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SENATE

P.S. Res. No. 421

RECEIVED BY: 

INTRODUCED BY SENATOR MANNY VILLAR

RESOLUTION

URGING THE SENATE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE REPORTED UNFAIR PRACTICES AND RUDE CONDUCT OF CREDIT CARD COLLECTION AGENCIES, EXCESSIVE INTERESTS IMPOSED AND THE BREACH OF CONFIDENTIALITY OF CARDHOLDER'S INFORMATION BY CREDIT CARD COMPANIES WITH THE END IN VIEW OF REVIEWING AND STRENGTHENING MEASURES FOR THE PROTECTION OF CONSUMERS' WELFARE

WHEREAS, the 1987 Constitution provides: "The state shall protect consumers from malpractices and from substandard or hazardous products (Section 9, Article XV)";

WHEREAS, more and more consumers are using their credit cards instead of cash to pay for goods or services;

WHEREAS, data showed that credit card receivables of universal, commercial, and thrift banks amounted to P133.93 billion as of end-September 2010 or P3.76 billion more than the P130.17 billion registered in the same period in 2009 as consumers turned to their credit cards to finance the purchase of goods and services;

WHEREAS, according to the Financial Consumer Affairs Group ("FCAG") of the Bangko Sentral ng Pilipinas, of the 8,561 complaints received by the FCAG from 2006 to present, about 2,400 complaints involved credit cards;

WHEREAS, many of the complaints on credit cards involved unfair collection practices;

WHEREAS, Bangko Sentral ng Pilipinas issued several circulars involving credit card transactions, to wit:

- 1) Circular No. 702 series of 2010 tightening its rules and regulations on the issuance of credit cards as well as practices of collecting agencies due to the proliferation of fake cards and mounting consumer complaints;
- 2) Circular No. 454 dated 24 September 2004 providing for Unfair Collection Practices such as (a) the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person; (b) the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws; (c) disclosure of the names of credit cardholders who allegedly refuse to pay debts; (d) threat to take any action that cannot legally be taken; (e) communicating or threat to communicate to any person credit

information which is known to be false, including failure to communicate that a debt is being disputed; (f) any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a cardholder; and (g) making contact at unreasonable/inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the cardholder has given express permission or said times are the only reasonable or convenient opportunities for contact.

- 3) Circular 398 dated August 21, 2003 governing credit card operations of banks and subsidiary credit card companies.

WHEREAS, in the case of *Ileana Dr. Macalinao vs. Bank of the Philippine Islands (G.R. No. 175490, September 17, 2009)*, the Supreme Court held that the stipulation of 3% monthly interest rate and 3% monthly penalty rate appearing in the Credit Card Agreement between BPI and Petitioner Macalinao excessive and unconscionable. It reduced the monthly rates of interest and penalty to 1% each;

WHEREAS, the High Court further ruled that this is not the first time that the Court has considered the interest rate of 36% per annum as excessive and unconscionable. We held in *Chua vs. Timan*:¹

The stipulated interest rates of 7% and 5% per month imposed on respondents' loans must be equitably reduced to 1% per month or 12% per annum. **We need not unsettle the principle we had affirmed in a plethora of cases that stipulated interest rates of 3% per month and higher are excessive, iniquitous, unconscionable and exorbitant. Such stipulations are void for being contrary to morals, if not against the law.** While C.B. Circular No. 905-82, which took effect on January 1, 1983, effectively removed the ceiling on interest rates for both secured and unsecured loans, regardless of maturity, nothing in the said circular could possibly be read as granting *carte blanche* authority to lenders to raise interest rates to levels which would either enslave their borrowers or lead to a hemorrhaging of their assets. (Emphasis supplied.)

WHEREAS, other laws pertinent to credit transactions includes the Access Devices Regulations Act of 1998 (Republic Act No. 8484 dated February 11, 1998), Credit Information System Act (Republic Act No. 9510 signed into law on October 31, 2008), Consumers Act of the Philippines (Republic Act No. 7394);

NOW THEREFORE, BE IT RESOLVED, by the Senate of the Philippines to urge the Senate Committee on Banks, Financial Institutions and Currencies to conduct an investigation, in aid of legislation, into the reported unfair practices and rude conduct of credit card collection agencies, iniquitous interests imposed and the breach of confidentiality of cardholders' information by credit card companies with the end in view of reviewing and strengthening measures for the protection of consumers' welfare.

Adopted,


MANNY VILLAR

¹G.R. No. 170452, August 13, 2008, 562 SCRA 146, 149-150.