

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT

In the Matter of

AMERICREDIT FINANCIAL
SERVICES, INC. dba GM FINANCIAL

Civil Action No.

22-04964

ASSURANCE OF DISCONTINUANCE
PURSUANT TO M.G.L. CHAPTER 93A, § 5

I. INTRODUCTION

1. The Commonwealth of Massachusetts ("Commonwealth"), through the Office of Attorney General Maura Healey ("AGO"), and AmeriCredit Financial Services, Inc. dba GM Financial ("GM Financial") enter into this Assurance of Discontinuance ("AOD") pursuant to M.G.L. c. 93A, § 5.

2. GM Financial is a global provider of automobile finance solutions and is headquartered in Fort Worth, Texas.

3. Pursuant to M.G.L. c. 93A, § 6, the AGO reviewed GM Financial's business practices in Massachusetts. Based on the AGO's review of GM Financial's activities, the AGO alleges that GM Financial: (1) provided defective pre-sale or post-sale repossession related notices during the period from July 17, 2013 through July 18, 2014 to various consumers ineligible for compensation in *Hartwell et al. v. Americredit Financial Services, Inc. d/b/a GM Financial*, Dkt. No. 44-1, 18-cv-11895 (D. Mass. Aug. 21, 2019); and (2) failed to refund to certain consumers interest on unearned premiums on guaranteed asset protection ("GAP") contracts, as required M.G.L. c. 140D § 22.

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MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

4. In resolution of these issues, and in recognition of GM Financial's assistance and cooperation throughout the investigation, the AGO agrees to accept this AOD on the terms and conditions contained herein, pursuant to the Massachusetts Consumer Protection Act, M.G.L. c. 93A, § 5. The AGO and GM Financial both voluntarily enter into this AOD.

5. This AOD does not constitute an admission by GM Financial of any fact or noncompliance with any state or federal law, rule, or regulation. GM Financial enters into this AOD for settlement purposes only and neither admits nor denies the AGO's allegations. This AOD is made without any trial or adjudication of any issue of fact or law.

II. REMEDIATION AND UNDERTAKINGS

6. At a date to be decided between the AGO and GM Financial, but in no event later than ten (10) business days from the filing date of this AOD, GM Financial shall pay **\$1,849,182** to an independent trust (the "Fund") for purposes of (i) making payments to provide relief for eligible customers, (ii) paying costs of implementation, and (iii) paying the Attorney General's costs of investigation. The Fund shall be overseen by an independent trustee (the "Trustee") to be mutually agreed upon by the AGO and GM Financial within ten (10) business days of the date of this AOD. If the AGO and GM Financial are unable to agree on the identity of the Trustee, the AGO shall choose the Trustee in its sole discretion. The Trustee shall deposit the Fund into interest bearing accounts such that, to the extent possible: (i) all of the funds are fully guaranteed by the Federal Deposit Insurance Corporation or the United States Department of the Treasury; and (ii) the interest rate at the time of the aforementioned deposit is at least equal to the highest interest rate available from among the five largest banks in the City of Boston for a fully liquid federally insured deposit account holding such a sum of money. The Trustee will make investments and disbursements from the Fund only with the consent of the AGO and may vary from the investment

criteria of this paragraph only with the consent of the AGO. GM Financial shall retain the Trustee and pay the Trustee's fees and costs associated with its duties under this AOD separate and apart from all other payments required under this AOD. GM Financial's payments to the Trustee shall not exceed \$75,000.

7. No later than forty-five (45) business days after the filing of this AOD, the AGO shall provide the Trustee with a list of borrowers that it preliminarily determines are eligible for relief related to the allegations in this AOD based upon the information provided by GM Financial and other sources, together with associated amounts (the "Relief List"). The Relief List shall consist of borrowers determined by the AGO, in its sole discretion, to be entitled to relief under this AOD. The AGO, in its sole discretion, shall determine the amount of relief provided to each borrower on the Relief List.

8. Within fifteen (15) business days of receiving the Relief List, the Trustee shall provide the AGO with the following information, to the extent the Trustee can obtain it without undue burden and in accordance with all requisite and advisable security protocols: the name, address, and social security number of the borrower, as well as any other information reasonably requested by the AGO. This information shall be combined with the Relief List and the resulting list shall be known as the "Initial Borrower List." The AGO may make such corrections or amendments to the Initial Borrower List as it deems appropriate in its sole discretion. The finalized version of this list shall be referred to in this AOD as the "Final Borrower List."

9. The AGO may direct the Trustee to send a letter drafted by the AGO to each borrower on the Final Borrower List. The letter shall include a web address and a dedicated telephone number for the Trustee that the recipient may use to obtain information concerning this AOD. With each letter, the Trustee shall also include a postage paid return envelope and a form drafted by the AGO

for participation in the relief program of this AOD ("Opt-in Form"). The letter shall also contain such other forms as the AGO shall determine.

10. The Trustee shall send the letter and Opt-in Form within three (3) business days of the AGO's direction and shall resend them, if undeliverable, by such means as the AGO shall direct. Opt-in Forms executed and returned to the Trustee shall be maintained in a secure fashion. In addition, the Trustee shall keep in the same manner any additional Opt-in Forms provided to the Trustee by the AGO.

