

EXHIBIT “C”

1 Fred W. Schwinn (SBN 225575)
2 Raeon R. Roulston (SBN 255622)
3 CONSUMER LAW CENTER, INC.
4 12 South First Street, Suite 1014
5 San Jose, California 95113-2418
6 Telephone Number: (408) 294-6100
7 Facsimile Number: (408) 294-6190
8 Email Address: fred.schwinn@sjconsumerlaw.com

9 O. Randolph Bragg (Pro Hoc Vice)
10 HORWITZ, HORWITZ & ASSOCIATES, LTD.
11 25 East Washington Street, Suite 900
12 Chicago, Illinois 60602-1716
13 Telephone Number: (312) 372-8822
14 Facsimile Number: (312) 372-1673
15 Email Address: rand@horwitzlaw.com

16 Attorneys for Plaintiff
17 ELLEN ANNETE GOLD

18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 ELLEN ANNETE GOLD, on behalf of herself
22 and all others similarly situated,

23 Plaintiff,

24 v.

25 MIDLAND CREDIT MANAGEMENT, INC.,
26 a Kansas corporation; and MIDLAND
27 FUNDING, LLC, a Delaware limited liability
28 company,

Defendants.

Case No. 3:13-CV-02019-WHO

**NOTICE OF TAKING ORAL DEPOSITION
OF DEFENDANT, MIDLAND CREDIT
MANAGEMENT, INC., PURSUANT TO
FED. R. CIV. P. 30(b)(6)**

Deponent: Midland Credit Management,
Inc., Rule 30(b)(6) Designee
Date: April 28, 2014
Time: 9:00 a.m.
Location: Peterson Reporting
530 B Street, Suite 350
San Diego, California 92101

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiff, ELLEN ANNETE GOLD (“Plaintiff”), will take the deposition, on oral examination, of Defendant, MIDLAND CREDIT MANAGEMENT, INC. (“MCM”), pursuant to Fed. R. Civ. P. 30(b)(6). The deposition will be taken on **April 28, 2014**, commencing at **9:00 a.m.**, at the offices of Peterson Reporting, 530 B Street, Suite 350, San Diego,

1 California 92101, or such other location as may be later designated by Amended Notice.

2 **NOTICE IS FURTHER GIVEN** that the matters on which examination is requested are as
3 follows:

- 4 1. The factual basis for MCM's Answer;
- 5 2. Any and all other information related to MCM's defenses contained in its Answer;
- 6 3. The collection methods, practices, techniques and strategies used by MCM in its efforts to
7 collect debts from consumers during the months of January 2010 through the present;
- 8 4. All account notes, collection logs, miscellaneous notes, debtor work cards, or other
9 documentation methods, if any, whether computerized, manual or other, of all activities
10 undertaken by MCM or its employees related to Plaintiff;
- 11 5. **Creation, modification, programming and use of any computer software and hardware used by**
12 **MCM to receive, compile and/or maintain information on Plaintiff or Plaintiff's account;**
- 13 6. The methods, practices, techniques and strategies used by MCM in training its collection
14 employees concerning compliance with the Fair Debt Collection Practices Act;
- 15 7. The methods, practices, techniques and strategies used by MCM in training its collection
16 employees concerning compliance with the Rosenthal Fair Debt Collection Practices Act;
- 17 8. Any bona fide error defense MCM may have with regard to the allegations set forth in the
18 Complaint filed by Plaintiff in this case;
- 19 9. Any bona fide error defense claimed by MCM in any case brought under the Fair Debt
20 Collection Practices Act from January 1, 2010, to the present;
- 21 10. Any bona fide error defense claimed by MCM in any case brought under the Rosenthal Fair
22 Debt Collection Practices Act from January 1, 2010, to the present;
- 23 11. **The design, use, and efficacy of collection notices and "educational brochures" in the form of**
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1 Exhibit "1," attached hereto;

2 12. The names, titles, residence addresses, and residence telephone numbers of all persons who
3 participated in designing, creating, furnishing, compiling or printing collection notices and
4 "educational brochures" in the form of Exhibit "1," attached hereto;

5
6 13. The process of review and/or approval that collection notices and "educational brochures" in the
7 form of Exhibit "1," attached hereto were subject to prior to mailing;

8 14. The names, titles, residence addresses, and residence telephone numbers of all persons who
9 reviewed and/or approved collection notices and "educational brochures" prior to their mailing
10 by MCM;

11
12 15. The number of collection notices and "educational brochures" in the form of Exhibit "1"
13 attached hereto mailed by MCM each month from January 1, 2010, to the present;

14 16. The metrics used to determine and evaluate the efficacy of MCM's collection notices and
15 "educational brochures" in the form of Exhibit "1" attached hereto (i.e., response rate, payments
16 received, etc.), and how those metrics compare with other collection notices used by MCM;

17
18 17. The date MCM began using collection notices and "educational brochures" in the form of
19 Exhibit "1" attached hereto;

20 18. The date MCM ceased using collection notices and "educational brochures," in the form of
21 Exhibit "1" attached hereto;

22 19. MCM's discovery responses in this case;

23 20. All documents requested by Plaintiff in the course of this case; and

24 21. The documents produced for inspection, review and copying noted below.

