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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,

Complainant,

vs.

PROCOLLECT, INC.,

Respondent.

Docket No. 2016-9-06

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Finance (Department), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to § 26-2244(1) of the Act, requiring PROCOLLECT, INC. (the Respondent), to immediately cease and desist from violating the Act.

RESPONDENT

1. Respondent was formed on November 10, 1995 as a Texas corporation and conducts business as a third-party collection agency. The Respondent operates its business from 12170 Abrams Road, Suite 100, Dallas, Texas 75243-4579.

2. According to filings with the Texas Secretary of State, Larry Gingold serves as the Respondent's President/Director and Barry Curtis serves as its Vice-President/Director.

3. Respondent has never held an Idaho license under the Act, which would authorize it to engage in the business of debt collection in Idaho.

FACTUAL ALLEGATIONS

4. On April 21, 2016, the Department received a complaint from Idaho resident, BW, regarding the Respondent's collection activity against him.

5. In his complaint, BW stated that the Respondent had called him three times daily for a week and denied him the ability to make payment arrangements. BW also included with his complaint copies of two "paid in full" letters from the Respondent, dated March 5, 2016 and March 15, 2016, representing the two third-party collection accounts that it had against BW.

6. On April 29, 2016, after determining that the Respondent did not have a license to engage in debt collection business in Idaho, a Department staff member sent the Respondent a copy of BW's complaint and a third-party collection stop-letter via certified mail.

7. In that letter, the Department required the Respondent to provide all of its documents relating to the assignment of the debt against BW. The Department also required the Respondent to cease all collection activities in Idaho and to provide information necessary for the Department to determine the extent of the Respondent's unlicensed debt collection activities in Idaho. Further, the letter advised the Respondent of the license requirement for engaging in collection activities regulated under the Act in Idaho and informed the Respondent of the possible sanctions under the Act for unlicensed activity. The letter also informed the Respondent of the process for obtaining a license. The Department required that the Respondent provide all of the requested information by May 20, 2016. The Department received a certified return-

receipt slip which indicated that the Respondent accepted the letter; however no response from the Respondent was received.

8. On June 24, 2016, the Department sent a follow-up letter to the Respondent regarding the Respondent's failure to respond to the letter the Department sent on April 29, 2016. The Department, again, received a certified return-receipt slip which indicated that the Respondent accepted the letter, but the Respondent did not respond to the second letter either.

9. On July 27, 2016, a Department staff member called the Respondent and spoke with a representative who stated that the Respondent collects on rental debts. The representative also provided an email address with which the Department could use to resend its correspondence to the Respondent. On that same date, the Department emailed the Respondent a copy of BW's complaint and the two letters it had previously sent.

10. On August 4, 2016, a representative for the Respondent sent an email with an attached letter in response to the Department's email of July 27, 2016. The representative indicated that the letter attached to the email was a response from Barry Curtis, the Respondent's Vice-President/Director. In the letter, Mr. Curtis acknowledged that Respondent had engaged in a debt collection call with BW, but claimed that the Respondent was unaware BW resided in Idaho because the area code in his mobile number represented another state. Mr. Curtis also stated that "In this technological day and age, area codes of telephone numbers can't serve as proof that consumers reside in such states with assigned area codes."

11. Mr. Curtis also indicated that the Respondent was in the process of applying for an Idaho collection agency license which would authorize it to engage in the business of debt collection in Idaho.

12. On December 9, 2016, another Idaho resident, RD, submitted a complaint to the Department against the Respondent. Along with his complaint, RD also provided a copy of his

credit report showing that the Respondent was reporting the delinquent account to a credit bureau.

13. To date, the Respondent has not submitted a collection agency license application to the Department. The Respondent has also failed to provide the information required from the Department's stop-letters of April 29, 2016 and the follow-up letter on June 24, 2016.

14. Based on information provided to the Department and described above, the Respondent engaged in debt collection activity in Idaho and was not licensed, in violation of the Act.

CONCLUSIONS OF LAW AND VIOLATIONS

UNLICENSED COLLECTION 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, 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, 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.

17. "Collection activities" is defined in Idaho Code § 26-2222(3) as the activities enumerated in Idaho Code § 26-2223.

18. Respondent's acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 1 through 14 above, constitute violations of Idaho Code § 26-2223(1) and –(2). Each contact of Idaho residents by Respondent for the purposes of collection constitutes a separate violation.

REQUESTED RELIEF

19. Idaho Code § 26-2244(1) provides that whenever it appears to the Director that it is in the public interest, he may order any person to cease and desist from acts, practices, or omissions which constitute a violation of the Act.

ORDER

The Director, having reviewed the foregoing, good cause being shown, and the public interest being served thereby,

NOW, THEREFORE, the Director HEREBY FINDS that Respondent has violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code § 26-2244(1), IT IS HEREBY ORDERED that Respondent and its agents and employees immediately CEASE AND DESIST from acts, practices, or omissions which constitute a violation of the Act, including specifically from engaging in collection activity in Idaho without the license required by the Act.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 27 day of December, 2016.

STATE OF IDAHO
DEPARTMENT OF FINANCE



GAVIN M. GEE, Director

NOTICE

Respondent is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

Respondent may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of such motion for reconsideration or request for a hearing shall also be served on the Department's counsel, Brian D. Nicholas, Deputy Attorney General, at the same address.

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should Respondent make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal to the district court by filing a petition in the district court of the county in which:

- i. A hearing was held;
- ii. The final agency action was taken;

- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration or schedule a hearing, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. See IDAPA 04.11.01.740.02.c.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of December, 2016, I caused a true and correct copy of the foregoing fully-executed ORDER TO CEASE AND DESIST to be served on the following by the designated means:

ProCollect, Inc.
12170 Abrams Rd, Suite 100
Dallas, TX 75423-4579

- U.S. mail, postage prepaid
- certified mail
- facsimile:
- email: fox@procollect.com
- email: hr@procollect.com



Paralegal