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CLERK, CIRCUIT COURT  
FAIRFAX, VA

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

FILED UNDER SEAL PURSUANT TO VA. CODE § 8.01-216.1 et seq.

COMMONWEALTH OF VIRGINIA )  
 )  
*ex rel* )  
 )  
 Nisar A. Siddiqui, )  
 )  
 v. )  
 )  
 NAVY FEDERAL CREDIT UNION )  
 820 Follin Lane )  
 Vienna, VA 22180 )  
 )  
 Service On: )  
 Cutler Dawson, CEO )  
 820 Follin Lane )  
 Vienna, VA 22180 )  
 )  
 And )  
 )  
 NAVY FEDERAL FINANCIAL GROUP, INC. )  
 1007 Electric Avenue, Suite 100 )  
 Vienna, VA 22180 )  
 )  
 Service on registered agent: )  
 Mark R. Machen )  
 1007 Electric Avenue, Suite 100 )  
 Vienna, VA 22180 )  
 )  
 Defendants. )

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Law No. 2007-02169

COMPLAINT

Nisar A. Siddiqui brings this action against Defendants Navy Federal Credit Union and Navy Federal Financial Group, Inc. in the name of the Commonwealth of Virginia as well as in his own name, for violations of the Virginia Fraud Against

Taxpayers Act §8.01-216.1 *et seq.*, and for violations of the anti-retaliation provisions of that Act.

### PARTIES

1. Relator Nisar A. Siddiqui is a resident of the Commonwealth of Virginia, and is the “original source” of the facts alleged in this Complaint. The facts alleged in this Complaint have not been disclosed publicly, but were uncovered by Mr. Siddiqui in the course of his employment with Defendants.

2. Mr. Siddiqui brings this action on behalf of the Commonwealth of Virginia pursuant to Virginia Code § 8.01-216.1 *et seq.* The Commonwealth is therefore a party to this action. Mr. Siddiqui has taken all steps required by Virginia Code § 8.01-216.1 *et seq.*, including serving a Disclosure Memorandum and copies of all material evidence on the Commonwealth prior to filing this action pursuant to § 8.01-216.5(B).

3. Defendant Navy Federal is a federal credit union headquartered in Vienna, Virginia. Navy Federal has 106 branch offices and numerous administrative offices worldwide, including in Merrifield, Virginia, where Mr. Siddiqui worked and where the events giving rise to this cause of action occurred. Navy Federal began offering mortgage services in 1979.

4. Defendant Navy Federal Financial Group, Inc. is a wholly-owned subsidiary of Navy Federal Credit Union. Navy Federal Financial Group was formed to provide expanded services for Navy Federal members, including, but not limited to, insurance and expanded mortgage services.

5. Defendants Navy Federal and Navy Federal Financial Group form a joint enterprise and at all times relevant to this Complaint were under common control. Upon

information and belief, the entity known as Navy Federal Financial Group is jointly liable for some or all of the actions complained of herein. As used in this Complaint, "Navy Federal" refers to both Defendants.

### FACTUAL ALLEGATIONS

6. Mr. Siddiqui began employment with Navy Federal on or about May 3, 1999.

7. In May of 2004 he was promoted to the position of Senior Loan Accounts Adjustment specialist.

8. At all times relevant to this Complaint, Mr. Siddiqui performed at a level that met or exceeded the expectations of his employers. Mr. Siddiqui received regular promotions and increases in pay, and was recognized for exemplary work performance.

9. As part of his work for Navy Federal, Mr. Siddiqui was responsible for, among other things, reconciling and monitoring several Navy Federal general ledgers concerning mortgage closing costs.

10. Among those ledgers was General Ledger 280960. General Ledger 280960 was an accounts payable ledger, which meant that it held funds that were the property of other people, and had been delivered to them by means of a check or other instrument payable on demand.

11. Mr. Siddiqui was also assigned the task of reconciling entries on General Ledger 172938. This General Ledger was an accounts receivable ledger, which meant that entries in this ledger represented monies that were owed to Navy Federal.

12. By law, all unclaimed funds held by a bank, credit union or other depository and belonging to a resident of the Commonwealth must be surrendered to the

Commonwealth when certain statutory prerequisites are met. These statutory prerequisites are codified in Virginia Code § 55-210.2:1 *et seq.*, and represent Virginia's codification of the Uniform Disposition of Unclaimed Property Act.

