

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CUSTOM HAIR DESIGNS BY SANDY, LLC,)	
and SKIP'S PRECISION WELDING, LLC, on)	
behalf of themselves and all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
)	CASE NO. 8:17-cv-00310-JFB-CPZ
)	
CENTRAL PAYMENT CO., LLC,)	
)	
Defendant.)	
)	

**DEFENDANT CENTRAL PAYMENT CO., LLC'S ANSWER AND DEFENSES
TO PLAINTIFFS' FIRST AMENDED CLASS ACTION COMPLAINT**

Defendant Central Payment Company, LLC ("CPAY") hereby answers Plaintiffs' First Amended Class Action Complaint ("Amended Complaint"). Pursuant to Federal Rule of Civil Procedure 8(b)(3), unless expressly admitted below, all contents of the Amended Complaint, including the allegations in the numbered paragraphs, headings, titles, and Prayer for Relief, are expressly denied. CPAY answers the Amended Complaint's separately numbered paragraphs as follows:

1. CPAY denies the allegations in Paragraph 1.
2. CPAY admits that this action challenges certain fees charged for payment processing services provided to Plaintiffs. CPAY denies the remaining allegations in Paragraph 2.
3. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 3. CPAY admits the allegations in the second through fourth sentences of Paragraph 3. CPAY denies the remaining allegations in Paragraph 3.

4. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first four sentences of Paragraph 4. CPAY denies the remaining allegations in Paragraph 4.

5. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 5. CPAY admits that the processing of a card transaction generally involves the parties identified in Paragraph 5 subsections (a)–(e) but denies that the description of those parties is accurate or complete. CPAY further admits that it has contracted with Total System Services, Inc. (“TSYS”) to provide payment processing services, that TSYS now owns 100% of CPAY, and that during the time period relevant in this case, CPAY has contracted with First National Bank of Omaha and Wells Fargo for purposes of payment processing services. CPAY denies the remaining allegations in Paragraph 5 and its subparts.

6. CPAY admits that a merchant may interact with an independent sales agent (“ISO”) or merchant acquirer to obtain access to payment processing services, and will negotiate as to the fees and charges to be paid for payment processing services. CPAY admits that payment processing fees generally involve the fees identified in Paragraph 6 subsections (a)–(b) but denies that the description of those fees is accurate or complete. CPAY denies any remaining allegations in Paragraph 6 and its subparts.

7. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence in Paragraph 7. CPAY denies the remaining allegations in Paragraph 7 as they relate to CPAY.

8. CPAY admits that merchants utilizing its payment processing services execute a Merchant Processing Application and Agreement (“Application”). CPAY denies the remaining allegations in Paragraph 8.

9. CPAY denies the allegations in Paragraph 9.

10. The allegations in the first sentence of Paragraph 10 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in the first sentence of Paragraph 10 and further denies the remaining allegations in Paragraph 10.

11. CPAY admits that certain “Terms and Conditions” are incorporated into the merchants’ respective Applications and that, together with the Applications, these Terms and Conditions set forth the terms under which processing services would be provided to those merchants. CPAY denies the remaining allegations in Paragraph 11.

12. CPAY denies the allegations in Paragraph 12.

13. CPAY denies the allegations in Paragraph 13.

14. CPAY denies the allegations in Paragraph 14.

15. The allegations in Paragraph 15 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 15.

16. The allegations in Paragraph 16 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 16.

17. CPAY denies the allegations in Paragraph 17.

18. CPAY admits that this case purports to challenge the nature and amount of certain fees charged for payment processing services but denies that these fees are improper or that Plaintiffs are entitled to any form of relief. CPAY denies the remaining allegations in Paragraph 18.

19. CPAY admits that Plaintiff Hair Designs by Sandy, LLC (“Sandy”) formerly processed transactions with CPAY from approximately November 2015 through February 2017.

CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 19.

20. CPAY admits that Plaintiff Skip's Precision Welding, LLC ("Skip") formerly processed transactions with CPAY from approximately July 2016 through February 2017. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 20.

21. CPAY admits the allegations in the first and third sentences of Paragraph 21. In response to the remaining allegations in Paragraph 21, CPAY refers to its website as the best evidence of its content.

22. CPAY admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2).

23. CPAY admits that this Court may exercise personal jurisdiction over CPAY with respect to the named Plaintiffs' claims. CPAY denies that it is subject to personal jurisdiction in this Court with respect to the claims of any unnamed class members who have no connection to Nebraska and who did not execute an Application governed by Nebraska law.

