

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 14-600-LPS
)	
SALLIE MAE, INC., now known as)	
NAVIENT SOLUTIONS, INC.,)	
SLM DE CORPORATION, now known as)	
NAVIENT DE CORPORATION)	
and SALLIE MAE BANK,)	
)	
Defendants.)	

CONSENT ORDER

I. INTRODUCTION

1. This Consent Order resolves the allegations contained in the United States’ Complaint that Defendants Sallie Mae, Inc., now known as Navient Solutions, Inc. (hereinafter “Navient Solutions, Inc.”), SLM DE Corporation, now known as Navient DE Corporation (hereinafter “Navient DE Corporation”) and Sallie Mae Bank (“Sallie Mae Bank” hereinafter, together with Navient Solutions, Inc. and Navient DE Corporation, collectively “Defendants”) have violated the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. app. §§ 501-597b, with respect to student loans they owned or serviced¹. Defendants neither admit nor deny any of the allegations in the United States’ Complaint.

2. The United States’ Complaint alleges that Defendants Navient Solutions, Inc. and Navient DE Corporation violated the SCRA when, from at least November 28, 2005, with respect to private education loans (hereinafter “Private Loans”), and from August 14, 2008, with

¹ This Consent Order does not resolve any potential SCRA claims regarding loans for which Navient Solutions, Inc. or Navient DE Corporation had contracted, before the date of entry of this Consent Order, with a third party to service the loans.

respect to Direct Department of Education Student Loans (hereinafter “Direct ED Loans”), student loans originated under the Federal Family Education Loan Program (hereinafter “FFELP”) owned by the Department of Education (hereinafter “FFELP ED Loans”), and student loans originated under the FFELP not owned by the Department of Education (hereinafter “FFELP COM Loans”) (hereinafter Private Loans, Direct ED Loans, FFELP ED Loans, and FFELP COM Loans are collectively referred to as “Covered Loans”), they: 1) engaged in a pattern or practice of failing to lower interest rates to six percent (6%) per year after receiving written notice and qualifying active duty military orders from “SCRA-protected servicemembers”²; 2) did not make acceptable efforts to obtain qualifying active duty military orders from servicemembers who requested benefits, but did not provide qualifying military documents; or 3) did not notify servicemembers that they may be eligible for SCRA benefits when servicemembers provided their military orders or documents to Defendants for other purposes.

3. The United States’ Complaint further alleges that Defendants Navient Solutions, Inc. and Navient DE Corporation violated the SCRA when, from at least November 28, 2005, with respect to Private Loans, they obtained default judgments against certain SCRA-protected servicemembers without performing the necessary due diligence before filing affidavits of military service as required by 50 U.S.C. app. § 521.

4. The United States’ Complaint also alleges that Defendant Sallie Mae Bank violated the SCRA when, from at least November 28, 2005, for Private Loans, and August 14, 2008, for FFELP COM Loans, it allowed student loan servicers it contracted with³ to provide

² For purposes of this Consent Order, the term “SCRA-protected servicemembers” includes servicemembers as defined in 50 U.S.C. app. § 511(1) and (2).

³ From November 28, 2005 through April 30, 2014, all of Defendant Sallie Mae Bank’s student loan servicing was performed by Defendants Navient Solutions, Inc. and Navient DE

services on such loans to engage in a pattern or practice of: 1) failing to lower interest rates to six percent (6%) per year after receiving written notice and qualifying active duty military orders from SCRA-protected servicemembers; 2) failing to make acceptable efforts to obtain qualifying active duty military orders from servicemembers who requested benefits, but did not provide qualifying military documents; or 3) failing to notify servicemembers that they may be eligible for SCRA benefits when servicemembers provided their military orders or documents to Defendants for other purposes.

5. Defendant Navient Solutions, Inc. is a Delaware corporation that services Covered Loans owned by Navient Corporation, a Delaware corporation and affiliate of Defendants, and/or its subsidiaries (hereinafter collectively referred to as “Navient Corporation”), as well as Covered Loans owned by other entities including Sallie Mae Bank.

6. Defendant Navient DE Corporation is a Delaware corporation that performs delinquency collections for Covered Loans owned by SLM Corporation and its subsidiaries, as well as Covered Loans owned by other entities.

7. Defendant Sallie Mae Bank is a Utah state-chartered industrial bank that provides, funds, and owns education loans nationwide. Defendant Sallie Mae Bank’s portfolio includes Private Loans and FFELP COM Loans.

8. Sallie Mae Bank and Sallie Mae, Inc., before May 1, 2014, were wholly-owned subsidiaries of SLM Corporation. At the close of trading on NASDAQ, on April 30, 2014, SLM Corporation distributed the stock of Navient Corporation to its shareholders, thereby dividing the business into two distinct parts. Sallie Mae Bank remains a wholly-owned subsidiary of SLM Corporation. Sallie Mae, Inc., renamed Navient Solutions, Inc., has become a wholly-owned subsidiary of Navient Corporation. SLM DE Corporation, renamed Navient DE Corporation,

Corporation.

has become a wholly-owned subsidiary of Navient Corporation. SLM Corporation has no ownership interest in Navient Corporation. The relationship between SLM Corporation and Navient Corporation is governed by a Separation and Distribution Agreement and a Transition Services Agreement, both dated as of April 30, 2014.

9. From August 14, 2008, Defendants Navient Solutions, Inc. and Navient DE Corporation have been responsible for granting interest rate reductions upon receipt of notice and military orders from SCRA-protected servicemembers who had or have Direct ED Loans, FFELP ED Loans, and/or FFELP COM Loans.

10. From at least November 28, 2005, Navient Solutions, Inc. and Navient DE Corporation have been responsible for granting interest rate reductions upon receipt of notice and military orders from SCRA-protected servicemembers who had or have Private Loans. From at least November 28, 2005, Navient Solutions, Inc. and Navient DE Corporation have been responsible for obtaining default judgments against SCRA-protected servicemembers who had or have Private Loans.

