

BEFORE THE INDUSTRIAL ACCIDENT BOARD
OF THE STATE OF DELAWARE

WENDOVER INC.,)	
)	
Employer,)	
)	
and)	Hearing No. 1462198
)	
SHIVANI INC.,)	
)	
Employer,)	
)	
v.)	Hearing No. 1442616
)	
GLOBAL FINANCIAL CREDIT LLC,)	
)	
a Delaware company.)	

ORDER

Pursuant to due notice of time and place of hearing served on all parties in interest, this matter came before the Industrial Accident Board on a motion by counsel for Wendover Inc. and Shivani Inc. (collectively “Employers”) against Global Financial Credit LLC (“Global Financial”) for its violation of a perpetual injunction the Board issued (the “*Shivani* injunction”) pursuant to 19 *Del. C. § 2355*’s strict prohibition against debt collection on compensation payments. That injunction specifically applied to *all* other claims under Delaware’s compensation law, stating:¹

Global Financial [is] hereby PERPETUALLY ENJOINED from entering into or attempting to enforce the assignment at issue or any other such device in the State of Delaware pertaining to compensation claims and from attempting to collect on such from employers, insurers, their attorneys or from any compensation payments.

It also stated that any violation of the injunction would entitle employer’s counsel to bring the matter before the Board for additional sanctions, to include costs and automatic referral to Superior Court for contempt. Four months after the injunction was issued, while representing Wendover Inc., the same defense counsel received a call from Wendover’s adjustor after he, too, received a notice from a Global Financial employee about a collections matter in violation of the injunction.

¹ *Shivani Inc. v. Global Financial Credit LLC*, No. 1442616 (Del. I.A.B. Sept. 6, 2018).

Employers' counsel immediately filed a motion to have Global Financial sanctioned for violation of the injunction and assessed attorney fees for both of his clients (Shivani Inc. from the original matter and Wendover Inc. in the instant matter). Employers' counsel also subpoenaed Global Financial at that time for information on all Delaware workers' compensation claims in which Global Financial has entered into a non-recourse litigation advance or other such device with any claimant from 2002 to present in order to ensure that proper procedures are set in place to prevent this from happening again in any claim and to ensure that all claimants, employers and insurers are notified that Global Financial's actions shall immediately cease in the State of Delaware.

Employers' counsel, Global Financial and the Department of Justice on behalf of the State and the Industrial Accident Board then entered into good faith negotiations towards a settlement. Global Financial has contended at all times during these negotiations that it took reasonable precautions and implemented procedures internally following the issuance of the *Shivani* injunction to prevent further collections actions, but that an error with its collections software led to a notice being issued by an administrative employee. Notwithstanding, Global Financial recognizes the importance of strict compliance and therefore supports the following resolution of the pending matters before the Board. Contingent on approval by the Industrial Accident Board, the terms of the settlement that they have reached are as follows:

1. Pursuant to 19 *Del. C.* § 2355 Global Financial Credit LLC, its heirs, assigns, parent and sub corporations (collectively "Global Financial") shall **IMMEDIATELY** cease all further attempts to collect on any payments that in any way emanate from any workers' compensation claim in the State of Delaware and shall **IMMEDIATELY** cease to enter into, sell or negotiate any Cash Advance Agreement or other such device that in any way pertains to a Delaware workers' compensation claim. For all things workers' compensation in the State of Delaware, Global Financial's operations shall immediately and perpetually cease.
2. Within **THIRTY DAYS** of the date of this Order, Global Financial shall notify all claimants whose claims arise under the laws of the State of Delaware to whom Global Financial has advanced funds as of the date of this Order (including all personal injury claimants, all

workers' compensation claimants and all other claimants) and their Delaware counsel, via notification substantially in the form attached to this Order as **EXHIBIT A**, that to the extent any claim asserted by any of them is or at any time becomes covered by the workers' compensation law of the State of Delaware, or becomes subject to adjudication before the Industrial Accident Board that:

