

# **Kyros & Pressly**

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SEC Complaint Center  
100 F Street N.E.  
Washington D.C. 20549-1213

To whom it may concern.

My law firm and Jones, Gillaspia & Loyd L.L.P represent Linda Almonte, a mid-level executive formerly employed with JPMorgan Chase & Co. and/or Chase Bankcard Services, Inc. (“Chase Bank”). We make this SEC whistleblower submission on behalf of Ms. Almonte.

## **Introduction**

Newspaper headlines today read of possible fraud and gross neglect by bank employees and executives in connection with the process of foreclosing on delinquent homeowners. Many federal and state agencies have launched significant investigations into large bank practices, including investigations of the following: (1) Bank practices of robo-signing affidavits to support a foreclosure proceedings; (2) Bank document and records retention policies, or lack thereof; (3) How a bank passes title of a home loan among many different entities; And (4) how a bank accounts for and properly memorializes amounts owed by borrowers. Some analysts worry that this “foreclosure mess” could cost the banks billions of dollars, which clearly would have an adverse effect not only on the Banks’ securities but also may affect the value of many registered asset-backed securities where the underlying home loan is part of the collateral upon which a registered asset-backed security was issued.

Based upon first hand observation while an employee at Chase Bank and supported by a large volume of documents in her possession and available for review by the SEC, Ms. Almonte’s whistleblower SEC submission discloses and chronicles similar fraud and

gross neglect on the part of Chase Bank as it relates to the litigation and collection process for delinquent credit card accounts. Ms. Almonte specifically discloses and blows the whistle on a variety of Chase Bank practices, including:

1. Chase Bank sold to third party debt buyers hundreds of millions of dollars worth of credit card accounts that were marked by Chase Bank as Judgment Accounts when in fact Chase Bank executives **knew** that many of those accounts had incorrect and overstated balances.
2. As part of the sale of Judgment Accounts, Chase Bank executives **knowingly** mischaracterized delinquent accounts as already reduced to judgment, when in fact proof existed that no judgment existed or at the very least insufficient documentation existed to reach that conclusion.
3. Chase Bank executives routinely **destroyed** information and communications from consumers rather than incorporate that information into the consumers credit card file, including bankruptcy notices, powers of attorney, notice of cancelation of auto-pay, proof of payments and letters from debt settlement companies.
4. Chase Bank executives **mass-executed** thousands of affidavits in support of Chase Banks collection efforts and those Chase Bank executives did not have personal knowledge of the facts set forth in the affidavits.
5. When senior Chase Bank executives were made aware of these systemic problems, senior Chase Bank executives – rather than remedy the problems – immediately **fired** the whistleblower and attempted to cover up these problems.

Her disclosures may bring into question Chase Bank’s representations regarding Chase Bank’s own securities but may also bear on certain asset-backed securities where the underlying assets are Chase Bank credit card accounts.

### **Chase Bank’s Credit Card Operation**

Chase Bank is one of the largest credit card lenders in the country. In support of this large operation, Chase Bank maintains a large central database of its credit card accounts, which is called the system of record by company employees. The system of record is in fact a compilation of many legacy databases from the many portfolio and company acquisitions Chase Bank has made over the years. These legacy databases have varying degrees of integration depending on the types of databases, software compatibility, time of acquisition and other factors. The central database and the legacy databases combined are referred to herein as the “System of Record”.

The System of Record keeps track of standard information about each credit card account such as the current balance, the current amount due, a history of payments and borrower-specific credit limits. Many departments within Chase Bank access the System of Records for a variety of purposes.

One such purpose is to keep track of on-time and delinquent accounts. The System of Record automatically or manually allows for the creation of specific status codes based upon the borrower's payment status. One such status option is to code a credit card account as in "litigation," which means that Chase Bank has elected to sue the credit card borrower for the unpaid balance. Once an account is coded "litigation" it is hereinafter referred to as a "Litigation Account". It is believed that in late 2009, Chase Bank had close to \$5 billion dollars of aggregate accounts deemed Litigation Accounts

Once a credit card account becomes a Litigation Account, at least three effects occur that are important for this whistleblower submission. First, Chase Bank has a specific department that is responsible for all activity on every Litigation Account. This internal department is called the "Credit Card Litigation Department". Second, the above-described System of Record is no longer the primary database to record and maintain facts and information about the real-time status of a Litigation Account. As explained below, the Credit Card Litigation Department has its own databases and record keeping processes. Third, credit card borrowers routinely send to Chase Bank material correspondence about the borrower's account such as settlement offers, bankruptcy notices, statement disputes, proof of payment and debt settlement letters and notices. Once an account becomes a Litigation Account, the process of assimilating these material inbound correspondences falls to the Credit Card Litigation Department.

