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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.)
)
INTERNATIONAL CO-OP LLC,)
)
Respondent.)
)
_____)

Docket No. 2009-8-02

**ORDER TO CEASE AND DESIST
AND NOTICE OF THE DIRECTOR'S
INTENT TO IMPOSE SANCTIONS
UNDER THE IDAHO COLLECTION
AGENCY ACT, AND NOTICE OF THE
OPPORTUNITY FOR A HEARING**

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.*, and the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 *et seq.*, hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to Idaho Code §§ 26-2244(1) and -(2), 26-31-205(1) and -(2), requiring INTERNATIONAL CO-OP LLC to immediately cease and desist from violating the Idaho Collection Agency Act and the Idaho Residential Mortgage Practices Act.

RESPONDENT

1. INTERNATIONAL CO-OP LLC (the Respondent) is an Idaho limited liability company formed on or about February 18, 2009. The Respondent's business address is 5202 N. Cortona Way, Meridian, Idaho 83646. Paul C. Aughtry IV is the Respondent's member/manager and representative. The Respondent has never applied for, nor has the Department ever issued to the Respondent, a license under either the Idaho Collection Agency Act or the Idaho Residential Mortgage Practices Act authorizing the Respondent to engage in activities authorized by those acts, to include engaging in mortgage loan modification activities on behalf of a borrower for compensation or gain or as a business activity.

FINDINGS OF FACT

VICTIM B. H.

2. In or around late May of 2009, Boise resident B. H. was having difficulties with her residential mortgage loan payments and became aware of the residential mortgage loan modification services that the Respondent offered.

3. On or about June 1, 2009, B. H. entered into an agreement with the Respondent to modify her residential mortgage loan. On or around that same date, B. H. paid \$1,800 to the Respondent through its member/manager and representative, Paul Aughtry IV, as a fee for the Respondent's residential mortgage loan modification services.

4. To date, the Respondent has failed to modify the residential mortgage loan of B. H., has failed to return her telephone calls, and has failed to return any portion of the \$1,800 fee paid by B. H. to the Respondent for its residential mortgage loan modification services.

VICTIM J. W.

5. In or around May of 2009, Boise, Idaho resident J. W. was having difficulties with his residential mortgage loan payments and became aware of the residential mortgage loan modification services that the Respondent offered.

6. In or around mid-June of 2009, J. W. entered into an agreement with the Respondent for the modification of J. W.'s residential mortgage loan. The Respondent's member/manager and representative, Paul C. Aughtry IV, agreed that the Respondent would modify J. W.'s residential mortgage loan for the total fee of \$1,500 to be paid in two installments: \$750 to begin the residential mortgage loan modification process, and \$750 later in the residential mortgage loan modification process.

7. In or around mid-June of 2009, pursuant to the agreement entered into between J. W. and the Respondent, J. W. made the first \$750 payment to the Respondent through its member/manager and representative, Paul C. Aughtry IV, in the form of a personal check made out to the Respondent. Soon after J. W. made the first \$750 payment, the Respondent made an initial contact with J. W.'s mortgage lender concerning a modification of J. W.'s residential mortgage loan. At or around that time, the Respondent's member/manager and representative, Paul C. Aughtry IV, advised J. W. to cease making his monthly residential mortgage loan payments while the Respondent was engaging in the residential mortgage loan modification services on J. W.'s behalf.

8. In August of 2009, J. W. made the second payment of \$750 to the Respondent in the form of a personal check made out to the Respondent, which check J. W. gave to the Respondent's member/manager and representative, Paul Aughtry IV.

9. After approximately three (3) months had passed since J. W. had first engaged the Respondent's residential mortgage loan modification services, J. W. became aware that the modification had not been effected. J. W. then contacted his mortgage lender, who informed J. W. that it received no further contact from the Respondent beyond the initial contact in June of 2009. Further, J. W. learned from his mortgage lender that J. W.'s failure to make the mortgage loan payments due over the past few months, as he had been instructed by the Respondent's member/manager and representative, Paul Aughtry IV, had placed J. W.'s residential mortgage loan in further jeopardy.

10. To date, J. W. has not received the residential mortgage loan modification as to which he had contracted with the Respondent, nor has J. W. received the return of any of the \$1,500 he paid to the Respondent as a fee for such services. Further, J. W. has been placed in a less favorable position with his mortgage lender due to his failure to make the monthly loan payments due, upon the advice of the Respondent's member/manager and representative, Paul Aughtry IV.

VICTIM D. E.

11. In or around July of 2009, Boise, Idaho resident D. E. was having difficulties with his residential mortgage loan payments and became aware of the Respondent's residential mortgage loan modification services.

