

\$11 Million Dollar FDIC Settlement to Benefit 60,000 College Students

Written by Charlene Crowell
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As millions of college students return to campus, a recent settlement by the Federal Deposit Insurance Corporation (FDIC) may become a financial blessing to students and their parents. An estimated 60,000 students are expected to share \$11 million in restitution from two financial firms – Higher One Holdings, Inc. and Bancorp Bank.

According to FDIC, beginning in July 2008, the firms charged multiple nonsufficient fund (NSF) fees from a single merchant transaction. By allowing student accounts to remain overdrawn for long periods of time, the firms were able to collect more NSF fees while also charging more fees for subsequent deposits to student accounts.

Most importantly, these practices exposed an often hidden role that financial institutions have on college campuses. As student monies were eaten up by these fees, the remaining available funds diminished the availability of monies intended for tuition and other student expenses.

FDIC held that Bancorp Bank, based in Wilmington, Del. was responsible to ensure that Higher One operated the OneAccount program in compliance with all applicable laws. Unfair or deceptive acts or practices are violations of the Federal Trade Commission Act.

According to the U.S. Public Interest Research Group (PIRG), Higher One has card agreements with 520 campuses that enroll 4.3 million students. Commenting on the settlement announcement, Rich Williams, higher education advocate for U.S. PIRG said, “We commend the FDIC for holding Higher One accountable. Student aid should not be a piggy bank for banks to dip into especially when their practices are unfair or deceptive.”

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In May, U.S. PIRG released The Campus Debit Card Trap, a report that found banks and financial firms now control or influence federal financial aid disbursement to more than 9 million students by linking checking accounts and prepaid debit cards to student IDs and providing financial aid disbursement services. According to the report, students can pay significant fees that are charged against their student aid, including per-swipe fees of 50 cents, inactivity fees of \$10 or more after six months and overdraft fees of up to \$38. Financial institutions use aggressive marketing to maximize these fees, the report found.

The FDIC settlement will also require the two firms to pay a combined \$282,000 in civil penalties. In addition, should Higher One fail to fully repay the \$11 million in restitution, Bancorp Bank will be financially responsible for restitution payment. Higher One expects to pay credits on current and charged-off accounts. Closed accounts are expected to be paid by check.

Additionally, the settlement orders multiple changes to practices by the two financial firms.

Higher One has agreed to:

- Not charge NSF fees to accounts that have been in a continuous negative balance for more than 60 days;
- Not charge more than three NSF fees on any single day to a single account;
- Not charge more than one NSF fee with respect to a single automated clearing house transaction that is returned unpaid within any 21-day period;
- Refrain from misleading or deceptive representations or omissions in its marketing materials and/or disclosures; and
- Institute a sound compliance management system.

Similarly, Bancorp Bank is now required to:

- Correct all violations;
- Significantly increase its management of third-party risk;
- Increase board oversight of all compliance matters; and
- Improve its compliance management system.

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In the aftermath of the Great Depression, Congress created the FDIC in 1933 to restore public confidence in the nation's banking system. The FDIC insures deposits at 7,309 banks and savings associations across the country.

Today, a series of recent enforcement actions in financial services are giving hope to consumers: the Consumer Financial Protection Bureau's recent \$140 million action against Capital One, the Department of Justice's \$175 million action against Wells Fargo and the newest FDIC \$11 million settlement signal that regulators are heeding the concerns of consumers.

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