11. From at least November 28, 2005, Defendant Sallie Mae Bank contracted with Defendants Navient Solutions, Inc. and Navient DE Corporation to provide services involving Private Loans owned by Sallie Mae Bank. These services have included, but have not been limited to, granting interest rate reductions upon receipt of notice and military orders from SCRA-protected servicemembers and obtaining default judgments against SCRA-protected servicemembers. From at least August 14, 2008, Defendant Sallie Mae Bank contracted with Defendants Navient Solutions, Inc. and Navient DE Corporation to provide services involving FFELP COM Loans owned by Sallie Mae Bank. These services have included, but have not been limited to, granting interest rate reductions upon receipt of notice and military orders from

SCRA-protected servicemembers. Between November 28, 2005 and April 30, 2014, Defendant Sallie Mae Bank did not, itself, service loans in the normal course of business.

12. This Consent Order covers all Covered Loans serviced or owned by Defendants during the relevant above-stated periods.

13. The United States and Defendants agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 50 U.S.C. app. § 597(a).

14. The United States and Defendants agree that, to avoid costly and protracted litigation, the claims against Defendants should be resolved without further proceedings or an evidentiary hearing. Defendants neither admit nor deny any of the allegations contained in the United States' Complaint. Therefore, as indicated by the signatures appearing below, the United States and Defendants agree to the entry of this Consent Order.

II. MONETARY PROVISIONS

15. Within fourteen (14) days of the date of entry of this Consent Order, Navient Solutions, Inc. shall deposit into an interest-bearing escrow account sixty million dollars (\$60,000,000.00). This account shall constitute the Settlement Fund. Of this Settlement Fund, the parties estimate that, based upon analyses completed to date, approximately eighteen million dollars (\$18,000,000.00) is attributable to borrowers who provided a request for SCRA benefits and orders calling the servicemember from civilian life to active duty; approximately eight million dollars (\$8,000,000.00) is attributable to borrowers who provided a request for SCRA benefits, but whose loan files contain other military documents; approximately twenty-six million dollars (\$26,000,000.00) is attributable to borrowers whose loan files do not contain a request for SCRA benefits, but do contain military documents; approximately one million dollars

(\$1,000,000.00) is attributable to borrowers who provided a request for SCRA benefits, but whose loan files do not contain any military documents; and approximately seven million dollars (\$7,000,000.00) is attributable to other borrowers whose loan files had a military service code. The Settlement Fund represents the total amount of compensation due to servicemembers for monetary and other damages including, without limitation, any interest rate benefits to which the servicemember may have been entitled, caused by the practices described above and in the United States' Complaint, excluding any and all sums owed for payments made pursuant to judgments obtained by Defendants that the United States determines violated Section 521 of the SCRA, 50 U.S.C. app. § 521, as described in Paragraphs 22, 24 and 26 below. Defendants shall provide written verification of the deposit to the United States within three (3) business days of depositing the funds described in this Paragraph.⁴ Any interest that accrues shall become part of the Settlement Fund and shall be utilized and disposed of as set forth herein. Any taxes, costs, or other fees incurred by the Settlement Fund shall be paid by Defendants.⁵

⁴ All materials required by this Consent Order to be sent to the United States shall be sent by commercial overnight delivery addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 1800 G Street, N.W., 7th floor, Washington, DC 20006, Attn: DJ 216-15-1.

⁵ Defendants shall not request or be entitled to receive any payment, whether under statute, regulation or contract, from the United States Department of Education relating to any of Defendants' costs or expenses in negotiating or implementing this Consent Order or in regard to any payments made by Defendants in regard to Direct ED Loans, FFELP ED Loans or FFELP COM Loans under Part II of this Consent Order, except as provided below. This prohibition includes, but is not limited to, any claim for interest and special allowance payments for the periods covered by any payment made under Part II of the agreement on any FFELP ED Loan or FFELP COM Loan where the interest rate reduction request was made before entry of this Consent Order. However, if a borrower requests benefits under the SCRA after this Consent Order is entered, and is appropriately determined eligible for benefits under the SCRA or the terms of this Consent Order, or if a borrower who received payments under Part II of this Consent Order is appropriately determined eligible for benefits under the SCRA or the terms of this Consent Order for military service dates after the entry of this Consent Order, nothing in this Consent Order precludes Defendants' eligibility for payments in accordance with the terms of the regulations governing the FFELP program or the contract between the Department of

16. Defendants have jointly engaged an independent consultant (hereinafter “Independent Consultant”) approved by the United States to review their entire portfolio of Covered Loans serviced by Defendants for potential SCRA violations, as provided below. This Independent Consultant will use a methodology approved by the United States and provide the results of its review to the United States. In an effort to resolve this matter efficiently and expeditiously, compensation to servicemembers may go beyond the benefits granted by the SCRA, and compensation may be provided to servicemembers who may not have been eligible for benefits under the SCRA.

17. The Independent Consultant’s duties shall include an analysis of:

- a. All Private Loans active from November 28, 2005, through the date of entry of this Consent Order;
- b. All Direct ED Loans, FFELP ED Loans, and FFELP COM Loans active from August 14, 2008, through the date of entry of this Consent Order; and
- c. All default judgments obtained in connection with Private Loans from November 28, 2005, through the date of entry of this Consent Order.

18. For the loans identified in Paragraph 17(a) and (b), the Independent Consultant shall complete its analysis and provide its results to the United States, along with any supporting documentation requested by the United States, within four (4) months of the date of entry of this Consent Order. If active duty information is not made available to the Independent Consultant by the date of entry of this Consent Order, the Independent Consultant shall complete its review and provide its results to the United States, along with any supporting documentation requested by the United States, within three (3) months from receiving active duty information from the

Education and Defendants relating to the servicing of FFELP ED Loans and Direct Loans.

Defense Manpower Data Center (hereinafter "DMDC"). The Independent Consultant's analysis will include a file review of all loans where the potential estimated lost benefit exceeds \$166.66. This review is limited to files serviced by Defendants where the DMDC indicates that the servicemember was on active duty after November 28, 2005 with respect to Private Loans, or after August 14, 2008 Direct ED Loans, FFELP ED Loans, and FFELP COM Loans.

19. For the default judgments identified in Paragraph 17(c), the Independent Consultant shall evaluate whether the judgments were obtained against SCRA protected servicemembers during periods of military service and, if so, whether those judgments were obtained in compliance with Section 521 of the SCRA, 50 U.S.C. app. § 521. The Independent Consultant shall complete its analysis and submit the results to the United States, along with any supporting documentation requested by the United States, within three (3) months of the date of entry of this Consent Order.