12. On or about August 31, 2009, D. E. entered into an agreement with the Respondent for the modification of D. E.'s residential mortgage loan. The Respondent's member/manager and representative, Paul C. Aughtry IV, agreed that the Respondent would modify D. E.'s residential mortgage loan for the total fee of \$2,000, to be paid in three

installments: \$1,200 as an initial payment, \$300 to be paid in thirty (30) days, and \$500 upon completion of the residential mortgage loan modification.

13. Pursuant to the agreement entered into between D. E. and the Respondent, on or about August 31, 2009, D. E. gave the Respondent's member/manager and representative, Paul C. Aughtry IV, the first payment of \$1,200 in the form of a personal check made out to the Respondent.

14. After D. E. made the initial payment of \$1,200 to the Respondent through its member/manager and representative, Paul C. Aughtry IV, D. E. received no further communication from Paul C. Aughtry IV, or from any other agent of the Respondent. D. E. attempted to contact Paul C. Aughtry IV, but D. E.'s telephone calls were not returned. Further, the Respondent did not provide the residential mortgage loan modification services that it had agreed to provide to D. E., nor has any of the money he paid to the Respondent for its residential mortgage loan modification services been returned.

VICTIMS AS YET UNKNOWN

15. The Department has reason to believe that the Respondent has entered into additional agreements for its residential loan modification services with Idaho residents not yet known or identified. The Department intends to pursue additional counts against the Respondent under the Idaho Collection Agency Act and the Idaho Residential Mortgage Practices Act as to such Idaho residents, similar to the violations alleged herein, once such additional violations by the Respondent become known.

CONCLUSIONS OF LAW AND VIOLATIONS

COUNT ONE: UNLICENSED DEBT OR CREDIT COUNSELING ACTIVITY IN VIOLATION OF THE IDAHO COLLECTION AGENCY ACT – VICTIM B. H.

16. The allegations set forth in paragraphs 1 through 4 above are fully incorporated herein by this reference.

17. Idaho Code § 26-2223 provided 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.

...

(7) Engage or offer to engage in this state ... in the business of providing counseling or other services to debtors in the management of their debts, or contracting with the debtor to effect the adjustment, compromise, or discharge of any account, note or other indebtedness of the debtor.

18. Idaho Code § 26-2222(9) defines “debt counselor” or “credit counselor” as any person engaged in any of the activities set forth in Idaho Code § 26-2223(7).

19. The activities referenced in Idaho Code § 26-2223(7) relevant to this matter are, in pertinent part: “Engag[ing] or offer[ing] to engage in this state ... in the business of providing counseling or other services to debtors in the management of their debts, or contracting with the debtor to effect the adjustment, compromise, or discharge of any account, note or other indebtedness of the debtor.”

20. The Respondent’s acts of engaging in the business of assisting an Idaho debtor in modifying or attempting to modify her residential mortgage loan, with regard to Boise, Idaho resident B. H., as referenced in paragraphs 2 through 4 above, constitutes “debt counseling” or “credit counseling” within the meaning of Idaho Code §§ 26-2222(9) and 26-2223(7).

21. The Respondent's act of engaging in debt counseling or credit counseling activity in Idaho, while it failed to hold a license under the Idaho Collection Agency Act authorizing it to do so, constituted unlicensed debt counseling or credit counseling activity in violation of Idaho Code § 26-2223(1) and -(7).

*COUNT TWO: UNLICENSED MORTGAGE LOAN MODIFICATION ACTIVITIES
IN VIOLATION OF THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT –
IDAHO RESIDENTS J. W. AND D. E.*

22. The allegations set forth in paragraphs 1 through 15 above are fully incorporated herein by this reference.

23. Idaho Code § 26-31-203(2) provides as follows:

26-31-203. Unlawful acts. -- ...

(2) No person ... shall engage in mortgage brokering activities ... without first obtaining a license from the department in accordance with this part [of the Idaho Residential Mortgage Practices Act].

24. Idaho Code § 26-31-201(5) defines "mortgage brokering activities" as follows, in pertinent part:

(5) "Mortgage brokering activities" means for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, ... negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans or engaging in loan modification activities on behalf of a borrower.

25. The Respondent's act of engaging in the business of assisting an Idaho debtor in modifying or attempting to modify his or her residential mortgage loan, as referenced in paragraphs 5 through 15 above, constitutes engaging in mortgage brokering activities, within the definition of Idaho Code § 26-31-201(5).

26. The Respondent's acts of engaging in mortgage brokering activities in Idaho, while it failed to hold a license under the Idaho Residential Mortgage Practices Act constituted unlicensed mortgage brokering activity in violation of Idaho Code § 26-31-203(2).

REQUESTED RELIEF

27. 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 Idaho Collection Agency Act or a rule adopted or an order issued under that act.