13. Like all banks and federal credit unions, Navy Federal is required by law to report all unclaimed funds that meet the criteria set forth in Va. Code § 55-210.2:1 *et seq.*, including § 55-210.3:2.

14. Pursuant to § 55-210.3:2, any check, draft, or similar instrument is presumed abandoned when (i). the banking or financial organization is directly liable for the amount; (ii). such instrument has been outstanding for more than five years after it was payable or after its issuance if such instrument was payable on demand; and, (iii). the owner has not evidenced any interest in the funds in writing or orally to a bank employee which resulted in a written memo or other record that is part of the banking or financial organization's file.

15. Once a check, draft, or similar instrument has met the above criteria (i.e., once it is presumed to be abandoned) Virginia Code § 55-210.11:1 provides the procedural and administrative steps for the Commonwealth to take possession of the funds.

16. Pursuant to § 55-210.11:1, once property is presumed to be abandoned, financial organizations are required to "report and remit" to the state Treasurer or his designee all funds so held. Such reports are to be filed on or before November 1st of each year, and must include the nature and any identifying information available regarding the property.

17. If the rightful owner of the funds fails to come forward, the funds are paid to the Treasurer of the Commonwealth.

18. Unclaimed funds that are put in the possession of the Commonwealth are used, in part, to support the Commonwealth Literary Fund, and to enable the construction of schools throughout the Commonwealth, among other things.

19. Because the Commonwealth Literary Fund is used to finance the construction of schools and other purposes for the public good, the unclaimed monies serve to lessen the burden on the Commonwealth and therefore on Virginia taxpayers.

20. In the spring of 2005, Mr. Siddiqui discovered a number of highly irregular transactions in the course of his work.

21. In the first of these transactions, Mr. Siddiqui learned that approximately \$12,397 (twelve thousand three hundred and ninety seven dollars) in unclaimed funds had not been placed into the unclaimed funds ledger but had instead been left in the accounts payable ledger (General Ledger 280960).

22. Navy Federal uses accounting software that generates a “virtual voucher” each time money is transferred from one ledger to another.

23. Virtual vouchers are used to track funds as they are moved between ledgers in the Navy Federal accounting system.

24. Navy Federal had intentionally left these funds in the accounts payable ledger instead of moving them to the unclaimed funds general ledger. Navy Federal had taken these actions with the intent of concealing unclaimed funds from the Commonwealth of Virginia and avoiding the November 1st certification requirement each year.

25. Mr. Siddiqui learned that these funds had been used for Navy Federal's own purposes instead of being surrendered to the Commonwealth.

26. Specifically, these funds had become unclaimed at some point prior to the end of 2004, were not paid to the Commonwealth but were instead transferred to General Ledger 172938. The funds were then used to reimburse Navy Federal for uncollected debts from bad loans.

27. From virtual vouchers generated by Navy Federal employees during these transactions, Mr. Siddiqui learned that the actions of Navy Federal employees in moving unclaimed funds from General Ledger 280960 to General Ledger 172938 were intentional and knowing.

28. When Mr. Siddiqui realized this, he immediately took these facts to his superiors at Navy Federal.

29. Mr. Siddiqui's supervisors at Navy Federal admitted that this transfer of funds was incorrect, and that the money was unclaimed property and should have been paid to the Commonwealth of Virginia.

30. One or more Navy Federal employees then corrected the \$12,397 transaction by moving the funds to the unclaimed funds general ledger.

31. The actions complained of in paragraphs 6 through 30 were intentional, knowing and willful. Navy Federal employees had taken these actions with the specific intent of defrauding the Commonwealth and decreasing Navy Federal's obligation to pay money to the Commonwealth.

32. At the time Mr. Siddiqui uncovered the fraud alleged in paragraphs 6 through 31, he uncovered an identical transaction involving more than \$200,000.00 (two hundred thousand dollars).

33. The facts of this transaction were identical to those complained of above. Specifically, Navy Federal had failed to report unclaimed funds to the Commonwealth of Virginia and had failed to move those funds to the unclaimed funds general ledger. Rather than placing these funds to the unclaimed funds general ledger, the funds had been used to write-off uncollected bad debts from approximately 210 accounts that Navy Federal would not be able to collect on.

