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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

03 11034 REK

FEDERAL TRADE COMMISSION,  
  
Plaintiff,  
  
v.  
  
LEASECOMM CORPORATION and  
MICROFINANCIAL INCORPORATED,  
  
Defendants.

CIVIL ACTION NO.

MAGISTRATE JUDGE Alexander

STIPULATED FINAL  
JUDGMENT AND ORDER

X030060

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed its complaint for a permanent injunction and other relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Electronic Funds Transfer Act ("EFTA"), 15 U.S.C. § 1693. The Commission and defendants, Leasecomm Corporation and MicroFinancial Incorporated, have conferred through counsel and agreed to settlement of this action without adjudication of any issue of law or fact herein. This Order resolves all matters arising from the allegations in the complaint. The Commission and defendants consent to entry of this Stipulated Final Judgment and Order ("Order").

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THEREFORE, the Commission and defendants, having requested the Court to enter this Order, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

### FINDINGS

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over the defendants. Venue in this district is proper.
2. The complaint states a claim upon which relief may be granted against defendants under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and under the EFTA, 15 U.S.C. § 1693.
3. The activities of defendants described in the complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. Entry of this Order is in the public interest.
5. Entry of this Order shall not constitute an admission or finding of liability by defendants or that any defendant has engaged in violations of the FTC Act or any other law.
6. The defendants have waived all rights to seek judicial review or otherwise challenge or contest the validity of this Order.
7. Each party shall bear its own costs and attorneys' fees.
8. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon defendants, and their officers, agents, servants, employees, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise.

## ORDER

### Definitions

For purposes of this Order, the following definitions shall apply:

1. "Business venture" includes any written or oral business arrangement, however denominated, that:
  - a. is covered by the FTC's Franchise and Business Opportunity Rule; or
  - b. is a purported profit making venture (*e.g.*, multilevel marketing programs, pyramid schemes, buyers' clubs, coupon clipping programs, investment opportunities, etc.), regardless of how participation in the venture is characterized (*e.g.*, as investors, members, donors, etc.), seminar, or promotion that seeks to induce customers to make money through business or investment, or a similar intangible item.
2. "Clearly and prominently" means:
  - a. in a printed document or package of documents, the disclosures will be in a type size and location sufficiently noticeable for an ordinary customer to read and comprehend, in print that contrasts with the background against which it appears; and
  - b. in a verbal sales presentation, including promotional seminars, the disclosures will be provided in verbal form during any part of the sales presentation that discusses the financing.
3. "Customer" is any natural person who is individually liable to pay one or more defendants for financing, either directly or indirectly, *e.g.*, as a cosignor, guarantor, proprietor, or a signatory general partner.

4. "Defendants" means Leasecomm Corporation and MicroFinancial Incorporated, and their divisions, subsidiaries, successors, and assigns.

5. "Financing" or "financing contract" means any financing arrangement, whether styled as a contract, lease, or otherwise. For purposes of this Order, the term "financing" includes any debt collection activities related to the financing.

6. "Predominant purpose" means the purpose of the financing as represented to the customer by the dealer or vendor or as evidenced by distribution of proceeds.

7. "Dealer" or "Vendor" means any person or entity who, directly or indirectly, arranges for a customer to apply for defendants' financing or provides defendants' financing documents to customers.

8. "SBI product lines" means virtual terminals and various other software, software licenses, and combinations of products that are financed, and referred to internally by Leasecomm, as: INTERNET CONSULTING PKG, COMBOV 3, CR COMBO, CR COMBOE, CR COMBOS, CR COMBOW, CR CRD 3 30, CR CRD 30, CR VTERM, CR VTERM 30, CR VTERM3 30, INTERNET TBX, SBI COMBOV, SBI CRD TERM, SBI VTERM, SOFTWARE, WEB SITE.

9. "SBI judgments" means Leasecomm's uncollected judgments for the SBI product lines.

10. "SBI suits" means all pre-judgment, civil collection actions currently pending in court in which Leasecomm or an assignee of Leasecomm is the plaintiff and the product purportedly leased is in an SBI product line.

11. "Virtual terminal" means a point of sale (POS) authorization system which includes any intangible products, rights to access or use services, software, and licenses which enable

customers to process credit card transactions or account debits on-line or through the Internet over a computer.