20. Within forty-five (45) days of the date of entry of this Consent Order, Defendants shall enter into a contract retaining an independent settlement administrator (hereinafter "Settlement Administrator") to conduct the activities set forth in Paragraphs 21 through 26. The selection of the Settlement Administrator and the terms of the Settlement Administrator's contract related to the Settlement Administrator's duties pursuant to this Consent Order shall be subject to the non-objection of the United States. Navient Solutions, Inc. shall bear all costs and expenses associated with the Settlement Administrator. Defendants' contract with the Settlement Administrator shall require the Settlement Administrator to work cooperatively with Defendants and the United States in the conduct of its activities, including reporting regularly to, and providing all reasonably requested information to, the United States. The Settlement Administrator's contract shall require the Administrator to comply with all confidentiality and

privacy restrictions applicable to the party who supplied the information and data to the Settlement Administrator.

21. The Settlement Administrator's contract shall require the Settlement Administrator, as part of its operations, to establish, and to maintain throughout the contract period, multiple cost-free means for SCRA-protected servicemembers to contact it, including an electronic mail address, a website, and a toll-free telephone number.

22. After its receipt of the results of the Independent Consultant's review described above in Paragraphs 17 through 19, and any other information and data requested from the Independent Consultant and Defendants, the United States shall provide to the Settlement Administrator and Defendants a list of servicemembers that the United States has determined are eligible to receive monetary relief pursuant to the Consent Order for violations of Sections 521 and 527 of the SCRA, 50 U.S.C. app. §§ 521 & 527, and an appropriate amount to be paid to each such servicemember.

23. Within thirty (30) days after the date the United States provides the list of servicemembers whom the United States has determined are eligible to receive monetary relief pursuant to the Consent Order, Defendants shall provide to the Settlement Administrator the name, most recent mailing address in its servicing records, Social Security number, loan account number(s), and any other information as requested by the United States and the Settlement Administrator regarding these servicemembers. Such information and data shall be used by the Settlement Administrator solely for the purpose of implementing the Consent Order.

24. Within thirty (30) days of the United States' determination of the servicemembers to be compensated for alleged violations of Section 521 of the SCRA, 50 U.S.C. app. § 521, as described in Paragraph 22 above, Defendants shall forgive the total amount of the judgment(s),

including all post judgment interest, associated with such servicemembers. Defendants shall also reimburse any payments that have been made pursuant to the judgment and shall indemnify the servicemembers if a trustee or third party seeks to collect any remaining amounts owed under the loan.

25. The Settlement Administrator's contract shall require the Settlement Administrator to deliver payment from the Settlement Fund to each servicemember, except for those servicemembers currently residing in Oregon, in the amount determined by the United States as described in Paragraph 22 above within forty-five (45) days of receiving the information from Defendants described in Paragraph 23 above. All compensation checks may include the phrase "Settlement in Full" in the memorandum section. All compensation checks shall be accompanied by a copy of the letter at Appendix A. For any and all servicemembers currently residing in Oregon, the Settlement Administrator shall send the servicemember a Release of Claims letter in the form attached as Appendix B within forty-five (45) days of receiving the information from Defendants described in Paragraph 23 above. Within seven (7) days of receiving a properly executed copy of the Release of Claims letter at Appendix B, the Settlement Administrator shall issue and mail a compensation check to the servicemember in the amount determined by the United States as described in Paragraph 22 above. The Settlement Administrator's contract shall also require the Settlement Administrator to skip trace and redeliver any payment that is returned to the Settlement Administrator as undeliverable, or that is not deposited or cashed within six (6) months.

26. The Settlement Administrator's contract shall require the Settlement Administrator to finalize the distribution of the payments from the Settlement Fund within twelve (12) months from the date the United States provides the list of payment amounts to the

Settlement Administrator in accordance with Paragraph 22 above. Servicemembers shall have until that date to request the reissuance of payments that have not been deposited or cashed. For any payments that have not been deposited or cashed within thirteen (13) months from the date the United States provides the list of payment amounts to the Settlement Administrator in accordance with Paragraph 22 above where the servicemember has one or more open loan account with Defendants, within an additional thirty (30) days, the Settlement Administrator shall provide to the United States and Defendants a list of such servicemembers, the payment amounts due to each, and a check made payable to Defendants from the Settlement Fund for the total amount of all such non-deposited or uncashed payments. Within fourteen (14) days of receiving this list and check from the Settlement Administrator, Defendants shall credit each such servicemember's account(s) the amount of the payment due to the servicemember under this Consent Order. If a servicemember has more than one open account with Defendants, then Defendant shall either: 1) credit each such account proportionately to the amount due and owing on each such account at that time; or 2) credit the account with the highest interest rate, whichever option provides the servicemember with the greater financial benefit.

27. The details regarding the administration of the Settlement Fund set forth in Paragraphs 21 through 26 above may be modified by agreement of the United States and Defendants and without further Court approval.

28. In the event that the United States has reason to believe that the Settlement Administrator is not materially complying with the terms of its contract with Defendants, Defendants shall present for review and determination of non-objection a course of action to effectuate the Settlement Administrator's material compliance with its contract with Defendants. The United States shall make a determination of non-objection to the course of action or shall

direct Defendants to revise it. In the event that the United States directs revisions, Defendants shall make the revisions and re-submit the proposed course of action to the United States within fourteen (14) days. Upon notification that the United States has made a determination of non-objection, Defendants shall implement the course of action. In the event that the United States and Defendants are unable to agree upon the terms of a contract or a course of action to effect the Settlement Administrator's material compliance with its contract with Defendants, the parties may present the matter to the Court. The Court shall determine whether the contract is sufficient to require the Settlement Administrator's full compliance with the provisions of the Consent Order as applicable to the Settlement Administrator, or that the Settlement Administrator is materially complying with the terms of its contract with Defendants, and it shall direct Defendants to remedy promptly any deficiencies it finds.

29. Defendants will not be entitled to a set-off or any other reduction of the amount of payments to servicemembers because of any debts owed by the servicemembers. Defendants shall also not refuse to make a payment based on a release of legal claims previously signed by any servicemembers.

