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

IN THE MATTER OF:)	Docket No. 2014-9-06
)	
D. SCOTT CARRUTHERS, d/b/a LAW)	
OFFICE OF D. SCOTT CARRUTHERS)	ORDER TO CEASE AND DESIST
)	
Respondent.)	
_____)	

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to §§ 26-2244(1) and 26-2228(4) of the Act, requiring D. SCOTT CARRUTHERS, d/b/a LAW OFFICE OF D. SCOTT CARRUTHERS (“Respondent”), to immediately cease and desist from violating the Act, to include engaging in unlicensed collection agency activities in Idaho.

RESPONDENT

1. The Respondent is a law firm doing business as a collection agency. Such business includes the Respondent collecting or receiving payment for others of any account, bill, claim or other indebtedness. The Respondent conducts its collection agency business from 8448 Katelia Avenue, Stanton, California 90680. According to the California Secretary of State’s

website, the registered entity name for the Respondent is “D. Scott Carruthers, A Professional Law Corporation.”

2. D. Scott Carruthers is an attorney licensed by the State Bar of California, Bar No. 68745, but he has not been admitted by the Idaho State Bar to practice law in Idaho.

3. Additionally, the Respondent has never held an Idaho license under the Act, authorizing it to engage in the business of debt collection in Idaho.

FACTUAL ALLEGATIONS

4. On November 15, 2013, an attorney for Idaho business owner and resident, V.J., received an email from a company that had purchased the accounts receivables of a defunct toner cartridge supply business. Attached to that email was an unsigned demand letter from D. Scott Carruthers purporting that the Respondent represented the company in its collection efforts against V.J. The letter demanded that V.J. pay a past-due balance of \$18,532.00, and if she failed or refused to do so, a civil action would be filed “in the very near future” against V.J.’s company to obtain a judgment for the sum.

5. Prior to November 15, 2013, and since April 2011, V.J. had disputed the charges with the toner cartridge supply business and subsequently with the Respondent’s client. V.J. informed the Respondent and its client company that she had neither ordered nor received the toner cartridges for which she had been billed.

6. Upon receiving V.J.’s complaint regarding the Respondent’s collection activities against her and determining that D. Scott Carruthers was neither licensed to practice law in the state of Idaho, nor was the Respondent licensed to conduct collection activity in Idaho, the Department emailed a letter to the Respondent’s client on April 1, 2014. The same was sent to the Respondent via certified mail. The letter requested that the Respondent’s client provide all of

the documents it had relating to the assignment of the debt against V.J. and her company, as well as information regarding all other collection activity that the Respondent's client had conducted against Idaho citizens. The letter further required that the Respondent and its client cease all third-party collection activity in Idaho until the required licenses were obtained.

7. On April 2, 2014, the Department received an email response from the Respondent's client, which maintained that because it purchased and owned the debt, it was not a third party debt collector and had "first party rights to collect the debt," excluding it from the requirement to be licensed. The Respondent's client further held that it was exempt from the licensing requirement because its collection activity was against V.J.'s business for business debt and not consumer debt.

8. On April 14, 2014, the Department emailed a reply to the Respondent's client. In that email, the Department outlined its position and provided the statutory authority regarding the purchase of delinquent debt and the requirement for debt buyers to be licensed if they conduct collection activity in Idaho. The Department did not receive a response from either the Respondent or its client, so on June 27, 2014, it resent the email to the client.

9. On or about July 6, 2014, the Department received a copy of a letter, dated July 1, 2014, from the Respondent addressed to V.J. and her attorney. The Respondent's letter reiterated its client's position that it had purchased the debt from the original creditor and further stated that if the Respondent's client did not hear from V.J.'s attorney "within ten (10) days from the date of this letter" a lawsuit would be filed against V.J.

10. Between August 1, 2014 and August 4, 2014, a Department staff member contacted the Respondent to obtain a physical address where its client conducted its collection business. The only location information that the Respondent provided to the Department's staff

member was a mailing address. The Department staff member subsequently spoke with D. Scott Carruthers by phone and made a request for the physical address. Mr. Carruthers told the staff member that he would call back with the information but, to date, he still has not provided his client's physical address where it conducts business.

CONCLUSIONS OF LAW AND VIOLATIONS

UNLICENSED COLLECTION ACTIVITY IN IDAHO

11. The allegations set forth in paragraphs 1 through 10 above are fully incorporated herein by this reference.

12. Idaho Code § 26-2223 provides 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:

...

(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.

...

(6) Engage or offer to engage in this state, directly or indirectly, in the business of collecting any form of indebtedness for that person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired.

13. "Collection activities" is defined in Idaho Code § 26-2222(3) as the activities enumerated in Idaho Code § 26-2223.

14. Respondent's acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 4 through 10 above, constitute violations of Idaho Code § 26-2223(2), and -(6) as set forth in paragraph 12 above. Each contact of Idaho residents by Respondent for the purposes of collection constitutes a separate violation.

DIRECTOR'S AUTHORITY

15. Idaho Code § 26-2228(2) authorizes the Director of the State of Idaho, Department of Finance (Director) to conduct investigations as necessary to determine whether a person has violated any provision of the Act, a rule promulgated under the Act, or an order issued under the Act.

16. Idaho Code § 26-2244(1) provides that whenever it appears to the Director that it is in the public interest, he may order any person to cease and desist from acts, practices, or omissions that constitute violations of the Act.

ORDER

The Director, having reviewed the foregoing and having determined that good cause has been shown, that Respondent's violations of the Act require immediate action to protect Idaho residents, and that the public interest is served thereby,

NOW, THEREFORE, the Director HEREBY FINDS that Respondent has violated the Idaho Collection Agency Act as set forth above.


Pursuant to Idaho Code §§ 26-2244(1) and 67-5247, IT IS HEREBY ORDERED that Respondent and its agents and employees immediately CEASE AND DESIST from any further collection agency activities in Idaho; from any other conduct under the Act for which a license from the Director is required; and from any other violations of the Act.

This ORDER is EFFECTIVE UPON ISSUANCE.

IT IS SO ORDERED.

DATED this 3RD day of OCTOBER, 2014.

STATE OF IDAHO
DEPARTMENT OF FINANCE


GAVIN M. GEE, Director



NOTICE

Respondent is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

Respondent may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

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, Brian D. Nicholas, Deputy Attorney General, at the same address.

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should Respondent make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

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

- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or

iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration or schedule a hearing, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. See IDAPA 04.11.01.740.02.c.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 2014, I caused a true and correct copy of the foregoing fully-executed ORDER TO CEASE AND DESIST to be served on the following by the designated means:

D. Scott Carruthers, Attorney
8448 Katella Ave, Box 228
Stanton, CA 90680

U.S. mail, postage prepaid
 Certified mail
 Facsimile: (714)761-1754
 Email:

Paralegal

