

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARC BLOCK,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

**RBS CITIZENS, NATIONAL
ASSOCIATION, INC.,**
Defendant

CASE NUMBER: 1:15-CV-01524-JHR-JS

TO: RBS Citizens, National Association,
c/o Corporate Service Company
830 Bear Tavern Road
West Trenton, New Jersey 08628

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

Brian D. Kemner

(By) DEPUTY CLERK



ISSUED ON 2015-03-02 14:43:55, Clerk
USDC NJD

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Marc Block

(b) County of Residence of First Listed Plaintiff Burlington, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
Stephen P. DeNittis, Esq., DeNittis Osefchen, P.C.
525 Route 73 North, Suite 410, Marlton, NJ 08053
sdenittis@denittislaw.com 856-797-9951

RBS Citizens, National Association, Inc., d/b/a "Charter One"

County of Residence of First Listed Defendant Providence, RI
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Unknown

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

CONTRACTS	PERSONAL INJURY	PERSONAL INJURY	CONTRACTS	CONTRACTS	CONTRACTS
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 REAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISON PETITIONS <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	DIGITAL RIGHTS/INTELLECTUAL PROPERTY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
Truth in Lending Act, 15 U.S.C. § 1601 et seq.

Brief description of cause:
Breach of contract, Truth in Lending Act violations

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ over \$150,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARC BLOCK, on behalf of himself and all others
similarly situated,

Plaintiff,

v.

RBS CITIZENS, NATIONAL ASSOCIATION,
INC., d/b/a "Charter One"

Defendant.

Civil Action No.

CLASS ACTION

COMPLAINT

INTRODUCTION

1. This is a class action, brought on behalf of persons who opened a Home Equity Line of Credit (hereafter "HELOC") in the United States with RBS Citizens, N.A. d/b/a/ "Charter One" (hereafter "Charter One" or "Defendant") and who, as part of that transaction, signed certain pre-printed, uniformly-worded form contract documents with Charter One, which promised that Charter One would charge them no annual fee on the HELOC account, but who have nevertheless been charged a \$100 annual fee on their HELOC by Charter One pursuant to the uniform policy alleged herein.

2. This action raises claims of breach of contract, breach of the implied duty of good faith and fair dealing and the Truth in Lending Act, 15 U.S.C. § 1601 et seq. (hereafter "TILA").

3. Because this action involves a national bank headquartered in the State of Rhode Island, and based on the uniform language of the "choice of law" clause contained in the HELOC form contract documents signed by Plaintiff and the class, Rhode Island state law applies to all claims for breach of express or implied contract brought in this action, regardless of

the state in which the HELOC contract was actually signed or where the class member resides.

4. Plaintiff seeks, on behalf of himself and the class, refunds of the \$100 annual fees unlawfully collected from Plaintiff and the class by Charter One, in violation of the plain language of the pre-printed, uniformly-worded form contract documents which promised no such fees would be charged, as well as injunctive relief, attorney's fees and costs, and any other appropriate relief available under either Rhode Island law or TILA.

JURISDICTION AND VENUE

5. This Court has federal subject matter jurisdiction over the claims alleged herein because this action raises claims under TILA, a federal statute.

6. Federal jurisdiction also exists under the Class Action Fairness Act in that the amount in controversy in this action exceeds \$5 million, there are more than 100 proposed class members, and Defendant and at least some class members are citizens of different states.

7. The Court has supplemental jurisdiction over the Rhode Island state law claims alleged herein pursuant to 28 U.S.C. § 1367(a). Supplemental jurisdiction is properly exercised over such state law claims, which present issues of fact which overlap with the TILA claims.

8. Venue is properly placed in this Court as Plaintiff resides in Burlington County, New Jersey, the HELOC form contract documents signed by Plaintiff were executed in Burlington County, New Jersey, the property which secures Plaintiff's HELOC is in Burlington County, New Jersey, Defendant operates bank branches, inter alia, in Burlington County, New Jersey, and Defendant otherwise does business, inter alia, in Burlington County, New Jersey.

PARTIES

9. Plaintiff Marc Block resides in Marlton, Burlington County, New Jersey. Like all members of the proposed classes, Plaintiff Block opened a HELOC account with Charter One

during the class period, he executed the same pre-printed, uniformly-worded HELOC form contract documents as the other class members, which promised no annual fee would be charged, and was nonetheless charged a \$100 annual fee on his HELOC by Charter One.

10. Defendant RBS Citizens, N.A., d/b/a "Charter One," is a national bank subject to 12 U.S.C. §85, which is headquartered at One Citizens Plaza, Providence, Rhode Island, 02903.

FACTS GIVING RISE TO THE CAUSES OF ACTION

11. Charter One is a trade name used by Defendant RBS Citizens, N.A.

12. In describing itself on its website, Defendant represents that it is the 13th largest bank in the United States, doing business in 11 states and offering a broad range of financial services to over five million individuals, companies, non-profits and institutions.

13. Defendant's website goes on to claim that it has total assets of \$132.9 billion dollars and deposits of \$95.7 billion dollars as of December 31, 2014.

14. Among the business conducted by Charter One is the extension of home equity lines of credit to customers such as Plaintiff and the class.

15. A home equity line of credit – often called a HELOC – is a loan in which the lender agrees to lend a maximum amount within an agreed period (called a term), where the collateral is the borrower's equity in his/her house (akin to a second mortgage).

16. A HELOC differs from a conventional home equity loan in that the borrower is not advanced the entire sum up front, but rather uses it as a line of credit to borrow sums that total no more than the credit limit, similar to a credit card.

17. HELOC funds can be borrowed during the "draw period," which is typically 5 to 25 years.

18. A HELOC borrower repays the amount drawn, plus interest. A HELOC may have a minimum monthly payment requirement (often interest only) and a borrower may make a repayment of any amount so long as it is greater than the minimum payment (but less than the total outstanding).

19. The full principal amount is due at the end of the draw period, either as a lump-sum balloon payment or according to a loan amortization schedule.

20. Charter One used certain pre-printed, uniformly-worded form contract documents when it entered into a HELOC with its customers in the United States.

21. These include a form contract document which Charter One has titled a "**Credit Line Agreement**," a sample of which is attached hereto as Attachment A.

22. The "**Credit Line Agreement**" of which Attachment A is an example is a form contract drafted by Charter One, which was presented by Charter One to its HELOC customers, which purports to set forth the basic terms of the HELOC.