24. CPAY admits that venue is proper in this Court for the purported claims of the named Plaintiffs.

25. CPAY admits the allegations in the first sentence of Paragraph 25. The second sentence of Paragraph 25 does not contain allegations to which a response is required. To the extent that a response is required, CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 25.

26. CPAY admits the allegations in Paragraph 26.

27. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27.

28. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28.

29. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29.

30. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30.

31. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31.

32. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32.

33. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33.

34. CPAY admits that the Hyman brothers formed CPAY, a merchant acquirer, in 2005. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 34.

35. CPAY admits the allegations in Paragraph 35.

36. CPAY admits the allegations in Paragraph 36.

37. CPAY admits the allegations in Paragraph 37.

38. CPAY admits the allegations in Paragraph 38.

39. CPAY admits that it contracts with agents or ISOs to market CPAY's services but denies the remaining allegations in the first sentence of Paragraph 39. CPAY admits the allegations in the second sentence of Paragraph 39.

40. CPAY denies the allegations in Paragraph 40.

41. CPAY denies the allegations in the first two sentences of Paragraph 41. To the extent that the allegations in the third sentence of Paragraph 41 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 41.

42. To the extent that the allegations in Paragraph 42 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 42.

43. To the extent that the allegations in Paragraph 43 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 43.

44. CPAY denies the allegations in the first sentence of Paragraph 44. To the extent that the second sentence in Paragraph 44 refers to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 44.

45. To the extent that Paragraph 45 refers to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 45.

46. CPAY admits that it markets processing services to merchants. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the

second and third sentences of Paragraph 46. CPAY denies the remaining allegations in Paragraph 46.

47. CPAY admits that, in connection with marketing processing services to merchants, merchants are provided with an Application, as defined in CPAY's answer to Paragraph 8. CPAY denies that these Applications are appropriately characterized as a "form" and further denies that these Applications are the same for all merchants during the period at issue in this case. CPAY denies the remaining allegations in Paragraph 47.

48. CPAY refers to the merchants' respective Applications as the best evidence of their contents. The second sentence of Paragraph 48 does not contain allegations to which a response is required. To the extent that a response is required, CPAY admits that neither Wells Fargo nor First Bank of Omaha is a named defendant in this proceeding. CPAY denies the remaining allegations in Paragraph 48.

49. CPAY refers to the merchants' respective Applications as the best evidence of their contents.

50. CPAY admits that it generally uses the two types of pricing methods identified in Paragraph 50 but denies that the descriptions of those methods are accurate or complete. As to the remaining allegations in Paragraph 50, CPAY refers to the merchants' respective Applications as the best evidence of their contents.

51. CPAY refers to the merchants' respective Applications as the best evidence of their contents.

52. CPAY refers to the merchants' respective Applications as the best evidence of their contents.

53. The first sentence of Paragraph 53 constitutes a legal conclusion to which no response is required. To the extent a response is required to the first sentence of Paragraph 53, CPAY refers to the merchants' respective Applications as the best evidence of their contents. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 53. As to the allegations in the third sentence of Paragraph 53, CPAY admits that early termination fees are assessed in certain circumstances. CPAY denies the remaining allegations in Paragraph 53.

54. To the extent that the allegations in the first and third sentences of Paragraph 54 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 54.

55. To the extent the allegations in the second sentence of Paragraph 55 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 55.

56. CPAY denies the allegations in the first sentence of Paragraph 56. CPAY admits that agents separately negotiated rates with merchants on an individual basis. To the extent that the allegations in the second and third sentences of Paragraph 56 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 56.

57. To the extent that the allegations in Paragraph 57 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 57.

58. To the extent that the allegations in Paragraph 58 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 58.

59. To the extent that the allegations in Paragraph 59 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 59.

60. CPAY admits that CPAY personnel have various communications with agents and merchants about rates and fees for payment processing services. CPAY denies the remaining allegations in Paragraph 60.

