

LAWRENCE G. WASDEN
Attorney General

A. RENÉ MARTIN, I.S.B. #3188
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8092
Facsimile: (208) 332-8016
rene.martin@finance.idaho.gov

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

STATE OF IDAHO, DEPARTMENT)
OF FINANCE, CONSUMER FINANCE)
BUREAU,)

Complainant,)

vs.)

PROFESSIONAL RECOVERY)
CONSULTANTS, INC., a North Carolina)
corporation,)

Respondent.)

Docket No. 2010-9-09

CONSENT ORDER

The Director of the State of Idaho, Department of Finance, Consumer Finance Bureau (Director) has conducted a review of the Idaho collection activities of PROFESSIONAL RECOVERY CONSULTANTS, INC. (the Respondent). Pursuant to such review, it appears to the Director that the Respondent has violated provisions of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act). The Director and the Respondent have agreed to resolve this matter through this Consent Order rather than through a formal administrative proceeding or civil action. Therefore, the Director deems it appropriate and in the public interest that this

Consent Order be entered. The Respondent voluntarily consents to the entry of this Consent Order.

RESPONDENT

1. The Respondent was formed as a North Carolina corporation on April 5, 1979. The Respondent conducts business as a collection agency in Idaho from 2700 Meridian Parkway, Suite 200, Durham, North Carolina 27713. The Respondent's CEO is Stephen B. Miller, and its president is Geoffrey S. Miller.

FACTS

2. On October 6, 2004, the State of Idaho, Department of Finance, Consumer Finance Bureau (Department) issued to the Respondent Idaho Collection Agency License No. CCA 4206, authorizing it to engage in collection activities in Idaho. The license continued in effect through March 15, 2009.

3. Idaho Code § 26-2231(1), and –(2) provide that a collection agency licensee must file with the Director a license renewal form providing complete information as required by the Director, and pay a \$100 fee by March 15th each year. Failure to do so results in the automatic expiration of the license as of March 15th of the applicable year.

4. The Respondent failed to renew its Idaho collection agency license by March 15, 2009.

5. On March 25, 2009, the Department notified the Respondent that on March 16, 2009, Idaho Collection Agency License No. CCA 4206 was cancelled by operation of law, due to the Respondent's failure comply with the renewal requirements of the Act by March 15, 2009. That letter also notified the Respondent that it was prohibited from engaging in collection agency activities without holding the license required by the Act.

6. On or about June 4, 2009, the Department received an application for an Idaho collection agency license submitted by the Respondent. A Department licensing staff member who reviewed the Respondent's licensing application determined that the application was not complete.

7. On June 10, 2009, a Department staff member notified that Respondent via e-mail that its licensing application was incomplete, and requested that the Respondent provide additional information, to include detailed information concerning the extent of its unlicensed collection activity in Idaho from March 15, 2009 to the date of that request.

8. Because the Department had received no response to its e-mail of June 10, 2009, on September 16, 2009, the Department again notified the Respondent via e-mail that its licensing application was deficient, requested that additional information be provided, and again notified the Respondent that it was not authorized to engage in collection activity in Idaho until it became licensed under the Act.

9. On September 25, 2009, the Department received a response to its September 16, 2009 e-mail to the Respondent, but found the information provided still deficient. On September 30, 2009, the Department again notified the Respondent via e-mail that its licensing application was incomplete, and notified the Respondent that it was not authorized to engage in collection activity in Idaho until it became licensed under the Act.

10. The Department received no response to its September 30, 2009 e-mail to the Respondent. The next communication the Department received from the Respondent occurred on May 14, 2010, when it received an e-mail from the Respondent's new compliance officer, inquiring as to the status of the license application process. On that same date, a Department

licensing staff member notified the Respondent's compliance officer that the license deficiencies had never been cured, and there was no license in place.

11. On or about July 9, 2010, the Department received a new application request from the Respondent. The information provided by the Respondent showed that the Respondent had continued to collect in Idaho during the period from March 16, 2009 to at least May 18, 2010, involving at least 1,077 collection contacts against 123 Idaho residents.

FINDINGS

ENGAGING IN UNLICENSED COLLECTION ACTIVITIES IN IDAHO

12. The allegations set forth in paragraphs 1 through 11 above are fully incorporated herein by this reference.

13. Idaho Code § 26-2223 provided as follows, in pertinent part:

26-2223. Collection agency, debt counselor, credit counselor, or credit repair organization – License required. – No person shall without complying with the terms of this act and obtaining a license from the director:

(1) Operate as a collection agency . . . in this state.

