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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,

Complainant,

vs.

TOTAL RECOVERY SOLUTIONS, LLC.,

Respondent.

Docket No. 2012-9-13

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 TOTAL RECOVERY SOLUTIONS LLC. (Respondent), to immediately cease and desist from violating the Act.

RESPONDENT

1. Respondent was formed as a Missouri limited liability company on January 14, 2011, and filed a Certificate of Authority with the Idaho Secretary of State on March 25, 2011.

Respondent conducts a third party collection agency business from 3543 Broadway Street, Kansas City, Missouri.

FINDINGS OF FACTS

2. Respondent has never held an Idaho collection agency license.
3. On November 21, 2011, Respondent filed an application for licensure as a collection agency with the Department. The application was reviewed by staff of the Consumer Finance Bureau (Bureau) of the Department. The application and accompanying documents were dated several months prior to the date the application was received. Because the information in the application was stale, Bureau staff rejected the application.
4. On December 2, 2011, Department staff delivered a Deficient Application Notice to the Respondent indicating that its license application contained inadequate information. In addition to updating the stale information, the Respondent was asked to include a listing of Idaho debtor accounts and the fees collected from those accounts, upon which Respondent had engaged in collection activities.
5. On December 16, 2011, the Bureau received a second application for a collection agency license from Respondent. Respondent's application included a listing of accounts but the listing did not show fees received by Respondent for its collection activity. In addition, the application identified three civil actions brought against Respondent, but there was no explanation regarding these matters. The Respondent also did not fully identify its relationship with several related companies and it did not provide an updated resume for its manager.
6. On January 3, 2012 Bureau staff delivered a second Deficient Application Notice to Respondent. The Notice identified the above described deficiencies.

7. On January 31, 2012, Respondent provided updated information of its collection activities, including the fees collected from Idaho consumers, but the Respondent has not addressed the other deficiencies in the January 3, 2012 Notice. Based on the information Respondent did provide, the Respondent engaged in approximately twenty two (22) separate collection attempts against Idaho debtors and it collected approximately \$1,712 from Idaho debtors.

8. The Respondent has not addressed any other issues in the January 3, 2012 Notice and therefore the Department deems the application withdrawn.

CONCLUSIONS OF LAW AND VIOLATIONS

UNLICENSED COLLECTION ACTIVITY IN IDAHO

9. The allegations set forth in paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. 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.

11. “Collection activities” is defined in Idaho Code § 26-2222(3) as the activities enumerated in Idaho Code § 26-2223.

12. Respondent’s acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 2 through 8 above, constitute violations of Idaho Code § 26-2223(1) and –(2), as set forth in paragraph 10 above. Each contact of Idaho residents by Respondent for the purposes of collection constitutes a separate violation.

REQUESTED RELIEF

13. 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 Respondent has violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code § 26-2244(1), IT IS HEREBY ORDERED that 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 8TH day of FEBRUARY, 2013.



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 8th day of February, 2013, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Total Recovery Solution LLC
3543 Broadway Street
Kansas City, MO 64111-2501

- U.S. mail, postage prepaid
 certified mail
 facsimile: 1-866-602-2026
 email:

Paralegal

