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Attorney for Department of Finance Consumer Finance Bureau Staff

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

In re:

BIG MOUNTAIN ACCOUNTING & TAXES,
Collection Agency License No. CCA-8778,

Licensee.

Docket No. 2022-09-04

**VERIFIED COMPLAINT FOR
REVOCATION OF IDAHO
COLLECTION AGENCY LICENSE**

AND

**NOTICE OF THE OPPORTUNITY TO
REQUEST A HEARING**

Comes now the staff of the Idaho Department of Finance (Department), by and through its undersigned counsel and hereby alleges and complains as follows and provides this Verified Complaint for Revocation of Idaho Collection Agency License and Notice of the Opportunity to Request a Hearing (Notice).

Pursuant to Idaho Code § 26-2227, BIG MOUNTAIN ACCOUNTING & TAXES has the right to a hearing on the question of whether its license should be revoked, but to do so it must make

a written request for a hearing within twenty-one (21) days after the date of mailing of this Notice pursuant to IDAPA 04.11.01.270.01.

VERIFIED COMPLAINT

MATTERS ASSERTED

1. The Director of the Department of Finance has jurisdiction over this matter.
2. BIG MOUNTAIN ACCOUNTING & TAXES (the Licensee) is an Idaho entity conducting business at 601 East Seltice Way #208, Post Falls, Idaho 83854. The Licensee has been registered to conduct business in Idaho with the Idaho Secretary of State since at least October 15, 2001.
3. The Licensee is licensed by the Idaho Department of Finance (Department) as a collection agency and has been since approximately September 5, 2013, holding License No. CCA-8778 pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act).
4. Pursuant to Idaho code § 26-2232, licensees shall maintain a surety bond in the minimum amount of \$15,000 or higher based on the volume of business conducted in Idaho.
5. Pursuant to Idaho Code § 26-2246, a licensee terminating operations shall provide sufficient proof to the director that it has remitted and returned all accounts, papers, and money due to its creditor clients.
6. On June 13, 2022, the Department received a notification from the Licensee's surety bond company that the Licensee's bond would be cancelled and voided as of July 20, 2022, for nonpayment of the premium.
7. On June 15, 2022, the Department emailed and mailed a letter to the Licensee informing it of the need to renew its surety bond or surrender its license by no later than July 20, 2022, and required a response from the Licensee. The letter included two check box options for

the Licensee to indicate whether it intended to continue being licensed in Idaho or surrender its license. Along with the check box option to surrender its license, the letter included a signature line for the Licensee's authorized representative to acknowledge the statutorily required closing and wind-down procedures, which were also attached to the letter.

8. On July 5, 2022, the Department received the letter/form back from the Licensee. The Licensee had checked the box indicating that it did not wish to continue being licensed in Idaho and included a signature acknowledging the wind-down procedures, but the required documentation was not provided to complete the surrender.

9. On July 6, 2022, an examiner for the Department emailed Donald Moberg, who had signed the letter on behalf of the Licensee, requesting the required documentation. This email was not answered.

10. The Licensee's bond was cancelled on July 20, 2022.

11. On July 21, 2022, the examiner called the contact number for the Licensee and spoke with someone who identified herself as Mr. Moberg's daughter. Mr. Moberg's daughter stated that she had been forwarded the Department's email that her father received and that they were in the process of providing the required wind-down documentation. The examiner required that the documentation be submitted to the Department by July 22, 2022.

12. To date, the Licensee has failed to meet its bond requirements or provide the required documents to surrender its Idaho collection agency license.

COUNT 1.

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

13. Idaho Code § 26-2232(3) requires that, “The amount of the bond upon renewal shall be in the amount of fifteen thousand dollars (\$15,000), or two (2) times the average monthly net collections for the preceding year computed to the next highest one thousand dollars (\$1,000), whichever sum is greater” Idaho Code § 26-2232(1) requires that the bond, “shall be for the term of the license issued to the applicant.” Idaho Code § 26-2232(2) provides in part: “The bond shall be continuous in form and shall remain in full force and effect for the license period.”

14. Idaho Code § 26-2227(1) provides “[a]n application for license may be denied or, after notice and the opportunity for a hearing, a license may be suspended or revoked by the director if he finds that facts or conditions exist that would have justified the director in refusing to grant a license had such facts or conditions been known to exist at the time the license was issued or that the licensee (a) [h]as violated any provision of this chapter....”

15. Pursuant to Idaho Code § 26-2246, “Whenever the operations of a collection agency licensee under this act are closed or discontinued due to revocation, termination, or relinquishment of a collection agency license, or for any other reason, the collection agency shall, within thirty (30) days following the closure or discontinuance of operations, furnish the director with sufficient proof in a form to be determined by the director that:

(a) The collection agency has remitted to all of its creditor clients all moneys collected on their behalf and due such creditor clients;

(b) All collection accounts, judgments obtained, and other accounts have been returned to the creditor clients or other proper parties, and if appropriate, assigned by the collection agency to its creditor clients or other proper parties;

and

(c) All valuable papers, documents, judgments and other property provided to the collection agency by its creditor clients or other parties in connection with the collection agency's collection activities have been returned to the creditor clients or other proper parties.

