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

STATE OF IDAHO, DEPARTMENT OF  
FINANCE,

Complainant,

vs.

NATIONAL PROCESSING HEADQUARTERS,

Respondent.

Docket No. 2021-41-03

**ORDER TO CEASE AND DESIST**

Patricia R. Perkins, Director of the Idaho Department of Finance (Director), being authorized and directed to administer and enforce the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.* (IFFPA), hereby makes the following factual findings which constitute a basis for the issuance of an ORDER TO CEASE AND DESIST (Order) pursuant to Idaho Code § 67-2755(1) requiring NATIONAL PROCESSING HEADQUARTERS (Respondent) to cease and desist from violating the IFFPA by disseminating information to the public that is confusing,

misleading, and deceptive; and to cease and desist from any other activities which violate the IFFPA.

### **FINDINGS OF FACT**

2. Respondent offers mortgage insurance protection to residents of Idaho with a mailing address of P.O. Box 11707, Daytona Beach, Florida, 32120-9810.

3. As of December 7, 2021, Respondent is not registered with the Idaho Secretary of State to conduct business in Idaho.

4. Idaho resident JS received a solicitation from Respondent offering mortgage insurance protection. In the solicitation, Respondent uses the name Washington Trust Bank, which is JS's mortgage lender.

5. The solicitation sent to JS implies that it came from or was authorized by Washington Trust Bank.

6. Washington Trust Bank did not send nor authorize the solicitation. Respondent does not have permission from Washington Trust Bank to use its name in its solicitations of Idaho residents.

### **CONCLUSION OF LAW**

#### *VIOLATIONS OF § 67-2752(7) OF THE IFFPA*

7. The allegations set forth in paragraphs 1 through 6 above are fully incorporated herein by this reference.

8. The Idaho Financial Fraud Prevention Act (IFFPA), at Idaho Code § 67-2752(7), prohibits persons from using "in a manner likely to cause confusion or mistake or to deceive, the name, trademark, service mark, or logo of a financial institution in connection with the sale,

offering for sale, distribution, or advertising of any product or service without the consent of the financial institution.”

9. In the solicitation Respondent sent to JS, Respondent used the name Washington Trust Bank and suggested or implied that Washington Trust Bank had endorsed or approved of Respondent’s mortgage protection services or that Washington Trust Bank was associated with Respondent’s mortgage protection insurance services. Respondent did not have the consent of Washington Trust Bank to use the bank’s name in Respondent’s solicitation.

10. Respondent’s use of the name Washington Trust Bank in Respondent’s solicitations was likely to cause confusion or to deceive the recipient.

11. Respondent’s sending of a solicitation using the name Washington Trust Bank without the bank’s consent, to an Idaho resident, constitutes a violation of the IFFPA.

#### **FINDING OF IMMEDIATE DANGER**

12. Respondent’s solicitations suggest that a recipient’s financial institution, Washington Trust Bank, has either endorsed or worked in conjunction with Respondent. This is not the case. It is probable that Respondent is sending or has sent similar solicitations to other Idaho residents.

#### **REMEDY**

13. Idaho Code § 67-2755(1) authorizes the Director to Order a person to cease and desist from violations or attempted violations of the IFFPA if, in the determination Director, it is necessary to protect any financial institution or the public, or a person is violating or is about to violate the IFFPA.

**ORDER**

The Director, having reviewed the foregoing, and good cause being shown therefor,

THE DIRECTOR HEREBY FINDS that Respondent has violated the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.*, and that issuance of this Order is necessary to protect the financial institution named in Respondent's solicitation and the public pursuant to Idaho Code § 67-2755(1).

NOW, THEREFORE, IT IS HEREBY ORDERED:

Pursuant to Idaho Code § 67-2755(1) of the IFFPA, Respondent shall CEASE AND DESIST from violations the Idaho Financial Fraud Prevention Act, to include engaging in advertising that is misleading, confusing, and deceptive and using the names of Idaho financial institutions in advertisements and solicitations without the consent or permission of the financial institutions. Because of the danger to the public presented by Respondent's violation of the IFFPA, this action constitutes an emergency contested case, and this Order is effective upon its issuance.

**NOTICE**

Respondent is hereby notified that the foregoing ORDER TO CEASE AND DESIST is a final order of the Director. Pursuant to Idaho Code § 67-5246, Respondent may file a motion for reconsideration of this Order within fourteen (14) days of the issuance of this Order. The motion for reconsideration or request for a hearing shall be served on:

Salvador Cruz  
Financial Institutions Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

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

Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

If Respondent timely files a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

If Respondent timely requests a hearing, Respondent will be notified of the date, time, and place of the hearing, as well as the name of the presiding officer. At the hearing, Respondent will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. Respondent may also be represented by legal counsel at their own expense.

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

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides, or
- d. the real property or personal property that was the subject of the agency action is located.

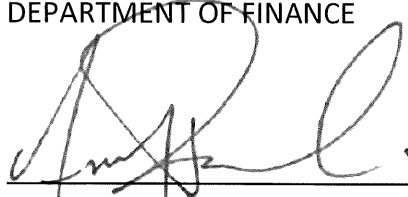
An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho

Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

**IT IS SO ORDERED.**

DATED this 8<sup>th</sup> day of December, 2021.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

A handwritten signature in black ink, appearing to read 'Anthony Polidori', is written over a horizontal line.

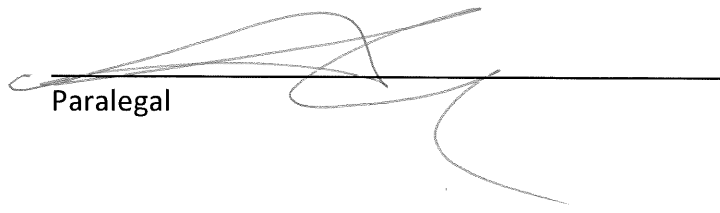
ANTHONY POLIDORI, Deputy Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 8<sup>th</sup> day of December, 2021, 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:

National Processing Headquarters  
PO Box 11707  
Daytona Beach, FL 32120-9810

- U.S. mail, postage prepaid
- certified mail
- fax:
- email:

  
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Paralegal