### **PROHIBITIONS ON MISREPRESENTATIONS AND REQUIRED DISCLOSURES**

**I. IT IS ORDERED** that defendants and their agents, employees, officers, attorneys, and all other persons or entities directly or indirectly under their control or under common control with them, and those persons in active concert or participation with defendants who receive actual notice of this Order by personal service or otherwise, in connection with any financing offered or provided to customers, are permanently restrained and enjoined from making any material misrepresentations, directly or indirectly, including:

A. Misrepresenting the nature, terms, or predominant purpose of the financing.

B. Misrepresenting that the customers have waived any defenses, or are precluded from raising defenses or counterclaims.

**II. IT IS FURTHER ORDERED** that defendants, and their agents, employees, officers, attorneys, and all other persons or entities directly or indirectly under their control or under common control with them, shall clearly and prominently disclose, in writing and during oral sales presentations by their dealers and vendors, that the financing contract is with Leasecomm and not with a dealer or vendor.

### **PROHIBITED CONTRACT PROVISIONS**

**III. IT IS FURTHER ORDERED** that defendants, in connection with financing provided to customers, are permanently restrained and enjoined from:

A. Including in any financing contract any provision that allows defendants to bring a collection suit in a forum other than the county where the customer resides at the commencement of the action, or in the county where the customer signed the contract sued upon.

B. Including in any financing contract any provision that (1) states that defendants have the right to enforce the contract free from any defenses, offsets, or counterclaims, (2) states that the customer waives any defense or counterclaim, or (3) states that the customer has no defenses, offsets, or counterclaims, except to the extent that the provision is authorized by law.

C. Including in any financing contract any provision that purports to make the customer's obligation to pay binding solely upon the customer's acceptance of a credit card swiping machine or other item of tangible equipment, where the predominant purpose of the financing is a business venture or other intangible item.

D. Conditioning the extension of credit to a customer on the customer's repayment by means of preauthorized electronic fund transfers from an account established primarily for personal, family, or household purposes, to the extent prohibited by the EFTA, 15 U.S.C. § 1693k, and Reg. E, 12 C.F.R. § 205.10 (e).

### **PROHIBITED DISTANT FORUM PRACTICES**

**IV. IT IS FURTHER ORDERED** that, in connection with financing provided to customers:

A. Defendants are permanently restrained and enjoined from instituting collection suits against customers in a forum other than the county where the customer resides at the commencement of the action, or in the county where the customer signed the contract sued upon; except that this provision shall not apply in any way to suits filed against defendants. This provision shall not preempt any rule of law that further limits choice of forum or that requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

B. Where defendants learn subsequent to institution of a suit that paragraph IV.A above has not been complied with as to suits filed after the entry of the Order, they shall immediately seek to dismiss the suit, with or without prejudice, and move to vacate any judgment entered thereunder. In lieu of dismissal, defendants may effect a change of forum to a county permitted by the preceding paragraph, provided that defendants give the customer notice of this action and opportunity to defend equivalent to that which the customer would receive if a new suit were being instituted. If defendants effect a dismissal, they may file a new suit in a forum permitted by Paragraph IV.A above. In any case where defendants transfer a suit, they shall provide the customer with a clear, written explanation of the action taken and, if the suit is transferred or refiled, of the customer's right to appear, answer, and defend in the new forum.

C. Where defendants effect dismissal of a suit or vacation of a judgment pursuant to paragraph IV.B above, they shall give effective notice of the dismissal or vacation to the affected customer and to each consumer reporting agency, as that term is defined in the Fair Credit Reporting Act, 15 U.S.C. § 603, or business credit reporting agency, that defendants have informed of the suit or have reason to know regularly records defendants suits or judgments in its files. Effective notice is notice given in the manner ordinarily provided by defendants reasonably sufficient to remove or correct any negative effect on the customer's credit rating that may exist due to the original reporting of the judgment or suit. Additionally, defendants shall furnish the notice to any other person or organization upon request of the customer.

