

LAWRENCE G. WASDEN
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585
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
brian.nicholas@finance.idaho.gov

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In Re:

SIMPLE RECOVERY SOLUTIONS, LLC,
Respondent.

Docket No. 2014-9-08

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 SIMPLE RECOVERY SOLUTIONS, LLC (the Respondent), to immediately cease and desist from violating the Act.

RESPONDENT

1. The Respondent was formed as a Florida limited liability company on May 14, 2013, and operates as a third-party collection agency from 150 North Orange Avenue, Suite 416, Orlando, Florida 32801.

2. On July 28, 2014, the Respondent registered with the Idaho Secretary of State as a Foreign Limited Liability Company.

3. The Respondent has never held an Idaho collection agency license authorizing it to engage in collection activities in Idaho.

FINDINGS OF FACTS

4. On June 2, 2014, K.A., an Idaho resident, forwarded to the Department a copy of a collection letter she received from the Respondent, dated May 22, 2014. Upon review of the letter, the Department determined that 1) the Respondent was engaged in debt collection activity in Idaho and that 2) the Respondent was not licensed under the Act to engage in collection activity against Idaho residents.

5. On June 3, 2014, as part of its investigation, the Department sent a letter to the Respondent via certified mail concerning K.A.'s complaint, and the Respondent's apparent unlicensed collection activity in Idaho. In that letter, the Department requested that the Respondent provide a listing of all Idaho citizens against whom the Respondent made collection efforts in order to determine the extent of the Respondent's unlicensed collection activity in Idaho. The Respondent failed to provide the information by the deadline of June 22, 2014.

6. On June 24, 2014, the Department sent a second letter to the Respondent regarding its failure to provide the requested information and again asked that the Respondent comply with the Department's request by July 7, 2014.

7. The Department received a faxed response to this request from the Respondent on June 25, 2014, attributing its collection effort in Idaho to a software failure and that the issue had been addressed and corrected.

8. On July 1, 2014, the Department advised the Respondent that it accepted the Respondent's explanation that the collection activity in Idaho was a result of an oversight and that procedures had been implemented to prevent any other occurrences.

9. On July 10, 2014, the Department reopened its complaint file against the Respondent upon information it received from the Consumer Protection Division of the Idaho Attorney General's Office regarding the Respondent's collection efforts against another Idaho resident, R.H. In its response to the Idaho Attorney General's Office on July 2, 2014, the Respondent asserted that it was only validating a debt it had purchased, thus the letter that it sent to R.H. was a "Validation Notice." The Respondent further indicated that once unpaid balances are validated, it then offers settlements in an effort to collect on the debts.

10. Due to the conflicting responses that the Respondent provided to the Department and then to the Idaho Attorney General's Office regarding its collection activity in Idaho, the Department sent a certified letter to the Respondent on July 10, 2014, which indicated that it was reinstating its investigation of the Respondent's unlicensed collection activity in Idaho.

11. Along with the letter, the Department sent the Respondent a copy of its June 3, 2014 letter which required that the Respondent provide a listing of all Idaho citizens against whom it made collection efforts. The Respondent was required to provide the list by July 25, 2014.

12. On July 30, 2014, the Respondent submitted to the Department a new application for a collection agency license, as well as a listing of the Respondent's collection activity in Idaho. After a review of the Respondent's license application, the Department sent the Respondent's representative a letter on August 1, 2014, informing him that the application for licensure was deficient and that the listing of the Respondent's Idaho collection activity was also incomplete. Additionally, the Department informed the representative that the Respondent's application for licensure would not be reviewed further until the Respondent provided all of the information the Department requested on June 3, 2014, and again on July 10, 2014.

13. The incomplete listing that the Respondent provided to the Department did reveal that the Respondent engaged in unlicensed collection activity against at least fifty-six (56) Idaho residents and that it collected \$3,414.33 as a result of those efforts.

14. On October 15, 2014, the Department issued an Idaho Collection Agency Deficient Application Notice to the Respondent. The notice states that the complete application package must be submitted to the Department by the close of business on December 15, 2014, and that any requested extensions will be denied. The notice also indicates that failure to submit a complete application package by the deadline will result in the Respondent's submission being deemed withdrawn.

15. The Respondent has not responded to the Deficient Application Notice nor has it corrected its application to comply with the licensing requirements.

CONCLUSIONS OF LAW AND VIOLATIONS

UNLICENSED COLLECTION ACTIVITY IN IDAHO

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

17. 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.

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

19. The Respondent's acts of engaging in collection activities in Idaho without a license, as referenced in paragraphs 4 through 15 above, constitute violations of Idaho Code § 26-2223(1) and -(2), as set forth in paragraph 17 above. Each contact of Idaho residents by the Respondent for the purposes of collection constitutes a separate violation.

REQUESTED RELIEF

20. 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 the Respondent has violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code § 26-2244(1), IT IS HEREBY ORDERED that the 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 25TH day of NOVEMBER, 2014.

STATE OF IDAHO
DEPARTMENT OF FINANCE


GAVIN M. GEE, Director



NOTICE

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

The 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 the 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 26th day of November, 2014, I caused a true and correct copy of the foregoing ORDER TO CEASE AND DESIST to be served on the following by the designated means:

Simple Recovery Solutions, LLC
250 North Orange Avenue, Suite 900
Orlando, FL 32801

- U.S. mail, postage prepaid
- certified mail
- facsimile: (407) 704-3280
- email: info@simplerecoverysolutions.com

Paralegal 