23. Among the pre-printed terms is one entitled "**ADDITIONAL FINANCE CHARGES**," which describes the terms under which Charter One may charge an "Annual Fee" to the HELOC borrower. See Attachment A, "Credit Line Agreement," at Page 1 of 4, where the form contract states:

"Annual Fee: \$100 will be due annually during the Draw Period after the expiration of twenty four (24) months from the date of Activation of the Credit Line Account. The Annual Fee shall be waived for each year that it is due if, for the immediately preceding twelve (12) months, the average outstanding balance on your Credit Line Account during such twelve (12) months is 20% or more of the Line of Credit." (emphasis added)

24. Thus, the plain language of the **"Credit Line Agreement"** form contract states, inter alia, that Charter One will not charge the \$100 annual fee if the average outstanding balance on the borrower's HELOC credit line was 20% or more of their line of credit during the prior twelve month period.

25. Despite this language in Charter One's **"Credit Line Agreement"** form contract, Defendant Charter One employs an actual policy of charging this \$100 annual fee to HELOC customers, even where the average outstanding balance on the borrower's HELOC credit line was 20% or more of their line of credit during the prior twelve month period.

26. What happened to Plaintiff Block illustrates this uniform policy.

27. Plaintiff Block entered into a **"Credit Line Agreement"** form contract with Defendant, which contained the same **"Annual Fee"** clause quoted above.

28. For each twelve month period since the Plaintiff's HELOC was opened, Plaintiff Block has maintained an average outstanding balance on his HELOC account of more than 20% of his line of credit.

29. Indeed, for the 12 month period prior to January 3, 2015, the average outstanding balance on Plaintiff's HELOC account was more than 20% of his line of credit.

30. Despite this, on or about January 27, 2015, Plaintiff Block received the attached **"Equity Line of Credit Statement"** from Charter One relating to his HELOC, notifying him that Defendant had charged him an annual **"USAGE FEE"** of \$100 on January 3, 2015. See Attachment B, Plaintiff's HELOC Credit Statement.

31. That \$100 annual **"USAGE FEE"** has now been added by Defendant to Plaintiff's outstanding balance.

32. None of the documents signed by Plaintiff or the class relating to the HELOC, including the **"Credit Line Agreement"** form contract, actually use the term **"Usage Fee."**

33. Rather, the only reference to any \$100 fee in any such documents, or any fee which could possibly be described as a **"USAGE FEE,"** is the clause in **"Credit Line Agreement"** form contract quoted above, which states that a \$100 **"annual fee"** may be charged, only if a HELOC customer's average outstanding balance (i.e. usage of the credit line) for the prior 12 month period was less than 20% of their credit line.

34. Thus, the plain terms of this clause in the **"Credit Line Agreement"** form contract bar Defendant from charging this \$100 fee to Plaintiff or any other class member whose average outstanding balance on their HELOC for the prior 12 month period was more than 20% of their credit line.

35. The imposition of this unauthorized \$100 annual fee upon Plaintiff Block was not an accident or an isolated incident. Rather, it was done as a matter of intentional policy by Defendant, since the imposition of such a charge was done by a computer program and not imposed individually by employees of Defendant.

36. Indeed, Plaintiff Block twice contacted Charter One regarding the imposition of this \$100 annual fee and was told both times by Defendant's employees that this charge was not a mistake and that it was being imposed pursuant to Charter One's policy.

37. Specifically, as a matter of policy, Charter One has begun charging this \$100 annual **"USAGE FEE"** to HELOC customers who signed the **"Credit Line Agreement"** form contract, even when their average outstanding balance on their HELOC for the prior 12 month period was more than 20% of their credit line.

38. This policy is unlawful in that nothing in the HELOC contract documents authorizes this fee. Indeed, such a \$100 fee is specifically prohibited by the **“Credit Line Agreement”** form contract under such circumstances.

39. To make matters worse, at the time he opened his HELOC with Defendant, Plaintiff Block executed a second form contract document which was drafted and presented to him by Defendant, entitled the **“ANNUAL FEE RIDER.”** See Attachment C, **“ANNUAL FEE RIDER”** form contract document.

40. Like the **“Credit Line Agreement”** form document, the **“ANNUAL FEE RIDER”** form document is a mass-produced, pre-printed form contract created and distributed by Defendant.

41. Like Plaintiff, numerous consumers who entered into a HELOC with Defendant executed an **“ANNUAL FEE RIDER”** form document which was identical to Attachment C.

42. This **“ANNUAL FEE RIDER”** form document stated in clear and express language that no annual fee would be charged to Plaintiff and any other class members who executed this form document. See Attachment C, **“ANNUAL FEE RIDER”** form contract document:

“The paragraph entitled ‘ADDITIONAL FINANCE CHANGES’ is amended to read as follows: ‘You agree to pay the following additional FINANCE CHARGES: Annual Fee: \$0.00’” (emphasis added)

43. The **“ANNUAL FEE RIDER”** clearly and unambiguously states that it is modifying the language of the paragraph entitled **“ADDITIONAL FINANCE CHARGES”** in the **“Credit Line Agreement”** form contract, nullifying the language in the **“Credit Line Agreement”** which allows a \$100 annual fee to be charged if the borrower’s average outstanding balance falls below 20% for the prior 12 months.

44. The **"ANNUAL FEE RIDER"** does not purport to allow an annual fee to be charged to a HELOC borrower under any circumstances or conditions, regardless of their average outstanding balance. Instead, customers who executed the **"ANNUAL FEE RIDER"** were told plainly, and without condition or reservation, that the **"Annual Fee"** on the HELOC will be **"\$0.00."**

45. Thus, in imposing the \$100 annual **"USAGE FEE"** on Plaintiff and the other class members who executed an **"ANNUAL FEE RIDER"** form contract document, there is no possibility that Defendant miscalculated the borrower's average outstanding balance since the **"ANNUAL FEE RIDER"** says the annual fee will **"\$0.00"**, regardless of the balance.

46. To the contrary, Defendant has clearly made a conscious policy decision to impose this \$100 annual **"USAGE FEE,"** despite the plain language of the **"ANNUAL FEE RIDER."**

47. Upon information and belief, Defendant has imposed this \$100 fee on thousands of persons in the United States who executed an **"ANNUAL FEE RIDER"** form contract document identical to the pre-printed portions of Attachment C.

CLASS ACTION ALLEGATIONS

48. Plaintiff brings the claims set forth in Counts I and II under Fed.R.Civ.P. 23 on behalf of a class (hereafter the **"Annual Fee Rider Class"**) defined as:

All persons in the United States who had home equity lines of credit with Charter One, who:

- A) Between February 27, 2009 and the present were charged an annual "Usage Fee" of \$100 by Charter One; and**
- B) Signed an "ANNUAL FEE RIDER" form contract document with Charter One which was identical or substantially similar to Attachment C, which contained the clause:**

**"The paragraph entitled 'ADDITIONAL FINANCE CHANGES' is amended to read as follows: 'You agree to pay the following additional FINANCE CHARGES:
Annual Fee: \$0.00'"**

49. Plaintiff also brings the claims set forth in Count III under Fed.R.Civ.P. 23 on behalf of a sub-class of the Annual Fee Rider Class (hereafter the "TILA Sub-Class") defined as:

All persons who fit within the "Annual Fee Rider Class" defined above, who were charged an annual "Usage Fee" of \$100 for the first time by Charter One between February 27, 2014 and the present.