## **REDRESS**

**V. IT IS FURTHER ORDERED** that:

A. In connection with collections on financing to customers, defendants shall cease collecting on any outstanding court judgments where the financing involved virtual terminals or the

predominant purpose of the financing was for business ventures. Defendants shall be deemed in compliance with the preceding sentence if they promptly cease collections on any outstanding SBI judgments and thereafter, for a period of one year after entry of this Order, cease collections on any other outstanding judgment where the customer demonstrates that the predominant purpose of the financing was for a business venture. This cessation of collections shall include, but is not limited to, directing all third parties engaged in debt collection (e.g., debt collectors and debt collection attorneys) to cease immediately all collection activities; furnishing credit information to the three credit reporting agencies to whom the defendants report to show the applicable account no longer has an outstanding balance; returning all monies received from customers after the effective date of this Order; filing in the court where the initial judgment was entered a Satisfaction of Judgment; and sending a copy of the Satisfaction of Judgment to each affected customer or its attorney of record along with the form shown in Attachment A to this Order. Defendants shall provide the FTC with a computer readable list of the affected customers, including names, addresses, account numbers, product(s) financed, amount outstanding at the time of entry of this Order, and, whenever available in Leasecomm's records, the location of the court in which the judgment was entered and the date of the judgment.

B. Defendants shall not take any action to enforce any contract provision that would have violated paragraph III.B if it had been used after entry of this Order.

C. Within 30 days after entry of this Order, defendants shall move the appropriate court to:

1. Dismiss, with or without prejudice, any SBI suit pending in a forum that would have violated paragraph IV.A if the suit were filed after entry of this Order. In lieu of dismissal, defendants may effect a change of forum to a forum permitted by this Order, provided that



defendants give the customer notice of this action and opportunity to defend equivalent to that which the customer would receive if a new suit were being instituted.

2. Stay or continue any pre-judgment, non-SBI product line collection suits against customers pending in a forum that would have violated paragraph IV.A if the suit were filed after entry of this Order. Defendants shall promptly notify the customer in writing that the customer has the opportunity to have the litigation transferred to, or dismissed without prejudice and refiled in, a forum permitted by this Order. Defendants shall maintain the stay or continuance in effect for 50 days so that the customer has at least 45 days to reply, as set forth in the relevant portions of Attachment B to this Order. If the customer elects to have the suit changed to a local forum, defendants shall follow the procedure described in paragraph V.C.1 above.

D. In all cases under paragraphs V.C, defendants shall provide the customer with a clear, written explanation of the action taken and of the customer's right to the change of forum and to appear, answer, and defend in the new forum. If the defendants are entitled to claim any collection costs or attorney fees, they may not charge the customer for any costs or fees associated with the initial filing or the change of forum. If local rules require a defendant's agreement to dismissal or transfer of the suit, then defendants shall not be obligated to dismiss or transfer the suit if, after providing the customer or their counsel with a clear, written explanation of the customer's right to have the suit dismissed or transferred to the new forum, the customer does not execute and return the documents required for transfer or dismissal without prejudice. The notice shall be in the form shown in Attachment B to this Order, with appropriate paragraphs included. A violation of paragraphs V.C-D shall render any judgment entered in the prohibited forum as a result thereof null and void and unenforceable by the defendants or their assigns.

E. Where defendants dismiss suits pursuant to paragraph V.C above, they shall give effective notice of the dismissal to the affected customer and to each consumer reporting agency, as that term is defined in the Fair Credit Reporting Act (15 U.S.C. § 603), or business credit reporting agency, that defendants have informed of the judgment or suit or have reason to know regularly records defendants suits or judgments in its files. Effective notice is notice given in the manner ordinarily provided by defendants to credit reporting agencies reasonably sufficient to remove or correct any negative effect on the customer's credit rating that may exist due to the original recording of the judgment or suit. Additionally, defendants shall furnish the notice to any other person or organization upon request of the customer.

F. Within 30 days after entry of this Order, defendants shall provide a Customer Notice to all pre-judgment customers (1) with financing in any SBI product line, or (2) who receive, or have received within the six months prior to entry of this Order, any collection calls or letters from defendants or any collection agent of defendants. The notice shall be in the form shown in Attachment B to this Order, with appropriate paragraphs included as applicable to the particular customer. The Customer Notice above shall be prepared by defendants and inserted into pre-paid, first class mail envelopes with a return address designated and format approved by the FTC. Defendants shall deliver the envelopes to the FTC or its designee, boxed and sorted appropriately for inspection and mailing. Defendants shall provide the FTC with a computer readable list of customers to whom the notices are being sent, including names, addresses, account numbers, product(s) financed, and indicators of the notice form and paragraph(s) used.