- a. Pursuant to 19 *Del. C.* § 2355, and to the extent any and all compensation due to the claimant arises under the workers' compensation laws of the State of Delaware (hereinafter a "workers' compensation payment"), all claims, liens and other rights of recovery in favor of Global Financial are void *ab initio* and unenforceable;
 - b. All workers' compensation payments are and shall be free of all claims, liens and other rights of recovery in favor of Global Financial; and
 - c. Global Financial waives all claims, liens and other rights of recovery to the extent of any and all such workers' compensation payment(s).
3. To ensure Global Financial's compliance with paragraph 2 above, Global Financial shall provide a copy of each such notification within **SIXTY DAYS** of the date of this Order, along with a list of all cases pending as of the date of this Order, together with any available contact information for the claimants and their counsel in those cases as follows:
- a. Global Financial shall send copies of each notification, and of the list with contact information, electronically and via certified mail to Oliver Cleary, Esquire of the Delaware Department of Justice; and
 - b. Global Financial shall send one additional copy of each notification, and of the list with contact information, via certified mail to the Hon. Mark Murowany, Chairman of the Industrial Accident Board, c/o Stephanie Parker, Administrator at 4425 North Market Street; Third Floor; Wilmington, DE 19802.
4. Global Financial shall notify all claimants whose claims arise under the laws of the State of Delaware to whom Global Financial advances funds on or after the date of this Order and their Delaware counsel, via notification substantially in the form attached to this Order as **EXHIBIT B**, that to the extent any claim asserted by any of them is or at any time becomes covered by the workers' compensation law of the State of Delaware, or becomes subject to adjudication before the Industrial Accident Board that:
- a. Pursuant to 19 *Del. C.* § 2355, and to the extent any and all compensation due to the claimant arises under the workers' compensation laws of the State of Delaware (hereinafter a "workers' compensation payment"), all claims, liens and other rights of recovery in favor of Global Financial are void *ab initio* and unenforceable;
 - b. All workers' compensation payments are and shall be free of all claims, liens and other rights of recovery in favor of Global Financial; and
 - c. Global Financial waives all claims, liens and other rights of recovery to the extent of any and all such workers' compensation payment(s).
5. Within **THIRTY DAYS** of the approval of this settlement by the Industrial Accident Board, Global Financial Credit LLC shall pay \$10,704.80 to the Law Office of Joseph Andrews to cover the costs of his representation of Shivani Inc. in I.A.B. No.: 1442616 and his representation of Wendover Inc. in I.A.B. No.: 1462198.

6. If Global Financial Credit LLC should violate any of the above terms within the deadlines imposed, then in addition to all other actions at law and equity that may be available, it shall automatically and immediately be subjected to the following penalties:
- a. Global Financial shall automatically be assessed a \$250,000.00 civil penalty payable to the Workers' Compensation Fund of the State of Delaware;
 - b. Global Financial shall automatically be referred for contempt under 19 *Del. C.* § 2320(6); and
 - c. In the case of failure to pay the attorney fees and costs referenced in Paragraph 5, Employers' counsel shall also be entitled to additional costs and fees requested at that time.

After considering the above, the Industrial Accident Board GRANTS Employers' motion and hereby APPROVES the terms of this settlement reached by counsel for the Employers, Global Financial Credit LLC and the Department of Justice of the State of Delaware.

IT IS SO ORDERED THIS 14TH DAY OF MARCH, 2019.

INDUSTRIAL ACCIDENT BOARD


MARK MUROWANY


ROBERT MITCHELL

I hereby certify as Hearing Officer that the foregoing is a true and correct decision of the Industrial Accident Board.



Joseph Andrews, Esquire for Employers
Oliver Cleary, Esquire for the Department of Justice
Daniel Herr, Esquire for Global Financial Credit LLC

EXHIBIT A

[LETTERHEAD]

[Date]

[Claimant Address]

Re:

Dear {Claimant, with a copy to Claimant's counsel}

We are writing to notify you ("Claimant") that, in certain circumstances involving the assertion of a workers' compensation claim, or the recovery of workers' compensation benefits, Global Financial Credit LLC ("Global") is precluded by Delaware law from asserting a claim, lien or other right of recovery in the proceeds of a settlement, verdict or other award in this case.

Specifically, to the extent any claim asserted by or on behalf of Claimant is or at any time becomes covered by workers' compensation coverage, or becomes subject to adjudication before the Industrial Accident Board, then: (i) pursuant to 19 *Del. C.* § 2355, and to the extent of any and all compensation due to the Claimant under the workers' compensation laws of the State of Delaware (hereinafter a "workers' compensation payment"), any claim, lien or other right of recovery in favor of Global Financial is void *ab initio* and unenforceable, and (ii) any workers' compensation payment is and shall be free of any claim, lien or other right of recovery in favor of Global Financial.

Global Financial waives any claim, lien or other right of recovery to the extent of any and all such workers' compensation payment(s). Should you have any questions, please contact: [name / telephone number / email address]

Sincerely,

[Signee name]

cc: Claimant's Counsel

EXHIBIT B

NOTIFICATION TO DELAWARE CLAIMANTS AND THEIR COUNSEL REGARDING WORKERS' COMPENSATION PAYMENTS

PLEASE TAKE NOTICE: That, except for attachments pursuant to child support orders, Section 2355 of Title 19 of the Delaware Code prohibits the assignment of workers' compensation payments due or to become due to any claimant, and provides that workers' compensations payments and claims therefore shall be exempt from claims of creditors.

Accordingly, Global Financial Credit LLC ("Global Financial") herewith provides notice to all claimants in the State of Delaware to whom Global Financial advances funds, and their Delaware counsel, that to the extent any claim asserted by any of them is or at any time becomes covered by workers' compensation coverage, or becomes subject to adjudication before the Industrial Accident Board, then: (i) pursuant to 19 Del. C. § 2355, and to the extent of any and all compensation due to the claimant under the workers' compensation laws of the State of Delaware, any claim, lien or other right of recovery in favor of Global Financial is void *ab initio* and unenforceable, and (ii) that any workers' compensation payment is and shall be free of any claim, lien or other right of recovery in favor of Global Financial, and Global Financial waives any claim, lien or other right of recovery to the extent of any and all such workers' compensation payment(s).