

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](mailto: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 )	Docket No. 2009-9-16
BUREAU, )	
)	<b>CONSENT ORDER</b>
Complainant, )	
)	
ACTION COLLECTION SERVICE, INC., )	
dba Interstate Collections of Idaho, )	
Action Collection, Financial Management, )	
Check-A-Check, and ACS, )	
)	
Respondent. )	
)	

The Director of the State of Idaho, Department of Finance (Director), pursuant to his authority under the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), based on information obtained by financial examiners employed by the State of Idaho, Department of Finance, Consumer Finance Bureau (Department), and from information voluntarily provided to the Department by Action Collection Service, Inc., dba Interstate Collections of Idaho, Action Collection, Financial Management, Check-A-Check, and ACS (the Respondent), finds it in the public interest that this Consent Order be issued. The Respondent hereby acknowledges and

consents to all of the terms included in this Consent Order and to the issuance of such Consent Order.

#### **FINDINGS OF FACT**

1. On or about September 9, 2009, the Department and the Respondent agreed to the entry of a Consent Order to Cease Desist (Order) in the above-referenced action, which Order was entered by the Director on September 10, 2009.

2. The Order entered by the Director on September 10, 2009 is fully incorporated herein by this reference. This Consent Order (Consent Order) is intended as a follow-up to the Order, and does not supersede or replace such Order.

3. After the Director's entry of the Order on September 10, 2009, the Department engaged in ongoing communications with the Respondent, to include meetings with the Respondent's principals and its counsel, with the goal to immediately address the Respondent's "out of trust" situation and otherwise achieve the Respondent's full compliance with the requirements of the Act.

4. On or about December 9, 2009, the Respondent obtained a capital infusion that corrected the "out of trust" situation that existed at that time.

5. As part of its monitoring of the Respondent's business for compliance with the Act, on December 10, 2009, Department staff members met with the Respondent's principals and its counsel to discuss the status of the Respondent's trust account and its compliance with applicable requirements of the Act. At that meeting, the Department informed the Respondent that it required a comprehensive review by an accountant of the Respondent's trust accounts for the calendar years 2008 and 2009 to clarify the extent to which the Respondent had been "out of

trust," the reasons therefor, and to establish procedures for properly handling the Respondent's trust funds, to include proper disbursements to clients of trust funds due them.

6. The Respondent cooperated with the Department's requirement of a comprehensive review of the Respondent's trust accounts by an accountant through agreed upon procedures to be followed by the accountant (Engagement), to achieve the goals set forth in paragraph 5 above. The Respondent later decided on its own to expand the scope of the Engagement for the purposes of developing improved accounting procedures that would assist it in fully complying with all applicable requirements of the Act. The Respondent represents that the expense of such Engagement was approximately \$40,000.

7. From a review of the accountant's report and other information before the Department, the Department has concluded that the Respondent has corrected its "out of trust" situation as of the date of this Consent Order, and has shown continuous cooperation in working with the Department to achieve full compliance with applicable requirements of the Act, to include properly maintaining and disbursing funds from its trust account(s), and developing improved accounting procedures, with the advice and assistance of the accountant retained by the Respondent.

8. The Department has also concluded that it is necessary and appropriate that it engage in continued monitoring of the Respondent's business practices through calendar year 2011 to determine whether the Respondent is properly maintaining and disbursing funds from its trust account(s), pursuant to Idaho Code § 26-2233; whether the Respondent demonstrates the fitness to engage in business activities authorized for a collection agency under the Act, pursuant to Idaho Code § 26-2227(1)(l); whether the Respondent is properly maintaining its books and records, including financial records in accordance with generally accepted accounting principles,

pursuant to Idaho Code § 26-2234(6); and whether the Respondent is otherwise complying with all requirements of the Act applicable to its collection agency business.