25
26 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Fed. R. Civ. P. 30(b) and 34,
27 Defendant is required to produce at the aforementioned time and place the following documents for
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1 inspection, review and photocopying;

- 2 1. All documents in MCM's possession sent to or received from HSBC Bank Nevada, N.A., which
3 in any way relate to the debt owed by Plaintiff;
- 4 2. All documents in MCM's possession sent to or received from MIDLAND FUNDING, LLC,
5 which in any way relate to the debt owed by Plaintiff;
- 6 3. All operation manuals or similar documents, etc., utilized by MCM relating to compliance with
7 the Fair Debt Collection Practices Act;
- 8 4. All operation manuals or similar documents, etc., utilized by MCM relating to compliance with
9 the Rosenthal Fair Debt Collection Practices Act;
- 10 5. All documents relating to the maintenance of procedures by MCM adapted to avoid any
11 violation of the Fair Debt Collection Practices Act;
- 12 6. All documents relating to the maintenance of procedures by MCM adapted to avoid any
13 violation of the Rosenthal Fair Debt Collection Practices Act;
- 14 7. All litigation filed against MCM in the past 3 years alleging violations of the Fair Debt
15 Collection Practices Act, 15 U.S.C. § 1692e;
- 16 8. All litigation filed against MCM in the past 3 years alleging violations of the Fair Debt
17 Collection Practices Act, 15 U.S.C. § 1692e(5);
- 18 9. All litigation filed against MCM in the past 3 years alleging violations of the Fair Debt
19 Collection Practices Act, 15 U.S.C. § 1692e(10);
- 20 10. All litigation filed against MCM in the past 3 years alleging violations of the Rosenthal Fair
21 Debt Collection Practices Act, Cal. Civil Code § 1788.17;
- 22 11. All documents relating to the creation, modification, programming and use of any computer
23 software and hardware used by MCM to receive, compile and/or maintain information on the
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1 Plaintiff's account;

2 12. All documents or lists which would contain or explain all abbreviations and codes, letters,
3 numerals, or symbols regularly used by MCM in its records or collection activities; and

4 13. All documents which show the metrics used to determine and evaluate the efficacy of MCM's
5 collection notices and "educational brochures" in the form of Exhibit "1," attached hereto (i.e.,
6 response rate, payments received, etc.), and how those metrics compare with other collection
7 notices used by MCM.
8

9 Pursuant to Fed. R. Civ. P. 30(b)(6), MCM shall designate and produce at the deposition one or
10 more of its officers, directors, managing agents, employees, or agents who are most qualified to testify
11 on its behalf as to the above-described matters to the extent of any information known or reasonably
12 available to the deponent. It is hereby requested that MCM provide prompt notification in writing to
13 the undersigned as to the name, address, telephone number, capacity, and job title of each person so
14 designated to testify and the matters on which this person will testify.
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16 **NOTICE IS FURTHER GIVEN** that Plaintiff intends to record the testimony at the above-
17 described deposition by audio and/or video recording, in addition to recording this testimony by the
18 stenographic method.
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20 The deposition will be taken before a deposition officer who is authorized to administer an oath.
21 If the deposition is not completed on the date set out above, the taking of the deposition will be
22 continued from day to day thereafter, except for Sundays and holidays, at the same place, until
23 completed.
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25 **DEFINITIONS**


26 1. "ESI" means "electronically stored information" as used in Federal Rule of Civil Procedure
27 34(a), and shall include, without limitation, any information, including files, documents, images,
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1 video, metadata or any combination thereof stored, created, or used on any ELECTRONIC
2 STORAGE DEVICE, disk, tape (including backup tapes and other backup media), or other
3 computer or digital storage medium, microfilm, microfiche, floppy, or any other storage or
4 recording medium. ESI includes without limitation: electronic mail messages, voice mail
5 messages, instant messaging or IM, text messages, information stored on web pages or web
6 servers, and database records.
7

8 2. "ELECTRONIC STORAGE DEVICE" means any device capable of storing ESI for any period
9 of time, including without limitation disks, including hard disks and floppy disks, solid-state
10 storage (e.g., flash drives, SD cards and memory sticks), CD-ROMs, DVDs, network servers,
11 shared servers, computers, magnetic tape, back-up tape, voice mail, temporary files, telephones,
12 and PDAs, whether currently on Defendant's premises or otherwise (e.g., at an employee's
13 home or remote office).
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15 CONSUMER LAW CENTER, INC.