50. Finally, Plaintiff brings the claims set forth in Counts I and II under Fed.R.Civ.P.23 on behalf of a class (hereafter the "Credit Line Agreement Class") defined as:

All persons who had home equity lines of credit with Charter One, who:

- A) Between February 27, 2009 and the present were charged an annual "Usage Fee" of \$100 by Charter One;**
- B) Had an average outstanding balance of 20% or more on their Chart One credit line for the twelve months immediately prior to the imposition of this \$100 fee; and**
- C) Signed a "Credit Line Agreement" form contract with Charter One which was identical or substantially similar to Attachment A, which contained the following clause under the heading "ADDITIONAL FINANCE CHANGES":**

"Annual Fee: \$100 will be due annually during the Draw Period after the expiration of twenty four (24) months from the date of Activation of the Credit Line Account. The Annual Fee shall be waived for each year that it is due if, for the immediately preceding twelve (12) months, the average outstanding balance on your Credit Line Account during such twelve (12) months is 20% or more of the Line of Credit."

51. The members of the proposed Annual Fee Rider Class, TILA Sub-Class and Credit Line Agreement Class are each so numerous that joinder of all members is impracticable.

52. The exact number and identities of the persons who fit within the proposed classes are contained in Defendant's records and can be easily ascertained from those records.

53. Each of these classes is fully ascertainable in that Defendant maintains both paper and electronic records which identify the names of all HELOC customers who executed the "Credit Line Agreement" form contract, all HELOC customers who executed the "ANNUAL FEE RIDER" form contract document, and all HELOC customers on whom Defendant imposed the \$100 "USAGE FEE" and the dates this fee was imposed.

54. Each of these proposed classes is composed of several thousand persons.

55. The claims in this action arise exclusively from Defendant's uniform policy and pre-printed, identically-worded form documents created by Defendant.

56. No violations alleged are a result of any oral communications or individualized interaction between any class member and Defendant.

57. There are common questions of law and fact affecting the rights of the Annual Fee Rider Class members, including, inter alia, the following:

- a. Whether the uniform language of the "ANNUAL FEE RIDER" form contract document barred Defendant from charging any annual fee to the class members who executed this document;
- b. Whether the \$100 "USAGE FEE" charged to Plaintiff and this class was barred by the terms of the "ANNUAL FEE RIDER";
- c. Whether Defendant's act in charging the \$100 "USAGE FEE" to class members who executed the "ANNUAL FEE RIDER" form contract document was a breach of contract under Rhode Island law; and
- d. Whether Defendant's act in charging the \$100 "USAGE FEE" to class members who executed the "ANNUAL FEE RIDER" form contract document violated the implied duty of good faith and fair dealing under Rhode Island law.

58. There are common questions of law and fact affecting the rights of the TILA Sub-

Class, including all those questions set forth in Paragraph 56, above, as well as the additional issues of whether Defendant's actions violated TILA by violating:

- a. 12 C.F.R. 226.5b(f)(3); and/or
- b. 12 C.F.R. 226.9(c).

59. There are common questions of law and fact affecting the rights of the Credit Line Agreement Class, including the following:

- a. Whether the \$100 **"USAGE FEE"** was an "annual fee" within the meaning of the **"Credit Line Agreement"** form contract;
- b. Whether the uniform language of the **"Credit Line Agreement"** form contract document barred Defendant from charging any annual fee to customers whose average outstanding balance for the prior 12 months was less than 20% of their HELOC credit line;
- c. Whether Defendant had a policy of charging HELOC customers who executed the **"Credit Line Agreement"** form contract a \$100 **"USAGE FEE"** even where their outstanding balance for the prior 12 months was less than 20% of their HELOC credit line;
- d. Whether Defendant's actions violated Rhode Island law relating to contract and the implied duty of good faith and fair dealing in contracts.

60. Plaintiff is a member of each class and sub-class he seeks to represent.

61. The claims of Plaintiff are not only typical of all class members, they are identical in that they arise from uniform policies, form documents and circumstances, and are based on the same legal theories as all class members.

62. Plaintiff has no interest antagonistic to, or in conflict with, any class or sub-class.

63. Plaintiff will thoroughly and adequately protect the interests of the class and sub-class, having retained qualified and competent legal counsel to represent himself and the class and sub-class.

64. Defendant has acted and refused to act on grounds generally applicable to the

class and sub-class, thereby making appropriate injunctive and declaratory relief for the class as a whole.

65. The prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications.

66. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

67. Common questions will predominate, and there will be no unusual manageability issues.

COUNT I

BREACH OF CONTRACT UNDER RHODE ISLAND LAW

Brought On Behalf of the Members of the Annual Fee Rider Class and the Credit Line Agreement Class

68. Plaintiff incorporates all preceding paragraphs as though fully set forth at length herein.

69. By the allegations set forth herein, a contract existed between Defendant and Plaintiff, as well as between Defendant and each member of the Annual Fee Rider Class and the Credit Line Agreement Class.

70. By the facts alleged herein, Defendant has breached that contract, causing actual damages to Plaintiff and each member of the Annual Fee Rider Class and the Credit Line Agreement Class.

71. Plaintiff, on behalf of himself and each member of the Annual Fee Rider Class and the Credit Line Agreement Class, seeks all damages for breach of contract which are available under Rhode Island law, as well as all other appropriate relief available under such law.

COUNT II

**BREACH OF IMPLIED COVENANT OF GOOD FAITH
UNDER RHODE ISLAND LAW**

**Brought On Behalf of the Members of the Annual Fee Rider Class
and the Credit Line Agreement Class**

72. Plaintiff incorporates all preceding paragraphs as though fully set forth at length herein.

73. Under Rhode Island law, there exists an implied covenant of good faith and fair dealing in every express or implied contract.

74. By the allegations set forth herein, a contract existed between Defendant and Plaintiff, as well as between Defendant and each member of the Annual Fee Rider Class and the Credit Line Agreement Class.

75. By the facts alleged herein, Defendant has breached that duty of good faith and fair dealing, causing actual damages to Plaintiff and each member of the Annual Fee Rider Class and the Credit Line Agreement Class.

76. Plaintiff, on behalf of himself and each member of the Annual Fee Rider Class and the Credit Line Agreement Class, seeks all damages for such breach which are available under Rhode Island law, as well as all other appropriate relief available under such law.

