C., on December 1, 2005. I was also present during a subsequent teleconference on December 23, 2005, with Mr. Constantine and Amy Roth of his firm. My recollection of both discussions is that Mr. Constantine appeared receptive to the inclusion of government entities, with the exception of the United States Postal Service ("USPS"), in the settlement distribution. During the December 23, 2005 teleconference, I recall Mr. Constantine stating he was willing to facilitate the participation of federal governmental entities in the settlement distribution if it was consistent with law for him to do so. I also recall Mr. Constantine saying that the USPS might be distinct from other government entities because it had taken more definite action to exclude itself from participation and class member status.
3. Attached as Exhibit A is a true and correct copy of an email with attachment (proposed Stipulation and Order) from Allen Grunes to Jeffrey Shinder of Constantine Cannon dated January 19, 2006. This proposed Stipulation and Order was prepared by me and by others at the Antitrust Division as a result of the discussions with Lead Counsel in December. The email reflects the fact that the status of the "Post Office" (*i.e.*, the USPS) was "an open issue."

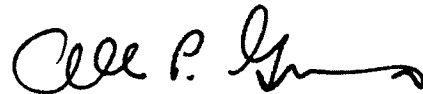
4. Attached as Exhibit B is a true and correct copy (redacted) of an email between Cindy Monroe of the Marine Corps Community Services (Personal and Family Readiness Division) and Michele Peters of Constantine Cannon dated December 20, 2005. In this email, Ms. Monroe transmits information about the claims of the Marine Corps Exchanges to Lead Counsel. (Merchant identification numbers have been redacted.)
5. Attached as Exhibit C is a true and correct copy of a string of emails among Jeffrey Shinder of Constantine Cannon, Michael McCormack of Noblett & Associates, and Allen Grunes dated January 17 and 18, 2006. These emails reflect a discussion of whether the USPS has a unique merchant category code that could be used to capture all USPS transactions in the data available to Lead Counsel.
6. In short, during the December 2005 to mid-January 2006 time frame, there were discussions between the Department of Justice and Lead Counsel that appeared to be headed toward resolving the status of the claims of Government Merchants by agreement and Court approval. The status of the USPS, which Mr. Constantine appeared to regard differently from other Government Merchants, was an open issue. In addition, during this same time frame, I and others within the federal government provided Lead Counsel with merchant identification information.
7. For the first time, in a conversation on January 23, 2006, Mr. Constantine raised the question of whether *any* Government Merchants (not just the USPS) could participate in the class action, given the *Flamingo* and *Cooper* decisions. The following day, on January 24, 2006, I and other DOJ lawyers were advised by Mr. Constantine that Lead Counsel would oppose any effort to pay Government Merchants out of the settlement funds.
8. The United States had sought and obtained from Lead Counsel a 30-day extension in which to submit claims. On January 27, 2006, the final day of the extension, I submitted the consolidated claims of federal governmental entities, including the Army and Air Force Exchange Service, the Air Force Services Agency, the Army Installation Management Agency, the Army Litigation Division, the Coast Guard, the Marine Corps Community Services, the Navy Exchange Service Command, the Navy MWR, the Army CFSC, the United States Treasury, the Smithsonian Institution, and the USPS to Lead Counsel.
9. I submitted the USPS claims in order to preserve its rights and not to inadvertently waive any claims. I withdrew the USPS claim against the Visa Settlement Fund on March 6, 2006, a few days after the USPS brought the existence of the 2003 USPS/Visa agreement to the Division's attention. In a contemporaneous telephone conversation with Mr. Shinder, I explained the rationale for this decision, and mentioned in particular that the USPS had entered into an agreement with Visa containing a waiver. I withdrew the USPS's remaining claims on March 20, 2006, based on information the Antitrust

Division had obtained from Lead Counsel and MasterCard that suggested the USPS also did not have a basis to participate in the MasterCard Settlement Fund.

