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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, CONSUMER FINANCE )  
BUREAU, ) Docket No. 2008-9-12  
)  
Complainant, )  
)  
vs. ) **ORDER DENYING APPLICATION FOR**  
) **A DEBT/CREDIT COUNSELOR LICENSE**  
)  
APPLY 2 SAVE, INC., )  
)  
Respondent. )  
\_\_\_\_\_ )

The Director of the Idaho Department of Finance (Director), pursuant to the Idaho Collection Agency Act (the Act), Idaho Code § 26-2221, *et seq.*, hereby finds as follows:

**I**  
**FINDINGS**

1. Apply 2 Save, Inc. (Respondent) is an Idaho corporation that was incorporated on May 1, 2008. Respondent conducts its mortgage modification business from 7905 Meadowlark Way, Suite A, Coeur d'Alene, Idaho 83815. Respondent's president is Derek Reed Oberholtzer.

2. In or around September 2008, the Idaho Department of Finance (Department) became aware of possible unlicensed mortgage modification activity by Respondent. At that

time, the Department informed Respondent of Idaho's licensure requirements for businesses conducting mortgage modification activity in Idaho, which activity falls within the definition of debt or credit counseling under the Act, and advised Respondent to cease such activity until it received an Idaho debt/credit counselor license.

3. On December 29, 2008, the Idaho Department's Consumer Finance Bureau received via facsimile an application for a debt/credit counselor license. Such application was incomplete. That same day, a Department representative notified Respondent of the application deficiencies. From December 29, 2008 until March 31, 2009, Respondent attempted to cure the deficiencies in its application.

4. During a pre-license examination conducted from April 14, 2009 through April 17, 2009, the Department found evidence of unlicensed activity being conducted by Respondent, its agents, or its affiliated companies in Idaho between the time periods of at least July 9, 2008 through December 16, 2008 on at least one hundred (100) occasions.

5. On April 20, 2009, the Idaho Attorney General's Office, Consumer Protection Division (the Attorney General) filed a civil complaint against Respondent and its president, Mr. Oberholtzer, in the First Judicial District Court in Kootenai County, Idaho. In its complaint, the Attorney General alleged violations of the Idaho Consumer Protection Act, Idaho Code § 48-601, *et seq.*, to include engaging in unfair methods of competition, deceptive advertising, accepting fees for services that were never provided, deducting money from consumers' financial accounts without authorization, and failing to pay refunds to consumers.

6. On June 9, 2009, Respondent filed a Chapter 7 Bankruptcy Petition in the United States Bankruptcy Court for the District of Idaho.

## **II** **CONCLUSIONS**

7. The allegations of the Consumer Protection Division of the Idaho Attorney General's Office in its civil complaint filed on April 20, 2009, and the consumer statements, affidavits, and information compiled by the Consumer Protection Division establish that Respondent obtained or attempted to obtain fees, compensation, or consideration from persons through false or fraudulent representations or statements that a debt, loan, or extension of credit would be eliminated, reduced, or substituted within the meaning of Idaho Code § 26-2226(1). Such conduct constitutes violations of the Act.

8. The Director concludes that Respondent's conduct as evidenced by the foregoing facts establish that Respondent engaged in the business of contracting with debtors to effect the adjustment, compromise, or discharge of any account, note, or indebtedness without first obtaining a license from the Director, in violation of Idaho Code § 26-2223(7).

9. The Director concludes that Respondent's conduct and business practices as evidenced by the foregoing facts demonstrate a lack of fitness to engage in business activities authorized for a licensee under the Act, within the meaning of Idaho Code § 26-2227(1).

10. Idaho Code § 26-2227(1)(I) authorizes the Director to deny an application for a debt/credit counselor license, after notice and the opportunity for a hearing, if he finds that the applicant has violated any provision of the Act or if the applicant demonstrates a lack of fitness to engage in business activities authorized for such a license under the Act. The Director finds that these grounds have been established.

11. Based on the foregoing, the following order is appropriate and in the public interest.

**ORDER**

**NOW, THEREFORE, PURSUANT TO THE IDAHO COLLECTION AGENCY ACT, IDAHO CODE § 26-2221, *ET SEQ.*, IT IS HEREBY ORDERED THAT RESPONDENT'S APPLICATION FOR A DEBT/CREDIT COUNSELING LICENSE IS DENIED.**

**NOTICE**

12. Respondent is hereby notified that the foregoing ORDER DENYING APPLICATION FOR A DEBT/CREDIT COUNSELOR LICENSE is a final order of the Director. Pursuant to Idaho Code § 67-5246, Respondent may file a motion for reconsideration or request for a hearing of this Order within fourteen (14) days of the issuance of this Order. The motion for reconsideration or request for a hearing shall be served on:

Michael Larsen  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of such motion for reconsideration or request for a hearing shall also be served on the Department's counsel, Joseph B. Jones, Deputy Attorney General at the same address. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

13. If Respondent timely files a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

14. If Respondent timely files a request for hearing, Respondent will be notified of the date, time, and place of the hearing, as well as the name of the presiding officer. At the hearing, the Respondent will be entitled to enter an appearance, introduce evidence, examine and

cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. Respondent may also be represented by legal counsel at its own expense.

15. Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal from such order to the district court by filing a petition in the district court of the county in which:

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides; or
- d. the real property or personal property that was the subject of the agency action is located.

16. An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

**IT IS SO ORDERED.**

DATED this 30<sup>th</sup> day of JUNE, 2009.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

A handwritten signature in black ink, appearing to read "Gavin M. Gee", is written over a horizontal line.

GAVIN M. GEE  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of July, 2009, I caused a true and correct copy of the foregoing ORDER DENYING APPLICATION FOR A DEBT/CREDIT COUNSELOR LICENSE to be served upon the following by the designated means:

Apply 2 Save, Inc.  
Attn: Derek Reed Oberholtzer  
7905 Meadowlark Way, Suite A  
Coeur d'Alene, ID 83815

- U.S. mail, postage prepaid
- certified mail
- overnight mail
- hand delivery

  
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Paralegal