30. In the event that the amount of redress provided to servicemembers after the Settlement Administrator completes its distribution of funds, and after Defendants complete the crediting of servicemember accounts as described in Paragraph 26 above, is less than the amount of the Settlement Fund (including accrued interest), within thirty (30) days of the completion of the distribution of funds by the Settlement Administrator and the crediting of servicemember accounts by Defendants, Defendants shall submit to the United States a proposal that provides for distribution of all remaining money in the Settlement Fund to one or more charitable organizations that assist servicemembers. Before selecting the qualified organization(s),

Defendants shall obtain a proposal from the organization(s) on how the funds will be used consistent with the above-stated purpose, submit such proposal to the United States, and consult with and obtain the non-objection of the United States. The United States and Defendants may request modification of the proposal before approving the organization(s). The parties shall thereafter seek approval from the Court to distribute the remaining money in the Settlement Fund to the qualified organization(s). Defendants shall also require the charitable organization(s) to submit to Defendants and the United States a detailed report on how the funds have been utilized within one year of receipt of the funds, and every year thereafter until the funds are exhausted. If the charitable organization(s) fail to submit the required report(s), this shall not be a basis for determining that Defendants failed to comply with this Consent Order.

III. INJUNCTIVE RELIEF

31. Effective on the date of entry of this Consent Order, Defendants, their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with Defendants are hereby enjoined from charging interest⁶ at a rate in excess of six percent (6%) per year on the then-outstanding balance (including any previously capitalized interest) of any Covered Loan(s) taken out while a borrower was not on military service,⁷ where the borrower subsequently enters into military service and where the borrower is eligible for SCRA protection under Section 527 of the SCRA, 50 U.S.C. app. § 527.

32. Effective on the date of entry of this Consent Order, Defendants, their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with Defendants are hereby enjoined from misinforming any

⁶ For purposes of this Consent Order, “[t]he term ‘interest’ includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.” 50 U.S.C. app. § 527(d)(1).

⁷ For purposes of this Consent Order, the term “military service” is defined by Section 511(2) of the SCRA, 50 U.S.C. app. § 511(2).

servicemember about the SCRA protections and benefits available under Section 527 of the SCRA, 50 U.S.C. app. § 527, or otherwise discouraging any servicemember from invoking SCRA protection pursuant to Section 527 of the SCRA, 50 U.S.C. app. § 527, on any Covered Loan(s) taken out while not on military service. Defendants shall not be deemed to be discouraging a servicemember from invoking SCRA protection if Defendants require the servicemember to follow the processes described in this Consent Order in order to obtain SCRA protections available under Section 527 of the SCRA, 50 U.S.C. app. § 527. Defendants, their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with Defendants are hereby required to inform any servicemember who inquires about receiving a military deferment or military forbearance of the SCRA protections and benefits available under Section 527 of the SCRA, 50 U.S.C. app. § 527.

33. Effective on the date of entry of this Consent Order, Defendants, their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with Defendants are hereby enjoined from seeking any default judgment with respect to any Private Loan without first checking their files, including all customer service notes and the Department of Defense Manpower Data Center database (“DMDC”), to determine whether an individual against whom Defendants intend to seek a default judgment is in military service, and, if so, filing an accurate affidavit of military service, attaching to the affidavit the most recent military status report from the DMDC and a copy of the SCRA-protected servicemember’s military orders, if available.

34. Nothing in this Consent Order shall preclude Defendants from offering greater protections and/or benefits to servicemembers than those afforded by the Consent Order or the SCRA.

IV. COMPLIANCE WITH THE SCRA AND SCRA POLICIES AND PROCEDURES

35. Within thirty (30) days of the date of entry of this Consent Order, Navient Solutions, Inc. shall provide the United States with “SCRA Policies and Procedures for Interest Rates,” which shall apply to (1) the servicing of all Covered Loans currently owned or serviced by Navient Solutions, Inc. or Navient DE Corporation, excluding Covered Loans for which Navient Solutions, Inc. or Navient DE Corporation has an existing contract⁸ with a third party to service these loans, and (2) the servicing of all Covered Loans that may be owned or serviced by Navient Solutions, Inc. or Navient DE Corporation after the date of entry of this Consent Order, including any Covered Loans for which Navient Solutions, Inc. or Navient DE Corporation may contract with a third party to service these loans. The “SCRA Policies and Procedures for Interest Rates” shall be designed to ensure that neither Navient Solutions, Inc. nor Navient DE Corporation charges interest on any Covered Loans in excess of six percent (6%) per year during a period of military service where the obligation was incurred while the borrower was not in military service, pursuant to Section 527 of the SCRA, 50 U.S.C. app. § 527. Sallie Mae Bank shall provide the United States with “SCRA Policies and Procedures for Interest Rates” no later than thirty (30) days prior to engaging in loan servicing activity or, in the case of servicing activities already engaged in by Sallie Mae Bank, within thirty (30) days of the date of entry of this Consent Order. Sallie Mae Bank’s “SCRA Policies and Procedures for Interest Rates” shall apply to all of Sallie Mae Bank’s Covered Loans, as well as to any servicers with which Sallie Mae Bank contracts to service covered loans. The “SCRA Policies and Procedures for Interest Rates” shall be designed to ensure that Sallie Mae Bank does not charge interest on any Covered Loans in excess of six percent (6%) per year during a period of military service where the

⁸ For purposes of this paragraph, an “existing contract” is defined as a contract which is in effect as of the date of entry of this Consent Order.

obligation was incurred while the borrower was not in military service, pursuant to Section 527 of the SCRA, 50 U.S.C. app. § 527. The SCRA Policies and Procedures for Interest Rates shall contain the following provisions:

- a. Defendants⁹ shall accept servicemembers' military orders as written notice of eligibility for reduced interest rates pursuant to the SCRA via facsimile, mail, or overnight delivery. Defendants shall also accept servicemembers' requests for a military deferment or forbearance as written notice of eligibility for reduced interest rates pursuant to the SCRA. Within six (6) months after the date of entry of this Consent Order, Defendants shall also create an online intake form. Thereafter, Defendants shall accept completed online intake forms as written notice of eligibility for (a) reduced interest rate(s) pursuant to the SCRA.
- b. Defendants shall accept, in lieu of military orders, any letter on official letterhead from a servicemember's commanding officer that includes contact information for confirmation and:
 - i. Sets forth the full name and Social Security number or date of birth of the servicemember; and
 - ii. Sets forth the period of military service of the servicemember and, as may be applicable, that the military service of the servicemember is indefinite, or the date on which the military service of the servicemember ended or is scheduled to end.

