

LAWRENCE G. WASDEN
Attorney General

THOMAS A. DONOVAN – I.S.B. #4377
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8000
Facsimile: (208) 332-8016
tom.donovan@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,

Complainant,

vs.

FINANCIAL CREDIT SERVICE, INC. dba ASSET
RECOVERY ASSOCIATES,

Respondent.

Docket No. 2019-9-06

CONSENT ORDER

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the Idaho collection activities of FINANCIAL CREDIT SERVICE, INC., dba ASSET RECOVERY ASSOCIATES (the Respondent). Pursuant to said review, it appears to the Director that the Respondent has violated provisions 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 or civil action.

Therefore, the Director deems it appropriate and in the public interest that this Consent Order be entered. The Respondent voluntarily consents to the entry of this Consent Order.

THE RESPONDENT

1. The Respondent was formed as an Illinois corporation on September 17, 2003, and conducts business as a collection agency from 1919 South Highland Avenue, Suite 225A, Lombard, Illinois 60148. Bruce Cohen is the Respondent's president.

2. The Respondent held a collection agency license under the Act from 2002 to 2010.

3. The Respondent subsequently reapplied for an Idaho collection agency license in June 2013, December 2017, and again in April 2018, but each of these applications were deemed withdrawn/abandoned within a few months of submission.

FINDINGS OF FACT

4. On or about September 23, 2018, the Idaho Attorney General's Office (AG), forwarded to the Department a complaint it received from P.D., an Idaho resident, regarding the Respondent's collection attempts against P.D. P.D.'s complaint to the AG's office indicated that he was making the complaint for "informational purposes only." In his complaint, P.D. indicated that a representative for the Respondent contacted him on September 19, 2018, alleging that P.D. owed a past due debt he had with a bank. P.D. also indicated that he told the representative he could not recall ever having an account with that particular bank and requested the account information.

5. Attached to P.D.'s complaint was a copy of a collection letter, addressed to P.D., from the Respondent dated September 19, 2018. Also attached was an Affidavit and Assignment, dated the same date, which appeared to verify that the Respondent either bought or was assigned, and now owned, the alleged debt that P.D. owed to the bank.

6. On or about October 23, 2018, a Department representative emailed P.D. to request authorization to disclose to the Respondent P.D.'s name in the event the Department took enforcement action against the Respondent.

7. As of October 26, 2018, the Department had not received a response from P.D. but proceeded with sending the Respondent a letter via certified mail regarding the Respondent's apparent unlicensed collection activity. Included with the letter was a copy of P.D.'s complaint, which the Department had redacted to obscure P.D.'s name. In the letter, the Department notified the Respondent that the application it submitted for licensure in April 2018 had been deemed withdrawn/abandoned and it advised the Respondent of the licensing requirement of the Act and sanctions for failing to comply with such requirement.

8. The Department's October 26, 2018, letter further required the Respondent to cease all collection activity in Idaho until it became licensed to do so and requested that the Respondent provide information concerning all of its collection activities in Idaho. The letter required the Respondent to respond by November 15, 2018. The Department received a return receipt confirming that the Respondent had received the Department's letter on October 29, 2018.

9. On October 29, 2018, the Department received an email from P.D. authorizing the Department to disclose his name to the Respondent.

10. Since the Respondent did not respond to the Department's October letter, on November 28, 2018, the Department sent a second letter to the Respondent. This letter requested the same information as the first and also reiterated the sanctions for failing to comply with the licensing requirement. The second letter also included unredacted copies of P.D.'s complaint, the collection letter, and the Affidavit and Assignment. The letter required the Respondent to respond by December 12, 2018.

11. On December 10, 2018, the Department received a response from the Respondent with an undated letter. The Respondent explained how it had purchased P.D.'s alleged credit card debt from the bank and confirmed that the Respondent's representative had contacted P.D. for collection purposes. The Respondent also stated that it had ceased all collection activity against P.D.

12. The Respondent failed to provide information regarding any other collection activity it may have conducted in Idaho.

13. The Respondent advertises on its website, <http://www.fcsinc.biz/>, that it, "is one of the largest and most well respected debt resolution companies in the country." The website further provides, "Now you can pay online, mail a check, or pay right over the phone and have your account updated and closed within 24 hours."

14. The Respondent is not exempt, pursuant to Idaho Code § 26-2239, from the application of the Act.

ALLEGED VIOLATIONS

ENGAGING IN UNLICENSED COLLECTION AGENCY ACTIVITY IN IDAHO

15. The allegations set forth in paragraphs 1 through 14 above are fully incorporated herein by this reference.

16. 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.

(3) Solicit or advertise in this state to collect or receive payment for another 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.

17. As relevant here, the term "collection agency" means a person who engages in any of the activities enumerated in subsections (2), (3), or (6) of Idaho Code § 26-2223, which are set forth in the previous paragraph. Idaho Code § 26-2222(4).

18. The Respondent's acts of engaging in collection activity in Idaho without a license, as referenced above, constitute violations of Idaho Code § 26-2223(2) and (3).

REMEDIES

19. The Respondent admits to the allegations set forth in this Consent Order.

20. The Respondent agrees to immediately cease and desist from engaging in any and all collection activities in Idaho, to include 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; and holding itself

out as authorized to receive payments or otherwise conduct activity described in the Act until such time as it obtains a license under the Act authorizing it to do so.

21. Respondent agrees to pay to the Department the sum of five thousand dollars (\$5,000) as an administrative penalty in settlement of the violations contained herein by no later than July 9, 2019.

22. When the Respondent has executed this Consent Order and timely paid to the Department the five thousand dollars (\$5,000) referenced in paragraph 21 above, the Department agrees to accept and consider a license application the Respondent may submit to the Department, and further agrees that it will not use this Consent Order as the basis for denial of the Respondent's license application.

23. The Respondent agrees to comply with all provisions of the Idaho Collection Agency Act, rules promulgated thereunder, and relevant federal law and regulations at all times in the future.

24. The Department agrees not to seek further penalties or fees from the Respondent for the violations addressed in this Consent Order, other than as set forth in paragraph 21 above, if the Respondent timely and fully complies with all provisions of this Consent Order.

21 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.

22. The Respondent acknowledges and understands that should the Department learn of additional violations by the Respondent of the Act, rules promulgated under the Act, or

applicable federal laws and regulations relating to the Respondent's collection activities in Idaho, the Department may pursue further legal action and seek additional remedies.

DATED this 3rd day of July, 2019.

FINANCIAL CREDIT SERVICE, INC. dba ASSET
RECOVERY ASSOCIATES

By: _____

Secretary
Title

DATED this 9th day of July, 2019.

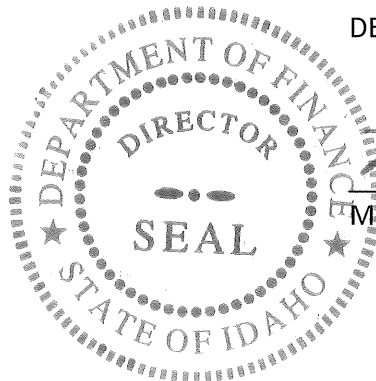
STATE OF IDAHO
DEPARTMENT OF FINANCE

ANTHONY POLIDORI
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 10th day of July, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE



MARY E. HUGHES, Acting Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of July, 2019, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Financial Credit Service, Inc.
dba Asset Recovery Associates
1919 S Highland Ave, Suite 225A
Lombard, IL 60148

U.S. mail, postage prepaid
 Certified mail
 Facsimile: 888-315-1550
 Email: *president@aracinc.us*

Paralegal 