61. To the extent that the allegations in Paragraph 61 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 61.

62. To the extent that the allegations in Paragraph 62 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 62.

63. To the extent that the allegations in Paragraph 63 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 63.

64. CPAY denies the allegations in Paragraph 64.

65. CPAY denies the allegations in Paragraph 65.

66. To the extent that the allegations in Paragraph 66 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 66.

67. To the extent that the allegations in Paragraph 67 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 67.

68. CPAY denies the allegations in Paragraph 68.

69. To the extent that the allegations in Paragraph 69 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 69.

70. To the extent that the allegations in Paragraph 70 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 70, including the allegations set forth in Footnote 31.

71. CPAY denies the allegations in Paragraph 71.

72. To the extent that the allegations in Paragraph 72 refer to the content of purported websites, CPAY refers to the websites as the best evidence of their content. CPAY denies the remaining allegations in Paragraph 72.

73. To the extent that the allegations Paragraph 73 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 73.

74. To the extent that the allegations in Paragraph 74 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY further admits that part of an agent's negotiations with a merchant might involve comparing the merchant's prior processor's rates, if any, against an estimate from CPAY. CPAY denies the remaining allegations in Paragraph 74.

75. CPAY denies the allegations in the first sentence of Paragraph 75. To the extent that remaining allegations in Paragraph 75 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 75.

76. CPAY denies the allegations in the first sentence of Paragraph 76. To the extent that the allegations in Paragraph 76 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY otherwise denies the remaining allegations in Paragraph 76.

77. CPAY denies the allegations in Paragraph 77.

78. CPAY denies the allegations in Paragraph 78.

79. To the extent that the allegations in Paragraph 79 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 79.

80. To the extent that the allegations in Paragraph 80 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 80.

81. CPAY denies the allegations in Paragraph 81.

82. As to the first sentence of Paragraph 82, CPAY refers to the merchants' respective Applications as the best evidence of their contents. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence in Paragraph 82. CPAY denies the remaining allegations in Paragraph 82.

83. CPAY refers to the merchants' respective Applications and Terms and Conditions as the best evidence of their contents. CPAY otherwise denies the allegations in Paragraph 83.

84. As to the first and second sentences in Paragraph 84, CPAY refers to the merchants' respective Applications and Terms and Conditions as the best evidence of their contents. CPAY admits that the Terms and Conditions incorporated into Plaintiffs' Applications with CPAY is 35 pages long but otherwise denies the remaining allegations in the second sentence of Paragraph 84. The third sentence of Paragraph 84 does not contain allegations to which a response is required. To the extent that a response is required, CPAY states that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of Paragraph 84.

85. CPAY refers to the respective Terms and Conditions as the best evidence of their contents. CPAY otherwise denies the allegations in Paragraph 85.

86. CPAY denies the allegations in Paragraph 86.

87. CPAY refers to the respective Terms and Conditions as the best evidence of their contents. CPAY otherwise denies the allegations in Paragraph 87.

88. CPAY denies the allegations in Paragraph 88.

89. The allegations in Paragraph 89 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 89.

90. CPAY denies the allegations in Paragraph 90.

91. CPAY denies the allegations in Paragraph 91.

92. CPAY denies the allegations in Paragraph 92.

93. CPAY denies the allegations in Paragraph 93.

94. CPAY denies the allegations in Paragraph 94.

95. To the extent that the allegations in the first sentence of Paragraph 95 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 95.

96. To the extent that the allegations in the third sentence of Paragraph 96 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 96.

97. To the extent that the allegations in the third and fourth sentences of Paragraph 97 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 97.

98. To the extent that the allegation in Paragraph 98 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 98.

99. To the extent that the allegations in Paragraph 99 refer to a document or documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 99.

100. CPAY denies the allegations in the first sentence of Paragraph 100. To the extent that the remaining allegations in Paragraph 100 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 100.

101. CPAY denies the allegations in the first and second sentences of Paragraph 101. To the extent that the remaining allegations in Paragraph 101 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 101.

102. To the extent that the allegations in Paragraph 102 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents.

103. CPAY denies the allegations in the first sentence of Paragraph 103. As to the second and third sentences, CPAY refers to the merchants' respective Applications as the best evidence of their contents. To the extent that the remaining allegations in Paragraph 103 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 103.

104. CPAY denies the allegations in the first three sentences of Paragraph 104. To the extent that the remaining allegations in Paragraph 104 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY otherwise denies the remaining allegations in Paragraph 104.

105. CPAY denies the allegations in the first sentence of Paragraph 105. To the extent that the remaining allegations in Paragraph 105 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY otherwise denies the remaining allegations in Paragraph 105.