10. When it became apparent that the issue of the Government Merchants' participation in the settlements would have to be briefed, the United States made informal requests for discovery on Lead Counsel and Lead Counsel made informal requests for discovery on the United States.
11. Attached as Exhibit D is a true and correct copy of a letter from Allen Grunes to Lloyd Constantine dated February 6, 2006. The letter outlines the type of information the United States planned to seek.
12. Attached as Exhibit E is a true and correct copy of a letter from Lloyd Constantine to Allen Grunes, dated February 7, 2006. In this letter, Mr. Constantine agreed to provide documents and information to the United States, subject to certain conditions. Mr. Constantine also wrote that he would produce certain privileged information and would expect the United States to provide "internal or interagency notes, memoranda, etc."
13. Attached as Exhibit F is a true and correct copy of a letter from Allen Grunes to Lloyd Constantine, dated February 7, 2006. In this letter, I wrote that the United States could not agree to a blanket waiver of privilege.
14. The only specific request for discovery from Lead Counsel to the United States that I am aware of came in a telephone call from Amy Roth to me on March 24, 2006. In that phone call, Ms. Roth asked for three pieces of information: (1) did Stephen Middlebrook of the Treasury remember the name or names of the representative(s) of Lead Counsel with whom he spoke in 2003; (2) when did the United States share its Memorandum of Law with Defendants; and (3) could Lead Counsel obtain a copy of the agreement between the USPS and Visa.
15. During the March 24, 2006 telephone call, I responded to Ms. Roth's first two questions as follows: (1) Mr. Middlebrook could not recall with whom he spoke, but believed that it was not Mr. Constantine; and (2) the United States' Memorandum of Law had been shared with Defendants a few days before it was filed. As to the third question, I told Ms. Roth during the telephone call that I understood the USPS/Visa agreement to be confidential, but would inquire whether it could be turned over. I also suggested Ms. Roth contact counsel for Visa. I made inquiry of the USPS on the same day as the conversation with Ms. Roth.
16. Attached as Exhibit G is a true and correct copy of a letter from Amy Roth to Allen Grunes dated April 12, 2006. Ms. Roth indicates in the letter that Lead Counsel had not received a copy of the USPS/Visa agreement as of that date.

17. Attached as Exhibit H is a true and correct copy of a letter from David Brownstein of Heller Ehrman to Amy Roth dated April 13, 2006. In this letter, Mr. Brownstein enclosed a redacted copy of the USPS/Visa agreement. Although the terms of the agreement were redacted, the complete text of the relevant paragraph in which the USPS agreed to waive claims relating to this litigation was produced in unredacted form.
18. In short, apart from Lead Counsel's general request that the United States agree to a blanket waiver of privilege, which the United States could not agree to, it is my understanding and belief that there were only three specific informal discovery requests made of the United States by Lead Counsel, each of which was answered.
19. In contrast, Lead Counsel did not respond fully to the United States's requests for informal discovery. The United States sent a voluntary request for documents and information on February 14, 2006. A true and correct copy of this request is attached as Exhibit I. Among other things, the United States asked for communications by Lead Counsel as to whether Government Merchants were or were not part of the class. (Ex. I ¶ 8.)
20. In response to the February 14 request, Lead Counsel produced approximately two folders of documents. Although Mr. Constantine gave a speech that he acknowledges (in paragraphs 5 and 6 of his April 20, 2006 Declaration) could be read for the proposition that the United States and USPS were class members, that speech was not produced by Lead Counsel; rather, it was independently discovered by counsel for the United States.
21. The United States provided Lead Counsel with a draft of its Memorandum in advance of the filing date to provide Lead Counsel the opportunity to correct any materially false or misleading statements. Lead Counsel responded with one correction (the date when the Amended Complaint was filed), which the United States incorporated into its Memorandum. True and correct copies of the relevant emails are attached as Exhibits J and K.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of May 2006 in Washington, D.C.



Allen P. Grunes (AG 4775)

EXHIBIT A

Grunes, Allen

From: Grunes, Allen
Sent: Thursday, January 19, 2006 12:01 PM
To: 'JShinder@constantinecannon.com'
Cc: Read, John; Hale, Nina; Hogan, Joan; Meyers, Erika; O'Neill, James B
Subject: Visa Check-MasterMoney Antitrust Litigation -- proposed stipulation and order

Jeff -- attached is the proposed Stipulation and Order we have drafted.

