

Mark W. Mumma, System Administrator
www.ProvidianFinancialSucks.com
address unavailable on web site
Oklahoma City, OK 99999-9999

Monday, April 26, 2004

||.|.||||.||||.||||.||||.
ATTN: Susan Lau
Providian
201 Mission Street
San Francisco, CA 94105

Re: Alleged unauthorized use of trademark: Providian

Ms. Lau:

I am in receipt of your letter of April 23, 2004. We are fully aware that the Providian Logo is a trademark of Providian Financial Corp. That is the very reason why we are using it on our site. You see, ProvidianFinancialSucks.com is a consumer news and information web site *about your company*. It is a place where people can learn about the misfortunes of your customers. Since the presence of your logo on the web site is used in conjunction with the comment and criticism of Providian itself, it is not an infringement of your trademark rights, rather, it is a fair use as defined by the very law you claim I am violating (17 USC 107).

We have taken great care to adequately explain that we are not Providian, nor are we trying to fool anyone into thinking that we are Providian. Quite the opposite, in fact, we are telling people to avoid Providian and to never, EVER acquire a Providian card of any kind. We do this because of our rights under the first amendment *and* because Providian sucks. Further, we find it laughable that Providian has the audacity to accuse anyone of being "deceptive or unfair". Isn't that a classic case of the pot calling the kettle black?

We have also taken great care assuring that the ownership of the Providian logo is obvious. At the bottom of each page on the ProvidianFinancialSucks.com web site is the following:

This site is not affiliated in any way with Providian Financial Corporation. Intellectual property consisting of the Providian logo and stylized Providian text are either trademarks or registered trademarks of Providian Financial Corporation and/or its subsidiaries.

You will also note that the fact that we are using your logo in the context of comment and criticism is also documented plainly at the bottom of each page as follows:

Other trademarks are the property of their holders. These trademarks are present on this site for the purpose of comment and criticism as permitted in the United States Copyright Act of 1976 (17 USC 107) (and related treaties) which states:

"Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for

purposes such as **criticism, comment**, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is **not an infringement** of copyright.”

As far as “linking your logo to web sites” I am not sure I follow you there. The only link comprised of your logo is the one that links to OUR site. I am unaware of any occurrences of your logo linking to other sites from our site. Please reply with the entire URL of said link.

I do owe you a “thank you” for sending me a hard copy of your *new* logo. I will get to work right away to incorporate your new logo into the ProvidianFinancialSucks.com web site. I will, of course, give Providian full credit for ownership of this new logo too.

Lastly I must close with the unhappy news that I will not be able to comply with your inane request. Perhaps if you would actually “read” a web site where your logo is displayed instead of instantaneously assuming that the appearance of said logo is some type of infringement, you might actually learn something. I will continue to use your logo for the purpose of comment and criticism (mostly criticism) until one of the following two situations arise:

- A. Providian stops lying, cheating and stealing from its customers.
- B. Providian sends me a cashier’s check in the amount of \$250,000.00 USD for the fair and equitable purchase price of the domain name www.ProvidianFinancialSucks.com.

Next time you should probably rely on the advice of attorneys instead of drawing legal conclusions based on search engine results as your letter implies. I find it both ironic and humorous that you would claim that someone is taking advantage of you after all that you have done to your own customers.

Your request is denied. I will continue to use your logos for as long as I see fit. This is your official notification and acknowledgement of said use. Now stop whining and go do something productive.

Sincerely,



Mark W. Mumma

*ENCLOSURE

CC: James L. Menzer
Menzer Law Offices
PO Box 818
Blackwell, OK 74631-0818