⁹ For Sections IV, V, and VIII below, when the term "Defendants" is used, each Defendant is separately responsible for ensuring its own compliance with the provisions of this Consent Order. Specifically, the failure of one Defendant to comply with this Consent Order shall not be imputed to any other Defendant, nor shall it be used as a basis for finding that any other Defendant did not comply with this Consent Order.

- c. In the event that a servicemember provides notice of eligibility via the online intake form or otherwise, Defendants shall check the DMDC to confirm the servicemember's eligibility. If the DMDC records confirm eligibility, Defendants shall provide the interest rate reduction required by the SCRA for the dates indicated by the DMDC and shall notify the servicemember that the servicemember may submit additional documentation to establish eligibility dates if the servicemember disagrees with the dates provided by the DMDC. If the DMDC records do not confirm eligibility, Defendants may inform the servicemember that he or she is not eligible for SCRA interest rate benefits unless he or she provides a copy of documents establishing military service. Such documents will include any document prepared exclusively by a branch of the military, the Department of Defense, or a borrower's commanding officer that indicates that the borrower is on active duty (e.g., active duty orders, change of station orders, DD-214 forms, letters from commanding officers, etc.). Such documents will not include a DOD Educational Loan Repayment Program (LRP) Annual Application, DD Form 2475.
- d. Defendants shall not require that any military order submitted have a specific end date for the period of military service.¹⁰ In the event that any military orders provided to Defendants do not list a specific end date for the period of military service, Defendants shall not remove protections other than as specified in subsection (h) of this Paragraph. Defendants also shall not require that any military order submitted specify the date upon which the servicemember first entered active duty for

¹⁰ If an SCRA-protected servicemember provides Defendants with valid military orders that include an end date of military service inconsistent with that appearing on the DMDC, Defendants shall not raise the interest rate on the servicemember's Covered Loan(s) until the latter of the two dates has passed.

this period of service. Defendants shall provide SCRA benefits beginning on the earliest eligible date provided in the orders or by the DMDC. However, if the earliest date provided indicates that the servicemember was on active duty at the time of loan origination, Defendants shall notify the servicemember and provide the servicemember a reasonable opportunity to provide documentation showing that the servicemember was not on active duty at the time of loan origination.

- e. Within sixty (60) days of receiving a notice of eligibility from a servicemember under this Paragraph, Defendants shall review all Covered Loans they service or own taken out by the servicemember, shall determine the interest rate(s) charged on those loans, and shall determine the servicemember's eligibility for the reduced interest rate on all such loans. If the servicemember is determined to be eligible for SCRA benefits, the reduced interest rate will be applied within this sixty (60) day period. Defendants shall apply benefits retroactively to the first day of eligibility, including the date of receipt of orders for reservists and inductees, even if such reduction brings the monthly payment amount on any private loan below any minimum payment amounts specified in the loan agreement.
- f. Under no circumstances shall Defendants raise the interest rate on any Covered Loan they service or own taken out by a particular servicemember to six percent (6%) per year in response to notification from that servicemember of eligibility for a reduced interest rate pursuant to the SCRA.
- g. Within thirty (30) days after determining that a servicemember is not eligible for an interest rate reduction pursuant to the SCRA, Defendants shall notify the servicemember in writing of the reason(s) for the denial. Defendants shall ensure that

the servicemember is given an opportunity to provide additional documentation or information to establish his or her eligibility for the reduced interest rate.

- h. Defendants shall not raise the interest rate on an eligible servicemember's Covered Loan(s) to an amount higher than six percent (6%) per year until Defendants access the DMDC and the information on the DMDC shows that the servicemember is no longer in military service, or until Defendants otherwise receive notice of the end of military service. Prior to removing a servicemember from interest rate protection, Defendants shall notify the servicemember in writing of the reason(s) for removal of such protection. Defendants shall give the servicemember thirty (30) days from the date Defendants send notice to the servicemember to provide additional documentation or information to establish continued eligibility for the reduced interest rate prior to removing the interest rate protection.
- i. Defendants or their agents shall designate customer service representatives who have been specifically trained on the protections of the SCRA and who are responsible for the intake of notices of eligibility and application of benefits across all Covered Loans that are serviced or owned by Defendants or their agents. Defendants or their agents shall also ensure that they have a designated telephone number at which servicemembers may reach the designated SCRA customer service representatives who will address questions or concerns regarding reduced interest rates pursuant to the SCRA.

36. Within thirty (30) days of the date of entry of this Consent Order, Navient Solutions, Inc. and Navient DE Corporation shall provide the United States with "SCRA Policies and Procedures for Default Judgments," which shall apply to all of the Private Loans they

service, as well as to any servicers with which they contract to service Private Loans, to ensure that they do not obtain default judgments on any loans that they service or own without first performing the necessary due diligence prior to filing an affidavit of military service, as required by Section 521 of the SCRA, 50 U.S.C. app. § 521. Sallie Mae Bank shall provide the United States with “SCRA Policies and Procedures for Default Judgments” no later than thirty (30) days prior to engaging in loan servicing activity or, in the case of servicing activities already engaged in by Sallie Mae Bank, within thirty (30) days of the date of entry of this Consent Order. Sallie Mae Bank’s “SCRA Policies and Procedures for Default Judgments” shall apply to all of Sallie Mae Bank’s Private Loans it services, as well as to any servicers with which Sallie Mae Bank contracts to service Private Loans, to ensure that they do not obtain default judgments on any loans that they service or own without first performing the necessary due diligence prior to filing an affidavit of military service, as required by Section 521 of the SCRA, 50 U.S.C. app. § 521. These SCRA Policies and Procedures for Default Judgments shall contain the following provisions:

