

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Collection Agency
3 License of:

No. 12F-BD012-BNK

4 **MIDLAND CREDIT MANAGEMENT,
5 INC.**

CONSENT ORDER

6 8875 Aero Drive, Suite 200
7 San Diego, CA 92123

Petitioner.

8 On or about May 22, 2012, the Arizona Department of Financial Institutions
9 (“Department”) issued a First Amended Notice of Hearing and Complaint, alleging that
10 Petitioner had violated Arizona law. While denying liability, yet wishing to resolve this
11 matter in lieu of an administrative hearing, Petitioner consents to the following Findings of
12 Fact and Conclusions of Law, and consents to the entry of the following Order.

13 **FINDINGS OF FACT**

14 A. Petitioner Midland Credit Management, Inc. (“Midland”) is a Kansas
15 corporation with its principal place of business in California. Midland is authorized to
16 transact business in Arizona as a collection agency, license number CA #0905285, within the
17 meaning of A.R.S. § 32-1001(2).

18 B. Midland is not exempt from licensure as a collection agency within the
19 meaning of A.R.S. § 32-1004.

20 C. An examination of Midland, which was commenced by the Department on
21 August 15, 2011 and initially concluded on November 17, 2011, was subsequently resumed
22 and concluded on May 21, 2012, resulting in the issuance of an Amended Report of
23 Examination signed May 22, 2012 (“Amended Report”). The Amended Report identified
24 ninety-six (96) consumer complaints filed against Midland since 2006, when Midland was
25 last examined, the truth of which complaints is denied by Midland. While denied by
26

1 Midland, the Amended Report alleged numerous violations of Arizona statutes and rules
2 governing the conduct of collection agencies.

3 D. The Department issued and served upon Petitioner an Order to Cease and
4 Desist; Notice of Opportunity For Hearing; Consent to Entry of Order (“Cease and Desist
5 Order”) on January 24, 2012. On February 14, 2012, Petitioner filed a Request For Hearing
6 to appeal the Cease and Desist Order.

7 E. These Findings of Fact shall also serve as Conclusions of Law.

8 **CONCLUSIONS OF LAW**

9 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the
10 authority and duty to regulate all persons engaged in the collection agency business and to
11 enforce the statutes, rules, and regulations relating to collection agencies.

12 2. The conduct set forth above in the Findings of Fact, while denied by Midland,
13 constitutes grounds for a finding of violation of the following:

- 14 a. A.R.S. § 32-1051(3) by breaching the duty to deal openly, fairly and honestly
15 in the conduct of the collection agency business;
 - 16 b. A.R.S. § 32-1051(4) by engaging in unfair or misleading practices;
 - 17 c. A.A.C. R20-4-1508 by misrepresenting the state of the law to debtors;
 - 18 d. A.A.C. R20-4-1509(B) and (C) by informing a debtor that legal proceedings
19 have been or would be started even when no lawsuit has been or would be filed
20 against the debtor, or by threatening to start legal proceedings against a debtor
21 even though the collection agency did not intend, at the time of the treat, to
22 sue;
 - 23 e. A.A.C. R20-4-1510, by informing a debtor that the debtor waives their legal
24 right or legal defense by a failure to contact the collection agency and/or by
25 misrepresenting the remedies available to the collection agency;
- 26

