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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,)	Docket No. 2009-9-06
)	
Complainant,)	CONSENT ORDER
)	
vs.)	
)	
BRIAN KVARFORDT, dba NORTH)	
AMERICAN COLLECTIONS AND)	
SAFETY CHECK,)	
)	
Respondent.)	

The Director of the State of Idaho, Department of Finance, Consumer Finance Bureau (Director) has conducted a review of the Idaho collection activities of Brian Kvarfordt, dba North American Collections and Safety Check (the Respondent). Pursuant to said review, it appears to the Director that the Respondent has violated provisions of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act). The Director and the Respondent 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 Respondent voluntarily consents to the entry of this Consent Order.

RESPONDENT

1. The Respondent is a sole proprietorship doing business as a collection agency. The Respondent has held Idaho Collection Agency License No. CCA-3333 since May 13, 1982. The Respondent conducts its collection business from 1393 Cambridge Drive, Idaho Falls, Idaho 83401-4208. Brian Kvarfordt is the Respondent's owner.

FACTS

2. On July 11, 2002, the Respondent obtained a money judgment in a civil case brought in the Bonneville County District Court against A.B. and W.B., Idaho residents, for a debt they purportedly owed.

3. On November 25, 2008, the Clerk of the Seventh Judicial District of the State of Idaho, in and for Bonneville County, Magistrate Division, issued an "Order for Continuing Garnishment" and a document labeled "Execution - Consumer Debt" (collectively referred to herein as "Garnishment Documents"). The document labeled "Execution - Consumer Debt," was apparently intended as a writ of execution or writ of attachment, pursuant to Idaho's collection laws as set forth in Chapter 5, Title 8, Idaho Code, and Chapters 1 through 6 of Title 11, Idaho Code (collectively referred to herein as "Idaho Collection Statutes"). The Respondent had sought the court clerk's issuance of such documents for the purpose of garnishing W.B.'s wages in an effort to collect against W.B. on the judgment referenced in paragraph 2 above.

4. When the Respondent obtained the Garnishment Documents from the Bonneville County Magistrate Court, an agent of the Respondent altered the language included on the Garnishment Documents that had been issued by the court by deleting certain references to the

County Sheriff, and replacing such deletions with the name of the Respondent's company. Further, the Respondent's agent failed to forward such Garnishment Documents to the County Sheriff for service on W.B.'s employer as required by law, but instead forwarded such Garnishment Documents directly to W.B.'s employer. The Respondent's agent also failed to include with the Garnishment Documents it served directly on W.B.'s employer certain documents required by law to be served on the garnishee, such as a Claim of Exemption form.

5. After receipt of the Garnishment Documents, W.B.'s employer garnished W.B.'s salary by sending a portion of W.B.'s salary directly to the Respondent pursuant to the Garnishment Documents it had received.

6. When W.B. became aware of the improper garnishment by the Respondent, he filed a complaint with the State of Idaho, Department of Finance, Consumer Finance Bureau (Department), and also contacted local law enforcement authorities who investigated the case and consulted with the Bonneville County Prosecutor. The Bonneville County Prosecutor apparently determined not to pursue a criminal action, but indicated that it may consider doing so should the Respondent again pursue such activity.

7. After receiving W.B.'s complaint, the Department commenced an investigation and concluded that the Respondent, through the acts of its agent, had violated provisions of Idaho's Criminal Code and the Idaho Collection Statutes, and in so doing, had violated the Idaho Collection Agency Act.

FINDINGS OF VIOLATION

FAILURE TO OPERATE FAIRLY, OPENLY, AND HONESTLY

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

9. Section 18-3601 of the Idaho Criminal Code defines the crime of forgery as follows, in pertinent part:

18-3601. Forgery defined. – Every person who, with intent to defraud another, falsely makes, alters, forges or counterfeits any ... county order or warrant ... is guilty of a felony.

10. The act by the Respondent's agent of altering the Garnishment Documents as referenced above falls within the definition of forgery, a felony pursuant to Idaho Code § 18-3601.

