

**UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION**

In Re:)	Case No: 11-12254-WRS-11
)	
SMALL LOANS, INC., et al.)	Chapter 11
)	
Debtors.)	Jointly Administered

**REPORT OF VON G. MEMORY
CONSUMER PRIVACY OMBUDSMAN**

Von G. Memory, the Consumer Privacy Ombudsman, appointed for the limited purpose of advising "...the Court regarding privacy matters that may arise regarding the Trustee's sale of the assets..." in this case ("Ombudsman"). Moreover, the Ombudsman files this report ("Report"), pursuant to Bankruptcy Code sections 332(b) and 363(b)(1)(B), to assist the Court in its consideration of the facts, circumstances, and conditions of the sale of accounts that include or involve Personally Identifiable Information¹ of consumers² of The Money Tree, Inc., and some of the subsidiaries of The Money Tree, Inc. (descriptively and collectively, "Debtor"). In addition to the foregoing, the Ombudsman shall make himself available and will appear at a hearing or hearings to be set and provide information, or otherwise assist the court incident to the approval of motions for the sale of accounts of the Debtor.

Opinion

Based upon a conversation with Natasha J. Wood, Esq., a review of the Debtor's privacy policies, and the statutory authority cited herein, but also conditioned on the qualifications, limitations, reservations, and exceptions referenced herein, the Ombudsman concludes and recommends as follows:

¹ See 11 U.S.C. § 101(41A), quoted *infra* at note 6.

² For the purpose of this report, the word consumer shall include those parties identified as the makers of notes and parties who have otherwise provided personal privacy information to the Debtor.

The Debtor may transfer to the Buyers the Debtor accounts that may include Personally Identifiable Information collected after May 10, 2006, provided that: (i) Buyers adhere to all material terms and respects to the Debtor's Privacy Policy (or terms that are at least as protective of consumer privacy); (ii) Buyer honors any specific waivers or requests from consumers that may appear in the individual files or on the records of the Debtor; (iii) Buyer deletes any Personally Identifiable Information obtained from affiliated companies; (iv) Buyer safeguards all conveyed Personally Identifiable Information in a manner consistent with the industry standard incident to data security protections and applicable security laws; and (v) Buyer destroys Personally Identifiable Information for which it is determined that there is no reasonable business need, to include applications for loans not funded or approved.

Specifically, the Ombudsman concludes that the Privacy Policy provision in the Asset Purchase Agreement by and between S. Gregory Hayes, Trustee, and DealerIndustry.com, LLC, (ECF Doc. 501, filed July 26, 2012) sufficiently protects Personally Identifiable Information. Moreover, the Trustee's motion for order authorizing the sale of Debtor's consumer credit accounts (ECF Doc. 544, filed September 7, 2012), by and between S. Gregory Hayes, Trustee, and Western Shamrock Corporation, also sufficiently protects Personally Identifiable Information.

Background

On August 8, 2012, the United States Bankruptcy Court for the Middle District of Alabama appointed Von G. Memory as Consumer Privacy Ombudsman to review the Debtor's proposed sale of Personally Identifiable Information. The Ombudsman prepared this Report, pursuant to sections 332 and 363(b)(1) of the Bankruptcy Code, to assist the Court in its consideration of the facts, circumstances, and conditions of the sale and, in particular, the sale of certain loan files held and other data collected by the Debtor.

Policies, Statutes, and Other Information

The following authorities and information were relied upon:

- (a) Debtor's Privacy Policies from July 2001 to April 2006 (attached hereto as **Exhibit A**);
- (b) Debtor's Privacy Policies effective May 10, 2006 (attached hereto as **Exhibit B**);
- (c) Debtor's Privacy Policies effective 2007 (attached hereto as **Exhibit C**);
- (d) Debtor's Privacy Policies effective 2008 (attached hereto as **Exhibit D**);
- (e) Debtor's Privacy Policies effective 2009 (attached hereto as **Exhibit E**);
- (f) Debtor's Privacy Policies effective 2010 (attached hereto as **Exhibit F**);
- (g) Debtor's Privacy Policies effective 2011 (attached hereto as **Exhibit G**);
- (h) Debtor's Privacy Policies effective 2012 (attached hereto as **Exhibit H**);
- (i) Pertinent provisions of The Gramm-Leach-Bliley Act, 15 U.S.C. § 6801, et seq.;
- (j) Pertinent provisions of section five of the Federal Trade Commissions Act 15 U.S.C. § 45;
- (k) Order dated August 8, 2012 (ECF Doc. 520);
- (l) Asset Purchase agreement, filed July 26, 2012 (ECF Doc. 501-1);
- (m) Chapter 11 Trustee motion for order authorizing sale of Debtor's Consumer Credit Accounts, etc., September 7, 2012 (ECF Doc. 544);
- (n) Alabama Code § 8-9-1, et seq.;
- (o) Georgia Code (Annotated) §10-1-391 (Georgia Fair Business Practices Act);
- (p) Louisiana La Rev. Stat. Ann. 51:1401-1426 (Unfair Trade Practices and Consumer Protection Law)
- (q) Florida Statute 501.201, et seq.;
- (r) Interview with Natasha J. Wood, Esq., General Counsel for The Money Tree, Inc., its subsidiaries and affiliates since April 2, 2001
- (s) 11 U.S.C. § § 332(b) and 363 (b)(1)

