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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.

APG & ASSOCIATES aka APGOFNY.COM,

Respondent.

Docket No. 2016-9-03

**ORDER TO CEASE AND DESIST**

The State of Idaho, Department of Finance (Department), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to § 26-2244(1) of the Act, requiring APG & ASSOCIATES aka APGOFNY.COM (Respondent), to immediately cease and desist from violating the Act.

**RESPONDENT**

1. Respondent is an entity that operates as a third-party collection agency. The Department conducted an investigation into Respondent's location, as well as any other possible identifying information, but was unable establish a physical address or website for Respondent.

In its initial investigation, a Department staff member contacted Respondent and spoke with “Brandy” at a phone number provided to the Department in a complaint from an Idaho resident, but that number has since been disconnected. Brandy confirmed with the staff member of Respondent’s name as well as an email address of info@apgpfny.com.

2. Respondent has never held an Idaho license under the Act, which would authorize it to engage in the business of debt collection in Idaho.

### **FACTUAL ALLEGATIONS**

3. On January 21, 2016, the Department received a complaint from Idaho resident, HF, regarding Respondent’s collection activity against her.

4. In her complaint, HF indicated that a representative of the Respondent contacted her husband stating that Respondent was attempting to collect a debt on behalf of a payday loan company for a loan that HF had allegedly taken out a couple of years previously. HF also indicated that the representative threatened to have a law enforcement agency come to HF’s home if the matter was not resolved.

5. As mentioned above, on January 21, 2016, a Department staff member called Respondent and spoke with Brandy at a phone number provided by HF in her complaint. During that phone call, Brandy referenced the name “NARS”, however the Department staff member was unable to identify an entity associated with that name or acronym. Brandy provided no other identifying information regarding Respondent or its collection activity in Idaho.

6. On January 25, 2016, the Department sent an email cover letter to Respondent regarding HF’s complaint and included an attached third-party collection stop letter. In that letter, the Department requested all of Respondent’s documents relating to the assignment of the debt against HF. The Department also required the Respondent to cease all collection activities in Idaho and to provide information necessary for the Department to determine the extent of the

Respondent's unlicensed debt collection activities in Idaho. Further, the letter advised the Respondent of the license requirement for engaging in collection activities regulated under the Act in Idaho and informed the Respondent of the possible sanctions under the Act for unlicensed activity. The letter also informed the Respondent of the process for obtaining a license. The Department required that the Respondent provide all of the requested information by February 19, 2016. Respondent failed to respond to the Department's January 25, 2016 email and letter.

7. On March 14, 2016, a second email cover letter was sent to Respondent.

8. On March 15, 2016, the Department received an email response from Respondent's representative, Jennifer Maxwell, regarding the information the Department requested be received by February 19, 2016.

9. In Ms. Maxwell's email, she acknowledged that Respondent had attempted to collect a debt from HF, but claimed that due to the limited information in the software available to her, she was unable to provide any records related to the assignment of that debt. Ms. Maxwell also indicated that Respondent would no longer conduct any collection activity in Idaho and that it would not be applying for an Idaho collection agency license.

10. Based on information provided to the Department and described above, the Respondent engaged in debt collection activity in Idaho and was not licensed, in violation of the Act.

### **CONCLUSIONS OF LAW AND VIOLATIONS**

#### *UNLICENSED COLLECTION ACTIVITY IN IDAHO*

11. The allegations set forth in paragraphs 1 through 10 above are fully incorporated herein by this reference.

12. Idaho Code § 26-2223 provides 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.

(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.

13. “Collection activities” is defined in Idaho Code § 26-2222(3) as the activities enumerated in Idaho Code § 26-2223.

14. Respondent’s acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 1 through 10 above, constitute violations of Idaho Code § 26-2223(1) and –(2). Each contact of Idaho residents by Respondent for the purposes of collection constitutes a separate violation.

#### **REQUESTED RELIEF**

15. 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 Act.

#### **ORDER**

The Director, having reviewed the foregoing, good cause being shown, and the public interest being served thereby,

NOW, THEREFORE, the Director HEREBY FINDS that Respondent has violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code § 26-2244(1), IT IS HEREBY ORDERED that Respondent and its agents and employees immediately CEASE AND DESIST from acts, practices, or omissions which constitute a violation of the Act, including specifically from engaging in collection activity in Idaho without the license required by the Act.


This ORDER TO CEASE AND DESIST is effective upon issuance.

**IT IS SO ORDERED.**

DATED this 13<sup>th</sup> day of JUNE, 2016.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
GAVIN M. GEE, Director

**NOTICE**

Respondent is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

Respondent may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

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, Brian D. Nicholas, Deputy Attorney General, at the same address.

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should Respondent make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

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.

See IDAPA 04.11.01.740.02.b.

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 or schedule a hearing, 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.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of June, 2016, I caused a true and correct copy of the foregoing fully-executed ORDER TO CEASE AND DESIST to be served on the following by the designated means:

APG & ASSOCIATES aka  
APGOFNY.COM

- U.S. mail, postage prepaid
- certified mail
- facsimile:
- email: info@apgpfny.com

  
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Paralegal