106. To the extent that the allegations in Paragraph 106 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 106.

107. To the extent that the allegations in Paragraph 107 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 107.

108. CPAY denies the allegations in Paragraph 108.

109. CPAY denies the allegations in the first sentence of Paragraph 109. To the extent that the remaining allegations in Paragraph 109 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 109.

110. CPAY denies the allegations in the first sentence of Paragraph 110. To the extent that the remaining allegations in Paragraph 110 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 110.

111. CPAY denies the allegations in the first sentence of Paragraph 111. To the extent that the remaining allegations in Paragraph 111 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 111.

112. CPAY denies the allegations in the first sentence of Paragraph 112. To the extent that the remaining allegations in Paragraph 112 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 112.

113. To the extent that the allegations in Paragraph 113 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 113.

114. CPAY denies the allegations in the first sentence of Paragraph 114. To the extent that the remaining allegations in Paragraph 114 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 114.

115. CPAY denies the allegations in Paragraph 115 except that, to the extent Paragraph 115 refers to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents.

116. CPAY denies the allegations in the first sentence of Paragraph 116. To the extent that the remaining allegations in Paragraph 116 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in paragraph 116.

117. To the extent that the allegations in Paragraph 117 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents.

118. CPAY denies the allegations in the first sentence of Paragraph 118. To the extent that the remaining allegations in Paragraph 118 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 118.

119. CPAY denies the allegations in the first sentence of Paragraph 119. To the extent that the remaining allegations in Paragraph 119 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 119.

120. To the extent that the allegations in Paragraph 120 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents.

121. CPAY denies the allegations in Paragraph 121 except that, to the extent Paragraph 121 refers to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents.

122. CPAY denies the allegations in sentences three through five of Paragraph 122. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 122.

123. CPAY denies the allegations in the first sentence of Paragraph 123. To the extent that the remaining allegations in Paragraph 123 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 123.

124. CPAY denies the allegations in the first and second sentences of Paragraph 124. To the extent that the remaining allegations in Paragraph 124 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 124.

125. To the extent that the allegations in Paragraph 125 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 125.

126. To the extent that the allegations in Paragraph 126 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 126.

127. CPAY denies the allegations in the first sentence of Paragraph 127. To the extent that the remaining allegations in Paragraph 127 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 127.

128. To the extent that the allegations in Paragraph 128 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY denies the remaining allegations in Paragraph 128.

129. CPAY denies the allegations in Paragraph 129.

130. CPAY admits that it typically tries to resolve disputes with merchants when they occur but otherwise denies the allegations in Paragraph 130.

131. To the extent that the allegations in Paragraph 131 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY denies the remaining allegations in Paragraph 131.

132. CPAY denies the allegations in the first sentence of Paragraph 132. To the extent that the remaining allegations in Paragraph 132 refer to documents produced by CPAY in this litigation, CPAY refers to the documents as the best evidence of their contents. CPAY otherwise denies the remaining allegations in Paragraph 132.

133. CPAY denies the allegations in the first sentence of Paragraph 133. To the extent that the remaining allegations in Paragraph 133 refer to a document produced by CPAY in this litigation, CPAY refers to the document as the best evidence of its contents. CPAY otherwise denies the remaining allegations in Paragraph 133.

134. CPAY denies the allegations in Paragraph 134.

135. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 135.

136. CPAY admits that the sales representative indicated on Sandy's Application is "Adam Koeppel." CPAY denies the remaining allegations in Paragraph 136.

137. CPAY refers to Sandy's Application as the best evidence of its contents.

138. CPAY refers to Sandy's Application as the best evidence of its contents.

139. CPAY refers to Sandy's Application as the best evidence of its contents.

140. CPAY refers to Sandy's Application as the best evidence of its contents.

141. CPAY denies the allegations in the first sentence of Paragraph 141. CPAY admits that Sandy executed its Application and thereafter commenced processing with CPAY. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 141.

142. CPAY denies the allegations in Paragraph 142.

143. CPAY denies the allegations in the first sentence of Paragraph 143. CPAY refers to Sandy's monthly statements as the best evidence of the fees and rates charges to Sandy for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 143.

144. CPAY denies the allegations in the first sentence of Paragraph 144. CPAY refers to Sandy's Application and monthly statements as the best evidence of their contents and the fees and rates charged to Sandy for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 144.

