

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. 2010-9-06
BUREAU,)	
)	
Complainant,)	CONSENT ORDER
)	
vs.)	
)	
FEDERAL RECOVERY ACCEPTANCE,)	
INC., dba PARAMOUNT ACCEPTANCE,)	
)	
Respondent.)	
_____)	

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the business relationships with Idaho residents of Federal Recovery Acceptance, Inc., dba Paramount Acceptance (the Respondent), and has determined that the Respondent is an unlicensed collection agency subject to the requirements of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act). The Director and the Respondent have agreed to resolve this matter through this Consent Order rather than through a formal administrative proceeding or civil action. The Director deems it appropriate and in the public interest that this Consent Order

be entered into. The Respondent knowingly and voluntarily consents to the entry of this Consent Order, having received the advice of counsel.

RESPONDENT

1. The Respondent is a Utah corporation. The Respondent conducts business from 4725 South Holladay Boulevard, Holladay, Utah 84117. The Respondent's directors are Thomas J. Klc, Reynold T. Rice, and Scott L. Rice. Reynold T. Rice is the Respondent's president. Glen Bendixen is the Respondent's CEO. Thomas J. Klc is also counsel for the Respondent.

FACTS

2. The Respondent has never been issued a license by the State of Idaho, Department of Finance, Consumer Finance Bureau (Department) authorizing it to engage in collection agency activities in Idaho.

3. On or about April 20, 2009, the Department received a complaint from Idaho resident M.C., concerning the Respondent's collection activity against M.C. relating to M.C.'s membership in Gold's Gym. The Department investigator assigned to review the complaint noted that the Respondent failed to hold a license to engage in collection activity in Idaho, and commenced an investigation into the matter.

4. On May 14, 2009, the Department investigator sent a letter to the Respondent, informing the Respondent of the licensing requirement of the Act, requesting that the Respondent provide certain information to the Department by no later than June 1, 2009 to aid in the investigation, and requesting that the Respondent either obtain a license under the Act or agree to cease collection activity in Idaho.

5. During the time period beginning with the Department's May 14, 2009 letter to the Respondent and continuing until at least February 19, 2010, the Department investigator and

various representatives of the Respondent engaged in several communications concerning the Respondent's lack of a license under the Act. During that entire time period, the Department continually maintained that the Respondent was required to be licensed under the Act if it engaged in collection activity in Idaho, and the Respondent's representatives presented arguments and theories as to why such license was not required.

6. The Respondent did not provide the information requested by the Department in its letter dated May 14, 2009.

7. On February 19, 2010, the Respondent, through its counsel, submitted to the Department some of the documents required for a license application under the Act, but failed to provide the surety bond or bond equivalent required for a complete license application, and also failed to pay the fee required for a complete license application.

8. On February 22, 2010, the Department investigator notified the Respondent's counsel that the Department had received some application forms, but informed the Respondent that "original" application documents were required, and also provided information as to how to pay the required licensing fees.

9. The Respondent has not yet provided the original application forms, the surety bond or bond equivalent, nor paid the required licensure fee to the Department.

10. In April of 2010, the Department issued an investigative subpoena to a Gold's Gym located in the Boise, Idaho area, which subpoena sought information concerning the Respondent's business dealings with such gyms. The subpoenaed Gold's Gym provided information to the Department pursuant to such subpoena. Additionally, the Respondent also provided information to the Department concerning its collection activities in Idaho, after

receiving notice from Gold's Gym of the Department's subpoena. From that information, the following facts were established:

- (a) The Respondent has maintained a contractual relationship with Boise-area Gold's Gyms since at least November of 2008.
- (b) The Respondent's contracts with Boise-area Gold's Gyms include the Respondent providing the services of receiving moneys from Gold's Gym clients to be paid over to the Gold's Gyms, and collecting on Gold's Gym accounts that became delinquent.
- (c) The Respondent collected money from or collected against at least 22,454 Gold's Gym members during the years 2008 and 2009.

FINDINGS OF VIOLATIONS

ENGAGING IN UNLICENSED COLLECTION AGENCY 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 ... 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 agency" is defined in Idaho Code § 26-2222(4) as a person who engages in any of the activities enumerated in Idaho Code § 26-2223(2) through (6).

