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

In Re:

ABC FINANCIAL SERVICES, LLC,
Applicant.

Docket No. 2019-9-11

CONSENT ORDER

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the Idaho collection activities of ABC FINANCIAL SERVICES, LLC (the Applicant). Pursuant to said review, it appears to the Director that the Applicant has violated provisions of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act). The Director and the Applicant have agreed to resolve this matter through this Consent Order rather than through a formal administrative or civil action. Therefore, the Director deems it appropriate and in the

public interest that this Consent Order be entered. The Applicant voluntarily consents to the entry of this Consent Order.

THE APPLICANT & FINDINGS OF FACT

1. The Applicant is a Delaware limited liability company, having converted thereto in 2017 and having been originally formed as a corporation in Arkansas on July 26, 1984. The Applicant has conducted business as a collection agency from 8320 Highway 107, Sherwood, Arkansas.

2. The Applicant held a collection agency license under the Act from May 17, 2007, to March 15, 2019. Prior to March 15, 2019, the Applicant had successfully renewed its license annually prior to the statutory March 15th license renewal deadline.

3. On March 21, 2019, the Department notified the Applicant that its license had terminated for failure to renew pursuant to Idaho Code § 26-2231 and that a new application would be required.

4. The Applicant subsequently submitted a new application for an Idaho collection agency license through the Nationwide Multistate Licensing System (NMLS) on April 15, 2019. The Department provided a notification of additional items required to complete the application including a pipeline report representing the Applicant's collection agency activity for 2019. The Department received from the Applicant a partial pipeline report on July 15, 2019. On July 16, 2019, the Department advised the Applicant that it needed supplemental pipeline information, which was received by the Department on July 19, 2019.

5. The Applicant's business plan, which it uploaded to the NMLS system, contains sample scripts. These scripts include agents or employees of the Applicant identifying that they

are “with ABC Financial,” although they also state they are calling on behalf of (gym club name). The script goes on to indicate that the consumer may update billing information at www.MYiCLUBonline.com or by calling 800-897-6877. The Applicant controls the website and the telephone number is for the Applicant and answered by the Applicant’s Member Services Division.

6. The combined pipeline report shows fees and payments collected from Idaho consumers during March 16, 2019, through July 15, 2019, while the Applicant was unlicensed. During this period the Applicant processed a total of 384,761 payments from Idahoans with late fees totaling thirty-eight thousand two hundred seventy-one dollars and 07/100s (\$38,271.07) and total service fees paid of one hundred sixteen thousand seven hundred forty dollars and 47/100s (\$116,740.47).

7. The Applicant has paid the requisite licensing fee for a new application of one hundred fifty dollars (\$150), and the application is complete.

ALLEGED VIOLATIONS

ENGAGING IN UNLICENSED COLLECTION AGENCY ACTIVITY IN IDAHO

8. The allegations set forth in paragraphs 1 through 7 above are fully incorporated herein by this reference.

9. Idaho Code § 26-2231 provides as follows:

26-2231. Renewal of license. – (1) On or before the fifteenth day of March of each year, each licensee shall pay to the director a nonrefundable license renewal fee of one hundred dollars (\$100) and shall file with the director a license renewal form providing complete information as required by the director.

(2) Failure to fully comply with the license renewal requirements of this section by the fifteenth day of March of each year shall result in automatic expiration of the license as of that date.

10. Idaho Code § 26-2223 provides as follows, in pertinent part:

26-2223. Collection agency, debt counselor, or credit counselor permits.

– 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.

* **

(5) Engage in any activity in this state which indicates, directly or indirectly, that a third party is or may be involved in effecting any collections.

(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.

11. As relevant here, the term "collection agency" means a person who engages in any of the activities enumerated in subsections (2) through (6) of Idaho Code § 26-2223, which are set forth in the previous paragraph. Idaho Code § 26-2222(4).

12. The Applicant's acts of engaging in collection agency activity in Idaho without a collection agency license, as referenced above, constitute violations of Idaho Code § 26-2223(1), (2), (5) and (6). The director is authorized to deny an application for license based on a violation of the Act and is authorized to impose a civil penalty of not more than five thousand dollars (\$5,000) for each violation of the Act pursuant to Idaho Code § 26-2227.

REMEDIES

13. The Applicant admits to the allegations set forth above in this Consent Order.

14. The Applicant continues to agree to cease and desist from engaging in any and all collection activities in Idaho, to include providing collection agency services or otherwise conduct activity described in the Act until such time as it obtains a license under the Act authorizing it to do so.

15. The Applicant agrees to pay to the Department the sum of fifteen thousand dollars (\$15,000) as an administrative penalty in settlement of the violations contained herein.

16. Once the Applicant has executed this Consent Order and timely paid to the Department the fifteen thousand dollars (\$15,000) referenced above, the Department agrees to accept and consider the license application of the Applicant, and further agrees that it will not use this Consent Order as the basis for denial of the Applicant's license application.

17. The Applicant agrees to comply with all provisions of the Idaho Collection Agency Act, rules promulgated thereunder, and relevant federal law and regulations at all times in the future.

18. The Department agrees to not seek further penalties or fees from the Applicant for the violations addressed in this Consent Order, other than as set forth herein above, if the Applicant timely and fully complies with all provisions of this Consent Order.

21. The Applicant acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same.

22. The Applicant acknowledges and understands that should the Department learn of additional violations by the Applicant of the Act, rules promulgated under the Act, or

applicable federal laws and regulations relating to the Applicant's collection activities in Idaho,
the Department may pursue further legal action and seek additional remedies.

DATED this 28th day of AUGUST, 2019.

ABC FINANCIAL SERVICES, LLC

By: [Signature]

CEO

Title

DATED this 29 day of August, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE

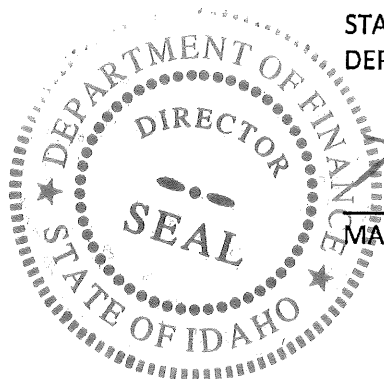
[Signature]
ANTHONY POLIDORI
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 29th day of August, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE

[Signature]
MARY E. HUGHES, Acting Director



CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 29th day of August, 2019, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

ABC Financial Services, LLC
Attn: Madeline Mullis
8320 Hwy 107
Sherwood, AR 72120

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: _____
- Email: madeline.mullis@abcfinciancial.com

Idaho Department of Finance
Attn: Thomas A. Donovan, DAG
PO BOX 83720
Boise, ID 83720-0031

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: _____
- Email: tom.donovan@finance.idaho.gov


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