145. CPAY denies the allegations in the first through third sentences of Paragraph 145. CPAY refers to Sandy's monthly statements as the best evidence of the fees and rates charged to Sandy for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 145.

146. CPAY denies the allegations in the first sentence of Paragraph 146. CPAY refers to Sandy's Application and Terms and Conditions as the best evidence of their contents and the parties' agreement. CPAY further refers to the monthly statements as the best evidence of the fees

and rates charged to Sandy for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 146.

147. CPAY denies the allegations in the first sentence of Paragraph 147. CPAY refers to Sandy's monthly statements as the best evidence of the fees and rates charged to Sandy for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 147.

148. CPAY refers to Sandy's Application and monthly statements as the best evidence of their contents and the fees and rates charged to Sandy for merchant processing services. CPAY otherwise denies the allegations in Paragraph 148.

149. CPAY denies the allegations in Paragraph 149.

150. CPAY denies the allegations in Paragraph 150.

151. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 151.

152. CPAY denies the allegation in Paragraph 152.

153. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 153.

154. CPAY denies the allegations in Paragraph 154.

155. CPAY admits that its relationship with Sandy ceased in February 2017. CPAY denies the remaining allegations in Paragraph 155.

156. CPAY admits that the sales representative on Skip's Application is "Tom Nyman." CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 156.

157. CPAY refers to Skip's Application as the best evidence of its contents.

158. CPAY refers to Skip's Application as the best evidence of its contents.

159. CPAY refers to Skip's Application as the best evidence of its contents.

160. CPAY denies the allegations in the first sentence of Paragraph 160. CPAY admits that Skip's executed its Application and thereafter commenced processing with CPAY. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 160.

161. CPAY denies the allegations in Paragraph 161.

162. CPAY denies the allegations in the first sentence of Paragraph 162. CPAY refers to Skip's monthly statements as the best evidence of the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 162.

163. CPAY denies the allegations in the first sentence of Paragraph 163. CPAY refers to Skip's monthly statements as the best evidence of the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 163.

164. CPAY denies the allegations in the first sentence of Paragraph 164. CPAY refers to Skip's Application and monthly statements of Skip's, as well as his Terms and Conditions, as the best evidence of their contents and the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the remaining allegations in Paragraph 164.

165. CPAY refers to Skip's Application and monthly statements as the best evidence of their contents and the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the allegations in Paragraph 165.

166. CPAY refers to Skip's Application and monthly statements as the best evidence of their contents and the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the allegations in Paragraph 166.

167. CPAY refers to Skip's Application and monthly statements as the best evidence of their contents and the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the allegations in Paragraph 167.

168. CPAY refers to Skip's Application and monthly statements as the best evidence of the fees and rates charged to Skip's for merchant processing services. CPAY otherwise denies the allegations in Paragraph 168.

169. CPAY admits that its relationship with Skip's ceased in February 2017. CPAY denies the remaining allegations in Paragraph 169.

170. CPAY denies the allegations in Paragraph 170.

171. Paragraph 171 does not contain an allegation to which a response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 171.

172. CPAY denies the allegations in Paragraph 172.

173. CPAY denies the allegations in Paragraph 173.

174. CPAY denies the allegations in Paragraph 174.

175. CPAY admits that multiple fees may lawfully apply to a single credit card transaction. CPAY denies the remaining allegations in Paragraph 175.

176. CPAY denies the allegations in Paragraph 176.

177. CPAY denies the allegations in Paragraph 177.

178. CPAY denies the allegations in Paragraph 178.

179. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 179. CPAY denies the allegations in the second sentence of Paragraph 179.

180. The allegations in Paragraph 180 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 180.

181. CPAY refers to the respective Terms and Conditions as the best evidence of their contents.

182. The allegations in the first and second sentences of Paragraph 182 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations the first and second sentences of Paragraph 182. CPAY denies the remaining allegations in Paragraph 182.