16
17 Dated: March 27, 2014

18 By: 
19 Fred W. Schwinn
20 Attorneys for Plaintiff
21 ELLEN ANNETE GOLD
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CERTIFICATE OF SERVICE

I am employed in the County of Santa Clara, California. I am over the age of eighteen years and not a party to the within entitled cause. My business address is 12 South First Street, Suite 1014, San Jose, California 95113-2418. On March 27, 2014, I served the above document on the interested parties in said cause, via overnight delivery as follows:

Tomio B. Narita
Simmonds & Narita, LLP
44 Montgomery Street, Suite 3010
San Francisco, CA 94104-4816

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Jose, California, on March 27, 2014.



Fred W. Schwinn



Midland Credit Management, Inc.
8875 Aero Drive
Suite 200
San Diego, CA 92123

We can help you
reduce your past due
balance with
HSBC Bank Nevada, N.A.
and get your finances
back on track.

05-03-2012

Ellen A Gold
3790 El Camino Real # 200
Palo Alto, CA 94306-3314



Dear Ellen,

Your credit report can help you reach your goals — or it can hold you back. Your past due balance of \$3,647.81 with HSBC Bank Nevada, N.A. is being reported to the credit reporting bureaus and remains a negative item on your credit report.

Reduce the amount you owe and resolve your bill with these 2 options:

- 1** Make your payment by 06-02-2012 and receive 40% off
Your payment will be reduced to \$2,188.69 if you pay it in full by 06-02-2012. That's 40% off your current balance due.
- 2** Make 6 monthly payments and receive 20% off
Your payment will be reduced to \$2,918.25 if you make 6 monthly payments of \$486.37 by 06-02-2012. That's 20% off your current balance due.

If you are unable to make the payments required with the two options above, we may be able to set up payments as low as \$50 each month to help you resolve this past due bill.

We can help you get back on track. When you call, our skilled Account Managers will help you find a solution that fits your budget and your timeline.

Don't miss this opportunity to reduce the amount you owe and resolve this past due bill. We look forward to assisting you.

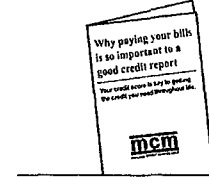
Sincerely,

H. Torres
Division Manager

P.S. We've included a free educational brochure for you, *Why paying your bills is so important to a good credit report.*

Hours of Operation:
M – Th 6am – 7pm
Fri 6am – 5pm
Sat 6am – noon PST

ED/SG



Take your first steps towards repayment today!

- Once you make a payment, interest will stop being applied to your account
- You will save up to \$1,459.12 if you choose Option 1
- Offer expiration date: 06-02-2012
- Your credit report will be updated with each payment made, and once you've completed your agreed-upon payments to settle the account, your credit report will be updated as 'Paid in Full!'

Current Balance: \$3,647.81
Payment Due Date: 06-02-2012
Original Creditor:
HSBC Bank Nevada, N.A.
Original Account No.:
5440450051997611
Current Owner:
Midland Funding LLC
MCM Account No.:
8535726585



Call:
(800) 282-2644



Click:
www.midlandcreditonline.com



Mail:
Payment coupon below

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Payment Coupon for:

Ellen A Gold
3790 El Camino Real # 200
Palo Alto, CA 94306-3314

PAYMENT DUE:
06-02-2012

Account: 8535726585

Amount Enclosed:

\$

Yes, I want to reduce my past due bill with:

- OPTION 1
Make your payment by 06-02-2012 and receive 40% off
- OPTION 2
Make 6 monthly payments of \$486.37 and receive 20% off

If you're paying by check or money order:

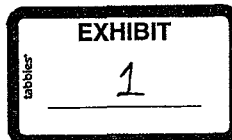
- Please make your check/money order payable to Midland Credit Management.
- Use the enclosed pre-paid envelope to send in your payment to:
PO Box 60578, Los Angeles CA 90060-0578

If you'd like to pay with a credit or debit card:

- Please call (800) 282-2644

If you'd like to set up a different payment option

- Please call (800) 282-2644. We can help you set up a monthly payment plan of as low as \$50 each month to resolve this past due bill.



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A124 ED01

Please understand this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Calls to and/or from this company may be monitored or recorded.