### **Credit Card Litigation Department**

The Credit Card Litigation department performs three broad tasks:

#### *Pre-Litigation*

First within the Credit Card Litigation Department is a group of employees called the "Pre-Litigation Group". This group is responsible for assimilating all information and documents necessary to file a lawsuit against the borrower for the unpaid balance. The group also makes a final attempt to collect the unpaid balance by sending to the client written notice of Chase Bank's intent to sue and also telephoning the consumer to orally deliver a final demand for payment. The Pre-Litigation Group is also responsible for incorporating all inbound communications from account holders from the time the credit card account is marked for litigation on the System of Record until the account is assigned

for litigation as discussed below. These inbound communications are material and include bankruptcy notices, settlement offers, statement disputes, powers of attorney, notice of cancelation of auto-pay, proof of payment, and communications from debt settlement and credit counseling companies.

### *Litigation*

The Credit Card Litigation Department handles litigation in one of two manners. In some states, Chase Bank has set up its own group of lawyers to litigate unpaid accounts. If a borrower resides in a state where Chase Bank has elected to litigate unpaid accounts using its own team of lawyers, then that Litigation Account is assigned to that group of lawyers. Chase Bank has a second litigation track for borrowers that reside in states in which Chase Bank has elected not to litigate these files using in-house lawyers. In this second track, the Credit Card Litigation Department assigns a Litigation Account to a pre-approved third party law firm.

The Credit Card Litigation Department maintains a separate database of all Litigation Accounts, which hereinafter is referred to as the “Litigation Database”. The Litigation Database is not integrated with the System of Record. All litigation activity performed by in-house Chase Bank lawyers is inputted directly into the Litigation Database. Third party law firms maintain their own database and at regular intervals the third party law firms transmit via FTTP (or similar automated protocols or even by email) the data and information from these many third party law firms for assimilation into the Litigation Database.

The Credit Card Litigation Department also supports litigation activity by providing in-house lawyers and third party lawyers with executed affidavits in support of lawsuits brought to reduce unpaid balances to judgment. When a bank seeks to reduce a delinquent credit card account to a court judgment, the bank must bring suit and reduce that suit to judgment. While each state has its own unique rules and procedures, every state at some point in the process requires that a person with personal knowledge execute an affidavit setting forth basic facts of the debt. This type of affidavit is hereinafter referred to as a “Judgment Affidavit”. The Credit Card Litigation Department assigns a handful of executives to execute Judgment Affidavits, and these assigned employees are hereinafter termed the “Affidavit Signers”.

In order to produce the information necessary to generate a Judgment Affidavit, employees of Chase Bank need to reconcile the data and information contained in the System of Accounts, the Litigation Database and at times the databases maintained by

third party law firms. Given that the System of Records includes a collection of legacy databases, this reconciliation process can be tedious and is prone to significant errors.

### *Post Judgment Activities*

Once a Litigation Account is reduced from an unpaid account to an enforceable judgment, that account status is so notated on the Litigation Database. Such an account is hereinafter referred to as a “Judgment Account”. The Credit Card Litigation Department third function is to coordinate and facilitate all post judgment activities on a Judgment Account. This type of activity includes, among many activities, preparing Judgment Accounts for sale to debt buyers. Before a Judgment Account may be sold to a third party debt buyer, Chase Bank must perform some level of diligence on the Judgment Accounts being sold, including a review of the file to determine that the actual judgment is in Chase Bank’s possession and a review of the file to determine that the appropriate court officials and bank employees have executed the judgment. Additionally, Chase Bank using statistical models and algorithms should test the amount of the judgment with the actual amount owed so any discrepancies can be corrected. Traditionally, Judgment Accounts are sold in batches and in relatively small dollar amounts when compared to industry practices of selling charge off accounts to collection agencies, as a Judgment Account is more expensive for a debt buyer because the account is readily enforceable, as it has already been reduced to judgment.

### **Linda Almonte – an important executive in the Credit Card Litigation Department**

From May 2009 through November 2009 Linda Almonte was a mid level executive within the Credit Card Litigation Department at Chase Bank. She came to Chase Bank from Washington Mutual, where she had spent four years in a variety of compliance related executive positions. While at Chase Bank, Ms. Almonte supervised employees across the litigation and post-judgment functions of the department. She routinely interacted with all executives in the department and with other senior executives from across the entire bank.

In mid October 2009 Ms. Almonte was instructed to spearhead the review and diligence of what was described in real time as the largest sale of Judgment Accounts in Chase Bank memory. National Loan Exchange was brokering the large judgment sale for Chase Bank. The sale called for the sale of over 23,000 Judgment Accounts with a face value of over \$200,000,000.

The results of her preliminary diligence while working with National Loan Exchange were alarming: Ms. Almonte and her group reviewed 11, 472 Judgment

Accounts where the borrower resided in California. 44% of the Judgment Accounts did not have the judgment or if the file contained the judgment then it was not properly signed or date-stamped by the court. In some instances a Judgment Account had a judgment against Chase Bank, yet the Litigation Database had the accounts listed as a judgment in favor of Chase Bank. In multiple accounts, Ms. Almonte and her team found Release of Liens and Satisfaction of Judgments indicating that the account was paid in full, but Chase Bank senior executives specifically instructed Ms. Almonte to ignore those documents and sell those accounts as Judgment Accounts with out adjusting the account balance. Additionally, some of Ms. Almonte's preliminary diligence showed a large number of accounts with discrepancies and that the actual amounts owed Chase Bank was less than the amount set forth in the Judgment Accounts.

