

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Collection Agency License of:

No. 13F-BD002-BNK

3 **VANDENBERG, CHASE & ASSOCIATES,**
4 **LLC AND MOHAMMAD AHMED,**
5 **MANAGING MEMBER**
887 W. Marietta Street, Suite T-103
Atlanta, GA 30318

CONSENT ORDER

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DEPT. OF FINANCIAL
INSTITUTIONS

6 Petitioners.

7
8 On May 23, 2012, the Arizona Department of Financial Institutions ("Department") issued an
9 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order, alleging
10 that Petitioners had violated Arizona law. Wishing to resolve this matter in lieu of an administrative
11 hearing, and without admitting liability, Petitioners consent to the following Findings of Fact and
12 Conclusions of Law, and consent to the entry of the following Order.

13 FINDINGS OF FACT

14 1. Vandenberg, Chase & Associates, LLC ("VCA") is a Georgia limited liability company
15 authorized to transact business in Arizona as a collection agency, license number CA-0910807,
16 within the meaning of A.R.S. § 32-1001, *et seq.* The nature of VCA's business is that of soliciting
17 claims for collection and collection of claims owed, due, or asserted to be owed, or due, within, the
18 meaning of A.R.S. § 32-1001(2)(a).

19 2. Petitioner Mohammad Ahmed ("Mr. Ahmed") is the Managing Member of VCA and is
20 authorized to transact business in Arizona as a collection agency within the meaning of A.R.S.
21 §§ 32-1001, *et seq.*

22 3. VCA and Mr. Ahmed (collectively "Petitioners") are not exempt from licensure as a
23 collection agency within the meaning of A.R.S. § 32-1004.

24 4. A March 7, 2012 examination of VCA, conducted by the Department, revealed that VCA
25 and Mr. Ahmed:

26 a. Failed to meet their financial responsibility by failing to maintain a positive net worth

1 or information that accurately reflects a positive net worth, and failed to maintain
2 their books, records and files so that the Superintendent can easily conduct a spot
3 check, as well as the examinations and investigations required by A.R.S. §§ 6-122
4 and 6-124; specifically:

5 i. Petitioners submitted three separate financial statements that failed to reflect
6 solvency of Petitioners.

7 ii. This violation has been clarified. Petitioners submitted financial statements to
8 the Department on October 25, 2012, which reflect a positive net worth.

9 b. Failed to deposit all client funds into a deposit account which is labeled as a trust
10 account by the financial institution to indicate that the funds therein are fiduciary and
11 not company funds; specifically:

12 i. Petitioners' Midtown Bank account XXXX6269, which is dedicated to one
13 client, is labeled as: "Vandenberg, Chase & Associates; ESCROW
14 ACCOUNT" but the account does not include the word trust to document that
15 said account is, in fact, a trust account.

16 ii. This violation has been corrected. Petitioners have changed the labeling of their
17 accounts to identify them as trust accounts.

18 c. Failed to notify the Superintendent of the change in their Director and Active
19 Manager within ten (10) days as required; specifically:

20 i. Petitioners failed to notify the Superintendent within ten (10) days from the
21 date after their Director and Active Manager left VCA on March 5, 2012.
22 However on April 13, 2012, Petitioners notified the Department of the change
23 when the requirement was brought to management's attention.

24 5. These Findings of Fact shall also serve as Conclusions of Law.

25 **CONCLUSIONS OF LAW**

26 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the authority

1 and duty to regulate all persons engaged in the collection agency business and with the enforcement
2 of statutes, rules, and regulations relating to collection agencies.

3 2. The conduct of VCA and Mr. Ahmed, as alleged above, constitutes a violation of the
4 statutes and rules governing collection agents as follows:

- 5 a. A.R.S. §§ 32-1051(1) by failing to meet their financial responsibility or to maintain
6 documentation that accurately reflects a positive net worth, and pursuant to A.R.S.
7 § 47-1201(23)(b) and (c), and A.A.C. R20-4-1504(B)(6) by failing to maintain their
8 books, records and files so that the Superintendent can easily conduct a spot check, as
9 well as the examinations and investigations required by A.R.S. §§ 6-122 and 6-124;
- 10 b. A.A.C. R20-4-1505 by failing to deposit client funds into a deposit account which is
11 labeled as a trust account by the financial institution to indicate that the funds therein
12 are fiduciary and not company funds; and
- 13 c. A.R.S. § 32-1023(C) and A.A.C. R20-4-1503(A) by failing to notify the
14 Superintendent of the change in their Director and Active Manager within ten (10)
15 days as required.

16 3. Neither VCA nor Mr. Ahmed meet any of the exemptions to the licensing requirements
17 set forth in A.R.S. § 32-1004(A).

18 4. Pursuant to A.R.S. § 6-132, Petitioners' violations of the aforementioned statutes are
19 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for
20 each day.

