

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA
a municipal corporation
400 6th Street, N.W., 10th Floor
Washington, D.C. 20001,

PLAINTIFF,

v.

ELEVATE CREDIT, INC.
1209 Orange Street
Wilmington, DE 19801

DEFENDANT.

Case No.: 2020 CA 002697 B
Judge: Robert R. Rigsby

CONSENT JUDGMENT AND ORDER

Plaintiff District of Columbia, by and through its Office of Attorney General's Office of Consumer Protection (the "District"), brought this action for violations of the District of Columbia Consumer Protection Procedures Act, D.C. Code § 28-3901, *et seq.* ("CPPA"). The District and Defendant Elevate Credit, Inc. ("Elevate"), stipulate to the entry of this Consent Judgment and Order ("Consent Order") to resolve all matters in dispute in this action between them.

THE PARTIES

1. Plaintiff the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general

charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the District’s consumer protection laws, including the CPPA, pursuant to D.C. Code § 28-3909.

2. Defendant Elevate is a Delaware corporation, that has facilitated and advertised loans and lines of credit to District residents in conjunction with FinWise Bank (“FinWise”), a Utah-chartered bank for its Rise brand, and Republic Bank & Trust Company (“Republic”), a Kentucky-chartered bank, for its Elastic brand.

ALLEGATIONS

3. This Court has jurisdiction over this matter.

4. The District filed its Complaint in *District of Columbia v. Elevate Credit, Inc.* in the Superior Court for the District of Columbia.

5. The District’s Complaint alleges that Elevate engaged in deceptive practices in violation of the District’s CPPA, including as set forth in D.C. Code § 28-3904(b), (e), (f), (f-1), (r), (ff) and (dd) in its offer, servicing and provision of online loans or lines of credit to District consumers.

6. Elevate denies the allegations in the Complaint and denies that it has violated any law or engaged in any deceptive or unfair practices

7. The Parties have agreed to the relief set forth in this Consent Order in order to fully resolve this matter.

DEFINITION

8. “Consumer(s)” shall mean all District of Columbia persons who obtained a Rise loan, or Elastic line of credit, or who have a loan that is facilitated by Elevate and shall

incorporate the definition of that term in D.C. Code § 28-3901(a)(2).

INJUNCTION

9. Elevate shall not engage in any act or practice in violation of the CPPA in connection with the offer, provision, servicing, or advertisement of loans or lines of credit to District of Columbia consumers.

10. Elevate will not, directly or indirectly, offer, provide, or advertise loans or lines of credit to District of Columbia consumers at an interest rate above 24% APR.

11. Elevate will not act as a service provider to a lender that provides loans or lines of credit to District of Columbia consumers at an interest rate above 24% APR.

12. Elevate will not, expressly or by implication, represent that it is permitted to offer loans or lines of credit in the District of Columbia without possessing any required District of Columbia money lender license.

FINANCIAL PAYMENTS

13. Elevate shall pay a total of at least \$3.84 million to resolve the District's claims in this matter. Of that total, \$450,000 shall be paid to the District within ten (10) days of the effective date of this Consent Order consistent with payment instructions to be provided by the District. \$3,400,000 shall be reserved within ten (10) days of the effective date of this Consent Order by Elevate for the purpose of providing refunds, pro rata, to each individual Consumer who has paid interest on their loan(s) or line(s) of credit in an amount greater than the Consumer would have paid had the interest due on any loan or line of credit been calculated at a 24% APR. ("Affected Consumers").

14. Elevate will distribute refunds to Affected Consumers consisting of the interest paid on their loan(s) or line(s) of credit in excess of interest calculated at a 24% APR within 120 days of the effective date of this Consent Order. Elevate will pay a minimum of \$3,300,000 in

restitution to Affected Consumers pursuant to this paragraph.¹

15. Elevate will first attempt to provide the refunds via ACH to the Affected Consumer's bank account on record along with an email notification to the Affected Consumer approved by the District. The District will be copied on these emails through consumer.protection@dc.gov.

16. If the refund cannot be delivered via ACH, Elevate will mail a check to the Affected Consumer's last known address via first class mail. The checks will be accompanied by a letter approved by the District.

17. For any Affected Consumer whose refund payment is returned or whose check is not cashed within 90 days of being issued, Elevate will make reasonable attempts to obtain a current address using standard address-search methodologies and to promptly re-mail all returned checks to current addresses, if any.

18. To the extent that any checks sent to Affected Consumers remain uncashed for 90 days from the mailing, or if the second mailing attempt is returned as undeliverable, Elevate will, within 180 days of the effective date of this Consent Order, send the uncashed or undelivered funds to the District, along with a spreadsheet that details the name, address, and email for each Consumer, along with the amount owed to each Consumer. Any money received by the Attorney General pursuant to this paragraph may be used at the Attorney General's discretion for any lawful purpose, including to be placed in or applied to either the District's Litigation Support or Restitution funds.

¹ Elevate will calculate final exact refund amounts for each individual Affected Consumer no later than February 15, 2022. Pursuant to Paragraph 13, Elevate has reserved an additional \$100,000 if exact refund amounts exceed \$3,300,000 and will pay restitution up to a total of \$3,400,000 to Affected Consumers.

