

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL NO. 2:08-cv-590
v.)	
)	
B.C. ENTERPRISES, INC.)	
d/b/a ARISTOCRAT TOWING; and)	
ARISTOCRAT TOWING, INC.,)	
)	
Defendants.)	
_____)	

CONSENT ORDER

I. INTRODUCTION

The United States initiated this action on December 10, 2008, against Defendants B.C. Enterprises, Inc. d/b/a Aristocrat Towing and Earnest A. Cooper, Jr. (“Defendants”) under the Servicemembers Civil Relief Act (“SCRA”), 50 App. U.S.C. § 501, *et seq.* Compl., Docket No. 1. On November 2, 2009, the United States filed an amended complaint adding Aristocrat Towing, Inc. as a defendant. Docket No. 55. On November 6, 2009, the Court dismissed Defendant Cooper. Docket No. 57. The United States’ amended complaint (“complaint”) alleges that Defendants enforced a storage lien on the vehicle of Navy Lt. Yahya Jaboori during his period of military service in Iraq without a court order, in violation of the SCRA. Amended Compl. ¶¶ 11-12. In addition, the amended complaint alleges that other servicemembers were injured by Defendants’ actions, in violation of the SCRA. Amended Compl. ¶ 14. The United States has identified twenty-six individuals who were victims of Defendants’ violations of the

SCRA, demonstrating Defendants' pattern or practice of violating the SCRA.¹ On November 6, 2009, the Court granted the United States summary judgment on liability and ruled that injunctive relief is inappropriate in this particular case. Docket No. 57. The Defendants have denied all liability.

The parties desire to avoid costly and protracted litigation and agree that the claims against Defendants should be settled and resolved without the necessity of trial. The parties have agreed to the entry of this Consent Order, as indicated by the signatures below.

Therefore, it is **ORDERED, ADJUDGED AND DECREED** as follows:

II. COMPENSATION OF AGGRIEVED PERSONS

1. Within fourteen (14) business days after entry of this Consent Order, the defendants shall deposit the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000 into an interest bearing account (the Settlement Fund") for the purpose of compensating persons whom the United States has determined to be victims of Defendants' actions in violation of the SCRA (hereinafter "aggrieved persons") listed in Exhibit A. The trust fund will be administered by Mr. Dumville or his designee. In addition, within fourteen (14) business days of the entry of this Order, Defendants shall submit proof to the United States that this account has been established and the funds deposited.
2. Aggrieved persons shall have eighteen (18) months from the date of entry of this Order to provide a signed release in the form of Exhibit B.
3. Within ten (10) days of notification by the United States that a release(s) has been received, Defendants shall deliver to counsel for the United States a check(s) payable

¹ One servicemember settled privately with Defendants.

from the designated account to the aggrieved person(s) listed in Exhibit A in an amount to be determined by the United States, plus accrued interest.

4. In no event shall the aggregate of all checks to the aggrieved persons exceed the sum of \$75,000 plus accrued interest.
5. When counsel for the United States has received a check from Defendants payable to an aggrieved person and a signed release in the form of Exhibit B from the aggrieved person, counsel for the United States shall simultaneously deliver the check to the aggrieved person and the original, signed release to counsel for Defendants. No aggrieved person shall be paid until he/she has signed and delivered to counsel for the United States a release in the form of Exhibit B.
6. After eighteen months, any money not distributed to aggrieved persons and remaining in the Settlement Fund shall be distributed by the United States to the aggrieved persons who have signed releases within the required eighteen month period.
7. Within ninety (90) days of entry of the Consent Order, Defendants shall request that all major credit bureaus remove any negative entries resulting from Defendants' reports of or attempts to collect deficiencies from the aggrieved person.

III. DURATION OF CONSENT ORDER AND COURT'S JURISDICTION

8. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect until the Settlement Fund has been distributed pursuant to Paragraphs 2-6.
9. Upon Defendants' payment of the \$75,000 into the Settlement Fund and correction of any negative credit entries, the United States' claims will be dismissed with prejudice. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of

the Order.

10. All parties shall be responsible for their own attorney's fees and court costs, except as provided for in Section IV below.

**IV. REMEDIES FOR NON-COMPLIANCE, TIME FOR PERFORMANCE,
AND MODIFICATION**

11. The United States may move the Court to extent the period in which this Order is in effect if the Defendants violate one or more terms of the Order or if the interests of justice otherwise require an extension of the terms of the Order.
12. Any time limits for performance imposed by this Order may be extended by mutual agreement of the parties or leave of the Court.
13. The parties to this Order shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event the United States contends that there has been a failure by either Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Order or otherwise to comply with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of damages, costs, and attorney's fees which may have been occasioned by the Defendant's violation or failure to perform.

IT IS SO ORDERED:

This ___ day of May, 2012.

UNITED STATES DISTRICT JUDGE

By their signatures below, the parties consent to the entry of this Consent Order.

For the United States:


NEIL H. MacBRIDE
United States Attorney

ERIC HOLDER
Attorney General

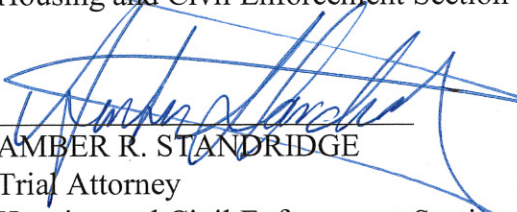
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Counsel for Defendants

Exhibit A

1. Lt. Yahya Jaboori
2. Whitney Johnson
3. Amber Ford
4. Allison Dobbs
4. Cedric Evans
5. Brandi Greenfield
6. Matthew Meyers
7. Jonathan Walsh
8. Trevor Hansen
Justin Crooks
9. Todd Michael Brown
10. Michael Feyerer
Stephen Bessette
11. Brandi Greenfield
12. Julio Abril
13. Christopher Koch
14. Jason Ferguson
15. John Butterfield
16. Erica Phillips
17. Jared Marr
18. Jeremy Vondell
19. Santos Davila
20. Jeremy Munsell

21. Robert Stephens, Jr. N/A
Robert Stephens, Sr.

22. Timotheus James

Exhibit B

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. B.C. Enterprises, Inc., et al., Civil Action No. 2:08-cv-590 (E.D. Va.), and Defendants' (B.C. Enterprises, Inc. and Aristocrat Towing, Inc.) payment to me of \$_____, pursuant to the Consent Order, I hereby release and forever discharge all claims related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from the SCRA violation alleged in that litigation up to and including the date of execution of this release, that I may have against either of the Defendants, all related entities, parents, predecessors, successors, subsidiaries and affiliates, and all of their past and present directors, officers, agents, managers, supervisors, shareholders and employees and their heirs, executors, administrators, successors or assigns.

Executed this ____ day of _____, 2012.

[Print Name]

[Signature]