COUNT III

**VIOLATIONS OF THE TRUTH IN LENDING ACT
15 U.S.C. § 1601 et seq**

Brought on Behalf of the Members of the TILA Sub-Class

77. Plaintiff incorporates all preceding paragraphs as though fully set forth at length herein.

78. Congress enacted the Truth in Lending Act to “**assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit[.]**” 15 U.S.C. §1601(a).

79. The Federal Reserve Board was granted authority to promulgate regulations under the TILA, and Congress specially designated the Federal Reserve Board as the primary source for the interpretation and application of TILA. See Household Credit Services, Inc. v. Pfenning, 541 U.S. 232, 235, 238, 124 S. Ct. 1741, 158 L. Ed. 2d 450 (2004) (citations omitted).

80. Regulation Z, set forth in 12 C.F.R. Part 226, represents the Federal Reserve Board’s exercise of this authority.

81. Generally speaking, the TILA requires a creditor to disclose information relating to finance charges, annual percentage rates of interest, and borrowers’ rights and also prohibits a creditor from changing the terms of a loan without following the procedures set forth in TILA.

82. A claim for damages under the TILA is subject to a one-year statute of limitations, which runs from “**the date of the occurrence of the violation.**” 15 U.S.C. §1640(e).

83. Based on the facts alleged herein, Defendant violated the requirements of the TILA by adversely changing, without authorization or providing proper notice to the borrower, the terms of the HELOC plan, sometime on or after February 27, 2014.

84. 12 C.F.R. 226.5b(f)(3), entitled “[r]equirements for home-equity plans,” states in relevant part:

“(f) Limitations on home equity plans. No creditor may, by contract or otherwise:

* * *

(3) Change any term, except that a creditor may:

(i) Provide in the initial agreement that it may prohibit additional extensions of credit or reduce

the credit limit during any period in which the maximum annual percentage rate is reached. A creditor also may provide in the initial agreement that specified changes will occur if a specified event takes place (for example, that the annual percentage rate will increase a specified amount if the consumer leaves the creditor's employment).

* * *

(iii) Make a specified change if the consumer specifically agrees to it in writing at that time.

(iv) Make a change that will unequivocally benefit the consumer throughout the remainder of the plan.

(v) Make an insignificant change to terms.”

85. None of the contract documents or any other disclosures provided to Plaintiff and the TILA Sub-Class at the time they opened their HELOC accounts stated that Defendant could charge a \$100 “USAGE FEE” or any annual fee to Plaintiff or the other members of the TILA Sub-Class.

86. Nothing in the contract documents or other disclosures purported to give Defendant the unilateral right to impose such a fee or to unilaterally alter the terms of the HELOC plan to authorize such a fee.

87. To the contrary, as described previously, the contract documents and disclosures provided to Plaintiff and the TILA Sub-Class by Defendant affirmatively stated that there would be an “annual fee” of “\$0.00” and no other type of annual fee.

88. Prior to February 27, 2014, Defendant did not charge a \$100 “USAGE FEE” to Plaintiff or the other members of the TILA Sub-Class.

89. Sometime between February 27, 2014 and the present, Defendant began imposing this \$100 “USAGE FEE” on Plaintiff and the TILA Sub-Class.

90. Specifically, in the case of Plaintiff, Defendant – for the very first time – imposed a \$100 “USAGE FEE” on Plaintiff on January 27, 2015. See Attachment B.

91. The imposition of this \$100 “USAGE FEE” on Plaintiff and the TILA Sub-Class between February 27, 2014 and the present was a change in the terms of HELOC plan.

92. This unlawful change occurred on or after February 27, 2014.

93. This change was not for the benefit of Plaintiff or the TILA Sub-Class, but rather for the benefit of Defendant.

94. Prior to imposing this change in terms, Defendant did not notify Plaintiff and the TILA Sub-Class of any such change, nor did Defendant seek their consent to such a change.

95. The change in terms which is the subject of this Count occurred on or after March 1, 2014 and neither Plaintiff nor the members of the TILA Sub-Class had notice of this change prior to February 27, 2014.

96. Prior to the actual imposition of this \$100 “USAGE FEE” in Defendant’s “Equity Line of Closing Statement” (i.e. Attachment B), Defendant did not send any other notice of, or seek the consent of Plaintiff or the TILA Sub-Class members to, this charge in the terms of the HELOC.

97. Thus, Defendant changed the terms the HELOC’s of Plaintiff and the TILA Sub-Class after February 27, 2014 in violation of 12 C.F.R. 226.5b(f)(3). See 12 C.F.R. Pt. 226, Supp. I, § 5b(f)(3), Federal Reserve Board Comment 1:

“In general, a creditor may not change the terms of a plan after it is opened. For example, a creditor may not increase any fee or impose a new fee once the plan has been opened, even if the fee is charged by a third party, such as a credit reporting agency, for a service. The change of terms prohibition applies to all features of a plan, not only those required to be disclosed under this section. For example, this provision

applies to charges imposed for late payment, although this fee is not required to be disclosed under § 226.5b(d)(7).” (emphasis added)

98. Defendant’s conduct also violated 12 C.F.R. 226.9(c), which states in relevant part:

“For home-equity plans subject to the requirements of § 226.5b, whenever any term required to be disclosed under § 226.6(a) is changed or the required minimum periodic payment is increased, the creditor shall mail or deliver written notice of the change to each consumer who may be affected. The notice shall be mailed or delivered at least 15 days prior to the effective date of the change. The 15-day timing requirement does not apply if the change has been agreed to by the consumer; the notice shall be given, however, before the effective date of the change.” (emphasis added)

99. Defendant failed to provide proper notice to Plaintiff and the TILA Sub-Class, as required by 12 C.F.R. 226.9(c), that Defendant was amending the terms of the HELOC plans to impose a \$100 “USAGE FEE” on Plaintiff and the TILA Sub-Class.

100. Defendant did not send written notice of this change to Plaintiff and the TILA Sub-Class 15 days prior to implementing this change.

101. Rather, the first time Plaintiff and the members of the TILA Sub-Class received any notice of this change was when they received the “Equity Line of Credit Statement” from Defendant, which indicated that a \$100 “USAGE FEE” had already been added by Defendant to the balance owed on their HELOC’s. See Attachment B.

102. As a result of these violations of TILA and Regulation Z, Plaintiff and the TILA Sub-Class have each suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ask this court to:

- a. Certify the proposed Fed.R.Civ.P. 23 classes and sub-class;
- b. Enter an order for injunctive and declaratory relief as described herein;

- c. Enter judgment in favor of Plaintiff and class member for damages suffered as a result of the conduct alleged herein, to include interest and pre-judgment interest;
- d. Award Plaintiff reasonable attorneys' fees and costs; and
- e. Grant such other and further legal and equitable relief as the court deems just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues so triable.

