

**STATE OF NORTH CAROLINA**

**WAKE COUNTY**

**IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 06:076:CF**

**IN RE:** )  
 )  
**FIRST CAROLINA FINANCE, INC.** ) **SETTLEMENT AGREEMENT**  
 ) **AND CONSENT TO ENTRY**  
 ) **OF A CONSENT ORDER**  
**License No. 124666** )  
\_\_\_\_\_ )

THIS SETTLEMENT AGREEMENT AND CONSENT TO ENTRY OF A CONSENT ORDER (“Agreement”) is made and entered into by the North Carolina Office of the Commissioner of Banks (“OCOB”), and the North Carolina Attorney General (“Attorney General”), together referred to as the “Petitioners,” and First Carolina Finance, Inc., (“Respondent”), collectively hereinafter referred to as the “Parties.”

The Parties voluntarily enter into this Agreement for the purpose of avoiding further costs and expenses and to settle, resolve and compromise the allegations in this administrative enforcement action. This Agreement is made pursuant to the authority of Chapter 150B, Article 3A, of the North Carolina General Statutes.

**I. RECITALS**

1. On October 31, 2006, after substantial investigation, the Consumer Finance Division in the OCOB filed a Notice of Hearing alleging that Respondent had engaged or was engaging in a pattern or practice of lending activities which violated the North Carolina Consumer Finance Act (“CFA”), including but not limited to, collecting impermissible or excessive interest, illegal loan structuring, unfair and deceptive trade practices and debt collection practices, collection of improper and spurious non-filing fees, and attempting to avoid the application of the CFA by a device, subterfuge, or pretense.

2. Respondent contends that it is not in violation of any North Carolina law. Respondent, however, desires to resolve this matter through this Agreement without any admission of any violation of law.

3. Respondent attests and affirms that since the filing of this administrative proceeding, it has not repossessed any secured collateral, brought any legal action against any borrower, reported any delinquent account to any credit reporting agency, turned any account over to a collection agency or assigned its rights in any loan contracts, or sold its customer list to any other party.

## II. CONSENT AND SETTLEMENT AGREEMENT

NOW, THEREFORE, the Parties, in order to resolve the matters raised in the foregoing Recitals, agree as follows:

1. The North Carolina Commissioner of Banks (“Commissioner”) has jurisdiction over Respondent and the subject matter of this proceeding.
2. The OCOB and the Attorney General have the authority to enter into this Agreement.
3. Respondent consents to entry of a consent order and waives its right to a contested hearing before the Commissioner or to appeal this Agreement to the North Carolina State Banking Commission or any court.
4. Respondent agrees that:
  - (a) Effective immediately, it will cease accepting new customers or borrowers.
  - (b) Effective immediately, it will not repossess or threaten to repossess any secured collateral, will not bring legal action or threaten such legal action against its borrowers, will not report or threaten to report delinquent accounts to any credit reporting agency, will not turn or threaten to turn any account over to a collection agency, will not assign its rights in any loan contracts to any third party, and will not sell its customer list to any other party.
  - (c) Not later than February 15, 2007, it will cease advertising, making, arranging, marketing, processing or servicing consumer loans in North Carolina; provided Respondent may continue until April 16, 2007 to collect or attempt to collect the principal balance of any outstanding loan, but may not collect any interest, fees or charges on such loans. Further, Respondent shall not demand any borrower to make any payment greater than the borrower’s customary past payment. Respondent shall, however, be permitted to accept any greater payment voluntarily tendered by a customer provided that Respondent shall not demand or coerce any such greater payment.
  - (d) Not later than Monday, April 16, 2007, Respondent will cease all lending business in the State of North Carolina, and return its consumer finance license to the OCOB. Respondent will not thereafter engage in any form of lending in this State.
  - (e) Not later than Monday, April 16, 2007, Respondent shall return to its borrowers all vehicle titles, executed powers of attorney, release all liens

against or security interests in any and all borrowers' property and keys to such vehicles, and cancelled notes.

- (f) Between February 15, 2007, and April 16, 2007, Respondent may be examined by an OCOB employee to assure compliance with this Agreement and the Consent Order.

5. Any material breach of this Agreement by Respondent shall, upon written notice by the Petitioners, (1) render void and of no effect the release provided to Respondent by the Petitioners elsewhere in this Agreement; and (2) constitute a waiver of all defenses based on the passage of time, including the statute of limitations, that might otherwise be asserted in the event that the Attorney General or OCOB files any claim based on Respondent's alleged violations, including an action to enforce this Agreement.

6. From and after the date of this Agreement, provided that Respondent complies fully with the terms of this Agreement, and in consideration thereof, the OCOB and Attorney General will consider this matter resolved and agree to institute no further enforcement or investigative action against Respondent related to its past compliance with North Carolina lending laws or the matters alleged in the Notice of Hearing.

7. The Parties further agree and acknowledge that this Agreement sets forth all of the terms and conditions between them concerning the above entitled matter and supersedes all prior oral and written statements and representations, and that there are no terms or conditions between the Parties except as specifically herein set forth.

8. No modification or waiver of any provision of this Agreement shall be effective unless it is in writing. Any modification or waiver must be signed by authorized representatives of the Parties.