As you will see, it affirms that "Government Merchants," as defined, are entitled to participate in the class settlement. It contains very slightly modified release language necessitated by the fact that these are government entities. Significantly, it makes clear that the participation of the Government Merchants in this action is not intended to impact the law enforcement responsibilities of the United States, particularly with respect to antitrust violations. It also makes clear that the participation of Government Merchants is not intended to affect the interests of non-governmental class members (since the class definition does not exclude governmental entities and we understand that the settlement was negotiated with these merchants in mind as putative class members).

In terms of process, this draft has been cleared by the Antitrust Division. We still need Civil Division sign-off. Also, although we have included the Post Office among the Government Merchants, we recognize that this is still an open issue. Nonetheless, we thought it prudent to get this draft to you now, because we hope to be able to file something with the court before the claims cut-off date.

Our plan is to send a draft to the defendants tomorrow. Before then we hope to get a sense from you and Lloyd as to whether this approach makes sense and whether you see any major issues with the Stipulation and Order as currently drafted.

Regards,
Allen



Stip 1-19.pdf

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
IN RE : **MASTER FILE NO.**
 : **CV-96-5238**
VISA CHECK/MASTERMONEY ANTITRUST : **(Gleeson, J.) (Mann, M.J.)**
LITIGATION :
-----X

STIPULATION AND ORDER

The parties to this Stipulation and Order, by their undersigned counsel, hereby stipulate and agree, subject to the approval of the Court, as follows:

1. This Stipulation and Order is intended to clarify the status of Government Merchants, as hereinafter defined in paragraph 2, with respect to the Settlement Agreements dated June 4, 2003, and all related Orders of this Court, including the Order Approving Class Settlement and Awarding Attorneys' Fees dated December 19, 2003 and the Orders and Final Judgments Approving the Visa and MasterCard Settlements dated January 23, 2004.

2. "Government Merchants" means all government agencies and quasi-government agencies, including but not limited to the National Park Service, the Smithsonian Institution, the Department of Defense, the Veterans Administration, the United States Post Office, [and add others], that (1) are authorized by law to be represented by the Attorney General of the United States, and (2) in their capacity as sellers of goods and services, accepted Visa and/or MasterCard credit cards and therefore were required to accept Visa branded and/or MasterCard branded debit cards under the tying arrangements challenged in this case.

3. Government Merchants shall be eligible to participate in the class settlements in their commercial capacities on the same terms and to the same extent as the Class Members generally, except as specifically provided herein.

4. Government Merchants in their commercial capacities agree to release all claims for damages arising out of their credit and debit card sales that they may have had against the defendants that relate to any conduct alleged in the Second Amended Consolidated Class Action Complaint or any of the complaints consolidated therein, and that occurred prior to January 1, 2004. Such claims released by the Government Merchants include claims for money damages which could have been brought under Section 4A of the Clayton Act, 15 U.S.C. § 15a.

5. The parties affirm that (i) the Class Representatives have not purported to represent the sovereign law enforcement interests of the United States; and (ii) the United States has not exercised authority over the prosecution of this action or the Settlement Agreements dated June 4, 2003. As a result, other than the claims for damages specifically released in paragraph 4, neither the United States nor any agency thereof shall be deemed to have released or waived, either under the Settlement Agreements, any Order of this Court, or this Stipulation and

Order, any rights or responsibilities to investigate, obtain evidence, or prosecute any civil or criminal violations of federal law, including, but not limited to, violations of the federal antitrust laws.

6. Defendants agree not to seek reimbursement from the United States or any of its agencies of any payments made to the Government Merchants under the Settlement Agreements or this Stipulation and Order, or any other costs or expenses associated with this litigation, as costs of doing business or otherwise.

7. Nothing herein is intended to change any of the rights and obligations of any non-governmental class members under the Settlement Agreements or any Order of this Court, or to affect any of the previously calculated amounts that each non-governmental class member expects to collect under the Settlement Agreements and the Amended Plan of Allocation.

