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

IN THE MATTER OF: )  
 ) Docket No. 2014-9-05  
LEGAL AND DEBT RECOVERY )  
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Respondent. ) **ORDER TO CEASE AND DESIST**  
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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 LEGAL AND DEBT RECOVERY (Respondent), an entity doing business in California, to immediately cease and desist from violating the Act, to include engaging in unlicensed collection agency activities in Idaho.

**RESPONDENT**

1. The Respondent is an entity that operates as a third-party collection agency. Its mailing address, which was provided by the Respondent's legal counsel, is 3419 East Chapman

Avenue, Suite 293, Orange, California 92862.<sup>1</sup> The Department has not been provided with the Respondent's physical address, nor has the Department been able to determine the physical location where the Respondent conducts its third-party collection agency business.

2. 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**

3. On March 16, 2011, Idaho business owner and resident, V.J., received three unordered toner cartridges from Imaging Supply Center, Inc. (Imaging). A member of V.J.'s staff signed for the delivery without realizing that an order for the toner cartridges had not been placed. V.J. received an invoice totaling \$339.25 for the toner the next day.

4. Because one of V.J.'s staff members had signed for and accepted the delivery, V.J. went ahead and paid the invoice sent by Imaging for the three toner cartridges.

5. Between April 4, 2011, and September 2011, V.J. received invoices from Imaging for additional toner cartridges that were neither ordered nor delivered to V.J.'s business. V.J. contacted Imaging to let it know that the invoices she received were sent to her in error and that she would not be paying for the unordered and undelivered toner cartridges.

6. Beginning in September 2013, V.J. began receiving telephone collection calls from the Respondent. The Respondent's agent informed V.J. that it had purchased Imaging's accounts receivables and was attempting to collect on the unpaid invoices that were sent to V.J. for the toner cartridges that V.J. disputed were ever ordered or delivered.

7. On September 26, 2013, the Respondent's agent sent an email to V.J. with a .pdf file containing unpaid invoices for thirty-six toner cartridges that the Respondent alleged

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<sup>1</sup> There is a Legal and Debt Recovery, Inc. that is incorporated in California, which utilizes a mailing address from Monarch Beach. This incorporated entity is not the Respondent.

Imaging delivered to V.J.'s business. V.J. reiterated to the Respondent's agent, in an email dated October 1, 2013, that she only received one shipment from Imaging for three cartridges and already paid for them, but that she was not going to pay for the additional thirty-six cartridges that she had neither ordered nor received. Additionally, V.J. informed the Respondent that she had retained an attorney to handle the matter from that point forward.

8. On October 25, 2013, V.J.'s attorney emailed a letter to the Respondent's agent indicating that his client never ordered any products from Imaging and only three cartridges were ever delivered and accepted. The attorney further stated that V.J. had already paid for those three toner cartridges. The letter also demanded that the Respondent cease its collection efforts against V.J.

9. On November 15, 2013, V.J.'s attorney received an email from the Respondent's agent, attached with an unsigned demand letter from a California attorney purporting to represent "Legal and Debt Recovery, Inc." in its collection efforts against V.J. The letter demanded that V.J. pay the 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.

10. Upon receiving V.J.'s complaint regarding the Respondent's collection activities against her and determining that the Respondent was not licensed to conduct collection activity in Idaho, the Department emailed a letter to the Respondent on April 1, 2014. The same was sent to the Respondent's attorney via certified mail. The letter requested that the Respondent 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 the Respondent had conducted against Idaho citizens. The letter further required that the Respondent cease all third-party collection activity in Idaho until it obtained the required license.

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

12. On April 14, 2014, the Department emailed a reply to the Respondent. 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 the Respondent or its attorney, so on June 27, 2014, it resent the email to the Respondent.

13. On or about July 6, 2014, the Department received a copy of a letter, dated July 1, 2014, from the Respondent's attorney addressed to V.J. and her attorney. The letter stated that if the Respondent 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.

14. Between August 1, 2014 and August 4, 2014, a Department staff member contacted the Respondent's attorney to obtain a physical address where the Respondent conducts its collection business. The only location information that the Respondent's attorney provided to the Department's staff member was a mailing address. The Department staff member subsequently spoke with the Respondent's attorney by phone and made a request for the physical address. The attorney told the staff member that he would call back with the information but, to date, he still has not provided the Respondent's physical address where it conducts business.

#### **CONCLUSIONS OF LAW AND VIOLATIONS**

*UNLICENSED COLLECTION ACTIVITY IN IDAHO*

15. The allegations set forth in paragraphs 1 through 14 above are fully incorporated herein by this reference.

16. 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.

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

18. The Respondent's acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 3 through 14 above, constitute violations of Idaho Code § 26-2223(2), and –(6) as set forth in paragraph 16 above. Each contact of Idaho residents by the Respondent for the purposes of collection constitutes a separate violation.

**DIRECTOR'S AUTHORITY**

19. 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.

20. 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 the 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 the 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 the 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 8<sup>TH</sup> day of OCTOBER, 2014.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

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

GAVIN M. GEE, Director

## NOTICE

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

The 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 the 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 8<sup>th</sup> 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:

Legal and Debt Recovery, Inc.  
3419 East Chapman Ave, Suite 293  
Orange, CA 92862

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: 877-224-3701
- Email: rmlegal.debtrecovery@ymail.com

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

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

  
Paralegal