

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) 332-8092
Facsimile: (208) 332-8016
brian.nicholas@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.

XACT LAW FIRM, LLC, a Utah Limited Liability
Company, and BRYSON HUNTER, an individual,

Respondents.

Docket No. 2018-9-04

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Finance, Consumer Finance Bureau (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 §§ 26-2228(4) and 26-2244(1) of the Act, requiring XACT LAW FIRM, LLC and BRYSON HUNTER (collectively referred to herein as “the Respondents”) to immediately cease and desist from violating the Act, to include engaging in unlicensed credit repair activity in Idaho.

RESPONDENTS

1. Xact Law Firm, LLC (Xact) is a Utah limited liability company conducting business as a credit repair organization from 10421 South Jordan Gateway, Suite 310, South Jordan, Utah 84095.¹

2. Bryson Hunter is Xact's Principal.

3. The Respondents represent on their website, <http://xactlaw.com>, that they are "The Trusted Experts In Legal Intervention Credit Repair." The Respondents also make the following claim:

We help our clients reconstruct their bad credit with cutting edge techniques that are unmatched by competitors in the industry. We are well acquainted with the credit laws, difficulties and, most importantly, the proper process required for affordable and effective credit repair.

4. The Respondents have never applied for nor ever been issued any license under the Act, to include, specifically, a license authorizing it to engage in the business of debt or credit counseling.

FACTUAL ALLEGATIONS

5. On April 18, 2018, the Department received an email complaint about the Respondents from a collection agency licensed under the Act by the Department.

6. In its email, the collection agency stated that one of its own business clients received a letter from the Respondents' Utah attorney and a copy of a "Client Agreement" on behalf of one of the Respondents' clients, an Idaho resident. The collection agency attached to

¹ As of the date of this Order, the Respondents have failed to file a Renewal of their business entity registration with the Utah Department of Commerce, Division of Corporations and Commercial Code. Further, on June 28, 2018, the Utah Division of Consumer Protection issued a Final Order Denying Credit Services Organization Registration Application against the Respondents for failing to provide information requested by that agency.

its email a copy of the letter and the Client Agreement, which was entered into by Xact and the Idaho resident on March 30, 2018.

7. The letter indicated that the Idaho resident had retained the attorney to assist him with alleged violations of the federal Fair Debt Collections Practices Act by the Idaho licensed collection agency due to “inaccurate information made to credit reporting agencies affecting his [the Idaho resident] credit history.” The letter went on further to state that “*This engagement is solely to assist with credit repair, it does not create an attorney/client relationship.*”

8. The Client Agreement section entitled “Recitals” reads as follows:

CLIENT has a vital interest in establishing and maintaining his or her credit worthiness and credit standing in order to obtain and use credit.

CLIENT is desirous of improving his or her credit report, credit history or credit rating.

Xact Law Firm provides services to CLIENT to provide advice or assistance to any CLIENT to improve his or her credit report, credit history or credit rating (hereinafter referred to as the “services”).

Xact Law Firm is prepared to provide such Services to Client.

9. A Department representative reviewed the letter and Client Agreement and determined that the Respondents had provided credit repair activities in Idaho without a license as required under the Act.

10. On April 27, 2018, a Department representative sent certified letters to each of the Respondents concerning their apparent unlicensed credit repair activity in Idaho. In the letters, the Department requested that the Respondents provide information necessary for the Department to determine the extent of their unlicensed debt and credit counseling or credit repair activities in Idaho. Further, the letter advised the Respondents of the license requirement for engaging in activities regulated under the Act in Idaho and also informed them of the possible sanctions under the Act for unlicensed activity. In addition, the letter informed the Respondents

of the process for obtaining a license under the Act. The Department required that the Respondents provide all of the requested information by May 18, 2018, but the Respondents failed to respond. The return receipts showed that the letters were received.

11. The Department sent certified second stop-letters requesting that the Respondents respond by May 23, 2018. The return receipts showed that one of the letters was received, but the other had been refused.

12. On June 1, 2018, the Department received a two-page facsimile from the Respondents that included the fax coversheet and a spreadsheet entitled "Idaho Clients of Xact Law." The spreadsheet showed that the Respondents had six active Idaho clients. These Idaho clients had paid a total of \$1,628.75 in fees for the Respondents' credit repair services.

13. Based on information provided to the Department and described above, the Respondents have engaged in credit repair activity in Idaho and are not licensed, in violation of the Act.

CONCLUSIONS OF LAW AND VIOLATIONS

14. 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.

...

(8) Engage or offer to engage in this state in the business of selling, providing or performing services to improve any consumer's credit record, credit history or credit rating, or providing advice or assistance to any consumer with regard to his credit record, credit history or credit rating.

15. "Credit repair organization" means any person engaged in any of the activities enumerated in subsection (8) of section 26-2223, Idaho Code, which is set forth in the previous paragraph.

16. The Respondents' acts of engaging in credit repair activities in Idaho without a license, as referenced above, constitute violations of Idaho Code § 26-2223(1) and (8) as set forth in paragraph 9 above. Each act of engaging in credit repair activity while not licensed constitutes a separate violation.

REQUESTED RELIEF

17. 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 Respondents have violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code § 26-2244(1), IT IS HEREBY ORDERED that the Respondents and their 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 3rd day of May, 2019.



STATE OF IDAHO
DEPARTMENT OF FINANCE



MARY E. HUGHES, Acting Director

NOTICE

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

The Respondents 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:

Anthony Polidori
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 6th day of May, 2019, 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:

Mr. Bryson Hunter, Principal
Xact Law Firm, LLC
777 E 2100 S B
Salt Lake City, UT 84106

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email:

Xact Law Firm
1942 N 1350 W
Provo, UT 84604

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email:

Chase Kelly
Registered Agent
6785 S. Alice Susanna Lane
West Jordan, IT 84084

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email:

Michael Barry Law & Consulting
4468 W. Summer Circle
Cedar Hills, UT 84064

U.S. mail, postage prepaid
 certified mail
 facsimile:
 email: mpbarrylaw@gmail.com

Paralegal