8. The United States has executed this Stipulation and Order under the discretion of the Attorney General, for settlement purposes only. Each of the signatories to this Stipulation represents that he or she has full power and authority to enter into this Stipulation.

IT IS HEREBY AGREED:

FOR PLAINTIFFS

By: _____

FOR DEFENDANTS

VISA INTERNATIONAL [or USA]

By: _____

FOR UNITED STATES
OF AMERICA

By: _____

MASTERCARD INTERNATIONAL
INCORPORATED

By: _____

It is SO ORDERED this _____ day of _____, 2006.

United States District Judge

Dated: January _____, 2006

EXHIBIT B

From: Monroe Ms Cindy
Sent: Tuesday, December 20, 2005 2:52 PM
To: 'mpeters@constantinecannon.com'
Cc: Lewis Mr Lee; Hostetter Ms Mary
Subject: RE: Additional Claims for US Marines - Personal & Family Readiness Division

Michelle,
Thank you so much for your assistance. Information requested. All of our MWR operations where combined in consolidated claim #00006227 with the exception of the six (6) listed. If you have any questions please let me know.

Under Claim #00006227
Control # 1494325049
United States Marine
Personal and Family Readiness Division (MR)
3044 Catlin Ave.
Quantico, VA 22134-5003
\$155,580

The following Marine Corps MWR's are not included in the claim:

Marine Corps Community Services
Marine Corps Logistics Base
814 Radford Blvd STE 20322
Albany, GA 31704-0302
Merchant # [REDACTED]

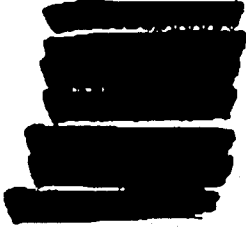
Marine Corps Community Services
Marine Corps Base
PSC Box 20004
Camp Lejeune, NC 28542-0004
Merchant # [REDACTED]

Marine Corps Air Station
PO Box 55001
Beaufort, SC 29904-5001
Merchant # [REDACTED]

Marine Corps Community Services
Box 110600
Barstow, CA 92311-5050
Merchant # [REDACTED]

Marine Corps Community Services
El Toro, CA 92311-5050
Merchant # [REDACTED]

Marine Corps Community Services
Marine Corps Air Station - Miramar
PO Box 452008
San Diego, Ca 92145-2008
Merchant # [REDACTED]



Cindy Monroe
Credit Specialist
Marine Corps Personal and Family Readiness Division(MR)
DSN 278-3853 703-784-3853
Cindy.Monroe@usmc-mccs.org

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

EXHIBIT C

Grunes, Allen

From: mmccormack@noblett-assoc.com
Sent: Wednesday, January 18, 2006 10:13 AM
To: Grunes, Allen
Subject: RE: Post Office Consolidation

Hello Allen,

Glad to help. I will wait to hear from Jeff on next steps regarding USPS.

- Mike

-----Original Message-----

From: Allen.Grunes@usdoj.gov [mailto:Allen.Grunes@usdoj.gov]
Sent: Tuesday, January 17, 2006 5:32 PM
To: Mike McCormack; 'JShinder@constantinecannon.com'
Cc: James.Oneill@usdoj.gov
Subject: RE: Post Office Consolidation

Mike and Jeff -- Thanks. This is helpful. I don't believe the Post Office made a list of the claims they received.

Allen

-----Original Message-----

From: mmccormack@noblett-assoc.com [mailto:mmccormack@noblett-assoc.com]
Sent: Tuesday, January 17, 2006 4:30 PM
To: JShinder@constantinecannon.com
Cc: Grunes, Allen
Subject: RE: Post Office Consolidation

Hi Jeff,

Yes, we do have the merchant category code element in the Visa-oasis data records. Visa designated merchant category code "9402" for government postal services. As long as the Acquirer used this value consistently on transaction records for the 1996 - 2003 period, we could use the value to try to locate USPS data.

The only caveat is we would likely find a small number of records that were wrongly assigned this MCC by the Acquirer, and conversely there are likely some minority of records where the Acquirer assigned a MCC other than 9402 to US postal service transactions. However we can probably sift out any non-USPS records through a manual review. I think we would likely capture the vast majority of the transaction records. In this fashion.