G. Within 30 days after entry of this Order, where any lawsuit is pending in a forum not otherwise prohibited by this Order but where defendants have pled or argued in any manner based on contract language that would be inconsistent with III.B above, defendants shall cease relying

upon that argument, including filing at the first procedural opportunity, an appropriate pleading with the court that effectively withdraws the pleading or argument.

H. Where a financing contract contains a provision for electronic funds transfers and the customer notifies defendants that the customer's account referenced in the contract was established primarily for personal, family, or household purposes, defendants shall allow the customer to choose an alternative means of payment upon request of the customer. Defendants may not charge the customer for using the alternative means of payment unless the charge is expressly authorized by the financing contract and is permitted by the EFTA, 15 U.S.C. § 1693, and Reg. E, 12 C.F.R. § 205.

#### **MONITORING COMPLIANCE OF DEALERS AND VENDORS**

**VI. IF IS FURTHER ORDERED** that defendants are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor all dealers' and vendors' compliance with paragraphs I and II of this Order. These steps shall include, at a minimum, establishing a procedure for receiving, investigating, and responding to customer complaints, and ascertaining the number and nature of customer complaints regarding transactions in which each dealer or vendor is involved.

B. Failing to take corrective action with respect to any dealer or vendor whom defendants determine is not complying with this Order, which may include terminating defendants' business relationship with the dealer or vendor.

## DISTRIBUTION OF ORDER

VII. IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this Order, defendants shall:

- A. Deliver a copy of this Order to all principals, officers, directors, and managers
- B. Deliver a copy of this Order to all employees who collect from customers, and all employees who respond to customer complaints or inquiries, and to all employees responsible for contacts with dealers and vendors.
- C. Deliver to all dealers and vendors a copy of those parts of this Order that include the first four pages of this Order containing all definitions and the section entitled "Prohibitions on Misrepresentations and Required Disclosures," and the page with the judge's signature.
- D. Deliver to all assignees of financing contracts subject to section V of this Order a notice stating that a federal court order prohibits enforcement of certain provisions of the financing contracts, if any, that conflict with paragraphs III.A or III.B of this Order. This notice shall include the full text of paragraphs III.A and III.B, including the section header.
- E. Deliver to third party debt collectors a notice stating that distant forum collection suits and the enforcement of certain contract language are now prohibited by federal court order, as set forth in paragraphs I.B, III.A, and III.B.
- F. Defendants shall seek to secure from each of these persons or entities described in Paragraphs VII.A-E above a signed and dated statement acknowledging receipt of the Order or notice. Defendants shall deliver the Order or notice to current personnel and dealers and vendors who are to receive the Order within 30 days after the date of entry of this Order, to assignees of financing documents before the assignment is made, to new personnel or dealers and vendors within

30 days after the person assumes the relevant position or responsibilities or, in the case of a dealer or vendor, associates with either of the defendants.

## RECORD KEEPING

**VIII. IT IS FURTHER ORDERED** that, for a period of five years from the date of entry of this Order, defendants and their agents, employees, officers, corporations, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. As to each customer complaint concerning misrepresentation, fraud, or debt collection practices, whether received directly or indirectly or through any third party, the records shall include, at a minimum, to the extent available after reasonable efforts:

1. The customer's name, address, telephone number, and account number;
2. The written complaint, if any, or a summary of any verbal complaint, and the date of the complaint;
3. The basis of the complaint, including the name of any person or entity complained of, and the nature and result of any investigation conducted concerning any complaint;
4. Each response and the date of the response;
5. Any final resolution and the date of the resolution; and
6. In the event that no action is taken on the complaint, the reason for the inaction, or if action is taken, the basis for taking the action.

B. As to each dealer or vendor:

1. Name, address, telephone number, and website address (if applicable); and

2. A listing of what defendants are financing and have financed.

## **COMPLIANCE REPORTING**

**IX. IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five years from the date of entry of this Order, defendants shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least 30 days prior to the change, *provided* that, with respect to any proposed change in the corporation about which defendants learn less than 30 days prior to the date the action is to take place, defendants shall notify the Commission as soon as is practicable after obtaining that knowledge.

B. One hundred eighty days after the date of entry of this Order, defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

- (1) Any changes required to be reported pursuant to subparagraph (A) above;
- (2) A copy of each acknowledgment of receipt of this Order obtained by defendant pursuant to paragraph VII above; and
- (3) A list of persons or entities, including addresses and phone numbers, who declined to return the acknowledgment of receipt required by paragraph VII above, and a description of the steps defendants took in seeking the acknowledgment.