(2) Engage, either directly or indirectly, in this state in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness.

...

14. "Collection agency" is defined in Idaho Code § 26-2222(4) as any person who engages in the activities set forth in Idaho Code § 26-2223(2), referenced in paragraph 13 above.

15. "Collection activities" is defined in Idaho Code § 26-2222(3) as including the activities set forth in Idaho Code § 26-2223(2), referenced in paragraph 13 above.

16. The Respondent's acts of acting as a collection agency and engaging in collection activities in Idaho without the license required by the Act, as referenced in paragraph 11 above, constitute violations of Idaho Code § 26-2223(1) and –(2).

REMEDIES

17. The Respondent admits to violating Idaho Code § 26-2223(1) and -(2) by operating as a collection agency in Idaho and collecting or receiving payments for others of any account, bill, claim or other indebtedness, while not licensed under the Act.

18. The Respondent agrees to immediately cease and desist from engaging in any and all collection activities in Idaho, to include making telephone calls related to collection activities, including automated calls; and mailing, faxing, e-mailing, or otherwise delivering communications to Idaho residents in connection with collection activities until such time as it obtains a license under the Act authorizing it to do so.

19. The Respondent agrees to pay to the Department by no later than October 1, 2010 the sum of nine thousand dollars (\$9,000) as an administrative penalty in settlement of the violations contained herein, and an additional amount of one thousand dollars (\$1,000) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of ten thousand dollars (\$10,000). The Respondent may pay this amount to the Department in three equal payments of three thousand thirty-three dollars and thirty-three cents (\$3,333.33), with the first payment due on October 1, 2010, and the remaining two payments due on November 1, 2010, and December 1, 2010.

20. When the Respondent has executed this Consent Order and timely made the first payment due under this Consent Order, the Department agrees to accept and consider a licensing application submitted by the Respondent, and further agrees that it will not use this Consent Order as the basis for denial of the Respondent's licensing application. Should the Respondent fail to timely make the two remaining payments to the Department, such failure shall be deemed

a breach of this Consent Order, and the Department will pursue whatever legal action it deems appropriate.

21. The Respondent agrees to comply with all provisions of the Idaho Collection Agency Act, rules promulgated thereunder, and relevant federal law and regulations at all times in the future.

22. The Department agrees not to seek further penalties or fees from the Respondent for the violations addressed in this Consent Order, other than as set forth in paragraph 19 above.

23. The Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same.

24. The Respondent acknowledges and understands that should the Department learn of additional violations by the Respondent of the Act, rules promulgated under the Act, or applicable federal laws and regulations relating to the Respondent's collection activities in Idaho, the Department may pursue further legal action and seek additional remedies.

DATED this 27th day of September, 2010.

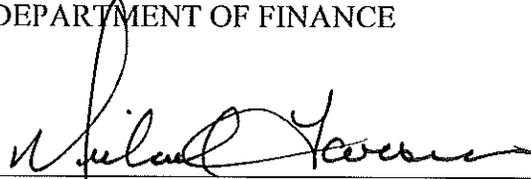
PROFESSIONAL RECOVERY CONSULTANTS, INC.

By: 

Title: President

DATED this 28th day of September, 2010.

STATE OF IDAHO
DEPARTMENT OF FINANCE



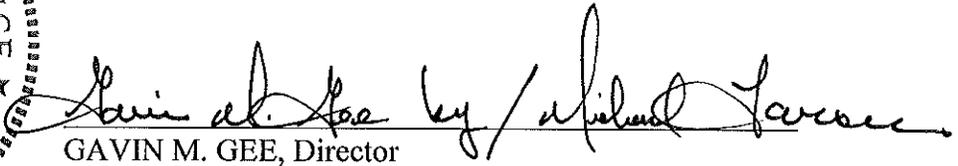
MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 28th day of September, 2010.



STATE OF IDAHO
DEPARTMENT OF FINANCE



GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of September, 2010, I served a true and correct copy of the foregoing CONSENT ORDER upon the following by the designated means:

Professional Recovery Consultants, Inc.
Attn: Geoff Miller, President
2700 Meridian Parkway, Suite 200
Durham, NC 27713

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: (919) 489-7651
- Email



Paralegal