11. The Trustee shall provide the AGO with information relating to the loans and/or the relief program implementation reasonably available to the Trustee upon request. The Trustee shall cooperate fully with the AGO in the implementation of this AOD, and shall provide materials relevant to the implementation of this AOD promptly to the AGO upon request. Should the AGO determine that additional letters are required in connection with implementing this AOD, the Trustee shall send such letters at the AGO's direction.

12. For each borrower for whom the Trustee receives an executed Opt-in Form, the Trustee shall take action as directed by the AGO. Payments shall be made to identified recipients in the amounts specified on the Final Borrower List. If a check is not cashed within a number of days to be determined by the AGO, the AGO may direct the Trustee to stop payment on the check.

13. At a date to be determined by the AGO but no earlier than three (3) months from the date of filing of this AOD, the Trustee shall transfer any remaining monies in the Fund to the AGO pursuant to G.L. c. 12, sec. 4A for the purposes of consumer financial education, monitoring and implementation of this AOD, and related financial services mediation or investigative work. Any funds not encumbered for these purposes may be transferred to the Commonwealth's General Fund.

14. If GM Financial and/or the Trustee receives any letters or forms in relation to this AOD from any borrower who received an offer under this AOD, GM Financial and/or the Trustee shall forward such forms to the AGO even if the letters or forms are received outside of the time frames contemplated by this AOD.

III. COOPERATION AND RECORD KEEPING

15. GM Financial shall cooperate with the AGO in the implementation of this AOD.

16. GM Financial shall comply with all reasonable requests by the AGO for documents or information related to the subject matter of this AOD.

17. GM Financial shall create and maintain, for a period of at least three (3) years from the filing date of this AOD all records necessary to demonstrate GM Financial's compliance with its obligations under this AOD and will provide such records to the AGO upon request.

IV. RELEASE AND MISCELLANEOUS PROVISIONS

18. The AGO releases GM Financial, its present or former employees, officers, directors, managers, agents, parents, subsidiaries and subdivisions, shareholders, investors, successors, and assigns from any and all civil claims, causes of action, penalties and costs that were, or could have been asserted, by or on behalf of the Commonwealth of Massachusetts prior to the filing date of this AOD regarding actions taken by GM Financial that relate to the purchasing, financing, originating, servicing, collection, and/or securitizing of Massachusetts retail installment contracts. Claims pertaining to (a) leases; and (b) civil rights statutes and regulations, are specifically excluded from this release. This release does not extend to dealers.

19. This AOD constitutes the entire agreement between the AGO and GM Financial and supersedes any prior communication, understanding, or agreements, whether written or oral,

concerning the subject matter of this AOD. This AOD can be modified or supplemented only by a written document signed by both parties.

20. This AOD is not intended to indicate that GM Financial, or any of its present or former employees, officers, directors, managers, agents, subsidiaries and subdivisions, shareholders, successors, assigns, or any purchasers of all or substantially all of its business assets, shall be subject to any disqualifications contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self-regulatory organizations or various states' securities laws, including any disqualifications from relying upon registration exemptions or safe harbor provisions, or other federal or state law. In addition, this AOD is not intended to form the basis for any such disqualifications.

21. This AOD will be binding upon GM Financial and any of GM Financial's agents, subsidiaries and subdivisions, successors, assigns, and/or purchasers of all or substantially all of GM Financial's business assets.

22. The AGO may extend any deadlines in this AOD in its sole discretion. Further, settlement implementation procedures in this AOD related to the identification of, communication with, and distribution of funds or relief to, consumers may be amended and/or extended in the AGO's sole discretion.

23. This AOD and its provisions will be effective on the date that it is filed in the Superior Court for Suffolk County.

24. GM Financial represents and warrants that it has the full legal power, capacity, and authority to bind the parties for whom it is acting, including its subsidiaries.

25. The AGO agrees that all confidential information disclosed to it by GM Financial under CID in the course of the investigation and in connection with this AOD shall be kept confidential by the AGO to the degree provided by M.G.L. c. 93A, § 6.

26. By signing below, GM Financial agrees to comply with all of the terms of this AOD. The parties shall work together in good faith to try to resolve any disputes or disagreements with respect to the terms of this AOD. Any violation of this AOD may be pursued in a civil action or proceeding under G.L. c. 93A hereafter commenced by the AGO.

27. Notices to be sent pursuant to this AOD shall be sent as follows:


To GM Financial:
Andrew W. Schilling
Brian J. Wegrzyn
Buckley LLP
1133 Avenue of the Americas, Suite 3100
New York, NY 10036

To the AGO:
Michael Sugar, Assistant Attorney General
Massachusetts Attorney General's Office
1 Ashburton Place, 18th Floor
Boston, MA 02108

Signed this 23rd day of February, 2022.

**FOR AMERICREDIT FINANCIAL
SERVICES, INC. dba GM FINANCIAL**

By: _____



Doug Johnson
Executive Vice President and Chief Legal Officer
AmeriCredit Financial Services, Inc.,
dba GM Financial
801 Cherry Street, Suite 3600
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**FOR THE ATTORNEY GENERAL,
MAURA HEALEY**

By: _____



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