#### **ORDER AND REMEDIES**

9. The Respondent acknowledges that the Department will continue to monitor its business activities through calendar year 2011 to determine whether the Respondent is in compliance with applicable provisions of the Act, as referenced in paragraph 8 above. Accordingly, during calendar year 2011, the Respondent agrees to timely submit to the Department month-end financial statements and month-end trust account reconciliations. Such submissions shall be deemed timely if provided to the Department within three (3) weeks after the end of each month.

10. The Respondent agrees to pay to the Department by no later than November 30, 2010, as a sanction for the violations of the Act addressed in the Order and this Consent Order, the sum of eight thousand dollars (\$8,000), which amount consists of the attorney fees and investigative costs incurred by the Department in pursuing this matter.

11. The Respondent acknowledges and understands that the Department's ongoing monitoring of its business activities as referenced above will determine whether the Department will impose any further sanctions against the Respondent. Any further sanctions will be based on future conduct of the Respondent, and not upon the conduct giving rise to the Order and this Consent Order.

12. The Respondent acknowledges and understands that the Department's monitoring of the Respondent's business activities through calendar year 2011 may result in additional requests for documents, records, and other information by the Department, and the Respondent

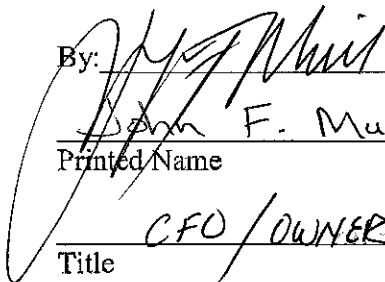
agrees to fully and timely comply with such requests, and provide full access to all business records, offices, and premises, as required by the Act.

13. The Respondent acknowledges and understands that the Department's monitoring of the Respondent's business activities under the Act may result in the issuance of additional orders, and/or possible administrative or civil actions seeking penalties and other sanctions for violations found, as authorized by the Act.

14. The Respondent agrees to all the terms of this Consent Order, and agrees that this Consent Order is in the public interest. The Respondent waives any right it may have to a hearing as to any of the actions and terms set forth in this Consent Order.


DATED this \_\_\_\_\_ day of November, 2010.

ACTION COLLECTION SERVICE, INC.

By:   
\_\_\_\_\_  
John F. Muir  
Printed Name  
\_\_\_\_\_  
CFO / OWNER  
Title

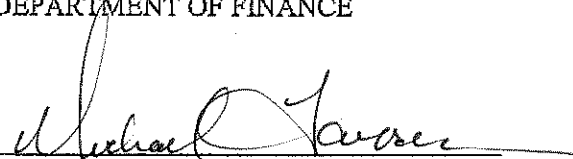
APPROVED AS TO FORM AND CONTENT:

DATED this 30<sup>th</sup> day of November, 2010.

  
\_\_\_\_\_  
JOHN L. RUNFT  
Counsel for the Respondent

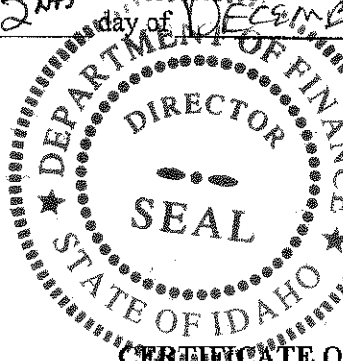
DATED this 2nd December day of ~~November~~, 2010.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
MICHAEL LARSEN  
Consumer Finance Bureau Chief

IT IS SO ORDERED.


DATED this 2<sup>ND</sup> day of DECEMBER 2010.

STATE OF IDAHO  
DEPARTMENT OF FINANCE  
  
GAVIN M. GEE, Director  
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 2 day of December, 2010, I served a true and correct copy of the foregoing CONSENT ORDER upon the following by the designated means:

John L. Runft  
RUNFT & STEELE LAW OFFICES, PLLC  
1020 W. Main St., Suite 400  
Boise, ID 83702

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

  
\_\_\_\_\_