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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

November 5, 2015

Rick Savard
Chief Executive Officer
UniRush, LLC
4701 Creek Rd, Suite 200
Cincinnati, OH 45242

Dear Mr. Savard:

Late last month, it became public that thousands of individuals who use your prepaid debit card, RushCard, were unable to access their funds. Your company stated that this was due to problems that occurred during a “technology transition.” That “technology transition” glitch continued for more than 2 weeks and forced many consumers to be unable to access entire paychecks, resulting in a cascade of unpaid bills and financial harm. In fact, your company did not announce until last week that all major functionality had been restored.¹ However, it is still the case that some customers’ direct deposits were returned to payroll or government benefits administrators, and you have advised consumers to follow up with benefits providers directly to resubmit the funds.²

RushCard is purportedly used by more than 500,000 individuals in the country, many of whom may not have access to traditional banking accounts.³ A large proportion of unbanked households rely on prepaid cards for the same purposes that households associate with checking accounts: to pay for everyday purchases or bills and to receive paychecks.⁴ Nearly 8% of all households used prepaid cards in 2013, with nearly 1 in 4 unbanked households using a prepaid card during the same time period.⁵ The Consumer Financial Protection Bureau (CFPB) recently proposed rules to regulate prepaid cards,⁶ and the CFPB’s Director Richard Cordray issued a statement about RushCard on Friday, October 23, which stated that the “CFPB is taking direct action to get to the bottom of this situation that may have harmed thousands of innocent consumers already...to address harm that has occurred, the harm that may still be occurring, and the cascading financial effects of consumers not having access to their funds for more than a week.”⁷ To further understand what happened, please answer the following questions by November 30, 2015:

- How many people were affected by the disruption? How many of those people are from our home states of Ohio and New Jersey?

¹ <https://twitter.com/RushCard>.

² <https://twitter.com/RushCard>.

³ <http://www.washingtonpost.com/news/wonkblog/wp/2015/10/26/how-a-hip-hop-moguls-company-made-a-mess-of-peoples-finances/>.

⁴ <https://www.fdic.gov/householdsurvey/2013report.pdf>.

⁵ <https://www.fdic.gov/householdsurvey/2013report.pdf>.

⁶ <http://www.consumerfinance.gov/newsroom/cfpb-proposes-strong-federal-protections-for-prepaid-products/>.

⁷ <http://www.consumerfinance.gov/newsroom/statement-by-cfpb-director-richard-cordray-on-rushcard-prepaid-card-incident/>.

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- Many individuals who were unable to access their funds or to receive incoming payments may have, as a result, been unable to pay bills. This may, in turn, have triggered late fees or other charges assessed by other companies. Do you plan to address consumers who were harmed as a result of this malfunction? Last week, you announced that RushCard would create a reimbursement fund of \$2 to \$3 million. Can you provide further detail on this fund?
- Your company stated that the “technology transition” glitch began on Sunday, October 11, when the company changed to a new processing partner and that the transition did not “go as planned.”⁸ Please explain how this malfunction happened, and why it took so long to resolve.
- RushCard, like many other prepaid cards and credit cards, bans class actions and forces consumers to bring claims individually through arbitration.⁹ As the CFPB has noted in a recent report, arbitration clauses can act as a barrier to class actions and many people would benefit from class action settlements.¹⁰ How does this arbitration clause affect consumers seeking redress in this incident, including on a class basis?
- On October 17, your company made the following statement in response to increasing scrutiny of the malfunction: “As a thank you for sticking with us and to support your cash needs during the upcoming Holiday season, we’ve declared a Fee Holiday Season, meaning from November 1, 2015 to February 29, 2016, you can use your RushCard without incurring any fees from our Fee Schedule.”¹¹ Please describe the average monthly fees typically incurred by your consumers, including which of the fees on your Fee Schedule are incurred most often. The Fee Schedule for the Rush Unlimited Plan includes a monthly fee of \$7.95 or \$5.95 for payroll/government benefit Direct Deposit in the calendar month, among other fees.¹² Do you plan to waive October fees for those individuals whose payroll direct deposits may not have processed correctly?

This “technology transition” glitch is a clear indication that more oversight and consumer protection is needed in the prepaid card market. We are encouraged by the steps the CFPB has taken to ensure fair dealing in this market, and look forward to hearing your response on how to prevent such a malfunction from harming consumers again. As the CFPB moves forward in finalizing rules on the prepaid card market, it is important to understand how the market operates and ensure that consumer accounts and information are handled responsibly.

Sincerely,



Sherrod Brown
United States Senator



Robert Menendez
United States Senator

⁸ <https://twitter.com/RushCard>.

⁹ <https://www.rushcard.com/legal/cardholder-agreement>.

¹⁰ http://files.consumerfinance.gov/f/201503_cfpb_factsheet_arbitration-study.pdf.

¹¹ <https://twitter.com/RushCard>.

¹² <https://www.rushcard.com/legal/cardholder-agreement/>.