11. Idaho Code § 8-507 provides that, upon receiving written directions from the plaintiff or his attorney, that any person or corporation has in its possession or control any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the sheriff shall serve upon such person or corporation a series of documents set forth in that section, including, but not limited to: (1) a copy of the writ; (2) a notice that property or debts are attached pursuant to the writ; (3) a notice of exemptions available under federal and state law; (4) instructions to debtors and third parties for asserting a claim of exemption; and (5) a form for making a claim of exemption.

12. Idaho Code § 8-507C sets forth the required language to be included in the notice of exemptions, instructions to debtors and third parties, and the claim of exemption referenced in Idaho Code § 8-507.

13. The act by the Respondent's agent of eliminating the county sheriff from the collection process and failing to provide W.B. with a claim of exemption form and notice of the rights attendant thereto, violated Idaho Collection Statutes, which resulted in W.B. being stripped of important rights in Idaho's statutory collection process.

14. Idaho Code § 26-2229A(1) provides that “Every licensee or person required to be licensed under [the Act] and its agents shall deal openly, fairly, and honestly without deception in the conduct of its business activities in this state under [the Act].”

15. The acts of the Respondent’s agent of altering court documents and violating Idaho Collection Statutes in an effort to collect a debt against W.B. on behalf of the Respondent, as referenced above, shows that the Respondent has failed to deal openly, fairly, and honestly without deception in the conduct of its business activities in Idaho under the Act, and in so doing, violated Idaho Code § 26-2229A(1).

REMEDIES

16. The Respondent neither admits nor denies the allegations contained in this Consent Order.

17. To address the violations set forth above, the Respondent agrees to pay to the Department an administrative penalty in the amount of four thousand dollars (\$4,000), and an additional amount of one thousand dollars (\$1,000) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of five thousand dollars (\$5,000). Upon execution of this Consent Order, and by no later than April 13, 2009, the Respondent agrees to make an initial payment to the Department of \$1,000, and also agrees to make payments to the Department of \$1,000 by the 13th of each month thereafter until the \$5,000 is paid in full.

18. The Respondent agrees that by April 13, 2009 it will provide written certification to the Department that it has changed its collection procedures so that that the acts and violations set forth above will not occur again in the future, as well a written explanation of the change in its procedures, subject to the Department’s approval.

19. The Respondent agrees to abide by all provisions of the Idaho Collection Agency Act and rules promulgated thereunder at all times in the future.

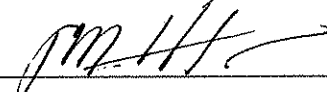
20. The Respondent agrees that the findings of fact and violations contained herein may be used in any subsequent proceeding resulting from any breach of the terms of this Consent Order or future violations of the Act, rules promulgated thereunder, or relevant federal laws and rules by the Respondent.

21. The Department agrees not to seek further penalties or fees for the violations identified in this Consent Order other than as set forth in paragraph 17 above, as long as the Respondent fully and timely complies with the terms of this Consent Order.

22. The Respondent 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.

DATED this 15 day of April, 2009.


**BRIAN KVARFORDT, dba NORTH
AMERICAN COLLECTIONS AND
SAFETY CHECK**

By: 
Owner
Title

APPROVED AS TO FORM AND CONTENT:


DATED this 16th day of April, 2009.

**ANDERSON NELSON HALL SMITH,
P.A.**


DOUGLAS R. NELSON
Counsel for the Respondent

DATED this 20th day of April, 2009.

STATE OF IDAHO
DEPARTMENT OF FINANCE


on behalf of me
MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 20th day of April, 2009.



STATE OF IDAHO
DEPARTMENT OF FINANCE



GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of April, 2009,
I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be
served on the following by the designated means:

Douglas R. Nelson
ANDERSON NELSON HALL
SMITH P.A.
P.O. Box 51630
Idaho Falls, ID 83405

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- hand delivery



Paralegal