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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,	)	Docket No. 2011-9-10
	)	
Complainant,	)	<b>CONSENT ORDER</b>
	)	
vs.	)	
	)	
JAFFE & ASHER LLP, a New York limited	)	
liability partnership,	)	
	)	
Respondent.	)	
_____	)	

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the collection activities in Idaho of JAFFE & ASHER LLP (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.

## RESPONDENT

1. The Respondent was formed as a New York limited liability partnership on October 25, 1999. The Respondent conducts business as a collection agency in Idaho from 600 Third Avenue, New York, New York 10016. The Respondent's partners are Sanford S. Asher, Lawrence M. Nessonson, and Gregory E. Gallterio.

## FACTS

2. From June 15, 2004 through March 15, 2010, the Respondent held Idaho Collection Agency License No. CCA 4139, authorizing it to engage in collection activities in Idaho.

3. Idaho Code § 26-2231(1) and –(2) provide that a collection agency licensee must file with the Director a license renewal form providing complete information as required by the Director, and pay a fee of \$100 by March 15 of each year, in order for a license to be renewed. Failure to do so results in the automatic expiration of the license as of March 15 of the applicable year.

4. The Respondent properly renewed its Idaho collection agency license for the years from 2005 through 2009, but failed to meet the requirements of the Act for renewing its Idaho collection agency license by March 15, 2010. The Respondent asserts that its violation of the Act was not willful.

5. On March 24, 2010, the State of Idaho, Department of Finance, Consumer Finance Bureau (Department) sent a letter to the Respondent at its address of record with the Department informing the Respondent that its Idaho collection agency license had expired effective March 15, 2010 by operation of law, due to the Respondent's failure to comply with the renewal requirements of the Act by March 15, 2010. That letter also notified the Respondent

that it was prohibited from engaging in collection agency activities in Idaho without holding a license issued under the Act.

6. On January 2, 2011, the Respondent submitted to the Department an application for a new Idaho collection agency license.

7. On January 24, 2011, after reviewing the Respondent's January 2, 2011 license application, the Department notified the Respondent via e-mail that its license application was deficient in several respects. Additionally, the Department's e-mail requested that the Respondent submit information to the Department concerning its collection activities in Idaho after its Idaho collection agency license had been cancelled effective March 15, 2010. The Department gave the Respondent thirty (30) days to cure the deficiencies contained in its license application, and again warned the Respondent that it was not authorized to engage in collection activities in Idaho until such time as it was issued a license under the Act.

8. On or about February 18, 2011, the Department received the Respondent's reply to the Department's January 24, 2011 deficiency notice. Such reply included information showing that the Respondent had continued collecting against Idaho residents after its Idaho collection agency license had expired due to its failure to renew on March 15, 2010. The Department concluded from the information provided by the Respondent that the Respondent had engaged in unlicensed collection activities in Idaho against at least fifty-three (53) Idaho residents between March 16, 2010 and at least January 18, 2011, which activities represented at least one million two hundred sixty-one thousand five hundred thirteen dollars (\$1,261,513) in accounts assigned for collection, and which resulted in the Respondent's collection of at least nineteen thousand eight hundred four dollars and forty-four cents (\$19,804.44).

## FINDINGS

### *ENGAGING IN UNLICENSED COLLECTION ACTIVITIES IN IDAHO*

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, 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.

...

11. “Collection agency” means a person that engages in any of the activities enumerated in subsections (2) through (6) of Idaho Code § 26-2223. Idaho Code § 26-2223(2) is set forth in paragraph 10 above.

12. The Respondent’s acts of engaging in collection activities in Idaho without a license, as referenced in paragraph 8 above, constitute violations of Idaho Code § 26-2223(1) and –(2), as set forth in paragraphs 10 and 11 above. Each act of collecting against an Idaho resident constitutes a separate violation.

## REMEDIES

13. The Respondent admits to violations of Idaho Code § 26-2223(1) and –(2) by operating as a collection agency in Idaho and collecting or receiving payments for others of any account, bill, claim or other indebtedness, while not licensed under the Act.

14. 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 until such time as it obtains a license under the Act authorizing it to do so.

15. The 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, and an additional amount of one thousand dollars (\$1,000) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of six thousand dollars (\$6,000), by no later than July 15, 2011.

16. The Department agrees that the Respondent's application for a collection agency license will be approved upon the Department's receipt of this Consent Order executed by the Respondent and the Respondent's payment to the Department of the penalty and attorney/investigative fees as set forth in paragraph 15 above.

17. 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.

18. 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 15 above, if the Respondent timely and fully complies with all provisions of this Consent Order.

19. 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.

20. 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 12 day of July, 2011.

JAFFE & ASHER LLP

By: *Chawpice N. Nesson*  
Chawpice N. Nesson

Title: Partner

DATED this 14th day of July, 2011.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

*Michael Larsen* on behalf of M.C.  
MICHAEL LARSEN  
Consumer Finance Bureau Chief

**IT IS SO ORDERED.**

DATED this 14th day of July, 2011.

STATE OF IDAHO  
DEPARTMENT OF FINANCE




*Gavin Gee* BY *[Signature]*  
GAVIN M. GEE  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14 day of July, 2011, I served a true and correct copy of the foregoing CONSENT ORDER upon the following by the designated means:

Jaffe & Asher LLP  
Attn: Lawrence M. Nessonson  
600 Third Avenue  
New York, NY 10016-1901

- U.S. mail, postage prepaid
- Certified mail
- Facsimile
- Email

  
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Paralegal