

LAWRENCE G. WASDEN
Attorney General

BRIAN D. NICHOLAS, ISB # 3585
Deputy Attorney General
State of Idaho
Department of Finance
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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,)
)
ACTION COLLECTION SERVICE, INC.,)
dba Interstate Collections of Idaho,)
Action Collection, Financial Management,)
Check-A-Check, and ACS,)
)
Respondent.)
_____)

Docket No. 2009-9-16

**ORDER TERMINATING TERMS OF
PRIOR CONSENT ORDERS**

The Director of the Idaho Department of Finance (Department), 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 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 (collectively referred herein as "Respondent"), finds it in the public interest to terminate the terms of the Consent Orders entered into with Respondent on September 10, 2009, and December 2, 2010, together with the conditions imposed on Respondent in a letter of December 2, 2011.

RECITALS

1. On or about September 9, 2009, the Department and Respondent agreed to the entry of a Consent Order to Cease and Desist in the above-referenced action and the order was issued by the Director on September 10, 2009. A copy of that Consent Order to Cease and Desist is attached hereto and fully incorporated herein.

2. On or about December 2, 2010, the Department and the Respondent entered into a follow-up Consent Order which incorporated the terms of the September 10, 2009, Order and imposed additional terms. That Consent Order was issued by the Director on December 2, 2010. A copy of that Consent Order is attached hereto and fully incorporated herein.

3. On December 2, 2011, the Director sent a letter to legal counsel for the Respondent, which had the effect of extending the Consent Orders and imposed additional requirements on Respondent. A copy of that letter is attached hereto and fully incorporated herein.

4. During the time frame in which these Consent Orders have been in place, Respondent has worked to remedy its "out of trust" situation. Through infusion of capital and improved business practices, Respondent has worked diligently to remedy this violation, as well as other violations of the Act. The Respondent has demonstrated to the Department that, since 2011, it has improved its financial condition. Though Respondent had periods of being "out of trust" during 2009 and 2010, the Department has found no evidence to suggest Respondent was "out of trust" in 2011 or 2012.

5. Respondent has submitted a business plan to the Department and has provided monthly copies of balance sheets, income statements, and aged accounts payable schedules. The Department has also had access to Respondent's banking information. Additionally, Respondent provided the Department with weekly reporting on expense matters. The Department has not

seen any evidence during the course of the past year that Respondent is “out of trust” and not in compliance with all provisions of the Act.

ORDER

6. The conditions imposed in the Consent Orders of September 10, 2009, and December 2, 2010 and the letter of December 2, 2011, are no longer in place.

7. Respondent agrees to comply with all provisions of the Act and specifically ensure that it is “in trust” at all times. The Department, as is customary and usual, will conduct examinations periodically of Respondent’s business activities to ensure compliance with the Act.

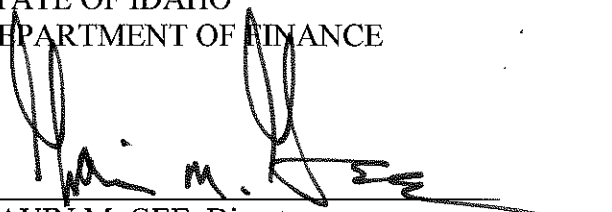
8. If these examinations indicate the Respondent is not in compliance with any provision of the Act, the Department may issue additional orders, and/or seek administrative or civil actions for the purpose of imposing penalties and other sanctions for violations found, as authorized by the Act.

IT IS SO ORDERED.

DATED this 29th day of MARCH, 2013.



STATE OF IDAHO
DEPARTMENT OF FINANCE


GAVIN M. GEE, Director

NOTICE

Respondent is HEREBY NOTIFIED that this ORDER TERMINATING TERMS OF PRIOR CONSENT ORDERS 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 29th day of March, 2013, I served a true and correct copy of the foregoing ORDER TERMINATING TERMS OF PRIOR CONSENT ORDERS 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


Paralegal

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

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

STATE OF IDAHO, DEPARTMENT OF FINANCE, CONSUMER FINANCE BUREAU,)	Docket No. 2009-9-16
)	
Complainant,)	CONSENT ORDER TO CEASE AND DESIST
)	
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 Cease and Desist Order be issued. In lieu of the immediate revocation or suspension of the Idaho collection agency license currently held by the

Respondent, and in accordance with the terms of the Act, the Respondent hereby acknowledges and consents to all of the terms included in this Consent Order to Cease and Desist and to the issuance of such Order.