MAIL PAYMENTS TO: P.O. Box 60578, Los Angeles, CA 90060-0578

MAIL CORRESPONDENCE BUT NO PAYMENTS TO: MCM's business address at 8875 Aero Drive, Suite 200, San Diego, CA 92123

We are required under state law to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law:

IF YOU LIVE IN CALIFORNIA, THIS APPLIES TO YOU:

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit-reporting agency if you fail to fulfill the terms of your credit obligations.

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or <http://www.ftc.gov>.

"Nonprofit credit counseling services may be available in the area."

IF YOU LIVE IN COLORADO, THIS APPLIES TO YOU:

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COLORADOATTORNEYGENERAL.GOV/CA

A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

Midland Credit Management has a Colorado office with the following address and toll-free number: 7807 East Peakview Avenue, Centennial, CO 80111-6849. Toll-free 1-866-796-8300.

Only physical in-person payments may be accepted at this office location. All payments made via mail should be sent to the following address: P.O. Box 60578, Los Angeles, CA 90060-0578

IF YOU LIVE IN MASSACHUSETTS, THIS APPLIES TO YOU:

NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN (10) DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POST MARKED OR DELIVERED WITHIN SEVEN (7) DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO MIDLAND CREDIT MANAGEMENT, INC.

IF YOU LIVE IN MINNESOTA, THIS APPLIES TO YOU: This collection agency is licensed by the Minnesota Dept. of Commerce.

IF YOU LIVE IN NEW YORK CITY, THIS APPLIES TO YOU: New York City Department of Consumer Affairs License Number 1140603, 1207829, 1207820, 1227728

IF YOU LIVE IN NORTH CAROLINA, THIS APPLIES TO YOU: North Carolina Department of Insurance Permit #101659, #4182, #4250, and #3777. Midland Credit Management, Inc. 8875 Aero Drive, Suite 200, San Diego, CA 92123

IF YOU LIVE IN TENNESSEE, THIS APPLIES TO YOU: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

IF YOU LIVE IN UTAH, THIS APPLIES TO YOU: As required by Utah law, you are hereby notified that a negative report on your credit record may be submitted to a credit reporting agency if you fail to meet the terms of your credit obligations.

IF YOU LIVE IN WYOMING, THIS APPLIES TO YOU: As required by law, you are hereby notified that a negative report on your credit record may be submitted to a credit reporting agency if you fail to meet the terms of your credit obligations.



Call 800-282-2644 and find
out how we can help you.

Learn more about our services online at
www.midlandcreditonline.com

Why paying your bills is so important to a good credit report

Your credit score is key to getting
the credit you need throughout life.



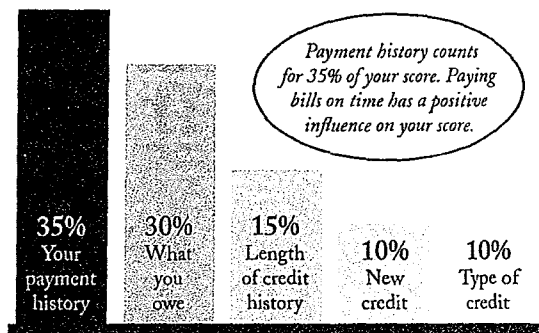
Having a good credit report is important when you want to:

- **Rent or buy a home** - Landlords and mortgage companies may review your credit report to see if you have an established behavior of making your payments on time every month.
- **Set up utilities or phone service** - A good credit history may be required for services like cable, water, phone or gas and electric.
- **Apply for a credit card** - Access to the convenience and spending power that comes with a credit card may depend on your credit history.
- **Get a loan** - When you need a mortgage or personal loan, financial institutions may base their decision on your credit history.
- **Start a business** - Your credit history may help you get financing to start a business.

We can help you get your finances back on track.
Call us at 800-282-2644.

How your credit score is calculated

Lenders review your credit score to get a snapshot of your credit risk. These five criteria are used to calculate your FICO credit score:



- 1) **Your payment history** - Whether or not you've made on-time payments has the most impact on your score.
- 2) **What you owe** - Owing a lot or being near your credit limit on multiple accounts negatively impacts your score.
- 3) **Length of your credit history** - Reviewers want to see you can responsibly manage credit accounts over time.
- 3) **New credit** - Opening multiple new credit accounts can be a greater risk for lenders.
- 5) **Types of credit** - A balanced mix of different types of credit can help improve your score.

Source: myFICO.com

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID
ST. CLOUD, MN
PERMIT NO. 725

PO Box 720
Sauk Rapids, MN 56379-0720

FIRST CLASS

Time Sensitive Documents

05-03-2012
Ellen A Gold
3790 El Camino Real # 200
Palo Alto, CA 94306-3314
[Barcode]

