

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

-----X
CITIBANK (SOUTH DAKOTA), N.A.
PLAINTIFF,

-AGAINST-

NICHOLAS GENEVIEVE-TWEED
DEFENDANT(S).
-----X

INDEX NUMBER
C&S FILE NO. P013776

COMPLAINT

PLAINTIFF, BY ITS ATTORNEYS, COMPLAINING OF THE DEFENDANT(S), RESPECTFULLY ALLEGES THAT:

1. PLAINTIFF IS A NATIONAL BANKING ASSOCIATION ORGANIZED PURSUANT TO FEDERAL LAW. PLAINTIFF IS A DIRECT CREDITOR AND NOT A DEBT PURCHASER, AND AS SUCH IS NOT REQUIRED TO BE LICENSED BY THE DCA.
2. UPON INFORMATION AND BELIEF, THE DEFENDANT(S) RESIDES OR HAS AN OFFICE IN THE COUNTY IN WHICH THIS ACTION IS BROUGHT, OR THE DEFENDANT(S) TRANSACTED BUSINESS WITHIN THE COUNTY IN WHICH THIS ACTION IS BROUGHT, EITHER IN PERSON OR THROUGH AN AGENT AND THE INSTANT CAUSE OF ACTION AROSE OUT OF SAID TRANSACTION.

AS AND FOR A FIRST CAUSE OF ACTION

3. PLAINTIFF REPEATS AND REALLEGES EACH AND EVERY ALLEGATION CONTAINED IN THE FOREGOING PARAGRAPHS AS IF MORE FULLY SET FORTH HEREIN.
4. PLAINTIFF OFFERED TO OPEN A CREDIT ACCOUNT, ACCOUNT NO. XXXXXXXXXXXXX8477 (HEREINAFTER THE "ACCOUNT"), IN DEFENDANT'S NAME.
5. DEFENDANT ACCEPTED THE OFFER BY USING THE ACCOUNT.
6. DEFENDANT DEFAULTED BY FAILING TO MAKE PAYMENTS WHEN DUE.
7. DEMAND FOR PAYMENT OF THE ACCOUNT WAS MADE ON DEFENDANT, BUT DEFENDANT FAILED TO MAKE ALL THE REQUESTED PAYMENTS.
8. AFTER CREDITING DEFENDANT FOR ALL PAYMENTS AND CREDITS, THERE IS NOW DUE AND OWING BY DEFENDANT TO PLAINTIFF THE SUM OF \$4,807.57, NO PART OF WHICH HAS BEEN PAID DESPITE DUE DEMAND THEREFOR.

AS AND FOR A SECOND CAUSE OF ACTION

9. PLAINTIFF REPEATS AND REALLEGES EACH AND EVERY ALLEGATION CONTAINED IN THE FOREGOING PARAGRAPHS AS IF MORE FULLY SET FORTH HEREIN.

10. THAT HERETOFORE, PLAINTIFF RENDERED TO DEFENDANT(S) A FULL AND TRUE ACCOUNT OF THE INDEBTEDNESS OWING BY THE DEFENDANT(S) AS A RESULT OF THE ABOVE AGREEMENT, IN AN AMOUNT AS HEREINABOVE SET FORTH WHICH ACCOUNT STATEMENT WAS DELIVERED TO AND ACCEPTED WITHOUT OBJECTION BY THE DEFENDANT(S) RESULTING IN AN ACCOUNT STATED IN THE SUM OF \$4,807.57, NO PART OF WHICH HAS BEEN PAID DESPITE DUE DEMAND THEREFOR.

WHEREFORE, PLAINTIFF DEMANDS JUDGMENT AGAINST DEFENDANT(S) IN THE SUM OF \$4,807.57 TOGETHER WITH COSTS AND DISBURSEMENTS.

THE UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT, TO THE BEST OF HIS/HER KNOWLEDGE, INFORMATION AND BELIEF, FORMED AFTER AN INQUIRY REASONABLE UNDER THE CIRCUMSTANCES, THE PRESENTATION OF THE WITHIN COMPLAINT AND THE CONTENTIONS THEREIN ARE NOT FRIVOLOUS AS DEFINED IN PART 130-1.1 OF THE RULES OF THE CHIEF ADMINISTRATOR.