In addition to the foregoing, the Ombudsman received general information from Natasha Wood, Esq. This information is summarized and includes the following. The Money

Tree, Inc., is the parent company of several related and affiliated companies. These companies are referenced and described in **Exhibits “A through G”**. For the purposes of this report, the company policies reviewed pertain to: 1) Small Loans, Inc. (organized in the State of Georgia, 1995, and doing business only in Alabama); 2) The Money Tree of Georgia, Inc. (organized in the State of Georgia, 1987, and doing business only in Georgia); 3) Best Buy Autos of Bainbridge, Inc. (organized in the State of Georgia, 1996, and doing business only in Georgia, also this entity is a wholly owned subsidiary of The Money Tree of Georgia, Inc.); 4) The Money Tree of Florida, Inc. (organized in the State of Georgia, 1998, and doing business only in Florida); and, 5) The Money Tree of Louisiana, Inc. (organized in the State of Louisiana, 1995, and doing business only in Louisiana). According to the interview with Ms. Wood, each of the above referenced entities have participated in a companywide privacy policy following enactment of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801, et seq. Finally, Ms. Wood represented that she has served as general counsel to The Money Tree, Inc., its subsidiaries, and affiliates since April 2, 2001 as is thoroughly familiar with the protection of Personally Identifiable Information by The Money Tree, Inc. and its affiliates. Moreover, Ms. Wood stated that pursuant to company policy and under the privacy policy statements, Protected Personal Information has not been shared with any parties other than the affiliated companies listed in the policy statements and that any information shared was limited to isolated cases incident to the collection of histories and other information that may be used in credit applications and collections.

Qualifications, Limitations, Reservations, and Exceptions

This report is subject to the following qualifications, limitations, reservations, and exceptions:

- 1) The Ombudsman has not reviewed any of the documents regarding sale of the consumer accounts that have been accomplished or contemplated, except as specifically referenced herein;
- 2) Any purchaser not named in this report must comply with the terms and conditions referenced herein;
- 3) This report is strictly limited to the companies specifically referenced in this report and does not include other entities not listed, except any successor entity that strictly agrees to the terms and conditions of the existing and referenced asset purchase documents referenced herein;
- 4) The Ombudsman shall not be responsible for execution, oversight, and compliance by the interested parties;
- 5) The Ombudsman cannot certify regarding ongoing compliance of consumer privacy;
- 6) The Ombudsman has not conducted an audit of individual accounts, to include hard-copies or information electronically stored;
- 7) The Ombudsman has not contacted any individual or entity considered or qualified as a consumer;
- 8) The Ombudsman has not contacted any government authority overseeing compliance or for which complaints may be registered;
- 9) This report is strictly based upon a review of the information and authorities referenced;
- 10) This report is limited to an assessment and opinion incident to 11 U.S.C. § 332(b)(1).
- 11) The information in this report is for the exclusive use of the Court and may not be relied upon by any other party or entity; and,

12) The limitation of liability for the Ombudsman shall be restricted to the compensation awarded for services in this matter.

Respectfully submitted on this the 18th day of September 2012.

/S/ Von G. Memory
Von G. Memory

Consumer Privacy
Ombudsman

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing document on the following, by:

- placing same in the United States Mail, postage prepaid, and properly addressed
- E-mail (AlaFile) or ECF (Pursuant to Fed. R. Bankr. P. 9036)

on September 18, 2012.

U. S. Bankruptcy Administrator
One Church Street
Montgomery, AL 36104

S. Gregory Hays
Hays Financial Consulting, LLC
3343 Peachtree Road, N.E.
East Tower, Suite 200
Atlanta, GA 30326-1420

Bradley R. Hightower, Esq.
Christian & Small, LLP
505 North 20th Street, Ste 1800
Birmingham, AL 35203

Daniel D. Sparks, Esq.
Christian & Small, LLP
1800 Financial Center
505 North 20th Street, Ste 1800
Birmingham, AL 35203

Bill D Bensinger, Esq.
Baker Donelson Bearman Caldwell & Berkow

420 20th N, Suite 1600
Birmingham, AL 35203

Max A. Moseley, Esq.
Baker Donelson Bearman Caldwell & Berkow
1600 Wells Fargo Tower
420 20th Street N.
Birmingham, AL 35203

Marc P. Solomon, Esq.
Burr & Forman, LLP
420 North 20th Street, Suite 3100
Birmingham, AL 35203

John D Elrod, Esq.
Greenberg Traurig, LLP
Terminus 200, Suite 2500
3333 Piedmont Road, N.E.
Atlanta, GA 30305

Susan R. Sherrill-Beard
US Securities and Exchange Commission
950 East Paces Ferry Road, N.E., Suite 900
Atlanta, GA 30326-1232

/S/ Von G. Memory
Von G. Memory