34. Mr. Siddiqui immediately complained about these acts to his superiors. Among other things, Mr. Siddiqui made his direct superiors aware that what they were doing was illegal and that he would not assist or facilitate such illegal activities. When Mr. Siddiqui's superiors were not responsive, he took his complaints to officials in a position higher than his direct superiors.

35. Unlike the prior transaction involving \$12,397 that had been used to write-off uncollectible bad debts, Navy Federal's officers and agents did not make any attempt to rectify this transaction involving the \$200,000.

36. Mr. Siddiqui eventually complained to a number of higher officials at Navy Federal, and took every step he could take to rectify this situation.

37. No agent or employee of Navy Federal took any steps to correct the fraud Mr. Siddiqui complained about, or to punish those individuals responsible for the fraudulent acts.

38. Navy Federal intentionally and knowingly defrauded the Commonwealth by retaining control and possession of funds that should have been surrendered to the Commonwealth by operation of Virginia Code § 55-210.11:1.

39. Mr. Siddiqui's supervisors at Navy Federal encouraged Mr. Siddiqui to be quiet about these violations. Mr. Siddiqui refused to be quiet about these violations, and refused to be an accomplice in illegal activity.

40. In the spring of 2005, Mr. Siddiqui received the lowest performance evaluation of his career. Mr. Siddiqui received the smallest raise he had ever received during his employment with Navy Federal.

41. In his annual performance appraisal, Navy Federal's officers and agents noted that Mr. Siddiqui displayed a lack of "emotional intelligence" and that he had offended several employees of Navy Federal.

COUNT ONE—VIOLATION OF THE VIRGINIA FRAUD AGAINST  
TAXPAYER'S ACT—Creation of a false record or false statement in order to conceal,  
decrease or avoid an obligation to pay money to the Commonwealth of Virginia in  
violation of § 8.01-216.3(A)(7)  
(Against both Defendants)

42. All of the preceding paragraphs are reincorporated and realleged by reference, herein.

43. Navy Federal has an obligation to report all unclaimed funds on or before November 1 of each year. This obligation is imposed upon Navy Federal by operation of Virginia law.

44. Navy Federal intentionally and willfully concealed funds that rightfully belonged to the Commonwealth by leaving these funds in accounts payable General Ledger 280960, rather than moving the funds to the unclaimed funds ledger.

45. By keeping these funds in General Ledger 280960 instead of moving them to the unclaimed funds ledger, Navy Federal concealed the funds from the Commonwealth and avoided reporting such funds to the Commonwealth on November 1st of each year. Navy Federal thus created a false record or statement and used that false record or statement to decrease an obligation to pay money to the Commonwealth.

46. On November 1 of the years 2003, 2004, and 2005, Navy Federal created and filed the required disclosure that was supposed to disclose all unclaimed funds as required by Virginia law. Because this disclosure did not reveal unclaimed funds due and owing to the Commonwealth, and because Navy Federal had intentionally failed to disclose unclaimed funds, the reports created and filed with the Commonwealth by Navy Federal were false.

47. Upon information and belief, Navy Federal also created and filed a false disclosure as described in this Complaint on November 1, 2006.

48. As a result of the creation and filing of these false reports, monies that should have been transferred to the ownership and control of the Commonwealth were left in the ownership and control of Navy Federal.

49. Navy Federal then used these funds for its own purposes, rather than transmitting the monies to the Commonwealth.

50. As a result of Navy Federal's filing these false reports, the obligation of Navy Federal to pay money to the Commonwealth of Virginia was decreased, and at least \$200,000 that should have gone into the Literary Fund to finance the construction of schools was instead used for the purposes of Navy Federal.

51. As a result of the preceding allegations, the Commonwealth of Virginia has been damaged.

WHEREFORE, Relator, Nisar A. Siddiqui, on behalf of the Commonwealth of Virginia, demands Judgment against Navy Federal in the amount of \$10,000 (ten thousand dollars) for each false report filed on or before November 1st of each year; Relator further demands that he receive the maximum award under Virginia Code § 8.01-216.5; Relator also demands his reasonable attorney's fees, costs, and all other relief allowed by the Virginia Fraud Against Taxpayer's Act.