Do you know if the postal service has a list of the known claims they received?

- Mike

From: Shinder, Jeffrey [mailto:JShinder@constantinecannon.com]
Sent: Tuesday, January 17, 2006 4:14 PM
To: Mike McCormack
Cc: allen.grunes@usdoj.gov
Subject: Post Office Consolidation

The Post Office has approximately 37,000 merchant ID numbers. They claim that they can consolidate without submitting them by using the merchant category code as they have been assigned a distinct code by Visa. While that may be true, is that code captured in the Oasis data?

Jeff

Jeffrey I. Shinder
Constantine Cannon P.C.
Attorney at Law
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 350-2709
Facsimile: (212) 350-2701
jshinder@constantinecannon.com
<http://www.constantinecannon.com> <<http://www.constantinecannon.com>>

EXHIBIT D



U.S. Department of Justice

Antitrust Division

*Liberty Place Building
325 Seventh Street NW
Washington, DC 20530*
February 6, 2006

Lloyd Constantine, Esq.
Constantine Cannon
450 Lexington Avenue, 17th Floor
New York, NY 10017

Re: Visa Check/MasterMoney Antitrust Litigation

Dear Mr. Constantine:

We need to know if Lead Counsel is willing to provide to us, on a voluntary basis and as necessary, the following information and materials in connection with the briefing as we go forward:

1. copies of selected court papers;
2. copies of selected notices, claim forms, and other communications with the Government or Government Merchants;
3. estimates of the size of the Government Merchants' claims;
4. information about how state and other non-federal governmental entities have been treated in the class action; and
5. information relevant to the question of whether Lead Counsel has treated the Government or Government Merchants as being in or out of the class in the class certification, settlement, and the claims phases.

We believe that this information directly bears on the issue the court is being asked to decide and our ability to present the Government's position to the court in a persuasive fashion, so we hope that this can be worked out amicably.

Thank you very much for your cooperation. If you have any questions, feel free to call me at (202) 514-8338.

Sincerely,

Allen P. Grunes
Attorney

EXHIBIT E

CONSTANTINE | CANNON

Lloyd Constantine
Attorney at Law
212-350-2702
lconstantine@constantinecannon.com

NEW YORK | WASHINGTON

February 7, 2006

VIA FACSIMILE

Allen P. Grunes
UNITED STATES DEPARTMENT OF JUSTICE
Antitrust Division
Liberty Place Building
Litigation III Section
325 7th Street, N.W., Suite 300
Washington, D.C. 20530

Re: Visa Check/MasterMoney Antitrust Litigation

Dear Allen:

I have your letter of earlier today and will provide the United States with information you request, for reasons I will restate and with a few provisos.

Lead Counsel does not view the determination of this issue to be a traditional adversarial contest. For that reason, and others, we have declined to make an initial determination of the *bona fides* of the United States' claim (including that of the United States Postal Service) and instead requested that the Court make a determination after reviewing the respective positions of the United States, Lead Counsel and the defendants, should they choose to take a position.

Having said that, we will provide you with the information you request in the categories you have requested, with the following conditions:

First, please give us a reasonable amount of time to honor your requests and try to give us all of your requests at once, or in as few separate requests as possible. Any such requests should be made to Payal Patel in our Firm. Her telephone number is: (212) 350-2730. Her e-mail address is: ppatel@constantinecannon.com Second, if any documents you request are posted on the case website, we will tell you and expect you to obtain them that way. Third, concerning estimates of the size of the "Government Merchants' claims," you made a similar request to Jeff Shinder, a partner in this Firm, several weeks ago. What he told you and what I reiterate now is that depending upon the nature of the request, this may require significant expenditures of time by consultants retained by Lead Counsel and, therefore, entail significant expense to the Settlement Fund. We do not understand how knowing the size of the claim or particular portions of it bear upon the issue of whether or not the United States, or any of its entities, are class members entitled to take from the Settlement Fund. Having stated our concerns, we will accommodate you if the additional work is modest, or if you can explain why you need this information to make your case to the Court. Fourth, we have and will continue to provide you information on how the United States has been treated, including my own recitation of meetings