Ms. Almonte's review raised real concerns about more narrowly the legality and appropriateness of the specific judgment sale and more generally the entire operational process of the Credit Card Litigation Department. Ms. Almonte raised her concerns to her immediate supervisor who took no action to stop the judgment sale. Ms. Almonte escalated her concerns and in November, 2009, literally while a senior litigation counsel from Chase Bank was traveling from New York to meet with her, Ms Almonte was fired and walked out of the offices by security. The sale was consummated with DebtOne LLC after Ms. Almonte was terminated with senior Chase Bank executives fully aware of the above facts. Ms. Almonte additionally made sure that each attorney of record for each judgment was made aware of her diligence.

### **Specific Disclosures**

Based upon the first hand diligence Ms. Almonte performed in late 2009, based upon first hand knowledge Ms. Almonte gained from May 2009 until November 2009, based upon documents in her possession and available for review by the SEC, this SEC whistleblower submission makes the following assertions, which are intended to be illustrations and not exhaustive:

1. The Pre-Litigation Group in the Credit Card Litigation Department routinely destroyed material, inbound communications from borrowers including bankruptcy notices, settlement communications, and debt settlement company communications. To the extent the Pre-Litigation Group did not destroy these inbound communications, the group failed to timely incorporate the information contained in these communications into the Litigation Database. In one instance, Ms. Almonte witnessed the head of the Pre-Litigation Group shred such documents before incorporation into the Litigation Database. Failing to properly

record the information and data contained in these inbound communications to the Litigation Database rendered the information therein inaccurate.

2. Senior Chase Bank executives instructed Chase Bank employees remove important information and data from Litigation Accounts, as the retention of the information would have resulted in increased computer hardware costs. Removing important consumer information rendered the information in the Litigation inaccurate and unreliable.
3. The information and facts set forth in a Judgment Affidavit required a meaningful reconciliation among the System of Record (including at times multiple legacy databases that compromise the System of Record), the Litigation Database and at times third party law firms' own databases. At no time did the Affidavit Signers perform this reconciliation, relying on hourly workers to perform this process. Hence the Affidavit Signers did not have personal knowledge of the facts set forth in the Judgment Affidavits.
4. The Affidavit Signers in a cavalier fashion almost flaunted their lack of personal knowledge of the facts contained in the Judgment Affidavits. On numerous occasions, Ms. Almonte witnessed these Affidavit Signers work through at times 3-foot tall stacks of Judgment Affidavits at once during weekly multi-hour long, non-related company meetings. The notaries were not present at these meetings. The Affidavit Signers simply relied on hourly workers to reconcile amounts owed and then treated the actual execution of the affidavits as busy work to be performed while the Affidavit Signers could focus on other matters.
5. The reconciliation process itself was manual in nature, cumbersome at best and prone to significant errors. Chase Bank failed to properly integrate its computer systems and databases so the underlying facts of these affidavits required the reconciliation of information from multiple databases. The diligence performed by Ms. Almonte in late 2009 uncovered errors in the actual amount owed by a borrower and the amount Chase Bank claimed to be owed in the Judgment Affidavit. Indeed, Ms. Almonte determined that as many as 20% of the Judgment Accounts to be sold failed an internal test to check for accuracy. Such errors could be the result of systemic errors in the reconciliation process, which Chase Bank could have resolved if it unified its database onto one platform.
6. Chase Bank failed to properly maintain records and documents that supported the status of a Judgment Account. For example, a Chase Bank required practice was to maintain a copy of a judgment secured in Chase Bank's favor in the account file. In late 2009, Ms. Almonte audit work found that in a large percentage of the files, Chase Bank did not have a record of obtaining such a

judgment and in fact in some files the records indicated that the borrower had judgments against Chase Bank.

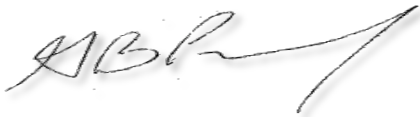
7. Chase Bank sold to third party debt buyers hundreds of millions of dollars worth of credit card accounts that were marked as Judgment Accounts when in fact Chase Bank knew that many of those accounts had material defects, were not in fact Judgment Accounts and had incorrect and overstated balances.
8. As part of the sale of Judgment Accounts, Chase Bank executives knowingly mischaracterized delinquent accounts as already reduced to judgment, when in fact proof existed that no judgment existed.
9. As part of the sale of Judgment Accounts, Chase Bank executives knowingly mischaracterized delinquent accounts as Judgment Accounts when insufficient documentation existed to reach that conclusion.

### **Conclusion**

The facts as set forth herein show evidence of violations of federal law that are subject to the SEC Whistleblower Program. Additionally the conduct articulated herein could give rise to significant liabilities to Chase Bank, which in turn could affect the value of its securities. My client may be willing to meet with an investigator from your office (or the appropriate federal agency) and may be willing to produce the extensive documentation in her possession that evidences the facts as set forth herein.

I am available on an ongoing basis to discuss this matter should the need arise.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Pressly', with a long horizontal flourish extending to the right.

George Pressly. ESQ.