FINDINGS OF FACT

1. The Respondent is a collection agency that was originally established as an Idaho corporation on November 30, 1966. Continuously since that date, the Respondent has held Idaho Collection Agency License No. CCA-3255. The Respondent's corporate office is located at 1325 Vista Avenue, Boise, Idaho 83705. The Respondent has branch offices located in Nampa, Idaho; Idaho Falls, Idaho; Pocatello, Idaho; Twin Falls, Idaho; and Murray, Utah.

2. In 1975, the Respondent was purchased by the Muir family. The Respondent's current majority owners are John F. Muir and Grant Muir, Jr. Valera P. Muir is the Respondent's CEO, and Grant Muir, Jr. is the Respondent's responsible person in charge.

3. On July 30, 2009, a Department examiner conducted a routine examination of the Respondent's collection agency business. From the Respondent's records and other information reviewed during such examination, the examiner preliminarily concluded that on June 30, 2009, the Respondent was "out of trust" in the approximate amount of between \$140,000 and \$174,000, in violation of the Idaho Collection Agency Act.

4. On August 7, 2009, the Department examiner referenced in paragraph 3 above e-mailed Valera P. Muir to inform the Respondent of the conclusions reached from the Department's examination of the company. In that e-mail, the examiner informed the Respondent that if such conclusions were correct, the Respondent must immediately correct the "out of trust" condition and other items noted in the examination which constitute violations of the Act.

5. On August 10, 2009, the examiner received an e-mail from John F. Muir on behalf of the Respondent, admitting that the examiner's conclusions were correct, and that the Respondent was "out of trust." In that e-mail, John F. Muir asked for the opportunity to work with the Department in correcting that situation.

6. On August 13, 2009, a meeting was held at the Department's offices in Boise, Idaho, attended by Department staff; John F. Muir and Grant Muir, Jr. on behalf of the Respondent; and Department counsel. As they had done in recent communications with Department staff, John F. Muir and Grant Muir, Jr. confirmed at the meeting that the Respondent was "out of trust" with its clients in that monthly collections proceeds were being used to pay remittances owed to clients from the prior month's collections. By virtue of this circumstance, the Respondent is in arrears in remittances owed to its clients in an amount estimated to be between \$140,000 and \$174,000. Remittances owed to the Respondent's collection clients represent such clients' share of collections the Respondent has received on their behalf.

7. Under the Respondent's operational procedures, as indicated by records reviewed during the July 30, 2009 examination and in discussions between John F. Muir and/or Grant Muir, Jr. and Department staff, the Respondent has recently been initially depositing moneys received on behalf of collection clients in a money fund account rather than in a trust account. From the money fund account, the Respondent then transfers moneys to other accounts, which include expense accounts, as well as trust accounts used for the purpose of remitting moneys due to collection clients. Sufficient moneys have not been transferred to the Respondent's trust accounts to fully pay the Respondent's collection clients their share of collection moneys received by the Respondent on such collection clients' behalf.

8. At the August 13, 2009 meeting referenced in paragraph 6 above, Department staff discussed with John F. Muir and Grant Muir the scope of the Respondent's apparent non-compliance with the requirements of the Idaho Collection Agency Act, as shown by the information currently known to the Department; the need for the Respondent to provide further information to the Department as part of its ongoing investigation of the Respondent's business activities; and some of the steps the Department requires to establish the Respondent's compliance with the Act.