- a. Within two (2) business days before referring a loan to a third party for collections, Defendants or their agents shall search the DMDC and review all information in their possession, custody, or control for military orders to determine if the borrower is in military service. If Defendants or their agents find that a borrower is in military service, Defendants shall either not refer the loan for collection, or shall refer the loan with a special warning about the borrower’s military status.
- b. After a borrower fails to file a timely answer to a complaint seeking a judgment in favor of one or more Defendants, and within two (2) business days before seeking

an entry of default, Defendants or their agents shall search the DMDC and review all information in their possession, custody, or control for military orders to determine if the borrower is in military service. If the above search reveals that the borrower is in military service, or was in military service at the time of his or her failure to file a timely answer, then Defendants or their agents shall: 1) file an affidavit stating that the “defendant is in military service” prior to seeking a default judgment; and 2) attach to the affidavit a DMDC certificate bearing a date stamp no more than two (2) business days in advance of the execution of the affidavit, and a copy of the defendant’s most recent military orders, if available.

- c. If Defendants request a waiver from a borrower, as provided for in Section 517 of the SCRA, 50 U.S.C. app. § 517, Defendants must initiate the waiver process with the servicemember at least thirty (30) days in advance of any anticipated default judgment by sending a notice and a copy of the proposed waiver to the servicemember. To the extent that Defendants exercise this option, Defendants shall use a notice and waiver that have been approved by the United States.
- d. If Defendants discover that a judgment was obtained against a borrower who was in military service at the time Defendants or their agents filed for default judgment, in all cases where Defendants failed to file an accurate affidavit of military service after the due diligence described in Paragraph 33, Defendants or their agents shall petition the court to vacate the judgment.

37. No later than thirty (30) days after the date of entry of this Consent Order, Navient Solutions, Inc. and Navient DE Corporation shall provide a copy of the SCRA Policies and Procedures for Interest Rates required under Paragraph 35, and a copy of the SCRA Policies

and Procedures for Default Judgments required under Paragraph 36 (hereinafter collectively “SCRA Policies and Procedures”), as well the notice and proposed waiver referenced in Paragraph 36(c), to counsel for the United States for approval. If the United States objects to any part of the SCRA Policies and Procedures, draft notice and/or proposed waiver, Navient Solutions, Inc. and Navient DE Corporation shall redraft and resubmit the document(s) to the United States within thirty (30) days. This submission and review process shall repeat until such time as the United States informs Navient Solutions, Inc. and Navient DE Corporation that the SCRA Policies and Procedures, draft notice, and proposed waiver are acceptable.

38. No later than thirty (30) days prior to engaging in loan servicing activity or, in the case of servicing activities already engaged in by Sallie Mae Bank, within thirty (30) days of the date of entry of this Consent Order, Sallie Mae Bank shall provide a copy of the SCRA Policies and Procedures for Interest Rates required under Paragraph 35, and a copy of the SCRA Policies and Procedures for Default Judgments required under Paragraph 36 (hereinafter collectively “SCRA Policies and Procedures”), as well the notice and proposed waiver referenced in Paragraph 36(c), to counsel for the United States for approval. If the United States objects to any part of Sallie Mae Bank’s SCRA Policies and Procedures, draft notice and/or proposed waiver, Sallie Mae Bank shall redraft and resubmit the document(s) to the United States within thirty (30) days. This submission and review process shall repeat until such time as the United States informs Sallie Mae Bank that the SCRA Policies and Procedures, draft notice, and proposed waiver are acceptable.

39. If at any time during the term of this Consent Order Defendants propose to modify their SCRA Policies and Procedures in any material way with respect to any of the subject matter contained in this Consent Order, they shall first provide a copy of the proposed

modification(s) to counsel for the United States. If the United States does not deliver written objections to Defendants within forty-five (45) days of receiving the proposed changes, the changes may be implemented.

40. The Department of Education has determined that compliance with the terms of this Consent Order “will be deemed to be [] full compliance with the Department of Education’s regulations and guidance regarding SCRA benefits.” See Appendix C.

V. TRAINING

41. Defendants shall provide SCRA compliance training to all management officials, employees, and, if applicable, contractors who: (a) provide customer service to servicemembers in connection with the servicing of Covered Loans; (b) interact with servicers who provide customer service to servicemembers in connection with the servicing of Private Loans and FFELP COM Loans owned by Sallie Mae Bank; and/or (c) have significant involvement in servicing Covered Loans. Defendants shall provide this SCRA compliance training within sixty (60) days after the training is approved by the United States pursuant to Paragraph 42 below.¹¹

42. Within forty-five (45) days of the United States’ approval of the SCRA Policies and Procedures referenced in Paragraphs 35 and 36, Defendants shall provide to the United States the curriculum and instructions for, and a copy of all written materials to be included as part of, the SCRA compliance training required by this Consent Order. All management officials, employees, and contractors described above in Paragraph 41 must undergo the SCRA compliance training via live training, computer-based training, web-based training, or interactive digital media within sixty (60) days from the date the training is approved by the United States. All management officials, employees, and contractors described above in Paragraph 41 shall

¹¹ The SCRA compliance training described in Paragraphs 41-44 of this Consent Order may be provided via live training, computer-based training, web-based training, or interactive digital media.

receive a summary of the substantive provisions of this Consent Order as part of their SCRA compliance training. If the training is conducted in any format other than live training, Defendants shall ensure that the management officials, employees, and contractors have the opportunity to have any questions regarding the training and/or the Consent Order answered by a company contact that Defendants identify as having SCRA expertise within two (2) business days of the training. Any expenses associated with the training program shall be borne by Defendants.

43. During the term of this Consent Order, Defendants shall provide the training described in Paragraph 42 on an annual basis to all management officials, employees, and contractors described in Paragraph 41. Once per year, Defendants shall certify in writing to counsel for the United States that each management official, employee, and contractor described in Paragraph 41 has successfully completed this training within thirty (30) days of his or her hiring, promotion, or transfer.

44. Defendants shall secure a signed statement in the form of Appendix D from each management official, employee, and contractor describe in Paragraph 41 acknowledging that he or she has received, read, and understands the Consent Order and the SCRA Policies and Procedures, has had the opportunity to have his or her questions about these documents answered, and agrees to abide by them.¹² Defendants shall also follow these training procedures for each of their new hires and employees who becomes a management official or employee described in Paragraph 41 within thirty (30) days of his or her hiring, or change in the employee's role or duties.