C. For the purposes of this Order, defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications or other communications to the Commission to:

Director, Northwest Region  
Federal Trade Commission  
915 2nd Avenue, Room 2896  
Seattle, WA 98174

### COMPLIANCE MONITORING

X. **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within 30 days of receipt of written notice from a representative of the Commission, defendants shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; and appear for deposition.

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

- (1) obtaining discovery from any person, without further leave of court, using the procedures proscribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
- (2) posing as customers to defendants, defendants' employees, any other entity managed or controlled in whole or in part by defendants, and defendants' dealers and vendors, without the necessity of identification or prior notice.

**Provided** that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

**ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

XI. **IT IS FURTHER ORDERED** that each defendant, within 10 days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

**RETENTION OF JURISDICTION**

XII. **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**SO ORDERED**, this 29<sup>th</sup> day of May, 2003.

  
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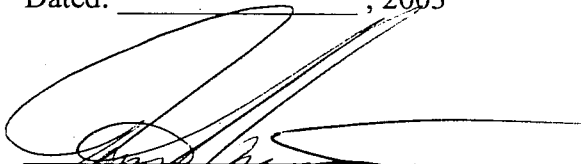
*Senior* UNITED STATES DISTRICT JUDGE



The parties consent to the terms and conditions of the Stipulated Permanent Injunction as set forth above and consent to its entry.

**FOR DEFENDANTS:**

Dated: \_\_\_\_\_, 2003

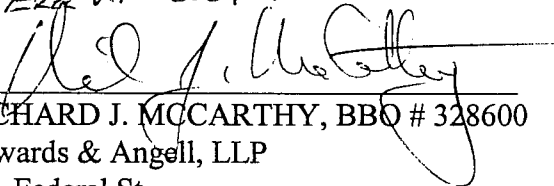


MICROFINANCIAL INCORPORATED

By: *Richard F. Latour*  
President & CEO

LEASECOMM CORPORATION

By: *Richard F. Latour*  
Exec. V.P. Counsel

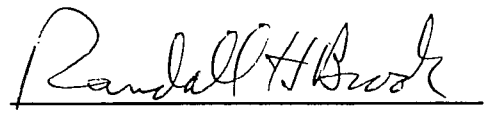


RICHARD J. MCCARTHY, BBO # 328600  
Edwards & Angell, LLP  
101 Federal St.  
Boston, MA 02110  
617.439.4444  
617.439.4170 (fax)

**FOR PLAINTIFF FTC:**

Dated: May 22, 2003

WILLIAM E. KOVACIC  
General Counsel



RANDALL H. BROOK



ROBERT J. SCHROEDER

Attorneys for the  
Federal Trade Commission  
915 2nd Avenue, Ste. 2896  
Seattle, WA 98174  
206.220.4487 (Brook)  
206.220.4477 (Schroeder)  
206.220.6366 (fax)

## ATTACHMENT A - NOTICE TO CUSTOMERS

(Customer's Name and address or, if applicable, Customer's Attorney's Name and Address)

Dear (Addressee):

Enclosed is a Satisfaction of Judgment which is being filed with the court in which Leasecomm obtained its initial judgment against you. This filing concludes this legal proceeding. You may use the enclosed Satisfaction of Judgment document to show that this debt to Leasecomm is no longer outstanding.

In addition, beginning [the date Order entered] you have no further obligations to make payments on this judgment to Leasecomm. If you made any payments after [the date Order entered], they will be returned to you.

This action is being taken as part of a settlement between Leasecomm Corporation and the Federal Trade Commission, the States of Massachusetts, Florida, Illinois, Texas, North Dakota, North Carolina, Kansas and the District Attorney's Office for Ventura County, California.

If you have any questions, contact Leasecomm at phone [number] or visit [www.ftc.gov/\[Leasecomm page to be specified by FTC\]](http://www.ftc.gov/[Leasecomm page to be specified by FTC]).

## ATTACHMENT B - NOTICE TO CUSTOMERS

### OFFICIAL NOTICE OF IMPORTANT CHANGES IN LEASECOMM CONTRACTS

From the Federal Trade Commission, the States of Massachusetts, Florida, Illinois, Texas, North Dakota, North Carolina, Kansas, and Ventura County, California.

