

LAWRENCE G. WASDEN
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585
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
brian.nicholas@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.

MIDWEST RECOVERY SYSTEMS, LLC,

Respondent.

Docket No. 2018-9-02

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Finance (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) of the Act, requiring MIDWEST RECOVERY SYSTEMS, LLC (the Respondent), to immediately cease and desist from violating the Act.

RESPONDENT

1. The Respondent is a Missouri limited liability company, formed on May 18, 2012, and conducts a third party collection agency business from 2747 West Clay Street, Suite A, St. Charles, Missouri.

2. The Respondent has never held an Idaho collection agency license, but has submitted license applications on two separate occasions in 2017. Both applications, however, were deemed withdrawn/abandoned and administratively terminated after the Respondent failed to cure unresolved deficiencies.

FACTUAL ALLEGATIONS

3. The Respondent has never held an Idaho collection agency license.

4. On January 19, 2018, the Department received a complaint from Idaho resident, SLL, regarding the Respondent's collection activity against her.

5. In her complaint, SLL indicated that a representative of the Respondent contacted her by telephone stating that the Respondent was attempting to collect a debt on behalf of a payday/installment loan company.

6. A Department staff member reviewed SLL's complaint and determined that the Respondent was not licensed to conduct third-party collection activities in Idaho.

7. On February 9, 2018, the Department sent a letter to the Respondent regarding its unlicensed debt collection activity. In that letter, the Department requested all of its documents relating to the assignment of the debt against SLL. The Department also required the Respondent to cease all collection activities in Idaho and to provide information necessary for the Department to determine the extent of the Respondent's unlicensed debt collection activities in Idaho. Further, that letter advised the Respondent of the license requirement for engaging in collection activities regulated under the Act in Idaho, and informed the Respondent of the possible sanctions under the Act for unlicensed activity. The letter also informed the Respondent of the process for obtaining a license. The Department required that the Respondent provide all of the requested information by February 28, 2018, but the Respondent failed to respond.

8. On February 16, 2018, the Department received a written response from the Respondent regarding SLL's complaint. The response did not provide the documents requested by the Department, but instead explained the Respondent's "dispute policy" and the actions it took on SLL's alleged debt. The Respondent also stated that it had stopped all collection efforts against SLL.

9. To date, the Respondent has failed to file an application for licensure with the Department.

10. Based on information provided to the Department and described above, the Respondent has engaged in debt collection activity in Idaho and is not licensed, in violation of the Act.

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:

(1) Operate as a collection agency, debt counselor, credit counselor, or credit repair organization 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.

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

14. The Respondent's acts of engaging in collection activities in Idaho without a license, as referenced above, constitute violations of Idaho Code § 26-2223(1) and -(2). Each

contact of Idaho residents by the Respondent for the purposes of collection constitutes a separate violation.

REQUESTED RELIEF

15. 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 which constitute a violation of the Act.

ORDER

The Director, having reviewed the foregoing, good cause being shown, and the public interest being 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), IT IS HEREBY ORDERED that the Respondent and its agents and employees immediately CEASE AND DESIST from acts, practices, or omissions which constitute a violation of the Act, including specifically from engaging in collection activity in Idaho without the license required by the Act.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 24th day of MAY, 2018.



STATE OF IDAHO
DEPARTMENT OF FINANCE


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 24th day of May, 2018, 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:

Midwest Recovery Systems, LLC
2747 W Clay St, Suite A
St. Charles, MO 63301

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email:

Brandon Tumbler
Midwest Recovery Systems, LLC
12 Westbury Dr.
ST. Charles, MO 63301

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email: support@mrs-direct.com

Paralegal