DeNITTIS OSEFCHEN, P.C.

BY: /s/ Stephen P. DeNittis
Stephen P. DeNittis, Esq. (SD-0016)
Joseph A. Osefchen, Esq. (JO-5472)
Shane T. Prince, Esq. (SP-0947)
5 Greentree Centre
525 Route 73 North, Suite 410
Marlton, NJ 08053
(856) 797-9951
Attorneys for Plaintiffs

Dated: February 27, 2015

Exhibit A

00000398131

MARC BLOCK 37 LEXINGTON CIRCLE MARLTON, NJ 08053		Charter One, a division of RBS Citizens, N.A. One Citizens Plaza Providence, RI 02903 Lender's Name and Address "We" or "us" means the lender named above
Borrower's Name and Address "You" or "Borrower" means each borrower above, jointly and severally		
No. Date <u>12/12/2008</u> Line of Credit <u>\$81,383.00</u>	Initial Advance <u>\$21,314.68</u> Draw Period <u>10 years</u> Repayment Period <u>15 years</u>	Maturity Date: <u>300 months</u> Billing Cycle: <u>Ends the 3rd of every month</u> Payment Date: <u>The 23rd of every month</u>

CREDIT LINE AGREEMENT

GENERALLY: This Credit Line Agreement ("Agreement") is an agreement about your home equity line of credit ("Credit Line Account"). Many of the terms we use in this Agreement have special meanings. The term "this plan" means your home equity line of credit. The term "loan account balance" means the sum of the unpaid principal of loans made under this plan, plus unpaid but earned FINANCE CHARGES. "Line of Credit" or "Credit Limit" means the maximum amount of principal we will ordinarily allow you to owe us under this plan at any time. In addition, we will use the following terms for this plan: "Initial Advance" means the amount of the loan you request at the closing.

TERM: The term of your Credit Line Account will begin as of the date of the Agreement and will continue until termination of your Credit Line Account. All indebtedness under this Agreement, if not already paid pursuant to the payment provisions below, will be due and payable upon termination. The "Draw Period" is ten (10) years from the date your Credit Line Account is activated. Activation is defined as the earlier of (i) the date of the initial disbursement on your Credit Line Account; or (ii) the date the Credit Line Account is set up on our servicing system ("Activation"). After the Draw Period ends, you will no longer be able to obtain loans and you must repay the outstanding balance over fifteen (15) years (the "Repayment Period"). The end of the Repayment Period is known as the "Maturity Date." You agree that, at our sole discretion, we may renew or extend the period during which you may obtain advances or make payments.

REQUESTING A LOAN: You request a loan under this Agreement by writing a special check that we have given you for this purpose.

VARIABLE RATE: The ANNUAL PERCENTAGE RATE may change, and will be 0.15 % below the following index: the highest Prime Rate most recently published in the Money Rate section of The Wall Street Journal determined as of the last business day of each month ("index"). Any increase or decrease in the ANNUAL PERCENTAGE RATE will take effect on the first day of the next billing cycle. The ANNUAL PERCENTAGE RATE may increase if this index increases and may decrease if this index decreases. An increase will result in an increase in the FINANCE CHARGE and it may have the effect of increasing your periodic minimum payment. A decrease will result in a decrease in the FINANCE CHARGE and it may have the effect of decreasing your periodic minimum payment. The ANNUAL PERCENTAGE RATE will not change more often than once a month.

If the index changes more frequently than the ANNUAL PERCENTAGE RATE, we will always use the index in effect on the last day of the billing cycle to determine the new ANNUAL PERCENTAGE RATE. In such cases, we will ignore any changes in the index that occur between ANNUAL PERCENTAGE RATE adjustments.

The "ANNUAL PERCENTAGE RATE" referred to in this section is the annual rate which corresponds to the periodic rate applied to the balance as described above. The corresponding ANNUAL PERCENTAGE RATE will never exceed 21% and will never exceed the highest allowable rate for this type of agreement as determined by applicable state or federal law. The ANNUAL PERCENTAGE RATE will never be less than 2.5%.

HOW THE LOAN IS ADVANCED: When you request a loan, we will, subject to any limitations contained in this Agreement, advance exactly the amount you request. We will make the advance by depositing the amount in your transaction account, by advancing the money directly to you, or by paying a designated third person or account, depending on how we agree to make the advance. We will record the amount as a loan in your loan account.

However, we will not ordinarily grant any request for a loan which would cause the unpaid principal of your loan account balance to be greater than the Line of Credit listed in this Agreement. We may, at our option, grant such a request without obligating ourselves to do so in the future. If we allow you to exceed your Line of Credit amount, we may demand the immediate payment of any amount in excess of the Line of Credit amount or refuse advances as long as the principal balance exceeds the Line of Credit amount.

PERIODIC FINANCE CHARGES. You will pay a periodic FINANCE CHARGE on the outstanding amount of the principal balance under your Credit Line, each billing cycle during the Draw period and the Repayment Period. The periodic FINANCE CHARGE will begin to accrue on the date Credit Advances are posted to your Credit Line Account. There is no "grace period" which would allow you to avoid a periodic FINANCE CHARGE on your Credit Advances.

Method Used to Determine the Balance on Which the Periodic FINANCE CHARGE Will Be Calculated. We calculate the periodic FINANCE CHARGE on your Credit Line Account by determining the average daily balance of your Credit Line Account and multiplying that amount by the applicable daily periodic rate, then by the number of days in the billing cycle. To get the average daily balance, we take the beginning unpaid principal balance of your Credit Line Account each day and add new Credit Advances and subtract any credits and any principal repaid with any payments. This gives us the daily principal balance each day. Then we add up all the daily principal balances for the billing cycle and divide the total by the number of days in the billing cycle (the number of days since your last statement). This gives us the average daily balance. The average daily balance does not include finance charges, insurance premiums, annual fees or other charges.

How You May Compute the Periodic FINANCE CHARGES on Your Line of Credit Account. When the average daily balance has been computed, we multiply the average daily balance by the daily periodic rate, which is arrived at by dividing the Annual Percentage Rate by the number of days in the year. The result is multiplied by the number of days in the billing cycle. This figure is the periodic FINANCE CHARGE assessed for the billing cycle.

On the date of the preparation of this Agreement, the daily periodic FINANCE CHARGE was 0.01055 % which corresponds to an ANNUAL PERCENTAGE RATE OF 3.85 %. The ANNUAL PERCENTAGE RATE includes interests and no other costs.