¹² For purposes of this section, an electronic signature of an employee or agent shall be deemed satisfactory for purposes of verifying training required under this Consent Order.

VI. OTHER RELIEF

45. Within sixty (60) days after the Settlement Administrator completes the distribution of funds from the Settlement Fund, Defendants shall request that all three (3) major credit bureaus delete trade lines associated with accounts where default judgments not in compliance with Section 521 of the SCRA were obtained, and remove negative payment histories for those months during which the Independent Consultant determines a borrower may have been eligible for the SCRA interest rate benefit and was assessed interest at a rate greater than six percent under the approved methodology, in order to correct the credit histories of accounts belonging to servicemember(s) and any co-borrower(s).

VII. CIVIL PENALTY

46. Within thirty (30) days of the date of entry this Consent Order, Defendants shall pay a total of Fifty-Five Thousand Dollars (\$55,000.00) to the United States Treasury as a civil penalty pursuant to Section 597(b)(3) of the SCRA, 50 U.S.C. app. § 597(b)(3), to vindicate the public interest. The payment shall be in the form of an electronic funds transfer pursuant to written instructions to be provided by the United States.

VIII. REPORTING AND RECORD-KEEPING REQUIREMENTS

47. For the duration of this Consent Order, Defendants shall retain all records relating to their obligations hereunder, including: 1) records with respect to any Covered Loan for which a servicemember sought or seeks a reduced interest rate pursuant to the SCRA, regardless of whether that reduction is granted by Defendants; and 2) records involving default judgments. The United States shall have the right to review and copy any such records, including electronic data, upon reasonable request, during the period of this Consent Order.

48. During the term of this Consent Order, Defendants shall notify counsel for the United States in writing every six (6) months, beginning six (6) months after the date of entry of this Consent Order, of the receipt of any SCRA or military-related complaint captured through Defendants' official complaint process. Defendants shall provide a copy of any written complaints with the notifications. Defendants shall incorporate into their SCRA Policies and Procedures a requirement that all customer service personnel, upon receiving any oral SCRA complaint involving Defendants relating to the interest rate imposed on any Covered Loan, shall notify individuals designated and trained to receive SCRA complaints. For all SCRA complaints relating to Covered Loans, each notification to the United States shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendants shall also promptly provide the United States all information it may request concerning any such complaint relating to covered loans, and if Defendants resolve a SCRA complaint relating to Covered Loans, Defendants shall inform the United States in writing in the next six (6) month update required by this Paragraph of the terms of any resolution of such complaint. If the United States raises any objections to Defendants' actions, the parties shall meet and confer to consider appropriate steps to address the concerns raised by the United States' review. If the parties are unable to come to an agreement regarding such objections or concerns, either party may bring the dispute to this Court for resolution.

IX. SCOPE OF CONSENT ORDER

49. The provisions of this Consent Order shall apply to Defendants, their officers, employees, agents, representatives, assigns, successors-in-interest, and all persons and entities in active concert or participation with Defendants.

X. MODIFICATIONS, ATTORNEY'S FEES AND COSTS, AND REMEDIES FOR NON-COMPLIANCE

50. Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the parties.

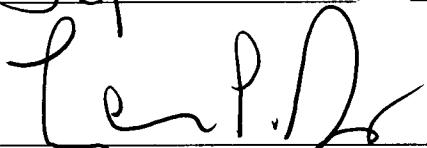
51. The parties to this Consent Order shall be responsible for their own attorneys' fees and court costs, except as provided for in Paragraph 52, below.

52. The parties to this Consent Order shall endeavor in good faith to resolve informally any differences regarding the interpretation of, and compliance with, this Consent 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 Defendants, whether willful or otherwise, to perform in a timely manner any act required by this Consent Order or otherwise comply with any provision thereof, the United States may move the Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring the performance of such act or deeming such act to have been performed, and an award of any damages, costs, and attorney's fees which may have been occasioned by Defendants' violation or failure to perform.

XI. RETENTION OF JURISDICTION

53. This Consent Order shall be in effect for a period of four (4) years. For the duration of this Consent Order, the Court shall retain jurisdiction to enforce its terms, after which time this case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Consent Order in the interests of justice.

SO ORDERED this 29th day of September, 2014.



UNITED STATES DISTRICT COURT JUDGE

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Appendix A

LETTER FOR COMPENSATION CHECKS

NOTICE AND RELEASE OF CLAIMS

Dear [**Borrower's Name**]:

Sallie Mae, Inc., now known as Navient Solutions, Inc., SLM DE Corporation, now known as Navient DE Corporation and Sallie Mae Bank (hereinafter collectively "Defendants") recently entered into a settlement with the United States Department of Justice regarding alleged violations of the Servicemembers Civil Relief Act ("SCRA"). In connection with this settlement, you have been identified as a person who may be eligible, or who may have been eligible, for SCRA benefits with respect to your account/loan.

Please read this notice and the notices included on the accompanying check. If you agree to these terms, you may endorse and/or cash the accompanying check. If you do not agree to all of the terms and conditions of this letter and the accompanying check, you should not cash or otherwise endorse the check, and should instead return the check to Defendants.

In consideration for the parties' agreement to the terms of the Consent Order entered in [Case Name], and Defendants' payment to me of \$ [payment], I, [Borrower's Name], understand that cashing or endorsing the enclosed check constitutes a final, complete, and full accord and satisfaction, settlement, release and discharge of any and all claims, arising prior to the date of this Release, related to the facts at issue in the litigation referenced above and related to the alleged violations of the Servicemembers Civil Relief Act, that I may have against Defendants and all related entities, parents, predecessors, successors, subsidiaries, and affiliates and all of its past and present directors, officers, agents manager, supervisors, shareholders, and employees and its heirs, executors, administrators, successors or assigns, except that the following claims are specifically reserved and not released: Any action that may be taken by the Federal Deposit Insurance Corporation (hereinafter "FDIC") against Sallie Mae Bank or Sallie Mae, Inc. *For California Residents only: I further understand that by cashing or endorsing the enclosed check, I expressly waive all rights under California Civil Code § 1542.*

You should be aware that the money you may receive might have consequences with respect to your federal, state, or local tax liability, as well as eligibility for any public assistance benefits you may receive. Neither Defendants nor the Department of Justice can advise you on tax liability or any effect on public assistance benefits. You may wish to consult with a qualified individual or organization about any possible tax or other consequences resulting from your receipt of this payment.