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CONSTANTINE | CANNON

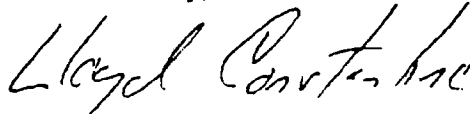
NEW YORK | WASHINGTON

Allen P. Grunes
February 7, 2006
Page 2

I had with government officials in 2002. I will continue to provide you with this, and indeed, turn over to you any written analyses or notes I or other lawyers at our Firm wrote at any time bearing on these issues. In turn I will expect you to provide me with internal or interagency notes, memoranda, etc., wherein any United States' lawyer addressed the issue of whether the United States was or could be a class member, and if so, whether it would or had excluded itself, or opted out of the Class.

I hope we can get you what you need to present your position, and expect that the Court will promptly determine the United States' status in relation to the Class and the Settlement Fund.

Sincerely,



Lloyd Constantine

EXHIBIT F



U.S. Department of Justice

Antitrust Division

Liberty Place Building

325 Seventh Street NW

Washington, DC 20530

February 7, 2006

Lloyd Constantine, Esq.
Constantine Cannon
450 Lexington Avenue, 17th Floor
New York, NY 10017

Re: Visa Check/MasterMoney Antitrust Litigation

Dear Mr. Constantine:

Thank you for your prompt response. We will try to insure that any requests to Lead Counsel for documents and information are reasonable, timely, and not overly burdensome.

We appreciate your willingness to make the determination of the status of Government Merchants something other than the "traditional adversarial contest." Along these lines, it would be helpful if you and your colleagues would be willing to engage us on the facts and issues. See for example my January 25th e-mail to Jeff Shinder, laying out some possible arguments why *Cooper* and *Flamingo* should not be read as an absolute bar to participation by Government Merchants in an antitrust class action. At a minimum, engaging in a frank and open discussion will keep us from making factual misstatements in the papers we file with Judge Gleeson. It could also help both of us in sharpening the issues.

In the last paragraph of your letter, you appear to be asking for privileged material. We cannot agree to a blanket waiver of privilege claims. But we will do the best we can to provide any non-privileged, legally disclosable information to you, and will work with you to make sure you have everything you need to file a response.

If you have any questions, feel free to call me at (202) 514-8338.

Sincerely,

Allen P. Grunes
Attorney

EXHIBIT G

Amy N. Roth
Attorney at Law
202-204-3505
aroth@constantinecannon.com

April 12, 2006

VIA EMAIL

Allen P. Grunes, Esq.
UNITED STATES DEPARTMENT OF JUSTICE
Antitrust Division
Liberty Place Building
Litigation III Section
325 7th Street, N.W., Suite 300
Washington, D.C. 20530

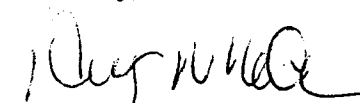
Re: **Visa Check/MasterMoney Antitrust Litigation**

Dear Allen:

I write in follow-up to our discussions regarding additional information requested by Lead Counsel. First, you have confirmed that Stephen Middlebrook does not recall the name or names of the "representatives of Class Counsel" referenced in paragraph 7 of his March 21, 2006 declaration. Second, your understanding is that the United States Postal Service will provide us with the agreement reached with Visa and referenced in the March 21 filings. However, we have not yet received this document. Please have it forwarded to my attention as soon as possible.

Thank you for your assistance with this matter.