ADDITIONAL FINANCE CHARGES. You agree to pay the following additional FINANCE CHARGES:

Annual Fee: \$100.00 will be due annually during the Draw Period after the expiration of twenty four (24) months from the date of Activation of the Credit Line Account. The Annual Fee shall be waived for each year that it is due if, for the immediately preceding twelve (12) months, the average outstanding balance on your Credit Line Account during such twelve (12) months is 20% or more of the Line of Credit.

Prepayment Fee: You will pay \$350 if you cancel this Agreement within three (3) years of Activation of the Agreement.

HOW YOU REPAY YOUR LOANS:

a) **Draw Period:** On or before each payment due date, you agree to make a minimum payment. The minimum payment is the accrued FINANCE CHARGES on the last day of the billing cycle and other charges imposed during the billing cycle. You must also pay any past due amounts and any amount that exceeds your Line of Credit. You can pay off all or any part of what you owe at any time. However, so long as you owe any amount you must continue to make the minimum payment.

b) **Repayment Period:** During the Repayment Period, your regular payment will consist of principal and interest. The principal portion of your payment will be a

constant equal amount based on the amortization of your outstanding principal balance at the inception of your Repayment Period over a 180 month period or \$20.00, whichever is greater. In calculating the regular payment, we will use the applicable variable Annual Percentage Rate in effect on the day we calculate your regular payment. Your payments will be due monthly. Your "Minimum Payment" will be the regular payment, plus any amount past due and all other charges. In any event, if your Credit Line Account balance falls below \$20.00, you agree to pay your balance in full. You agree to pay not less than the Minimum Payment on or before the payment due date indicated on your periodic billing statement.

c) Payments: All payments must be made by a check, money order, or other instrument in U.S. dollars and must be received by us at the remittance address shown on your periodic billing statement. Loans issued pursuant to the terms of the Agreement shall not be used for payments due hereunder, or for any sums of money due to the holder of any mortgage or security interest affecting your home that is given for security for this Agreement.

SECURITY: We have secured your obligations under this Agreement by taking a security interest, by way of a separate security agreement, mortgage or other instrument dated 12/12/2008, ("Security Instrument") in the following property ("Property"), described by item or type:

37 LEXINGTON CIRCLE, MARLTON, NJ 08058

ADDITIONAL CHARGES: You agree to pay the following additional charges:

Overlimit Fee: A fee of \$28.50 in each billing cycle during which the balance due exceeds the maximum Credit Limit.

Returned Check Fee: A fee of \$25.00 for each return of a dishonored check or other payment instrument.

Stop Payment Fee: A fee of \$28.50 for each check on which you stop payment.

The Overlimit Fee, Returned Check Fee and Stop Payment Fee will increase by \$2.00 on each anniversary date of this plan for the 12 month period thereafter.

Late Charge: The issuer of \$40 or ten percent (10%) of the payment not paid within 15 days of the payment due date.

Check Reorder Fee: \$6.00 for each check reorder (25 checks per reorder).

Copy of Periodic Billing Statement Fee: \$2.00 for each copy of your monthly periodic billing statement that you request.

Appraisal \$ N/A ; Official Fees \$ N/A ; Doc. Fees \$ N/A ; Title Search \$ N/A ; (Other) \$.

INSURANCE: You must obtain insurance on the Property through any company of your choice that is reasonably satisfactory to us. The insurance you maintain must provide for ten (10) days notice of cancellation to us. If the Property is located in an area identified by the Federal Emergency Management Agency as having special flood hazards under the National Flood Insurance Act of 1994, as amended, you must also maintain flood insurance on the Property. Subject to applicable law, if you fail to obtain or maintain insurance as required herein or in the Security Instrument, we may purchase insurance to protect our own interest, add the premium to your balance, pursue any other remedies available to us, or do any one or more of these things.

In the event you fail to obtain and maintain any insurance on the Property required by us, you understand and agree that we may, at our option (unless required to do so by applicable law), obtain and maintain the required insurance and pay the premium(s) for such insurance, and either: (a) add the cost of the insurance to the unpaid principal balance owed under this Agreement (in which case you agree to repay the cost of the insurance in accordance with the repayment terms of this Agreement); or (b) bill you separately (in which case you agree to pay the bill immediately). You agree to pay interest on any such amounts at the interest rate provided in this Agreement until such amounts are repaid in full. You understand and acknowledge that any insurance obtained and maintained by us may (i) only protect the interests of us and any other creditor with a prior mortgage on the Property, and (ii) be more expensive than insurance obtained and maintained by you.

CHARGES TO YOUR CREDIT LINE: We may charge your Credit Line Account to pay other fees and costs that you are obligated to pay under this Agreement, under the Security Instrument or under any other document related to your Credit Line Account. In addition, we may charge your Credit Line Account for funds required for continuing insurance coverage as described in this Agreement or as described in the Security Instrument. We may also, at our option, charge your Credit Line Account to pay any costs or expenses to protect our security interest in the Property. These costs or expenses include, without limitation, payments to cure defaults under any existing liens on the Property. If you do not pay your property taxes, we may pay the delinquent taxes and charge your Credit Line Account the amount of such payment. Any amount so charged to your Credit Line Account will be a loan and will decrease the funds available, if any, under the Credit Line Account. However, we have no obligation to provide any of the loans referred to in this paragraph.

INITIAL PERIODIC BILLING STATEMENT: Your initial periodic billing statement will be issued on the first billing date after your Credit Line Account is set up on our system.

SUSPENSION OR REDUCTION: We may temporarily prohibit you from obtaining additional extensions of credit, or reduce your Credit Limit if:

- (1) The value of the Property securing this plan declines significantly below the Property's appraised value for purposes of this Credit Line Account. This includes, for example, a decline such that the initial difference between your Credit Limit and the available equity is reduced by fifty percent (50%) and may include a smaller decline depending on the individual circumstances;
- (2) We reasonably believe that you will not be able to meet the repayment requirements under this plan due to a material change in your financial circumstances;
- (3) You are in default of a material obligation of this Agreement or any agreement securing this Agreement. We consider all of your obligations to be material. Categories of material obligations include the events and conditions described in the Termination and Acceleration provision, obligations to pay fees and charges, obligations and limitations on the receipt of loans, obligations concerning maintenance or use of the Property, obligations to pay and perform the terms of any other deed of trust, mortgage or deed to secure debt on the Property, obligations to notify us and to provide documents or information to us (such as updated financial information), obligations to comply with applicable law (such as zoning restrictions), and obligations of any cosigner;
- (4) A governmental action prevents us from imposing the ANNUAL PERCENTAGE RATE provided for in this Agreement;
- (5) The action of a governmental body adversely affects our security interest to the extent that the value of the security interest is less than 120% of the Line of Credit;
- (6) The ANNUAL PERCENTAGE RATE corresponding to the periodic rate reaches the maximum rate allowed under this plan; or
- (7) A regulatory agency has notified us that continued advances would constitute an unsafe and unsound practice.

