

LAWRENCE G. WASDEN
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8091
Facsimile: (208) 332-8016
brian.nicholas@finance.idaho.gov

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

In re:

CAPITAL ACCOUNTS, LLC,

Applicant.

Docket No. 2017-9-05

CONSENT ORDER

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the collection activities conducted in Idaho by CAPITAL ACCOUNTS, LLC (the Applicant) and alleges that the Applicant has violated provisions of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act). The Director and the Applicant have agreed to resolve this matter through this Consent Order rather than through a formal administrative proceeding or civil action. Therefore, the Director deems it appropriate and in the public interest that this Consent Order be entered. The Applicant voluntarily consents to the entry of this Consent Order without finding of liability.

THE APPLICANT

1. The Applicant was formed as a Tennessee limited liability company on June 8, 2004, and conducts business as a third party collection agency from 310 Billingsly Court, Franklin, Tennessee 37067. John Shutt is the Applicant's sole member.

2. The Applicant held a collection agency license under the Act from April 17, 2009, until March 15, 2016, when it expired by operation of law due to a failure in timely submitting license renewal forms as required annually.

FACTS

3. On March 20, 2017, the Department received a complaint from Idaho resident N.M. regarding the Applicant's unlicensed collection activity in Idaho. N.W. indicated that the Applicant had contacted him by phone regarding an unpaid dental bill.

4. After receiving the complaint, a Department staff member confirmed that the Applicant failed to hold a current license under the Act, and opened an investigation into the Applicant's possible unlicensed collection activity in Idaho.

5. On April 20, 2017, the Department sent a letter to the Applicant advising it of the licensing requirement of the Act and the sanctions for failing to comply with such requirement. It also required the Applicant to cease all collection activity in Idaho until it became license to do so. The letter further requested that the Applicant provide information concerning all of its collection activities in Idaho. The letter required the Applicant to respond by May 11, 2017.

6. On May 9, 2017, the Department received a collection agency license application from the Applicant.

7. On May 11, 2017, the Applicant's counsel contacted the Department and requested an extension to reply to the Department's letter and request for information. The Department

agreed to the extension. The Applicant's counsel subsequently requested two more extensions and on July 14, 2017, the Applicant provided its Idaho client listing to the Department.

8. The records that the Applicant provided to the Department substantiate that the Applicant engaged in collection activities in Idaho without a license under the Act.

ALLEGED VIOLATIONS

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

10. Idaho Code § 26-2223 provides as follows, in pertinent part:

26-2223. Collection agency, debt counselor, or credit counselor permits.

– 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.

...

(6) Engage or offer to engage in this state, directly, or indirectly in the business of collecting any form of indebtedness for that person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired.

...

11. "Collection agency" means a person who engages in any of the activities enumerated in subsections (1), (2), or (6) of Idaho Code § 26-2223, which are set forth in the previous paragraph.

12. The Applicant's acts of engaging in collection activities in Idaho without a license, as referenced above, constitute violations of Idaho Code § 26-2223(1), (2), and (6) as set forth in paragraphs 10 and 11 above. Each act of collecting constitutes a separate violation.

REMEDIES

13. The Applicant admits to violations of Idaho Code § 26-2223(1), (2) and (6), by engaging in collection activity in Idaho while not licensed under the Act, as referenced above.

14. The Applicant agrees to immediately cease and desist from engaging in any activity in Idaho for which a license is required under the Act until it obtains a license to do so. This includes, but is not limited to, collecting or receiving payment for others of any account, bill, claim or other indebtedness; making telephone calls related to collection activities, including automated calls; and mailing, faxing, e-mailing, or otherwise delivering communications to Idaho residents in connection with collection activities.

15. The Applicant agrees to pay to the Department the sum of two thousand dollars (\$2,000) as an administrative penalty in settlement of the violations contained herein, and an additional amount of five hundred dollars (\$500) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of two thousand five hundred dollars (\$2,500), by no later than October 16, 2017.

16. When the Applicant has executed this Consent Order and timely paid to the Department the two thousand five hundred dollars (\$2,500) payment referenced in paragraph 15 above, the Department agrees to accept and consider a license application submitted by the Applicant. Further, the Department agrees that it will not consider this Consent Order as a basis for denial of the Applicant's license application.

17. The Applicant agrees to comply with all provisions of the Idaho Collection Agency Act and relevant federal laws and regulations at all times in the future.

18. The Department agrees not to seek further penalties or fees from the Applicant for the violations addressed in this Consent Order, other than as set forth in paragraph 15 above, if the Applicant timely and fully complies with all provisions of this Consent Order.

19. The Applicant 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.

20. The Applicant acknowledges and understands that should the Department learn of additional violations by the Applicant of the Act, rules promulgated under the Act, or applicable federal laws and regulations relating to the Applicant's collection activities in Idaho, the Department may pursue further legal action and seek additional remedies.

DATED this 27th day of September, 2017.

CAPITAL ACCOUNTS, LLC.

By: JL Jason I. Coleman

Title: General Counsel and Compliance Officer

IT IS SO ORDERED.

DATED this 28th day of September, 2017.

STATE OF IDAHO
DEPARTMENT OF FINANCE

Michael Larsen
MICHAEL LARSEN, Authorized Delegate
Idaho Department of Finance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of September, 2017, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Jason I. Coleman
CAPITAL ACCCOUNTS, LLC
310 Billingsly Court
Franklin, TN 37067

- U.S. mail, postage prepaid
- Certified mail
- Facsimile:
- Email: jasoncoleman@usecapital.com

Paralegal