16. The Licensee's failure to comply with Idaho Code § 26-2232 by virtue of the July 20th bond cancellation demonstrates a violation of the required bond by the Licensee.

17. The Licensee's failure to comply with Idaho Code § 26-2246 by not providing all of the necessary closure documents demonstrates a violation of the required wind-down procedures by the Licensee.

18. Based on these facts, the Department alleges that it is appropriate to revoke the Licensee's collection agency license pursuant to Idaho Code § 26-2227.

PRAYER FOR RELIEF

19. The Department requests and prays for the entry of an order by the Director:

- a. Revoking the Licensee's license as a collection agency,
- b. Requiring the Licensee to transfer all of its Idaho business to a collection agency duly licensed in Idaho within thirty (30) days from the entry of the order if it has not already done so consistent with Idaho Code § 26-2246,
- c. Requiring the Licensee to provide notice within thirty (30) days of the date of the order to all current clients, if any, of the revocation of its collection agency license and of the transfer of all its Idaho business to a collection agency duly licensed in Idaho, and to deliver a copy of that notice to the Director contemporaneously with the delivery to its current clients,

- d. Requiring the Licensee to provide to the Director written evidence of the transfer of all Idaho business within forty-two (42) days of the date of the entry of the order, and
- e. Imposing such further and additional relief as the Director deems appropriate, including those provided in Idaho Code § 26-2246.

NOTICE OF DUTY TO ANSWER AND NOTICE OF RIGHT TO HEARING

20. Pursuant to Idaho Code § 26-2227(1), Idaho Code § 67-5254, and IDAPA 04.11.01.270.01 a hearing will be granted to the Licensee if a written Answer and a Request for Hearing is received by the Department, within twenty-one (21) days following the mailing of this Notice, the date of which is set forth in the below Certificate of Mailing. The Answer and Request for Hearing must be mailed to the following address:

Attn: Lisa Baker
Assistant to the Director
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of such Answer and Request for Hearing shall also be served on the Department's counsel:

Erick M. Shaner
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

Alternatively, the Answer and Request for Hearing may be served upon counsel for the Department electronically at the email address set forth on the top of page one.

21. Upon receipt of the Answer and Request for Hearing, the Director will likely appoint a Hearing Officer. The Hearing Officer shall set the time and place for the hearing and the procedures for the hearing shall be in compliance with the Idaho Administrative Procedures Act

(title 67, chapter 52, Idaho Code) and the Idaho Rules of Administrative Procedure (IDAPA 04.11.01).

22. Failure of the Licensee to file and serve an Answer and Request for Hearing within the time prescribed shall be deemed a waiver of the opportunity for a hearing and to contest the allegations in the Complaint, and the Department will seek to have the Director enter a default order granting the relief sought in this Notice revoking Licensee's collection agency license.

DATED this 26th day of August 2022.

STATE OF IDAHO
OFFICE OF ATTORNEY GENERAL



ERICK M. SHANER
Deputy Attorney General

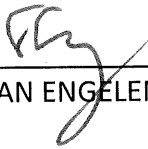
VERIFICATION

STATE OF IDAHO)
) ss.
County of Ada)

ERIN VAN ENGELEN, Consumer Finance Bureau Chief of the Department of Finance,
State of Idaho, being first duly sworn, deposes and says:

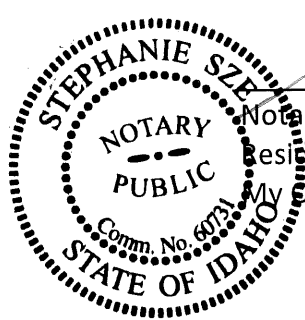
I have read the foregoing Verified Complaint for Revocation of Idaho Collection Agency
License and Notice of the Opportunity to Request a Hearing and know the contents thereof;
and that the same are true to the best of my knowledge and belief.

DATED this 29 day of August 2022.



ERIN VAN ENGELEN

SUBSCRIBED AND SWORN to before me this 29th day of August 2022.

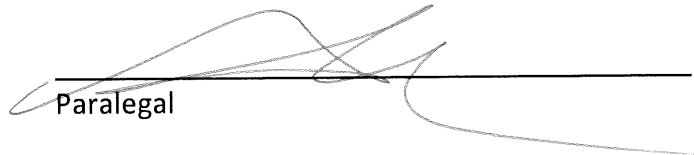

Notary Public for Idaho
Residing at: Meridian, ID
My Commission Expires: 11/30/2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August 2022, I caused a true and correct copy of the foregoing VERIFIED COMPLAINT FOR REVOCATION OF IDAHO COLLECTION AGENCY LICENSE AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Big Mountain Accounting & Taxes
Attn: Donald Moberg
601 E Seltice Way #208
Post Falls, ID 83854

- U.S. Mail, postage prepaid
- Certified mail
- Facsimile:
- Email: don@bmataxes.net



Paralegal