We will mail or deliver written notice to you after we suspend your Credit Line Account or reduce your Credit Limit, and this notice will describe the specific reasons for our action. We are obligated to reinstate your credit privileges when the condition(s) which caused the suspension or reduction has been cured or has changed and you have notified us in writing, explaining how the condition(s) has been cured or has changed, provided no new condition(s) under this provision exists or has occurred.

Before reinstating your right to obtain loans, or restoring your Credit Limit, we may conduct or obtain credit reports, appraisals, lien searches and other evaluations as we consider appropriate. To the extent permitted by applicable law, you agree to reimburse us on demand for any costs we actually incur for obtaining such information.

If an event or condition described in the Suspension or Reduction provision occurs which is also an event or condition described in the Termination and Acceleration provision, we have the option of exercising any or all of the remedies described in the Suspension or Reduction provision or Remedies provision.

TERMINATION AND ACCELERATION: We may take the actions listed in the Remedies provision if any of the following events or conditions occur:

- (1) You engage in fraud or material misrepresentation in connection with this plan;
- (2) Failure to meet the payment terms of this Agreement, such as your failure to make any payment on or before the payment due date; or
- (3) Your action or inaction adversely affects the Property or our rights in the Property. This can include, for example, failure to maintain required insurance, waste or destructive use of the Property, failure to pay taxes, death of all persons liable on your Credit Line Account or the death of any one of you if the Property is adversely affected by such death, transfer of title or sale of the Property, the Property is taken through eminent domain, creation of a senior lien on the Property without our permission, foreclosure by the holder of a prior lien, use of the Property for prohibited purposes and such use subjects the Property to seizure, you move out of the Property or you break any promise made in this Agreement or in the Security Instrument.

If your Credit Line Account is terminated, you must immediately destroy all checks and any other access devices. Any use of checks or other access devices following termination may be considered fraudulent. You will also remain liable for any further use of such checks or other Credit Line Account access devices not destroyed.

REMEDIES: If an event or condition described in the Termination and Acceleration provision occurs, subject to any notice or other limitation of applicable law, we may do any combination of the following things:

- (1) We may terminate any of your rights under your Credit Line Account;
- (2) We may temporarily or permanently refuse to make any additional loans;
- (3) We may declare all sums owing under this Agreement and any other agreement you have made with us to be immediately due and payable;
- (4) We may foreclose the Security Instrument;
- (5) We may reduce your Credit Limit; and
- (6) We may take any other action permitted by this Agreement, by law or in equity.

SET-OFF: You agree that we may set-off any amount due and payable under this Agreement against any right you may have to receive money from us. Your right to receive money from us includes:

- (1) Any deposit account balance you have with us;
- (2) Any money owed to you on an item presented to us or in our possession for collection or exchange; and
- (3) Any repurchase agreement or other similar obligations.

"Any amount due and payable under this Agreement" means the total amount to which we are entitled to demand payment under the terms of this Agreement at the time we set off. This total includes any balance due that we properly accelerate under this Agreement. If your right to receive money from us is also owned by someone who has not agreed to pay this Agreement, our right of set-off will apply to your interest in the obligation and to any other amounts you could withdraw on your sole request or endorsement.

Our right of set-off does not apply to an account or other obligation where your rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account. We will not be liable for the dishonor of any check when the dishonor occurs because we set off this debt against any of your accounts. You agree to hold us harmless from any such claims arising as a result of our exercise of our right of set-off.

ATTORNEYS' FEES: If permitted by law, you agree to pay all our costs, including reasonable attorneys' fees, that we incur in legal proceedings to collect or enforce this debt should you be in default.

TAX DEDUCTIBILITY: You should consult a tax advisor regarding the deductibility of interest and charges under this plan.

FREEZING THE CREDIT LINE ACCOUNT: We shall have the right to freeze the Credit Line Account upon the written request of any of you. You shall have the right to remove the freeze upon written request signed by all of you unless other conditions exist that permit us to continue the suspension.

OWNER OCCUPANCY: You must occupy the Property that is the security for this Agreement at all times that this Agreement is in effect.

MORE THAN ONE BORROWER: If more than one person has signed this Agreement, all such persons agree that any individual person may request loans under this Agreement.

CONVERSION TO CLOSED END LOAN: In the event this Agreement expires or is cancelled or terminated, we may elect to administer your Credit Line Account as a fixed rate closed end mortgage loan.

CANCELLATION OF AGREEMENT: You may cancel your Credit Line Account at any time. If two or more persons are obligated under this Agreement, any one of them may provide us with a written request to cancel the Credit Line Account. If such cancellation occurs, all persons obligated under this Agreement must provide us with a written request to reinstate draw privileges. We are under no obligation to reinstate draw privileges once this Agreement is cancelled.

Upon cancellation, you must immediately destroy all checks and any other access devices. Any such cancellation shall not relieve you of any of your obligations to us, including, but not limited to, the prepayment fee, and the terms and conditions of this Agreement shall continue to apply to the outstanding balance on your Credit Line Account until paid in full.

CREDIT INFORMATION: You agree to supply us with whatever information we reasonably believe we need to decide whether to continue this plan. We agree to make requests for this information without undue frequency, and to give you reasonable time in which to supply the information.

You authorize us to obtain financial information about you from time to time from third parties, including, but not limited to, a credit bureau, your employer, or another financial institution. You also authorize us to disclose information about your creditworthiness and your Credit Line Account to consumer reporting agencies. In addition, you authorize us to disclose information about you to other third parties in accordance with our privacy policy: Charter One Privacy Notice.

APPRAISAL: We may require a new appraisal of the Property which secures your Credit Line Account at any time, including an internal inspection, at our sole option and expense, except you must reimburse us for any costs we actually incur in obtaining an appraisal in connection with reinstating your right to obtain loans or restoring your Credit Limit as provided in the Suspension or Reduction provision.

HOLD HARMLESS AGREEMENT: In order to induce us to enter into this Agreement, you hereby agree, that if, for any reason a spouse or co-owner of the Property who is not a Borrower should access the Credit Line Account and, as a result thereof, receive funds that are charged against the Credit Line Account, you do hereby release and forever discharge us from any and all liability associated therewith. You further agree that your sole remedy and recourse shall be against such spouse or co-owner who wrongfully accessed funds through the Credit Line Account.

NOTICES: All notices will be sent to your address as shown in this Agreement unless you notify us in writing of any change in your address within thirty (30) days of the change. On joint accounts, notices sent to one will be considered notice sent to all.