28. Idaho Code § 26-2244(2) provides that whenever, after notice and the opportunity for a hearing, the Director finds that any person has engaged in any act, practice, or omission constituting a violation of any provision of the Idaho Collection Agency Act or a rule adopted or an order issued under that act, the Director may order the person to cease and desist from such acts, practices or omissions and:

- (a) Impose a civil penalty of not more than five thousand dollars (\$5,000) for each violation upon any person found to have violated any provision of this act or a rule adopted or an order issued under this act;
- (b) Issue an order restoring to any person in interest any consideration that may have been acquired or transferred in violation of this act or a rule adopted or an order issued under this act; and
- (c) Issue an order that the person violating this act or a rule adopted or an order issued under this act pay costs, which in the discretion of the director may include an amount representing reasonable attorney's fees and reimbursement for investigative efforts.

29. Idaho Code § 26-31-203(2) provides that no non-exempt person shall engage in mortgage brokering activities without first obtaining a license from the Department under the Idaho Residential Mortgage Practices Act.

30. Idaho Code § 26-31-205(2) provides that if the Director finds that a person subject to the portion of the Idaho Residential Mortgage Practices Act pertaining to mortgage brokering activities, or if there is a reasonable cause to believe that a person is about to engage in such violation, the Director may, in his discretion, order the person to cease and desist from the violations.

ORDER

The Director, having reviewed the foregoing, and good cause being shown,

NOW, THEREFORE, the Director HEREBY FINDS that the Respondent has violated the Idaho Collection Agency Act and the Idaho Residential Mortgage Practices Act as set forth above, and that the public interest justifies the entry of this ORDER.

Based on the foregoing, and pursuant to Idaho Code §§ 26-2244(1) and -(2), and 26-31-205(2), IT IS HEREBY ORDERED that the Respondent and its agents and employees immediately CEASE AND DESIST from any further mortgage brokering activities in Idaho, to include offering to provide and providing residential mortgage loan modification services to Idaho residents.

NOTICE

31. The Respondent IS HEREBY NOTIFIED that the Director intends to impose sanctions against the Respondent for its violations of the Idaho Collection Agency Act, as set forth above. Such sanctions shall include ordering restitution for Idaho residents injured by the Respondent's violations of that act; a \$5,000 penalty for each violation of that act; and an order requiring the Respondent to pay to the Department reasonable attorney fees and investigative expenses for prosecuting such violations, subject to the Respondent's right to timely request a hearing to contest the imposition of such sanctions. If the Respondent fails to timely request a hearing to contest the imposition of such sanctions, the Respondent is HEREBY NOTIFIED that the Director intends to impose such sanctions once the time period allowed for the Respondent to contest the award of such sanctions has passed.

32. The Respondent is HEREBY NOTIFIED that the foregoing ORDER TO CEASE AND DESIST is a final order of the Director, and is effective immediately on its issuance,

pursuant to Idaho Code § 67-5247. The Respondent has the right to timely file a motion for reconsideration of such final order or request for a hearing to contest the issuance of such order as set forth below.

33. The Respondent is also HEREBY NOTIFIED that it may contest the Director's imposition of sanctions under the Idaho Collection Agency Act as set forth in paragraph 30 above, by timely filing a request for a hearing as set forth below. If the Respondent does not timely file a motion for reconsideration or request a hearing to contest the Director's entry of such sanctions, the Director intends to issue an order imposing such sanctions after the time allowed for filing a motion for reconsideration or a request for a hearing has passed.

34. The Respondent has fourteen (14) days from the service of this Order to file a motion for reconsideration or request a hearing to contest the Director's entry of this Order to Cease and Desist, and/or to contest the Director's imposition of sanctions under the Idaho Collection Agency Act. A copy of the motion for reconsideration or request for a hearing shall be served on Michael Larsen, Consumer Finance Bureau Chief, at the following address

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of the motion for reconsideration or request for hearing shall also be served on the Department's counsel in this matter, A. René Martin, Deputy Attorney General, at the following address:

A. René Martin
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

35. If the Respondent timely files a request for hearing, the Department will notify the Respondent of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

36. 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.*

37. The Department will dispose of a motion for reconsideration within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Rule 740, Idaho Rules of Administrative Procedure of the Attorney General (IRAP), located at IDAPA 4.11.01.740.

38. 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.

Also see IDAPA 04.11.01.740.02.b.

39. 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, 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.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 6TH day of OCTOBER, 2009.



STATE OF IDAHO
DEPARTMENT OF FINANCE

[Signature]
GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of October, 2009, I caused a true and correct fully-executed copy of the foregoing ORDER TO CEASE AND DESIST AND NOTICE OF THE DIRECTOR'S INTENT TO IMPOSE SANCTIONS UNDER THE IDAHO COLLECTION AGENCY ACT, AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

International Co-Op LLC
Attn: Paul C. Aughtry IV
5202 N. Cortona Way
Meridian, ID 83646

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

[Signature]

Paralegal