Sincerely,


Amy N. Roth

75231.1

EXHIBIT H

HellerEhrman_{LLP}

April 13, 2006

David C. Brownstein
David.Brownstein@hellerehrman.com
Direct +1.415.772.6356
Main +1.415.772.6000
Fax +1.415.772.6268

Via Facsimile

13057.0089

Amy Roth, Esq.
Constantine Cannon, P.C.
1627 Eye Street, NW, 10th Floor
Washington, DC 20006

**Re: Visa Check/Master Money Antitrust Litigation
Master File CV-96-5238 USDC, Eastern District of New York - USPS**

Dear Amy:

Following on our conversation of this morning, I enclose a copy of the Visa/USPS Debit Card Acceptance Agreement which includes the release. Of course, we have redacted the business terms of the deal, which are competitively sensitive. We have marked the document "Confidential" pursuant to the terms of the Wal-Mart Protective Order. As we discussed, without conceding the relevance of the information, Visa is exploring whether it would be willing to share (on a confidential basis), more information about the Agreement – specifically whether the agreement is forward-looking only, or contains a backward-looking relief too – for the purpose of your briefing the issue of the U.S. Government's participation in the distribution of Wal-Mart settlement funds. Please do not hesitate to contact me if you have any questions regarding this.

Very truly yours,


David C. Brownstein

cc: Alan Grunes, Esq.
Maurice Stucke, Esq.
Joe Tringali, Esq.
Alex Miller, Esq.

EXHIBIT I



U.S. Department of Justice

Antitrust Division

*Liberty Place Building
325 Seventh Street NW
Washington, DC 20530
February 14, 2006*

Via E-Mail

Lloyd Constantine, Esq.
Constantine Cannon
450 Lexington Avenue, 17th Floor
New York, NY 10017

Re: Visa Check/MasterMoney Antitrust Litigation

Dear Mr. Constantine:

Per our earlier agreement, this letter requests the following documents and information be produced voluntarily by Lead Counsel. To be most useful, please (a) indicate to which request(s) the document or information is responsive, and (b) produce the documents on a rolling basis, as far in advance of March 7, 2006 as possible. If no documents are responsive to a particular document request, please so indicate.

If you find any of these requests to be confusing or otherwise objectionable, please contact us as soon as possible.

Requests

1. Any documents showing or suggesting that U.S. Government entities ("Government Merchants") were not – or were treated by Lead Counsel as not – part of the class or able to participate in the settlement, including but not limited to:
 - a. documents that show the Government Merchants' off-line debit and credit card purchase volume and on-line debit transactions were excluded from calculations of the total volume of Class Members' transactions during the Class Period;
 - b. documents that show the Government Merchant categories were excluded from the 95 Visa and MasterCard merchant categories;
 - c. documents that reflect that the Government Merchants' dollar volumes were specifically excluded by Dr. Fisher in his Allocation Methodology or from any calculations or formulas of the Class Members' share of damages or claims against the Settlement Funds;
 - d. documents that reflect that the Government Merchants' dollar volume of debit (or credit) transactions were deducted from the figures reported in The Nilson Report;

Lloyd Constantine, Esq.

14 February 2006

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e. any document that shows, notwithstanding the definition of Class Member, that any Government Merchant was excluded from the definition of a Class Member;

f. any document that states that any Government Merchant should not receive one or more notices to putative or actual Class Members;

g. any document that requests Visa and MasterCard to exclude Government Merchants from the data that they supplied to Lead Counsel;

h. any document that distinguishes between the status of Government Merchants and state or local government entities with respect to Class Membership; and

i. any document that shows that inclusion of Government Merchants as putative or actual Class Members was a mistake or error.

2. All documents filed with the Court or provided to Class Members that included Government Merchants within the universe of merchants identified as members of the class or able to participate in the settlement, including, but not limited to:

a. documents where the Government Merchants' off-line debit and credit card purchase volume and on-line debit transactions were included in the total volume of transactions by the Class Members during the Class Period;

b. documents where the Government Merchant categories were included among the 95 Visa and MasterCard merchant categories;

c. documents that reflect the Government Merchants' dollar volumes were specifically included in the Fisher Allocation Methodology or in any calculations or formulas of the Class Members' share of damages or claims against the Settlement Funds; and

d. documents that reflect that the Government Merchants' dollar volume of debit (or credit) transactions were not deducted from the figures reported in The Nilson Report.

3. All correspondence between Lead Counsel and Government Merchants or any other U.S. Government entity relating to the litigation or settlement.