DOCUMENTATION: You agree to execute or co-execute any document that we request in order to correct any error or omission in the original Agreement, Security Instrument, or other Credit Line Account related documents, including, but not limited to, confirmatory or corrective security instruments.

PERIODIC BILLING STATEMENTS: Each periodic billing statement shall be conclusively presumed correct unless you notify us in writing of an error within 60 days of your receipt of such periodic billing statement.

CHANGING THE TERMS OF THIS AGREEMENT: Generally, we may not change the terms of this Agreement. However, we may change the terms in the following circumstances:

- (1) If this is a variable rate plan, we may change the index and margin if the original index described in this Agreement becomes unavailable. Any new index will have a historical movement similar to the original, and, together with a new margin, will produce a similar interest rate.
- (2) We may make changes that you have agreed to in writing.
- (3) We may make changes that unequivocally benefit you.
- (4) We may make changes to insignificant terms of this Agreement.

If we are required to send notice of a change in terms, we will send the notice to your address listed in this Agreement. (You should inform us of any change in address.)

INTERPRETATION: The names given to paragraphs or sections in this Agreement are for reference purposes only. They are not to be used to interpret or define the provisions of this Agreement. You agree that this Agreement, together with the Security Instrument, is the best evidence of your agreement with us. If a court finds that any provision of this Agreement is not valid or should not be enforced, that fact by itself will not mean that the rest of this Agreement will not be valid or enforced.

Therefore, a court may enforce the rest of the provisions of this Agreement even if a provision of this Agreement may be found to be invalid or unenforceable. If we go to court for any reason, we can use a copy, filmed or electronic, of any periodic billing statement, this Agreement, the Security Instrument, or any other document to prove what you owe us or that a transaction has taken place. The copy, microfilm, microfiche, or optical image will have the same validity as the original.

GOVERNING LAW: This agreement is governed by federal law including 12 USC section 55 and 12 CFR 7.4001 and to the extent pre-empted by federal law, the law of Rhode Island shall apply. Matters related to the enforcement of our lien on your real property shall be governed by the law of the state in which the property is located.

SIGNATURES: By signing below, you agree to the terms of this Agreement and you promise to pay any amounts you owe under this Agreement. You also state that you received a completed copy of the Agreement on today's date.

Borrower MARC BLOCK

Borrower _____

Borrower _____

Borrower _____

Fair and Accurate Credit Transaction Act of 2003 Notice

WE MAY REPORT INFORMATION ABOUT YOUR ACCOUNT TO CREDIT BUREAUS. LATE PAYMENTS, MISSED PAYMENTS, OR OTHER DEFAULTS ON YOUR ACCOUNT MAY BE REFLECTED IN YOUR CREDIT REPORT.

**YOUR BILLING RIGHTS
KEEP THIS NOTICE FOR FUTURE USE**

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

Notify us in case of errors or questions about your bill. If you think your bill is wrong, or if you need more information about a transaction on your bill, write us at Charter One Consumer Loan Servicing Department, P.O. Box 42002, Providence, RI 02940-2002. Write to us as soon as possible. We must hear from you no later than 60 days after we send you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- (1) Your name and account number.
- (2) The dollar amount of the suspected error.
- (3) Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.
- (4) If you have authorized us to pay your bill automatically from your savings or checking account, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

Your rights and our responsibilities after we receive your written notice. We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including **FINANCE CHARGES**, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay **FINANCE CHARGES** and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first \$50.00 of the questioned amount, even if your bill was correct.

Exhibit B

RJN0214
 PO Box 7000
 Providence RI 02940

Charter One

1-888-708-3411

Call anytime for account information,
current rates and answers to your questions

EQUITY LINE OF
CREDIT STATEMENT

Page 1

Closing Date

JANUARY 27, 2015

SUMMARY

Account Number	████████████████████
Credit Limit	81,383.00
Available Credit	72,283.00
Days in Billing Cycle	31
Average Daily Balance	9,419.35
Daily Periodic Rate	.00849315%
ANNUAL PERCENTAGE RATE	3.10%
INTEREST CHARGE	24.80
New Principal Balance	9,100.00
Current Payment	24.80
Past Due Amount	0.00
Total Late Fees Due	0.00
Minimum Payment	24.80
Payment Due Date	02/23/15

BALANCE SUMMARY

Previous Total Balance	-	Payments/ Credits	+	Advances	+	Interest Charge	+	Insurance	+	Fees	=	New Total Balance
10,028.37		1,028.37		0.00		24.80		0.00		100.00		9,124.80

TRANSACTION DETAIL

Date	Description	Check No.	Amount	Principal Balance
01/08/15	PAYMENT - THANK YOU		1,028.37	9,100.00

FEE

01/03/15	USAGE FEE ASSESSED	100.00
	TOTAL FEES FOR THIS PERIOD	100.00

(Details continued on next page)

IF YOU HAVE ANY QUESTIONS ABOUT YOUR STATEMENT OR HAVE BEEN RECENTLY CALLED FOR ACTIVE MILITARY DUTY, PLEASE CALL OUR 24-HOUR CONTACT CENTER AT 1-888-708-3411. THANK YOU FOR BANKING WITH CHARTER ONE WHERE GOOD BANKING IS GOOD CITIZENSHIP

Please see reverse side for important information, then detach here and return the bottom portion with your check payable to Charter One.

MARC BLOCK
37 LEXINGTON CIR
MARLTON, NJ 08053-3851

EQUITY LINE OF CREDIT

Account Number	XXXXXXXXXXXX0953
Payment Due Date	02/23/15
Minimum Payment	24.80
Amount Enclosed	\$ 24.80

☐ Check this box if your address or personal information has changed and complete the form on the reverse side.

✿ Charter One

THE UNIVERSITY OF CHICAGO

Charter One
P.O. Box 42008
Providence, RI 02940-2008

Exhibit C

ANNUAL FEE RIDER

Date: 12/12/2008

Borrower(s): MARC BLOCK

This Annual Fee Rider ("Rider") related to the Credit Line Agreement ("Home Equity Agreement") dated the same date as this Rider between the undersigned and Charter One, a division of RBS Citizens, N.A. ("Lender").

The undersigned have been informed and understand that the purpose of this Rider is to amend the Credit Line Agreement in certain respect as a result of the Lender waiving the Annual Fee for the life of the agreement.

(1) The paragraph entitled "ADDITIONAL FINANCE CHARGES" is amended to read as follows:

"You agree to pay the following additional FINANCE CHARGES:

Annual Fee: \$0.00

Prepayment Fee: \$350.00 if you cancel this Agreement within three (3) years of the Activation of the Credit Line Agreement.

The undersigned (or any of them, if more than one,) acknowledges receipt of a copy of this Rider at the time of signing.



MARC BLOCK