21 5. The violations, set forth above, constitute grounds for: (1) the issuance of an order
22 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
23 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
24 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
25 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
26 suspension or revocation of Petitioners' license pursuant to A.R.S. § 32-1053(A); and (4) an order or

1 any other remedy necessary or proper for the enforcement of statutes and rules regulating collection
2 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

3 **ORDER**

4 1. VCA and Mr. Ahmed shall immediately stop the violations set forth in the Findings of
5 Fact and Conclusions of Law. VCA and Mr. Ahmed:

6 a. Shall maintain a positive net worth and maintain documentation that accurately
7 reflects a positive net worth, shall meet their financial responsibility, and shall
8 maintain their books, records and files so that the Superintendent can easily conduct a
9 spot check, as well as the examinations and investigations required by A.R.S.
10 §§ 6-122 and 6-124;

11 b. Shall deposit client funds into a deposit account which is labeled as a trust account by
12 the financial institution to indicate that the funds therein are fiduciary and not
13 company funds; and

14 c. Shall notify the Superintendent of any change in their the active management within
15 ten (10) days; and shall notify the Superintendent of the qualified replacement within
16 ninety (90) days of separation.

17 2. VCA and Mr. Ahmed shall immediately pay to the Department a civil money penalty in
18 the amount of **two thousand five hundred dollars (\$2,500.00)**. VCA and Mr. Ahmed are jointly
19 and severally liable for payment of the civil money penalty.

20 3. VCA and Mr. Ahmed shall pay to the Department an examination fee in the amount of
21 **two thousand five hundred dollars (\$2,500.00)**, pursuant to A.R.S. § 6-122(B)(3), plus any
22 applicable late fees pursuant to A.R.S. § 6-125(D).

23 4. Collection Agency License, Number CA-0910807, issued in the name of Vandenberg,
24 Chase & Associates, LLC, shall immediately be surrendered to the Department upon execution of
25 this Consent Order.

26 5. The provisions of this Order shall be binding upon Petitioners, and resolves the Notice of

1 Hearing, subject to Petitioners' compliance with the requirements of this Order, as well as all other
2 statutes and rules regulating collection agencies.

3 6. Petitioners shall comply with all Arizona statutes and rules regulating Arizona collection
4 agencies (A.R.S. §§ 32-1001, *et seq.*).

5 7. The provisions of this Order shall be binding upon Petitioners, their employees, agents,
6 and other persons participating in the conduct of the affairs of Petitioners.

7 8. This Order shall become effective upon service, and shall remain effective and
8 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
9 or set aside.

10 SO ORDERED this 19 day of November, 2012.

11 Lauren W. Kingry
12 Superintendent of Financial Institutions

13 By: 
14 Robert D. Charlton
15 Assistant Superintendent of Financial Institutions

16 **CONSENT TO ENTRY OF ORDER**

17 1. Petitioners acknowledge that they have been served with a copy of the foregoing
18 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
19 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

20 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
21 foregoing Findings of Fact, Conclusions of Law, and Order.

22 3. Petitioners state that no promise of any kind or nature has been made to induce them to
23 consent to the entry of this Order, and that they have done so voluntarily.

24 4. Petitioners agree to immediately cease from engaging in the violative conduct set forth in
25 the Findings of Fact and Conclusions of Law.

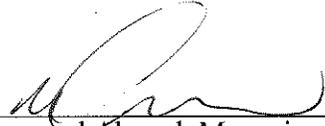
26 5. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is
solely to settle this matter and does not preclude this Department, any other agency or officer of this

1 state or subdivision thereof from instituting other proceedings as may be appropriate now or in the
2 future.

3 6. Mohammad Ahmed, on behalf of Vandenberg, Chase & Associates, LLC and himself,
4 represents that he is the Managing Member and that, as such, has been authorized by Vandenberg,
5 Chase & Associates, LLC to consent to the entry of this Order on its behalf.

6 7. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest the
7 validity of this Order.

8 DATED this 8th day of November, 2012.

9
10 By: 
11 Mohammad Ahmed, Managing Member
12 Vandenberg, Chase & Associates, LLC

13 ORIGINAL of the foregoing filed this 19th
14 day of November, 2012, in the office of:

15 Lauren W. Kingry
16 Superintendent of Financial Institutions
17 Arizona Department of Financial Institutions
18 ATTN: Sabrina Zimmerman
19 2910 N. 44th Street, Suite 310
20 Phoenix, AZ 85018

21 COPY mailed/delivered same date to:

22 Craig A. Raby, Assistant Attorney General
23 Office of the Attorney General
24 1275 West Washington
25 Phoenix, AZ 85007

26 Robert D. Charlton, Assistant Superintendent
Mack Wynegar, Examiner-in-Charge
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

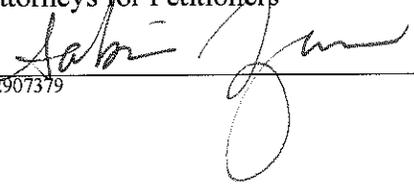
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1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Mohammad Ahmed, Managing Member
4 Vandenberg, Chase & Associates, LLC
5 887 W. Marietta Street, Suite T-103
6 Atlanta, GA 30318
7 Petitioners

8 Bryan M. Knight, Esq.
9 KNIGHT JOHNSON, LLC
10 One Midtown Plaza
11 1360 Peachtree Street, Suite 1201
12 Atlanta, Georgia 30309
13 Attorneys for Petitioners

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16 # 2907379

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