- 1 f. A.A.C. R20-4-1511(A), by using unauthorized or oppressive tactics designed
2 to harass any person to pay a debt;
- 3 g. A.A.C. R20-4-1511(B), by using written or oral communications that either
4 ridicule, disgrace, or humiliate a person or tend to ridicule, disgrace, or
5 humiliate a person;
- 6 h. A.A.C. R20-4-1511(D), by permitting its agents, employees, representatives,
7 debt collectors, or officers to use obscene or abusive language in efforts to
8 collect a debt;
- 9 i. A.A.C. R20-4-1512(A), by contacting a debtor by telephone during hours that
10 are not reasonable, or by not making a reasonable attempt to contact a debtor at
11 a debtor's place of residence;
- 12 j. A.A.C. R20-4-1512(B), by contacting a third party and asking the third party to
13 pay the debt;
- 14 k. A.A.C. R20-4-1513(B), by failing to stop contacting a debtor, directly or
15 indirectly, after the debtor gives a written notice that the debtor refuses to pay
16 the debt or wants the collection agency to stop all further communication with
17 the debtor;
- 18 l. A.A.C. R20-4-1514(A), by failing to obtain and being able to inform the debtor
19 of, within five (5) days after the initial communication with the debtor, the
20 information required by A.A.C. R20-4-1514(A)(1)-(4);
- 21 m. A.A.C. R20-4-1514(B), by failing to give the debtor access to any of the
22 collection agency's records that contain the disclosure information listed under
23 A.A.C. R20-4-1514(A);
- 24 n. A.A.C. R20-4-1514(C), by failing to provide a free copy of any document from
25 its records that contain the disclosure information listed under A.A.C. R20-4-
26 1514(A), at the request of the debtor; and

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- g. not use written or oral communications that either ridicule, disgrace, or humiliate a person or tend to ridicule, disgrace, or humiliate a person;
- h. not permit its agents, employees, representatives, debt collectors, or officers to use obscene or abusive language in efforts to collect a debt;
- i. not contact a debtor by telephone during hours that are not reasonable, and make a reasonable attempt to contact a debtor at the debtor's place of residence;
- j. not contact a third party and ask the third party to pay the debt;
- k. stop contacting a debtor, directly or indirectly, after the debtor gives a written notice that the debtor refuses to pay the debt or wants the collection agency to stop all further communication with the debtor;
- l. obtain and be able to inform the debtor within five (5) days after the initial communication with the debtor of, within five (5) days after the initial communication with the debtor, the information required by A.A.C. R20-4-1514(A)(1)-(4);
- m. give the debtor access to any of the collection agency's records that contain the disclosure information listed under A.A.C. R20-4-1514(A);
- n. provide a free copy of any document from its records that contain the disclosure information listed under A.A.C. R20-4-1514(A), at the request of the debtor; and
- o. investigate a claim that the debtor has been misidentified, after providing evidence of the debt to the debtor or the debtor's attorney, but before continuing its collection efforts against the debtor.

2. Midland shall immediately pay to the Department a civil money penalty in the amount of seven hundred fifty thousand dollars (\$750,000.00).

1 disciplinary actions which may include a higher civil money penalty and/or license
2 revocation.

3 5. Petitioner acknowledges that the acceptance of this Consent by the
4 Superintendent is solely to settle this matter and does not preclude this Department, any
5 other agency or officer of this state or subdivision thereof from instituting other proceedings
6 as may be appropriate now or in the future.

7 6. J. Brandon Black, on behalf Midland, represents that he is its President and
8 Chief Executive Officer and that, as such, has been authorized by Midland to consent to the
9 entry of this Order on its behalf.

10 7. Petitioner waives all rights to seek judicial review or otherwise to challenge or
11 contest the validity of this Order.

12 DATED this 14th day of August, 2012.

13
14 By:


15 J. Brandon Black, President and CEO of Midland
16 Credit Management, Inc.

17 **ORIGINAL** of the foregoing filed this 28th
18 day of August, 2012, in the office of:

19 Lauren W. Kingry, Superintendent of Financial Institutions
20 Arizona Department of Financial Institutions
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22 2910 N. 44th Street, Suite 310
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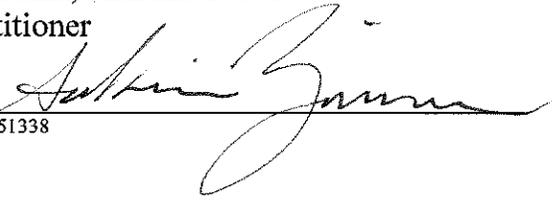
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