183. CPAY denies the allegations in Paragraph 183.

184. CPAY denies the allegations in Paragraph 184.

185. The allegations in Paragraph 185 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 185.

186. The allegations in Paragraph 186 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 186.

187. The allegations in Paragraph 187 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 187.

188. The allegations in Paragraph 188 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 188.

189. The allegations in Paragraph 189 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 189.

190. CPAY refers to the respective Terms and Conditions as the best evidence of their contents.

191. The allegations in Paragraph 191 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 191.

192. The allegations in Paragraph 192 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 192.

193. The allegations in Paragraph 193 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 193.

194. The allegations in Paragraph 194 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 194.

195. The allegations in Paragraph 195 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 195.

196. The allegations in Paragraph 196 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 196.

197. CPAY refers to the respective Terms and Conditions as the best evidence of their contents. The allegations in the second and fifth sentences of Paragraph 197 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in the second and fifth sentences of Paragraph 197. CPAY denies the remaining allegations in Paragraph 197.

198. The allegations in Paragraph 198 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 198.

199. The allegations in Paragraph 199 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 199.

200. The allegations in Paragraph 200 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 200.

201. CPAY denies the allegations in Paragraph 201.

202. CPAY refers to the monthly statements of Sandy and Skip's as the best evidence of their contents. CPAY otherwise denies the allegations in Paragraph 202.

203. The allegations in Paragraph 203 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 203.

204. The allegations in Paragraph 204 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 204.

205. CPAY refers to the respective Terms and Conditions as the best evidence of their contents. The allegations in the second sentence of Paragraph 205 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 205.

206. The allegations in Paragraph 206 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 206.

207. CPAY refers to the respective Terms and Conditions as the best evidence of their contents.

208. The allegations in Paragraph 208 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 208.

209. The allegations in Paragraph 209 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 209.

210. CPAY denies the allegations in Paragraph 210.

211. CPAY admits that Plaintiffs purport to bring this action on an individual and class basis. CPAY denies the remaining allegations in Paragraph 211.

212. CPAY admits that Plaintiffs' purported class is defined in the Amended Complaint as all CPAY customers in the United States that paid a fee that is higher than those set forth in the Application. CPAY denies that any class should be certified.

213. Paragraph 213 does not contain allegations to which a response is required. To the extent a response is required, CPAY lacks knowledge or information sufficient to form a basis as to the truth of the allegations in Paragraph 213.

214. CPAY admits that Plaintiffs purport to exclude the listed individuals and entities from the proposed class in this action but denies that any class should be certified.

215. CPAY admits that Plaintiffs purport to limit the proposed class in this action by the dates of the applicable statute of limitations but denies that any class should be certified. CPAY also denies any remaining allegations in Paragraph 215.

216. The allegations in Paragraph 216 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 216.

217. The allegations in Paragraph 217 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 217.

218. The allegations in Paragraph 218 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 218 and all its subparts.

219. The allegations in Paragraph 219 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 219.

220. The allegations in Paragraph 220 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 220.

221. The allegations in Paragraph 221 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 221.

222. The allegations in Paragraph 222 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 222.

223. The allegations in Paragraph 223 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 223.

224. In response to the allegations contained in Paragraph 224, CPAY incorporates its responses to Plaintiffs' allegations contained in Paragraphs 1 through 223.

225. The allegations in Paragraph 225 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 225.

226. The allegations in Paragraph 226 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 226.

227. CPAY denies the allegations in Paragraph 227.

228. CPAY denies the allegations in Paragraph 228.

229. CPAY denies the allegations in Paragraph 229.

230. The allegations in Paragraph 230 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 230.

231. The allegations in Paragraph 231 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 231.

232. CPAY denies the allegations in Paragraph 232.

233. CPAY denies the allegations in Paragraph 233.

234. The allegations in Paragraph 234 constitute a legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 234.

235. CPAY denies the allegations in Paragraph 235.

236. In response to the allegations contained in Paragraph 236, CPAY incorporates its responses to Plaintiffs' allegations contained in Paragraphs 1 through 235.

237. CPAY admits that Plaintiffs purport to bring this action on an individual and class basis. CPAY denies that Plaintiffs may pursue this claim on behalf of a class or that Plaintiffs are entitled to any relief.

238. The allegations in Paragraph 238 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 238.

239. The allegations in Paragraph 239 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 239.

240. The allegations in Paragraph 240 constitute legal conclusions to which no response is required.

241. The allegations in Paragraph 241 constitute legal conclusions to which no response is required.

242. The allegations in Paragraph 242 a constitute legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 242.

243. CPAY denies the allegations in Paragraph 243.

244. The allegations in the first and second sentences of Paragraph 244 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in the first and second sentences of Paragraph 244. CPAY admits that CPAY provides processing services for merchants in different states across the United States. CPAY denies the remaining allegations in the third sentence of Paragraph 244.