9. This paragraph 9 sets forth the Respondent's response to the Department's allegations of fact contained in paragraphs 1 through 8 above. Upon assuming ownership and control of the Respondent in 2008, John F. Muir and Grant Muir, Jr. inherited, by current standards, a dated accounting system and related hardware that was utilized to operate the business of the Respondent. Although functional, the system made it difficult to readily track funds with specificity. In order to remedy this situation, John F. Muir and Grant Muir, Jr., implemented a new accounting and operations software system that became fully operational in June, 2009. This system upgrade brought to light the shortage of funds actually held in trust. The shortage of funds held in trust derived from the procedure under the previous system whereby the proceeds from collections had been initially deposited and held in a general money market account before depositing them at the end of each month into the trust account for disbursement. The shortfall had never come to light, as the Respondent always had sufficient funds to make timely payments to its clients as said payments came due. On July 30, 2009, a Department examiner conducted a routine examination of the Respondent's collection agency business operation. Said examination was performed on information generated by the Respondent's newly implemented accounting software system and resulted in the conclusion that

the Respondent was "out of trust" as reported in paragraph 3 above. In the August 10, 2009 e-mail to the Department examiner, John F. Muir provided additional information regarding the banking and accounting system used by the Respondent and disclosed that the procedure theretofore utilized by the Respondent to maximize income had been to deposit collected funds into a general, interest-bearing money market account prior to monthly disbursement to other accounts, including its client trust account, for further disbursement. John F. Muir expressed the Respondent's desire to have the opportunity to work with the Department so as to amend said procedures as necessary to conform to legal requirements.

10. This Consent Cease and Desist Order sets forth the Respondent's violations of the Idaho Collection Agency Act, based on the information currently known to the Department, and the initial steps the Department requires the Respondent to take to re-establish its compliance with the Act.

VIOLATIONS OF LAW

I. FAILURE TO DEPOSIT TRUST FUNDS IN TRUST ACCOUNT

11. Paragraphs 1 through 10 above are fully incorporated herein by this reference.

12. Idaho Code § 26-2233(1) provides that every licensee under the Act that receives or holds funds belonging to another in connection with the business activities authorized by the Act shall, in its own name, establish and maintain a separate trust account for deposit and remittance of such funds in a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

13. The Respondent's business practice of depositing funds collected on behalf of its collection clients in an account other than the appropriate trust account, as referenced in paragraph 7 above, constitutes a violation of Idaho Code § 26-2233(1).

II. MISAPPLICATION OF MONEY HELD IN TRUST

14. Paragraphs 1 through 13 above are fully incorporated herein by this reference.

15. Idaho Code § 26-2233(1) provides that a licensee under the Idaho Collection Agency Act may not, either directly or indirectly, misapply money held in trust.

16. The Respondent's acts of paying collection clients amounts due them from funds collected on behalf of other collection clients, constitute violations of Idaho Code § 26-2233(1).

ORDER AND REMEDIES

17. The Respondent agrees to immediately cease and desist from all acts or practices constituting a violation of the Idaho Collection Agency Act, to include the acts or practices constituting violations of the Act as specified in this Order.

18. The Respondent and the Department agree that the purpose of this Consent Order to Cease and Desist is to bring the Respondent into compliance with the Idaho Collection Agency Act as soon as practicable, but in no event by later than ninety (90) days from the entry of this Order, to specifically include establishing that the Respondent is properly depositing client funds in a trust account, is current with its trust obligations under the Act, and is properly handling its trust account as required by the Act. To that end, the Respondent agrees to take the steps set forth in the following paragraphs to establish compliance with the requirements of the Act.

19. Effective immediately, all moneys received by the Respondent pursuant to its collection agency business shall be deposited into such bank account(s) as designated by the Department. The Department authorizes the Respondent to disburse from its accounts as necessary for ongoing normal business expenses, unless otherwise directed by the Department. If feasible, the Respondent may use one or more of its existing bank accounts for such purposes.

If it is not feasible to use one or more of the Respondent's existing accounts to effect the terms of this Order, a new account or accounts may be established by the Respondent. If requested to do so by the Department, the Respondent shall sign any documents required by the bank(s) where the Respondent's operating and/or trust accounts are held to allow a designee of the Director to become a co-signer on such accounts.