If you have any questions concerning this release or the settlement, please contact [insert contact number].

We deeply appreciate your service to our country. We are committed to serving the needs of our customers who serve in the military, and we regret any error that may have occurred on your account.

Sincerely,

Navient Solutions

Enclosure

Appendix B

RELEASE

In consideration for the parties' agreement to the terms of the Consent Order entered into *United States v. Sallie Mae, Inc. et al.*, Case No. _____ (D. Del.), and Defendants' payment to me of \$ _____, pursuant to the Consent Order, I hereby release and forever discharge all claims, arising prior to the date of this Release, related to the facts at issue in the litigation referenced above and related to the alleged violations of Section _____ of the Servicemembers Civil Relief Act, that I may have against Defendants and all related entities, parents, predecessors, successors, subsidiaries, and affiliates, and all of its past and present directors, officers, agents, managers, supervisors, shareholders, and employees and its heirs, executors, administrators, successors, or assigns.

Executed this _____ day of _____, 20__.

[PRINT NAME]

[SIGNATURE]

[JOB TITLE]



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, DC 20202

Appendix C

DEPARTMENT OF EDUCATION STATEMENT

The Department of Education greatly appreciates the sacrifices made by the men and women who serve our country, and is therefore authorizing greater flexibility in providing SCRA benefits to military servicemembers. Accordingly, effective on the date this letter is signed, the Department authorizes Sallie Mae Bank, Navient Solutions, Inc., and any other servicers who service under these servicers' Consent Orders with the Department of Justice or the Federal Deposit Insurance Corporation ("FDIC") (such servicers shall be identified as the "Navient Servicers") to apply the SCRA's interest rate benefit to Department-owned or Department-guaranteed loans consistent with the requirements of the Department of Justice's or FDIC's Consent Order with Sallie Mae Bank, *et al.* Any Navient Servicer that complies with the terms of the Department of Justice's or FDIC's Consent Order with Sallie Mae Bank, *et al.* will be deemed to be in full compliance with the Department of Education's regulations and guidance regarding SCRA benefits.

Specifically, Navient Servicers may satisfy the "written notice" requirement of the SCRA's interest rate benefit and the "written request" requirement of the Department of Education's regulations if the servicer has actual knowledge of the borrower's military service (*e.g.*, receipt of a request for SCRA benefits through an online portal; a borrower's oral or written communication of active duty status to a call center representative; receipt of Military Orders¹; receipt of a certificate from the Department of Defense's Defense Manpower Database Center's ("DMDC") SCRA website indicating the borrower is in active duty; etc.). A Navient Servicer may satisfy the written notice and written request requirements under this paragraph even if the borrower has not requested SCRA benefits. Navient Servicers may voluntarily elect to search the DMDC's SCRA website, and the Department will bear the cost of any SCRA interest rate reductions provided based upon such a search.

Furthermore, Navient Servicers may satisfy the SCRA's requirement and the Department's regulations that the borrower provide military orders calling the servicemember to military service if the Navient Servicer receives either (1) a copy of Military Orders; or (2) a certificate from the DMDC's SCRA website indicating the borrower is in active duty.

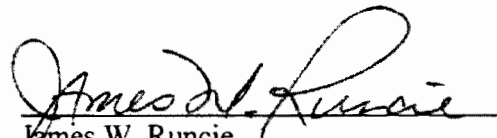
When providing benefits on this basis, a Navient Servicer may provide the interest rate benefit

¹ For purposes of this letter, the term "Military Orders" includes any document prepared exclusively by a branch of the military, the Department of Defense, or a borrower's commanding officer that indicates that the borrower is on active duty (*e.g.*, active duty orders, change of station orders, DD-214 forms, letters from commanding officers, etc.). The term "Military Orders" does not include a DOD Educational Loan Repayment Program (LRP) Annual Application, DD Form 2475.

for the dates of active duty service indicated by the DMDC's SCRA website, even if those dates show a longer period of military service than indicated in the documents provided by the servicemember.

We trust this will give Navient Servicers all of the flexibility they need to provide these important benefits to our nation's military personnel.

Navient Servicers shall not request or be entitled to receive any payment, whether under statute, regulation or contract, from the United States Department of Education relating to any of Navient Servicers' costs or expenses in negotiating or implementing this Consent Order or in regard to any payments made by Navient Servicers in regard to Direct ED Loans, FFELP ED Loans or FFELP COM Loans under Part II of this Consent Order, except as provided below. This prohibition includes, but is not limited to, any claim for interest and special allowance payments for the periods covered by any payment made under Part II of the agreement on any FFELP ED Loan or FFELP COM Loan where the interest rate reduction request was made before entry of this Consent Order. However, if a borrower requests benefits under the SCRA after this Consent Order is entered, and is appropriately determined eligible for benefits under the SCRA or the terms of this Consent Order, or if a borrower who received payments under Part II of this Consent Order is appropriately determined eligible for benefits under the SCRA or the terms of this Consent Order for military service dates after the entry of this Consent Order, Navient Servicers are eligible for payments in accordance with the terms of the regulations governing the FFELP program or the contract between the Department and Navient Servicers relating to the servicing of FFELP ED Loans and Direct Loans.


James W. Runcie
Chief Operating Officer
Federal Student Aid

5-12-2014
Date

Appendix D

EMPLOYEE ACKNOWLEDGMENT

I acknowledge that on _____, 20__, I was provided training regarding SCRA compliance and a summary of the provisions of the Consent Order entered by the Court in *United States v. Sallie Mae, Inc. et al.*, Case No. _____ (D. Del.). I have read and understand these documents and have had my questions about these documents and the SCRA answered. I understand my legal responsibilities and will comply with those responsibilities.

[PRINT NAME]

[SIGNATURE]

[JOB TITLE]