

Respondent on October 21, 2013, that it would conduct an examination at the Respondent's place of business. The examination was scheduled for December 19, 2013. The notification was acknowledged by the Respondent on October 23, 2013.

WHEREAS, the Department sent a pre-examination questionnaire to the Respondent to complete and return to the Department before the examination. On December 18, 2013, the Respondent notified the Department's examiner that it was no longer located at the licensed address and that it had not completed the pre-examination questionnaire. Additionally, it had not assembled and made available to the examiner all of the documents identified in the pre-examination questionnaire.

WHEREAS, on December 19, 2013, the examiner examined the records that were available. Upon completion of this review, the examiner provided a list of documents that needed to be submitted for the completion of the examination, as well as an invoice for the examination costs of \$569.70. The Respondent agreed to provide these documents by December 27, 2013, but has never delivered them to the Department and has not remitted the costs for the examination;

WHEREAS, the Respondent failed to renew its license by the renewal deadline of April 3, 2014, and has given no indication that it is not continuing to collect or attempting to collect from Idaho consumers.

WHEREAS, on October 7, 2014, the Director issued a Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty, Notice of Intent to Impose Costs and Notice of Right to Hearing (collectively "Notice") against Respondent, which Notice is hereby incorporated by reference and adopted herein;

WHEREAS, the Notice was sent by certified mail, return receipt received, to the last known address for Respondent, 13911 Park Avenue, Suite 200, Victorville, California 92392, certified mail no. 7009 2820 0002 8377 1024; and via email to Christopher@nccrecovery.com and accounts@nccrecovery.com;

WHEREAS, the Notice provided Respondent with the opportunity for a hearing and stated that if a hearing was not requested within 14 days of its receipt, the Director (1) would issue an order that Respondent cease and desist from violating the Idaho Collection Agency Act, Idaho Code § 26-2222 *et seq.*, (2) may impose a civil penalty of not more than five thousand dollars (\$5,000) upon Respondent (3) and would order that Respondent remit payment for the examination costs of \$569.70;

WHEREAS, Idaho Code § 26-2223 provides that “no person shall without complying with the terms of this act and obtaining a license from the director operate as a collection agency, debt counselor, credit counselor, or credit repair organization in this state.”

WHEREAS, Idaho Code §26-2228 provides that the Director shall:

- (1) Administer and enforce the provisions and requirements of this act;
- (2) Conduct investigations and issue subpoenas as necessary to determine whether a person has violated any provisions of this act, rule or order hereunder;
- (3) Conduct examinations of the books and records of licensees related to business activities authorized under this act and conduct investigations as necessary and proper for the enforcement of the provisions of this act, rules or orders hereunder.;

WHEREAS, the Director’s examination authority, pursuant to Idaho Code § 26-2234, provides the following:

- (1) The director or his duly authorized representative may make an annual examination, or more frequently in the director’s discretion, of the licensee’s business locations from which activities authorized under this act are conducted, and for that purpose the director shall have free access during normal business hours to the offices and places of business, and to the books, creditors’ accounts,

trust accounts, business accounts, records, papers, files, safes and vaults used by a licensee for its operations under this act.

(2) The director may conduct public or private investigations and examinations within or outside of this state which the director considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act. For that purpose the director shall have free access during normal business hours to the offices and places of business, and to the books, creditors' accounts, trust accounts, business accounts, records, papers, files, safes and vaults used by a licensee for its operations under this act.;

(3) The cost of examination and any investigation shall be paid to the director by each licensee so examined or investigated and the director may maintain an action for the recovery of such costs against the licensee or against the surety providing the bond to indemnify the state for such expenditures as required by this act. The cost shall be fixed annually by the director, but shall not exceed fifty dollars (\$50.00) per hour.

WHEREAS, the Director alleged in the Notice, with respect to the activity described therein, that Respondent's failure to cooperate with the Director, pursuant to Idaho Code § 26-2234, forms the basis to issue an order to cease and desist, and to impose a civil penalty;

AND WHEREAS, the Director is given the authority to issue Cease and Desist Orders, to impose penalties, and to impose costs. In pertinent part, Idaho Code § 26-2244 provides that:

(2) Whenever, after notice and the opportunity for a hearing, the director finds that any person has engage in any act, practice, or omission constituting a violation of any provision of this act or a rule adopted or an order issued under this act, the director may order the person to cease and desist from such acts, practices or omissions and:

(a) Impose a civil penalty on not more than five thousand dollars (\$5,000) for each violation upon any person found to have violated any provision of this act or a rule adopted or an order issued under this act;

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The facts as set forth in paragraphs 1 through 12, inclusive, of the STATEMENT OF ALLEGED FACTS of the Notice shall constitute findings of fact within the meaning of Chapter 52, Title 67, Idaho Code.

2. The Director finds that Respondent has engaged in acts or conduct, which, pursuant to Idaho Code § 26-2244, forms the basis to issue an order to cease and desist against Respondent.

3. The record establishes that Respondent failed to provide the Director access to Respondent's records pursuant to Idaho Code § 26-2234, which forms the basis for the Director to impose a civil penalty in the amount of five thousand dollars (\$5,000) for the violation pursuant to Idaho Code § 26-2244(2)(a).

4. The record establishes that Respondent failed to remit its examination costs to the Director of \$569.70, pursuant to Idaho Code § 26-2234(3).

5. The record establishes that Respondent let its license lapse and has given no indication to the Director that it is not currently collecting from Idaho consumers. Idaho Code § 26-2223 requires all persons operating as a collection agency in this state to obtain and maintain a license from the Director.

6. The Director finds that the Notice was given in compliance with Idaho Code § 26-2244, and Chapter 52, Title 67, Idaho Code, the Idaho Administrative Procedures Act.

III. ORDER

Having read the record, I hereby ORDER, pursuant to Idaho Code § 26-2228, that:

1. NCC RECOVERY, INC., **CEASE AND DESIST** from violating the Idaho Collection Agency Act, Idaho Code § 26-2222 *et seq.*;

2. **A CIVIL PENALTY** of five thousand dollars (\$5,000) be imposed against NCC RECOVERY, INC., to be remitted to the Department by cashier's check, certified check or money order, made payable to "Idaho Department of Finance", no later than 45 days from the date this Order is mailed;

3. **COSTS** of \$569.70 for the examination fees are to be remitted to the Department by cashier's check, certified check or money order, made payable to "Idaho Department of Finance", no later than 45 days from the date this Order is mailed; and

4. This Order shall become effective when mailed.

DATED this 12TH day of November, 2014.



STATE OF IDAHO
DEPARTMENT OF FINANCE

A handwritten signature in black ink, appearing to read "Gavin Gee", is written over a horizontal line. The signature is stylized and extends to the right of the line.

GAVIN GEE
Director, Idaho Department of Finance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of November, 2014, I caused a true and correct copy of the foregoing ORDER TO CEASE AND DESIST, ORDER TO IMPOSE CIVIL PENALTY, AND ORDER IMPOSING COSTS to be served on the following by the designated means:

Mr. Chris Boggs, Compliance
NCC Recovery, Inc.
13911 Park Avenue, Suite 200
Victorville, CA 92392

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: 760-241-8860
- Email: Christopher@nccrecovery.com