4. All correspondence between Lead Counsel and any representative of the Claims Administrator relating to claims of Government Merchants (including, but not limited to, any instructions about how such claims are to be handled and instructions about how to calculate claims).

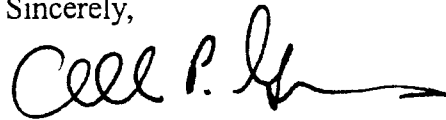
5. All documents that reflect estimates of the size of Government Merchant claims, either individually or in the aggregate.

Lloyd Constantine, Esq.
14 February 2006
Page 3

6. Copies of all expert reports, affidavits, or non-privileged documents drafted by any expert that included Government Merchants as part of the total universe of merchant or class claims.
7. A description of all steps taken by Lead Counsel to exclude Government Merchant claims from the class or settlement after November 14, 2002.
8. A description of any communication with the Court, any Class Member, Defendants or their counsel, or any other person, about whether Government Merchants were or were not part of the class. If a communication was in writing, please provide a copy.
9. All declarations filed with the Court by Lead Counsel that are not available on <http://inrevisacheckmastermoneyantitrustlitigation.com/>.

If you have any questions, I may be reached at (202) 514-8338. Thank you very much for your anticipated cooperation.

Sincerely,



Allen P. Grunes
Attorney

cc: Payal Patel

EXHIBIT J

Grunes, Allen

From: Grunes, Allen
Sent: Monday, March 20, 2006 2:24 PM
To: 'JShinder@constantinecannon.com'; 'MPeters@constantinecannon.com';
'ARoth@constantinecannon.com'
Cc: Hale, Nina; Stucke, Maurice; Read, John; 'LConstantine@constantinecannon.com'
Subject: RE: Visa/MasterMoney -- Government Memorandum

Thanks very much Jeff. We will certainly extend the same consideration to you.

Allen

-----Original Message-----

From: JShinder@constantinecannon.com
[mailto:JShinder@constantinecannon.com]
Sent: Monday, March 20, 2006 2:20 PM
To: Grunes, Allen; MPeters@constantinecannon.com;
ARoth@constantinecannon.com
Cc: Hale, Nina; Stucke, Maurice; Read, John;
LConstantine@constantinecannon.com
Subject: RE: Visa/MasterMoney -- Government Memorandum

Allen

We have no objection to you filing a brief that exceeds 25 pages and would expect the same consideration from you if we need extra pages. (That said, I am not sure that the Special Master has stipulated a page limit, and if I am wrong, Michelle and/or Amy will let both of us know.) Feel free to share your brief in advance with us if you like. We appreciate the courtesy and will correct any egregious errors.

Jeff

-----Original Message-----

From: Allen.Grunes@usdoj.gov [mailto:Allen.Grunes@usdoj.gov]
Sent: Monday, March 20, 2006 2:10 PM
To: Shinder, Jeffrey; Peters, Michelle; Roth, Amy
Cc: John.Read@usdoj.gov; Nina.Hale@usdoj.gov; Maurice.Stucke@usdoj.gov;
Constantine, Lloyd
Subject: Visa/MasterMoney -- Government Memorandum

Jeff, Michelle, and Amy -- Please confirm that we have your agreement to file a memorandum in excess of 25 pages.

Also, our present intention is to share the memorandum with you tonight, before filing it, so that you can point out any significant errors and in order to give you a heads up on what our arguments will look like.

Best,
Allen

EXHIBIT K

Grunes, Allen

From: ARoth@constantinecannon.com
Sent: Tuesday, March 21, 2006 10:40 AM
To: Grunes, Allen
Subject: RE: Complaint



tmp.htm

Allen,

This just bounced back to me - I can fax it to you, but don't believe I have your fax number.

>
> _____
> From: Roth, Amy
> Sent: Tuesday, March 21, 2006 10:36 AM
> To: 'Allen.Grunes@usdoj.gov'
> Subject: Complaint
>
> Allen,
>
> I noticed that your brief (and the version on the website) has the
> wrong date for the amended complaint, though the text of the complaint
> should be correct. Attached is the "as filed" version.
>
>
> << File: Document.pdf >>