**COUNT TWO—VIOLATION OF THE VIRGINIA FRAUD AGAINST  
TAXPAYER'S ACT—Intentionally concealing, avoiding, or decreasing an obligation to  
pay or transmit money to the Commonwealth of Virginia in violation of § 8.01-  
216.3(A)(7)**  
(Against both Defendants)

52. All of the preceding paragraphs are reincorporated and realleged by reference, herein.

53. By law, all unclaimed funds in the Commonwealth must be delivered to the Commonwealth when certain statutory prerequisites are met. These statutory prerequisites are codified in the Virginia Code, as alleged.

54. Like all banks and federal credit unions, Navy Federal and/or Navy Federal Financial are required by law to report all unclaimed funds to the Commonwealth pursuant to Virginia law.

55. Unclaimed funds that become the property of the Commonwealth are used to support the Commonwealth Literary Fund, which is used to finance the construction of schools throughout the Commonwealth and to lessen the burden on Virginia tax payers, among other things.

56. Navy Federal intentionally and willfully withheld more than \$200,000 that rightfully belonged to the Commonwealth of Virginia and was due and payable to the Commonwealth of Virginia.

57. In order to conceal these funds from the Commonwealth, Navy Federal made and/or used one or more false reports. The actions of Navy Federal in this regard were knowing, willful, and fraudulent. Navy Federal's agent and/or employees had actual knowledge that Defendants were submitting false claims. Navy Federal took these actions with the express intent of decreasing its obligation to pay money to the Commonwealth of Virginia.

58. Alternatively, the actions of Navy Federal were taken with reckless disregard and/or deliberate ignorance and/or extreme carelessness with regard to whether these monies were rightfully the property of the Commonwealth of Virginia.

59. Navy Federal then used money rightfully belonging to the Commonwealth for its own purposes.

60. Upon information and belief, several million dollars in additional funds that rightfully belonged to the Commonwealth of Virginia were also misappropriated to Navy Federal in this same manner.

61. As a result of Navy Federal's actions, the Commonwealth of Virginia has been damaged.

WHEREFORE, Relator, Nisar A. Siddiqui, on behalf of the Commonwealth of Virginia, demands Judgment against Navy Federal in the amount of \$10,000 (ten thousand dollars) for each false record or statement made and/or used by Navy Federal as alleged herein, plus three times the damages sustained by the Commonwealth pursuant to

Virginia Code § 8.01-216.3(A)(7) in the amount of \$600,000 (six hundred thousand dollars); Relator further demands that he receive the maximum award under Virginia Code § 8.01-216.5; Relator also demands his reasonable attorney's fees, costs, and all other relief allowed by the Virginia Fraud Against Taxpayer's Act.

**COUNT THREE—VIOLATION OF THE VIRGINIA FRAUD AGAINST  
TAXPAYERS ACT—Wrongful Termination and Discrimination/Constructive Discharge  
in violation of § 8.01-216.8  
(Against both Defendants)**

62. All of the preceding paragraphs are realleged and reincorporated by reference, herein.

63. When Mr. Siddiqui uncovered the actions of Navy Federal complained of herein, he took immediate steps to rectify the situation.

64. Navy Federal's employees and/or agents retaliated against Mr. Siddiqui by, among other things, giving him a negative performance appraisal and failing to give him an increase in pay equivalent to the increases he had gained in past years.

65. Navy Federal further harassed Mr. Siddiqui and discriminated against him because he had reported the fraud of Navy Federal's agents and/or employees.

66. Further, because Navy Federal refused to correct its general ledgers and return funds to the Commonwealth that rightfully should have been put in the possession of the Commonwealth, Navy Federal forced Mr. Siddiqui to make a choice between being an accomplice to a crime and resigning from his position at Navy Federal.

67. Mr. Siddiqui chose not to participate in illegal and unlawful activity, and thus was forced to resign.

WHEREFORE, Relator, Nisar A. Siddiqui, demands Judgment against Navy Federal in an amount equal to two times his back wages in the amount of \$150,000 (ONE

HUNDRED FIFTY THOUSAND DOLLARS) pursuant to Virginia Code § 8.01-216.8;  
Mr. Siddiqui further demands reinstatement, and all other equitable relief allowed under  
law; Mr. Siddiqui also demands his reasonable attorney's fees, costs, and all other relief  
allowed by the Virginia Fraud Against Taxpayer's Act.

Mr. Siddiqui demands a trial by jury.

Respectfully Submitted,



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2/24/07