14. "Collection activities" is defined in Idaho Code § 26-2222(3) as any of the activities enumerated in Idaho Code § 26-2223(2) through (6).

15. The Department has determined that the services provided by the Respondent under its contracts with Boise-area Gold's Gyms, as set forth in paragraph 10(a) through –(c) above, constitute operating as a collection agency in Idaho, pursuant to Idaho Code § 26-2223(1). Further, such services constitute engaging in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness, pursuant to Idaho Code § 26-2223(2), and engaging in “collection activities,” as that term is defined in Idaho Code § 26-2222(3). Because the Respondent failed to maintain a license under the Act authorizing it to engage in such acts in Idaho, such acts constitute violations of Idaho Code § 26-2223(1) and –(2). Each act of receiving payment for others and collecting in Idaho without the license required by the Act constitutes a separate violation of the Act, subject to all penalties and sanctions provided for in the Act.

REMEDIES

16. The Respondent admits to all factual allegations set forth in this Consent Order.

17. The Respondent agrees to pay to the Department the sum of fifty thousand dollars (\$50,000) in settlement of the violations contained herein, and an additional amount of five thousand dollars (\$5,000) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of fifty-five thousand dollars (\$55,000). The Respondent agrees to pay such sum in monthly payments of \$3,000 due by no later than the 15th day of each month, with the first payment to begin on July 15, 2010. Such \$3,000 payments shall continue on the 15th of each and every month thereafter until the sum of \$55,000 is paid in full. Should the Respondent fail to timely pay any monthly payment due pursuant to this Consent Order, the Department reserves the right to reopen this matter and pursue whatever legal process or sanctions it deems appropriate under the circumstances.

18. The Respondent wishes to maintain its contracts with Gold's Gyms in Idaho, as discussed above, and/or with any other Idaho clients as to whom it provides or intends to provide services falling under the Act, and/or to engage in any activities in Idaho that would require licensure under the Act. It agrees to submit to the Department a complete license application, an appropriate surety bond or its equivalent, and all necessary fees within ten (10) days from the Director's entry of this Consent Order. Otherwise, the Respondent agrees to cease and desist from all activities in Idaho that would require licensure under the Act by no later than such date.

19. If the Respondent timely provides a complete license application to the Department and timely complies with all related license application requirements as referenced in paragraph 18 above, and has timely paid to the Department any monthly payment due on the sum of \$55,000 as referenced in paragraph 17 above, the Department agrees to consider the Respondent's license application and agrees that this Consent Order and the acts underlying the same will not be used as the basis for denial of the license application.

20. The Respondent agrees to comply with all provisions of the Idaho Collection Agency Act and rules promulgated thereunder at all times in the future in its collection activities in Idaho.

21. The Department agrees not to seek further penalties or fees for the violations identified in this Consent Order, other than as set forth in the Remedies section of this Consent Order, as long as the Respondent fully and timely complies with the terms of this Consent Order.

22. The Respondent 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.

DATED this 6th day of July, 2010.

FEDERAL RECOVERY ACCEPTANCE, INC.,
dba PARAMOUNT ACCEPTANCE

By: Thomas J. KLO

SECRETARY
Title

APPROVED AS TO FORM AND SUBSTANCE.

DATED this 6th day of July, 2010.

Thomas J. KLO
THOMAS J. KLO
Counsel for the Respondent

DATED this 8th day of July, 2010.

STATE OF IDAHO
DEPARTMENT OF FINANCE

Michael Larsen
MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 8th day of July, 2010.



STATE OF IDAHO
DEPARTMENT OF FINANCE

Gavin M. GEE
GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

RECEIVED

I HEREBY CERTIFY that on this 9 day of July, 2010, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Thomas John Klc
THOMAS J. KLC AND ASSOCIATES, INC.
4725 S. Holladay Blvd. #110
Salt Lake City, UT 84117

- U.S. mail, postage prepaid
- certified mail
- facsimile (801) 424-0258
- e-mail



Paralegal