9. Respondent has had the opportunity to consult with North Carolina counsel concerning the terms of this Agreement.

10. The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the Parties.

11. Nothing in this Agreement shall be construed to prohibit the Attorney General or the OCOB from investigating compliance with this Agreement or from processing individual consumer complaints relating to Respondent or construed to prohibit the OCOB from examining or conducting any investigation of any future conduct or practice of Respondent within the jurisdiction of that office not covered by this Agreement.

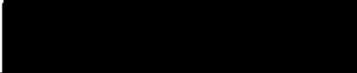
12. This Agreement shall be binding upon and inure to the benefit of the Parties hereto (including, with regard to Respondent, its officers, directors, owners, stockholders, employees, and any subsidiary or affiliate) and their respective legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Parties have executed three (3) original copies of this Settlement Agreement and Consent to Entry of a Consent Order, with original copies being retained by Respondent, the Attorney General and the Commissioner.

This the 13<sup>th</sup> day of February, 2007.

**FOR THE OFFICE OF THE  
COMMISSIONER OF BANKS**

By:   
Mark Pearce  
Deputy Commissioner of Banks  
Date: 2/12/07

By: Counsel for the Office of the  
Commissioner of Banks  
  
L. McNeil Chestnut  
Special Deputy Attorney General

Date: 02/12/07

**FOR FIRST CAROLINA  
FINANCE, INC.**

By:   
Kenneth Caldabaugh Jr.  
President  
Date: 2-8-07

By: Counsel for First Carolina Finance  
  
George Teague  
Nelson Mullins Riley &  
Scarborough, LLP

Date: 02/08/07

  
Mark Adcock  
Moore & Van Allen, PLLC

Date: 02/07/07

**FOR ATTORNEY GENERAL ROY COOPER**

By:   
Philip A. Lehman  
Assistant Attorney General  
Date: 2/13/07

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 06:076:CF

IN RE:	)	
	)	
FIRST CAROLINA FINANCE, INC.	)	CONSENT ORDER
	)	
License No. 124666	)	
_____	)	

THIS MATTER is before the undersigned Commissioner of Banks (hereinafter “Commissioner”) upon a Settlement Agreement and Consent to Entry of a Consent Order (hereinafter the “Agreement”) in the above entitled matter; and it appears to the Commissioner that the terms of the Agreement fairly and equitably resolve the issues between the Office of the Commissioner of Banks and First Carolina Finance, Inc. (hereinafter “Respondent”).

NOW, THEREFORE, it is ordered that:

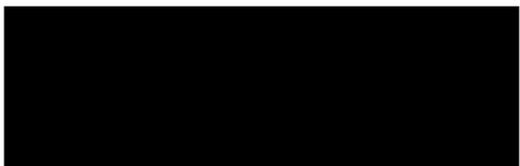
- (1) Respondent will cease accepting new customers or borrowers.
- (2) Respondent will not repossess or threaten to repossess any secured collateral, will not bring legal action or threaten such legal action against its borrowers, will not report or threaten to report delinquent accounts to any credit reporting agency, will not turn or threaten to turn any account over to a collection agency, will not assign its rights in any loan contracts to any third party, and will not sell its customer list to any other party.
- (3) Not later than February 15, 2007, Respondent will cease advertising, making, arranging, marketing, processing or servicing consumer loans in North Carolina; provided Respondent may continue until April 16, 2007 to collect or attempt to collect the principal balance of any outstanding loan, but may not collect any interest, fees or charges on such loans. Further, Respondent shall not demand any borrower to make any payment greater than the borrower’s customary past payment. Respondent shall, however, be permitted to accept any greater payment voluntarily tendered by a customer provided that Respondent shall not demand or coerce any such greater payment.

(4) Not later than Monday, April 16, 2007, Respondent will cease all lending business in the State of North Carolina, and return its consumer finance license to the OCOB. Respondent will not thereafter engage in any form of lending in this State.

(5) Not later than Monday, April 16, 2007, Respondent shall return to its borrowers all vehicle titles, executed powers of attorney, release all liens against or security interests in any and all borrowers' property and keys to such vehicles, and cancelled notes.

(6) Between February 15, 2007, and April 16, 2007, Respondent may be examined by an OCOB employee to assure compliance with the Agreement and this Consent Order.

This the 13<sup>th</sup> day of February, 2007.



Joseph A. Smith, Jr.  
Commissioner of Banks

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 06:076:CF

IN RE:

FIRST CAROLINA FINANCE, INC., )

CERTIFICATE OF SERVICE

License No. 124666 )  
\_\_\_\_\_)

THE UNDERSIGNED herewith serves upon you a copy of the CONSENT ORDER dated February 13, 2007, by email and by placing a copy of same in the United States Post Office at Raleigh, North Carolina, postage prepaid, and addressed to Respondent's attorneys of record as follows:

A. Mark Adcock  
Moore & Van Allen, PLLC  
100 North Tryon Street, Suite 4700  
Charlotte, NC 28202

George M. Teague  
Nelson Mullins Riley & Scarborough, LLP  
GlenLake One, Suite 200  
4140 Parklake Avenue  
Raleigh, NC 27612

This the 14th day of February, 2007.

ROY COOPER  
ATTORNEY GENERAL

By:



L. McNeil Chestnut  
Special Deputy Attorney General  
Counsel to the Office of the  
Commissioner of Banks