20. Effective immediately, the Respondent shall deposit all moneys collected on behalf of its collection clients in the account(s) described in paragraph 19 above within one (1) business day following receipt of such moneys by the Respondent. With respect to moneys collected in the form of credit card payments, debit card payments, and electronic check payments, the Respondent shall deposit its clients' share of such payments into account(s) described in paragraph 19 above within one (1) business day following receipt of such moneys from the Respondent's electronic payments processor. Any moneys properly payable to the Respondent's business shall be directed and deposited to such account(s), and not to any owner, officer, agent, or employee of the Respondent, subject to disbursement from said accounts as necessary for ongoing normal business purposes (including payroll) as provided in paragraph 19 above. If requested to do so by the Department, in the event that a new bank account or accounts is/are established to effect the terms of this Consent Order to Cease and Desist, the Respondent shall transfer any and all sums presently on deposit in any of the Respondent's operations, trust, or other accounts to the newly established account.

21. By no later than the date this Consent Order to Cease and Desist is signed by the Director, the Respondent shall provide to the Department, or make such information available to the Department at the Respondent's offices, a full, complete, and accurate accounting of all moneys paid to the Respondent for any purpose, and all payments or disbursements made by the

Respondent for any purpose, during the period from January 1, 2007 to the present date. Such accounting shall include copies of all bank statements concerning any bank account(s) maintained by the Respondent during such time period, as well as true and correct copies of any documents prepared in connection with the Respondent's financial accounting system during such time period, to include bank account reconciliation statements, financial statements, budgets, tax returns or other tax-related documents, and any other financial documents.

22. By no later than September 16, 2009, the Respondent shall provide to the Department a complete list of all of its collection clients and creditors. Such list shall include the name, address, and contact information of each collection client and creditor. Such list shall also include the name, address, and contact information of all of the Respondent's former collection clients as to which the Respondent collected accounts during the time period from January 1, 2007 to the present date.

23. During the period from the date of the entry of this Consent Order to Cease and Desist Order through no more than ninety (90) days thereafter, the Respondent shall be limited to the following activities in its collection business under the Act:

- (a) Receiving payments from debtors for all on-going and active collection client accounts;
- (b) Depositing payments received on behalf of collection clients only in accounts designated by the Department;
- (c) Posting payments received on behalf of collection clients to the proper collection client account;
- (d) Paying the Respondent's business expenses only as authorized in writing by the Department;

- (e) Continuing collection lawsuits only where a civil complaint has already been filed and the debtor has been served;
- (f) Reporting to consumer reporting agencies information concerning payments received from debtors on behalf of collection clients;
- (g) Continuing normal collection activities on existing collection client accounts;
- (h) Continuing prosecution of civil lawsuits already filed; initiating the prosecution of civil lawsuits only when statutes of limitation require doing so to avoid loss of the cause of action; and renewing judgments already obtained;
- (i) Receiving and continuing normal collection activities on new collection client accounts, as authorized by this Consent Order to Cease and Desist; and
- (j) Such other activities as authorized in writing by the Department.

24. The Respondent agrees to comply with such other reasonable requirements the Department deems necessary to ensure the Respondent's compliance with the requirements of the Idaho Collection Agency Act, other applicable law, and this Order.

25. The Respondent agrees to pay full restitution to any collection clients injured by its violations of the Act as set forth in this Order, once an accurate restitution figure is determined pursuant to the Department's ongoing investigation of the Respondent's business activities conducted under the Act.

26. The Respondent acknowledges and understands that the Department's investigation into the Respondent's business activities is in progress and that additional requests

for documents, records, and other information may be made by the Department in furtherance of such investigation. The Respondent agrees to timely comply with such requests, and provide full access to all business records, offices, and premises, as required by the Act.

27. The Respondent acknowledges and understands that the Department's investigation into 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.

28. The Respondent acknowledges and agrees that the Department shall have no liability for any expenses incurred by the Respondent either before or after the execution of this Consent Order to Cease and Desist.

29. The Respondent agrees to all of the foregoing actions, and that such actions are in the public interest and that an emergency exists justifying the same. The Respondent waives any right it may have to a hearing as to any of the actions and steps set forth in this Order.

