

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,)	
)	Docket No. 2010-9-11
Complainant,)	
)	ORDER OF DENIAL OF COLLECTION
vs.)	AGENCY LICENSE, AND NOTICE OF
)	THE OPPORTUNITY FOR A HEARING
UNIVERSAL FIDELITY LIMITED PARTNERSHIP, a Texas Limited Partnership,)	
)	
Respondent.)	

The Director of the State of Idaho, Department of Finance (Director), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), and in particular §§ 26-2227(1)(a), 26-2227(1)(i), and 26-2227(3) of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Application for Collection Agency License and Notice of the Opportunity for a Hearing:

FINDINGS

1. UNIVERSAL FIDELITY LIMITED PARTNERSHIP (the Respondent) was formed as a Texas limited partnership on February 14, 1991. The Respondent conducts business

as a collection agency in Idaho from 1445 Langham Creek Drive, Houston, Texas 77084. Terry W. Simonds is the Respondent's CEO.

2. From May 12, 1997 through March 15, 2010, the Respondent held Idaho Collection Agency License No. CCA 3656, issued by the State of Idaho, Department of Finance, Consumer Finance Bureau (Department), authorizing it to engage in collection activities in Idaho.

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 the 15th of March of each year to renew its Idaho Collection Agency License. Failure to do so results in the automatic expiration of the license as of March 15 of the applicable year.

4. The Respondent failed to comply with all requirements for renewal of its Idaho collection agency license by March 15, 2010; therefore, its Idaho collection agency license terminated on March 16, 2010. On April 11, 2010, the Department notified the Respondent of the license termination. Such notice informed the Respondent that it was prohibited from engaging in collection agency activities without a license issued under the Act, and would be subject to sanctions under the Act if it engaged in such unlicensed activity.

5. On or about May 17, 2010, the Respondent submitted to the Department an application for a new collection agency license under the Act.

6. From a review of the Respondent's May 17, 2010 license application and related information, a Department examiner learned that, during the period of its licensure as referenced in paragraph 2 above, the Respondent had failed to notify the Department of certain key events,

as required by the Act. Specifically, the Respondent had failed to notify the Department of the following:

- (a) The closure of its Dublin, Ohio branch office on December 31, 2009;
- (b) The closure of its Panama branch on March 1, 2010;
- (c) That the Respondent had filed a Chapter 11 bankruptcy petition in or around January of 2010; and
- (d) That the Respondent had failed to maintain its business filing with the Idaho Secretary of State from August 9, 2009 through May 10, 2010.

7. The examiner's review of the Respondent's license application and related information, as referenced in paragraph 6 above, also revealed that the Respondent had engaged in unlicensed collection activity in Idaho from March 16, 2010 until at least June 8, 2010. The examiner concluded that the Respondent's unlicensed collection activity in Idaho included active collection accounts for 4,200 Idaho residents.

8. On January 5, 2011, a review of the Respondent's website was conducted by a Department representative. On that date, the Respondent's website represented that the Respondent maintained a collection agency license in the state of Idaho. Such representation was false, in that the Respondent has failed to hold an Idaho collection agency license since March 16, 2010.

CONCLUSIONS OF LAW

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

COUNT ONE: UNLICENSED COLLECTION ACTIVITY IN IDAHO

10. Idaho Code § 26-2223(1) and –(2) provide 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.

...

11. The definition of “collection agency” set forth in § 26-2222(4) of the Act includes engaging in the activities set forth in Idaho Code § 26-2223, set forth in paragraph 9 above.

12. The Respondent’s acts of engaging in collection activities in Idaho without a license, by collecting against or receiving payment from at least 4,200 Idaho residents while it failed to hold a collection agency license under the Act, constituted violations of Idaho Code § 26-2223(1) and –(2).

COUNT TWO: THE RESPONDENT FALSELY REPRESENTED THAT IT HELD AN IDAHO COLLECTION AGENCY LICENSE

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

14. Idaho Code § 26-2227(1)(i) provides that an application for a license may be denied if the applicant has falsely represented itself as a licensee for the purpose of soliciting for any business covered by the Act.

15. The Respondent’s false representation on its website that it held an Idaho collection agency license, as set forth in paragraph 8 above, constituted a violation of Idaho Code § 26-2227(1)(i).

***COUNT THREE: THE RESPONDENT FAILED TO UPDATE THE
DEPARTMENT ON CHANGES CONCERNING INFORMATION
REQUIRED ON A LICENSE APPLICATION***

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

17. Idaho Code § 26-2224(13) requires that a licensee under the Act keep the Department updated as to information required to be provided to the Department at the time of application.

18. The Respondent's failure to update the Department concerning the factors set forth in paragraph 6(a) through –(d) above constituted a violation of Idaho Code § 26-2224(13).

ORDER

NOW, THEREFORE, BASED ON THE FOREGOING, AND PURSUANT TO IDAHO CODE § 26-2227(1), IT IS HEREBY ORDERED THAT THE RESPONDENT'S APPLICATION FOR AN IDAHO COLLECTION AGENCY LICENSE IS DENIED.

NOTICE

19. The Respondent is hereby notified that the foregoing ORDER OF DENIAL OF COLLECTION AGENCY LICENSE, AND NOTICE OF THE OPPORTUNITY FOR A HEARING is a final order of the Director. Pursuant to Idaho Code § 67-5246, the Respondent may file a motion for reconsideration or request for a hearing concerning this Order within fourteen (14) days of the issuance of this Order. The motion for reconsideration or request for a hearing shall be served on:

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, A. René Martin, Deputy Attorney General at the same address. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

20. If the Respondent timely files a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

21. If the Respondent timely files a request for hearing, the Respondent will be notified of the date, time, and place of the hearing, as well as the name of the presiding officer. At the hearing, the Respondent will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. The Respondent may also be represented by legal counsel at its own expense.

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

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides; or
- d. the real property or personal property that was the subject of the agency action is located.

23. An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure

within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

IT IS SO ORDERED.

DATED this 7TH day of JANUARY, 2011.



STATE OF IDAHO
DEPARTMENT OF FINANCE

GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10TH day of JANUARY, 2011, I caused a true and correct copy of the foregoing ORDER OF DENIAL OF COLLECTION AGENCY LICENSE, AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

Universal Fidelity Limited Partnership
Attn: Terry W. Simonds, CEO
1445 Langham Creek Dr.
Houston, TX 77084

- U.S. Mail, postage prepaid
- Certified mail
- Facsimile
- Hand delivery

John L. Jackson
ATTORNEY AT LAW

- U.S. Mail, postage prepaid
- Certified mail
- Facsimile
- Email: jlj1129@sbcglobal.net