245. CPAY denies the allegations in Paragraph 245.

246. The allegations in Paragraph 246 a constitute legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 246.

247. The allegations in Paragraph 247 a constitute legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 247.

248. The allegations in Paragraph 248 a constitute legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 248.

249. The allegations in Paragraph 249 a constitute legal conclusion to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 249.

250. The allegations in Paragraph 250 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 250.

251. The allegations in Paragraph 251 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 251.

252. The allegations in Paragraph 252 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 252.

253. The allegations in Paragraph 253 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 253.

254. The allegations in Paragraph 254 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 254.

255. The allegations in Paragraph 255 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 255.

256. The allegations in Paragraph 256 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 256.

257. The allegations in Paragraph 257 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 257.

258. The allegations in Paragraph 258 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 258.

259. The allegations in Paragraph 59 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 259.

260. CPAY lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 260.

261. The allegations in Paragraph 261 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 261.

262. The allegations in Paragraph 262 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 262.

263. The allegations in Paragraph 263 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 263.

264. The allegations in Paragraph 264 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 264.

265. The allegations in Paragraph 265 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 265.

266. The allegations in Paragraph 266 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 266.

267. CPAY admits that Plaintiffs purport to seek relief in this action but denies that Plaintiffs are entitled to such relief, or any relief whatsoever.

268. In response to the allegations contained in Paragraph 268, CPAY incorporates its responses to Plaintiffs' allegations contained in Paragraphs 1 through 267.

269. CPAY admits that Plaintiffs purport to bring this action on an individual and class basis. CPAY denies that Plaintiffs may pursue these claims on a class basis or that Plaintiffs are entitled to any relief.

270. CPAY denies the allegations in Paragraph 270.

271. The allegations in Paragraph 271 constitute legal conclusions to which no response is required. To the extent a response is required, CPAY denies the allegations in Paragraph 271.

272. CPAY denies the allegations in Paragraph 272.

273. CPAY denies the allegations in Paragraph 273.

274. CPAY denies the allegations in Paragraph 274.

275. CPAY denies the allegations in Paragraph 275.

276. CPAY denies the allegations in Paragraph 276.

277. CPAY admits that Plaintiffs purport to seek relief in this action but denies that Plaintiffs are entitled to such relief, or any relief whatsoever.

In response to the prayer for relief that follows Paragraph 277, CPAY denies that Plaintiffs are entitled to the relief requested, or any relief whatsoever.

AFFIRMATIVE DEFENSES ASSERTED BY DEFENDANT

Without assuming the burden of proof where it otherwise rests with Plaintiffs, CPAY further pleads the following defenses to all claims against it:

First Defense

The Amended Complaint fails, in whole or in part, to state claims against CPAY upon which relief can be granted.

Second Defense

Plaintiffs' claims are barred because those claims are inconsistent with the terms of the applicable contract; they have failed to comply with the requirements for preserving and pursuing those claims; and they have thus failed to satisfy the conditions required to challenge the fees and charges they incurred.

Third Defense

Plaintiffs' claims are barred to the extent that they are untimely under the applicable statute of limitations and/or doctrine of laches.

Fourth Defense

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

Fifth Defense

The claims of Plaintiffs and the members of the putative class are barred, in whole or in part, by Plaintiffs' failure to mitigate their damages, if any, and any recovery should be reduced or denied accordingly.

Sixth Defense

The claims of Plaintiffs and the members of the putative class are barred, in whole or in part, by the principle of avoidable consequences.

Seventh Defense

The Court lacks personal jurisdiction for claims asserted on behalf of purported class members that have no connection to Nebraska and who did not execute an Application governed by Nebraska law. The Court is also not the proper venue to adjudicate claims for such purported class members.

Reservation of Rights to Assert Additional Defenses

CPAY reserves its right to amend this pleading to respond to new claims or allegations by Plaintiffs and to assert additional defenses or counterclaims as appropriate.

WHEREFORE, CPAY requests that the Court enter judgment in its favor, order that the Complaint be dismissed, and grant CPAY such other and further relief as the Court may deem just and proper.

Dated this 15th day of August, 2019.

/s/Kenneth W. Hartman

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2019, I caused the foregoing to be filed via the Court's ECF system, which will automatically send notice to all counsel of record in this matter.

/s/Kenneth W. Hartman _____