DATED this 9th day of September, 2009.

ACTION COLLECTION SERVICE, INC.


By: _____

John F. Muir
Printed Name

CFO / OWNER
Title

APPROVED AS TO FORM AND CONTENT:

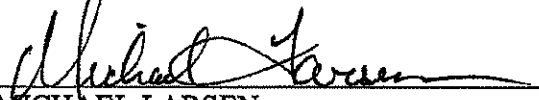
DATED this 9th day of September, 2009.



JOHN L. RUNFT
Counsel for the Respondent

DATED this 10th day of September, 2009.

STATE OF IDAHO
DEPARTMENT OF FINANCE



MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 10th day of September, 2009.



STATE OF IDAHO
DEPARTMENT OF FINANCE



GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10 day of September, 2009, I served a true and correct copy of the foregoing CONSENT ORDER TO CEASE AND DESIST 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



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

**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,)	
)	CONSENT ORDER
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. Maier
Printed Name

_____ CFO / OWNER
Title

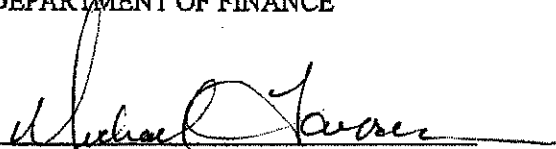
APPROVED AS TO FORM AND CONTENT:

DATED this 30th day of November, 2010.


JOHN L. RUNFT
Counsel for the Respondent

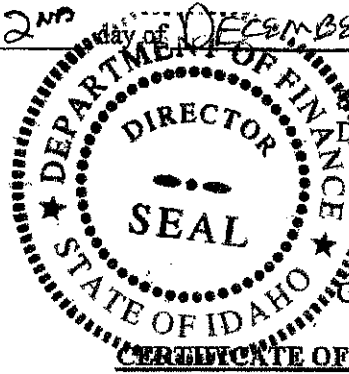
DATED this 2nd December day of ~~November~~, 2010.

STATE OF IDAHO
DEPARTMENT OF FINANCE


MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.


DATED this 2nd 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





STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

December 2, 2011

John L. Runft
Runft & Steele Law Office
1020 W. Main Street, Suite 400
Boise, ID 83701

RE: Action Collection

Dear Mr. Runft:

As you are aware, the Consent Order entered on December 2, 2010 between the Idaho Department of Finance (Department) and Action Collection Service, Inc. (ACS) expires by its terms on December 31, 2011. However, the Department is still very concerned about the financial condition of ACS and specifically, ACS's inability to maintain its trust account. On August 31, 2011, ACS was out of trust by \$65,000 and by September 30, 2011, the out of trust amount grew to \$129,500. The out of trust situation was remedied when ACS obtained a \$130,000 loan from a related entity and deposited that amount to its trust account on October 28, 2011. What is particularly disturbing is that the accounting firm Hooper Cornell was hired to put into place safeguards so that ACS would not go out of trust. Despite these safeguards, ACS was materially out of trust at month end for two consecutive months. During this time, ACS representatives avoided responding to Department Examiner Tom Little and failed to submit financial information as required under the terms of the Consent Order.

The Department did not become aware of the out of trust problem until approximately October 19, 2011, when you met with representatives of the Department to inform them of the situation. At that meeting, the Department was of the understanding that the out of trust situation would be cured by October 24, 2011 and that financials for the month of August 2011 would be delivered by that date. While ACS should have notified the Department of the out of trust situation shortly after August 31, 2011, it did not do so. Instead, ACS waited over six weeks before notification was provided. The belated notice is, at a minimum, a violation of the spirit of the December 2, 2010 Consent Order.