19. Elevate represents that on or before February 15, 2022, it will facilitate the waiver of \$300,000 in estimated future interest amounts Affected Consumers would have paid in connection with an outstanding balance on Republic Elastic lines of credit and FinWise Rise installment loans.²

OTHER RELIEF

20. Within 90 days of the effective date Elevate will facilitate the permanent deletion of negative reporting for Rise loans and Elastic lines of credit included on the credit reports of Affected Consumers.

REPORTING

21. Within 180 days of the effective date of this Consent Order or such later time as agreed to by the District, Elevate will provide the District with a report containing the following information:

- a. the name, address and email address for each Consumer who received restitution or credits under this Consent Order;
- b. the amount and date of any payments sent to each Consumer;
- c. whether the payment was sent by ACH, or mail; and
- d. the amount and date of any credits provided to the Consumer's account.

GENERAL PROVISIONS

22. The "effective date" shall be the last date on which a party to this agreement signs this Consent Order.

² Elevate calculated this amount assuming the maximum interest or fees that the loans and lines of credit would have generated if paid and amortized over the full expected term/payment period without prepayments, deferrals, or other intervening circumstances and waiving the full amount that would have been due as interest or fees.

23. The Parties may apply to the Court to modify this Consent Order by agreement at any time. Any party may apply to the Court, without the other party's agreement, to modify this Consent Order for good cause shown based on a substantial change in law or fact occurring after the date this Consent Order is entered.

24. Unless otherwise set forth above, Elevate shall implement all changes required by this Consent Order within thirty (30) days of the effective date of this Consent Order.

25. Elevate shall not cause or encourage third parties, or knowingly permit third parties acting on its behalf, to engage in practices from which Elevate is prohibited by this Consent Order.

26. This Consent Order represents the full and complete terms of the settlement entered by the Parties. In any action undertaken by the Parties, neither prior versions of this Consent Order nor prior versions of any of its terms that were not entered by the Court in this Consent Order may be introduced for any purpose whatsoever.

27. In entering into this Consent Order, the Parties are neither extinguishing any rights otherwise available to Consumers, nor creating any right not otherwise available under the laws of the District of Columbia.

28. This Court retains jurisdiction of this Consent Order and the Parties for the purpose of enforcing this Consent Order and for the purpose of granting such additional relief as may be necessary and appropriate. The Parties may agree in writing, through their counsel, to an extension of any time period in this Consent Order without a court order.

29. This Consent Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

30. All notices sent pursuant to this Consent Order shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

Wendy J. Weinberg
Senior Assistant Attorney General
Office of the Attorney General
400 Sixth Street, N.W., 10th Floor
Washington, D.C. 20001
Wendy.weinberg@dc.gov

For the Plaintiff District of Columbia

Attn: Maria Earley
Morrison & Foerster LLP
2100 L Street NW, Ste. 900
Washington, DC 20037
202-887-1500

For the Defendant Elevate

31. Any failure by any party to this Consent Order to insist upon the strict performance by any other party of any of the provisions of this Consent Order shall not be deemed a waiver of any of the provisions of this Consent Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Consent Order.

32. If any clause, provision or section of this Consent Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Consent Order and this Consent Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

33. Nothing in this Consent Order shall be construed as relieving Elevate of the obligation to comply with all state and federal laws, regulations, or rules, nor shall any of the provisions of this Consent Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

34. Elevate shall deliver a copy of this Consent Order to each of its current and future principals, officers, directors, and managers having decision-making authority with respect to the subject matter of this Consent Order.

35. Elevate shall deliver a copy of this Consent Order to any banks or consumer lenders, including FinWise, and Republic, to which it provides or offers its services.

36. Elevate shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Consent Order or for any other purpose that would otherwise circumvent any part of this Consent Order or the spirit or purposes of this Consent Order.

37. This Consent Order finally disposes of all claims by the Parties and the District shall release Elevate from all claims that the Attorney General asserted or could have asserted under the D.C. Consumer Protection Procedures Act, D.C. Code §§ 28-3901 *et seq.*, based on the facts alleged in the Complaint.

KARL A. RACINE
Attorney General for the District of Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division



BENJAMIN WISEMAN
Director, Office of Consumer Protection

Date: 1/20/2022

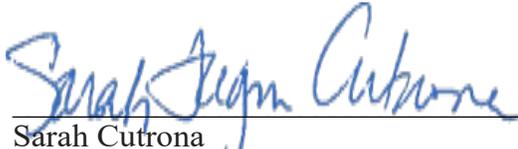


WENDY J. WEINBERG
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Date: 1/20/22

DAVID BRUNFELD
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For Plaintiff District of Columbia



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Date: 01/19/22

For the Defendant Elevate Credit, Inc.



Maria Earley
Morrison & Foerster LLP
2100 L Street NW, Ste. 900
Washington, DC 20037
202-887-1500

Date: 01/19/22

Counsel to Defendant Elevate Credit, Inc.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Date

Judge