And from the Leasecomm Corporation

(Customer's Name and address or, if applicable, Customer's Attorney's Name and Address)

Dear (Addressee):

Leasecomm Corporation has agreed to settle proposed cases against it by various government agencies by making certain changes in its contracts and debt collection procedures. These changes may directly benefit you if there is a payment dispute between you and Leasecomm.

1. Leasecomm's existing contract says that it may sue you in Massachusetts if you fail to pay on your contract, regardless of where you live. Leasecomm has agreed to disregard this provision if it files a suit against you. If you dispute your Leasecomm debt and Leasecomm sues you, it will only file the suit in the county where you live or where you signed the contract.

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*[Alternate ¶ 1 if distant forum, SBI suit pending]*

1. Leasecomm's existing contract says that it may sue you in Massachusetts, regardless of where you live. Nonetheless, Leasecomm has agreed to dismiss or transfer collection suits like the one against you to a court in your county. Leasecomm will ask the court's permission to transfer the suit to your county, or to dismiss the suit without prejudice. "Without prejudice" means that Leasecomm may refile the suit in your county.

*[Add next paragraph if required by local court rules]*

You should receive, from Leasecomm or the court, copies of all legal papers relating to its request to transfer the suit or to dismiss it without prejudice. If you do not complete the papers necessary to show you agree to transfer the suit or dismiss it without prejudice, Leasecomm may proceed with the suit in Massachusetts.

Leasecomm may not ask that you agree to anything in connection with the transfer or dismissal other than transferring or dismissing the suit. Nor may Leasecomm charge you any fees or costs because of the transfer or dismissal.

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*[Alternate ¶ 1 for distant forum, non-SBI suit pending]*

1. Leasecomm's existing contract says that it may sue you in Massachusetts, regardless of where you live. Nonetheless, Leasecomm has agreed to offer to transfer collection suits like the one against you to a court in your county. The lawsuit against you is being suspended to give you time to reply to this offer.

If you want to have the suit heard in a local court, Leasecomm will ask the current court's permission to transfer the suit to your county, or to dismiss the suit without prejudice.

“Without prejudice” means that Leasecomm may refile the suit in your county. Leasecomm may not ask that you agree to anything in connection with the transfer or dismissal other than transferring or dismissing the suit for refiling in your county. Leasecomm may not charge you any fees or costs because of the transfer or dismissal.

If you wish to have the suit transferred, you must return the enclosed request form within 45 days. If Leasecomm does not receive the attached form signed by you within that 45-day period, Leasecomm will resume the pending action in Massachusetts. You will no longer have an opportunity to transfer the case or have the case dismissed without prejudice to refiling in your local county. Because it is important that Leasecomm receive your response within 45 days, Leasecomm strongly recommends that if you decide to return the attached form, you send it by certified mail, return receipt requested, or some other form of mailing that would provide you with a record of Leasecomm’s receipt of the documents.

*[Add next paragraph if required by local court rules]*

If you request the suit be transferred, you should receive, from Leasecomm or the court, copies of all legal papers relating to its request to transfer the suit or to dismiss it without prejudice. If you do not complete the papers necessary to show you agree to transfer the suit or dismiss it without prejudice, Leasecomm may proceed with the suit in Massachusetts.

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2. Leasecomm’s contract with you may state that you recognize Leasecomm’s “right to enforce the lease free from any defenses offsets or counterclaims”. Leasecomm has agreed not to enforce this provision. This means that no debt collector or lawsuit may say that you have given up all your defenses or claims. You may still want to ask a lawyer for advice about whether you do have defenses or claims.

3. Your contract with Leasecomm may direct that payments be automatically deducted from a bank account. If you are having payments deducted from a personal bank account, please let Leasecomm know whether you want to stop using automatic payments and how you want to make payments in the future. Leasecomm is required to make this change if the automatic deductions come from a personal account, but not if they come from a business account. There is no charge for making this change. *[If specified in by the contract, the following may be used: As stated in your contract, there is an additional charge of \$ \_\_\_ for payments not deducted automatically from your bank account or credit/debit card.]*

For further information, contact Leasecomm at phone # \_\_\_ or visit [www.ftc.gov/\[leasecomm page to be specified by FTC\]](http://www.ftc.gov/[leasecomm page to be specified by FTC]).