As mentioned above, ACS remedied the out of trust situation by obtaining a loan from a related entity. Similarly, in 2009, when ACS was out of trust in the approximate amount of \$352,000, it obtained a loan from a related party to remedy that situation. The fact that ACS must borrow to bring itself into compliance with the trust requirements of the Idaho Collection Agency Act (the Act) highlights its lack of financial stability. ACS's own income statements show that it has lost money during every month, except one, of 2011. Per ACS figures, as of October 31, 2011, ACS has lost \$157,000 since the beginning of 2011. Revenues have dropped

substantially over the year, but ACS has not reduced the salaries of its principals. We recognize ACS has undertaken steps to reduce expenses and overhead, but these efforts have not resulted in the business turning a profit.

Per information provided to Department Examiner Little on October 31, 2011, ACS still owes the Internal Revenue Service \$130,000, and has a payment arrangement to make monthly payments of approximately \$1,800 to reduce that debt. In or around September 2011, it appears that a \$30,000 payment was made to the IRS, but there is no record of where that money came from. We suspect that the \$30,000 came out of the trust account, but we are unsure at this point.

In short, ACS has been out of compliance with its trust obligations for two months, which was only remedied with a loan. This loan is in addition to another substantial loan in 2009 which was used to bring the trust account into compliance. ACS is not making payments on either loan at this time, nor could it afford to. Its finances continue to deteriorate on a monthly basis.

ACS has violated Idaho Code § 26-2233 in failing to adequately maintain its trust account, and its license may be subject to revocation on grounds that it lacks the requisite fitness to engage in licensed collection activities (Idaho Code § 26-2227(1)(1)). At this stage, the Department legitimately questions whether ACS can maintain and operate a business consistent with financial fitness requirements necessary to maintain a license. As such, it has seriously considered an action to revoke ACS's license. Such an action would effectively put ACS out of business.

However, instead of initiating an action to revoke ACS's collection agency license, the Department is willing to consider other alternatives to allow ACS to operate and try to turn things around, but only if ACS is willing to agree to work with the Department and provide greater access to information. Accordingly, the Department requests that ACS provide a detailed explanation of the accounting transfer of the \$30,000 IRS payment.

In addition, ACS must provide the Department a written business plan by no later than December 31, 2011 detailing how it intends to increase revenues and cut expenses so it can return to profitability. The written plan should include the following, at a minimum:

1. A cash flow projection each month, for the next eight months.
2. A monthly comparison of cash flow projections to actual operating results to be delivered by the last business day of the third week of the ensuing month.
3. Remote, daily access to the Department for the following bank accounts:
 - a. Boise Trust Account – Wells Fargo #3940215761 – Action # 106;
 - b. Operating Account – Idaho Banking Company #31810443 – Action #102; and
 - c. Bank Card Account – Wells Fargo #6296287862 – Action #107.

4. Authorization from the Department required for withdrawals/disbursements from ACS accounts #102, #106 and #107 (dual signature or the equivalent).
5. Remittance of all outstanding trust payments made prior to January 1, 2011 to Unclaimed Property unless it can be demonstrated that ACS has communicated with the payee in the interim and has been advised that the payee has received a check, but has not yet negotiated the check.
6. Provide copies of all bank statements and reconciliations by the end of the last business day of the third week following the bank statement period.
7. By the last business day of the fourth week of each month, provide the following reports covering activity for the previous month:
 - a. Balance sheet
 - b. Profit and loss
 - c. Aged accounts payable schedule
8. Such other information, documentation, and access to records as may be determined by the Department to be necessary.

In addition, should ACS default with respect to any term under the Consent Order, then ACS must consent to the appointment of a receiver. The Department would name a receiver to operate the business as a going concern so it could be sold for the benefit of the owners.

If ACS is willing to submit a proposed plan and comply with the requirements of the Department, the Department is willing to work with ACS in hopes that ACS can return to profitability and maintain its trust accounts in a manner provided by law. If we cannot stipulate to a new order, to include the above-mentioned provisions, together with such other provisions as the Department may require, prior to December 31, 2011, my client has instructed me to proceed with an action to revoke ACS's license and take all necessary measures to preserve monies in ACS's trust account for the benefit of the owners of those funds.

Please let me know if this is acceptable.

Sincerely,



Brian D. Nicholas
Deputy Attorney General

cc: Michael Larsen, Consumer Finance Bureau Chief