DATED: DECEMBER 14, 2010

YOURS, ETC.

COHEN & SLAMOWITZ, LLP, NYC DCA LICENSE NO. 1160860

BY: _____

D. Cohen/M. Slamowitz/L. John ESQS.

ATTORNEYS FOR PLAINTIFF

P.O. BOX 9004, 199 CROSSWAYS PARK DRIVE, WOODBURY,
NY 11797-9004

(516) 686-8983; (800) 293-6006 ext. 8983;

Refer to C&S File No. P013776

Queens County Civil Court
Civil Judgment

Plaintiff(s):
CITIBANK (SOUTH DAKOTA) N A

vs.

Defendant(s):
NICHOLAS GENEVIEVE-TWEED

Index Number: CV-000363-11/QU

Judgment issued: On Default

On Motion of:

COHEN & SLAMOWITZ LLP
199 CROSSWAYS PARK DR, P O BOX 9004,
Woodbury, NY 11797-9004

Amount claimed	\$4,807.57	Index Number Fee	\$45.00	Transcript Fee	\$0.00
Less Payments made	\$150.00	Consumer Credit Fee	\$95.00	County Clerk Fee	\$0.00
Less Counterclaim Offset	\$0.00	Service Fee	\$20.00	Enforcement Fee	\$40.00
Interest	\$0.00	Non-Military Fee	\$0.00	Other Disbursements	\$0.00
Attorney Fees	\$0.00	Notice of Trial Fee	\$0.00	Other Costs	\$0.00
Cost By Statute	\$20.00	Jury Demand Fee	\$0.00		
Total Damages	\$4,657.57	Total Costs & Disbursements	\$220.00	Judgment Total	\$4,877.57

The following named parties, addressed and identified as creditors below:

Plaintiff creditor(s) and address

(1) CITIBANK (SOUTH DAKOTA) N A
701 EAST 60TH ST NORTH, Sioux Falls, SD 57117-

Shall recover of the following parties, addresses and identified as debtors below:

Defendant debtor(s) and address

(1) NICHOLAS GENEVIEVE-TWEED
64-19 136TH ST, FLUSHING, NY 11357-1114

Judgment entered at the Queens County Civil Court, 89-17 Sutphin Boulevard, Jamaica, NY 11435, in the STATE OF NEW YORK in the total amount of **\$4,877.57** on **03/22/2011** at **10:49 AM**.

Judgment sequence 1

Carol Alt
CHIEF CLERK

Carol Alt, Chief Clerk Civil Court

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

INDEX NUMBER 363/11

CITIBANK (SOUTH DAKOTA), N.A.
PLAINTIFF,

FILE NO. P013776

-AGAINST- **DEFAULT JUDGMENT**

NICHOLAS GENEVIEVE-TWEED
DEFENDANT:



AMOUNT CLAIMED IN COMPLAINT.....		\$4,807.57
LESS CREDITS ON ACCOUNT.....		\$150.00
PLUS INTEREST AT 9% FROM-----		WAIVED
		<u>\$4,657.57</u>
Costs by Statute.....	\$20.00	
Service of Summons and Complaint.....	\$20.00	
Fee for Index Number.....	\$140.00	
Prospective Execution Fee.....	\$40.00	
Costs taxed at		\$220.00
		<u>Total.....\$4,877.57</u>

STATE OF NEW YORK, COUNTY OF NASSAU

The undersigned, an attorney at law of the State of New York, the attorney of record for the Plaintiff herein, subscribes and affirms under penalties of perjury, that the disbursements above specified are correct and true and have been or will necessarily be made or incurred herein and are reasonable in amount; that pursuant to the Affidavit of Service of the process server on the file herein, the defendant was served, but have since **failed to appear, answer or move** herein, and the time to do so has expired so that Plaintiff is entitled to a judgment by default.

Plaintiff waives its cause of action based on an account stated.

Dated: March 10, 2011

DAVID A. COHEN, ESQ./MITCHELL G. SLAMOWITZ, ESQ.
COHEN & SLAMOWITZ, LLP
199 CROSSWAYS PARK DRIVE, WOODBURY, NY 11797
(516) 364-6006

ADJUDGED that CITIBANK (SOUTH DAKOTA), N.A., Plaintiff, with offices at 701 EAST 60TH ST. NORTH SIOUX FALLS, SD 57117, recover of NICHOLAS GENEVIEVE-TWEED Defendant, residing at 64-19 136TH ST FLUSHING, NY 11367-1114, the sum of \$4,657.57 with interest of \$0.00 making a total of \$4,657.57 together with costs and disbursements of \$220.00, amounting in all to the sum of \$4,877.57 and that the Plaintiff has execution therefor.

ID: 116482

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

CITIBANK (SOUTH DAKOTA), N.A.
PLAINTIFF,

-AGAINST-

NICHOLAS GENEVIEVE-TWEED
DEFENDANT.

INDEX NUMBER 363/11
FILE NO. P013776

**AFFIRMATION IN
SUPPORT OF ENTRY OF
JUDGMENT**



David A. Cohen/Mitchell G. Slamowitz, an attorney duly admitted to the practice of law in the State of New York, hereby affirms the following to be true pursuant to CPLR § 2106 and under the penalties of perjury states that:

1. I am a member of Cohen & Slamowitz, LLP, attorneys for the Plaintiff, and I am fully familiar with the facts and circumstances herein.
2. I make this affirmation in additional support of Plaintiff's request for the entry of judgment against NICHOLAS GENEVIEVE-TWEED (hereinafter the "Defendant").

ADDITIONAL MAILING

3. On **February 07, 2011**, Deponent caused to be mailed a copy of the summons in separate post-paid envelopes in an official depository of the U.S. Postal Service addressed to each defaulting defendant's last known residence address as set forth below, by first class mail in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof that the communication was from an attorney or concerns an alleged debt. More than 20 days have elapsed and the same has not been returned as undeliverable by the U.S. Postal Service; if same was returned, the copy of the summons was re-mailed to the defendant'(s) last known residence.

NICHOLAS GENEVIEVE-TWEED

64-19.136TH ST FLUSHING, NY 11367

STATUTE OF LIMITATIONS

4. The cause of action forming the basis of Plaintiff's request for the entry of judgment accrued in the state of South Dakota. Upon information and belief, the statute of limitations in South Dakota is six years. Based upon a reasonable inquiry, I have reason to believe that the Statute of Limitations did not expire under South Dakota state law or under New York state law at the time when this action was commenced.

BALANCE DUE

5. Submitted simultaneously herewith is an affidavit from Plaintiff indicating that the balance due and owing is \$4,807.57. Plaintiff, however, requests that judgment be entered for the sum of \$4,657.57, which is less than the balance outstanding as stated in the Plaintiff's affidavit.
6. Plaintiff waives the increase in the balance currently due by the Defendant and respectfully requests that judgment be entered for the sum of \$4,657.57, and costs to be taxed by the clerk of the court.

DCA LICENSE REQUIREMENT

7. The Plaintiff herein is **not required to obtain a New York City Department of Consumer Affairs license** because it is not a Debt Collection Agency as defined by the administrative code of the City of New York.
8. Consequently, the complaint filed herein does not contain a license number for the Plaintiff, as again Plaintiff is not required to obtain one.

MILITARY STATUS

9. I provided Department of Defense, Defense Manpower Data Center, with the pertinent information about the defendant, in particular the date of birth and/or social security number, which I know because they were provided to me by the Plaintiff. I requested that a military investigation be conducted for the purpose of entry of a judgment.

10. Based upon the response I received from the Department of Defense, Defense Manpower Data Center, dated **March 10, 2011**, I am convinced that the defendant is not in any branch of the United States military.

WHEREFORE, Plaintiff respectfully requests the entry of a default judgment against the Defendant(s).

I certify that, to the best of my knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that the presentation of this paper or the contentions herein are not frivolous as defined in 22 NYCRR §130-1.1(a).

Dated: March 10, 2011

David A. Cohen, Esq./Mitchell G. Mandowitz, Esq.

