

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 15F-BD079-SBD

3 **BARNABY & WOLFE, INC. AND JOSEPH C.  
4 NOLAND, PRESIDENT**

**ORDER TO CEASE AND DESIST;  
NOTICE OF OPPORTUNITY FOR  
HEARING; CONSENT TO ENTRY OF  
ORDER**

5 1527 West State Highway 114  
6 Grapevine, Texas 76051

Respondents.

7 The Superintendent of the Arizona Department of Financial Institutions ("Superintendent")  
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order  
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137. Pursuant to Titles 6 and 41 of the Arizona  
10 Revised Statutes and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."),  
11 Respondents are hereby notified that they are entitled to a hearing to contest the allegations set forth  
12 in this Order. The Request for Hearing shall be filed with the Arizona Department of Financial  
13 Institutions ("Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this  
14 Order and shall identify with specificity the action or order for which review is sought in accordance  
15 with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or  
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required  
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a  
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for  
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**  
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**  
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to  
23 allow time to arrange the accommodations. If accommodations are required, call the Office of  
24 Administrative Hearings at (602) 542-9826.

25 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.  
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an  
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the  
3 Department will be present (“Department Representative”). Please note that in requesting an  
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the  
5 Department Representative in the final administrative decision of this matter, if it is not settled. In  
6 addition, any written or oral statement made by Respondents at such informal settlement conference,  
7 including written documentation created or expressed solely for purposes of settlement negotiations,  
8 is inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules  
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by  
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the  
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents  
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the  
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time  
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,  
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-  
18 132; (3) the suspension or revocation of Respondents’ license pursuant to A.R.S. § 32-1053; (4) an  
19 order to pay restitution of any fees earned in violation of A.R.S. §§ 32-1001 *et seq.*; and (5) an order  
20 or any other remedy necessary or proper for the enforcement of statutes and rules regulating  
21 collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

#### 22 **FINDINGS OF FACT**

23 1. Respondent Barnaby & Wolfe, Inc. (“B&W” or “Respondent Company”) is a Texas  
24 corporation, registered as a foreign corporation with the Arizona Corporation Commission (“ACC”)  
25 since March 19, 2013.

26 2. B&W is not and was not, at any time material herein, authorized to transact business

1 in Arizona as a collection agency within the meaning of A.R.S. § 32-1001 *et seq.*

2 3. Respondent Joseph C. Noland (“Mr. Noland”), President of B&W, is not and was not,  
3 at any time material herein, authorized to transact business in Arizona as a collection agency within  
4 the meaning of A.R.S. § 32-1001 *et seq.*

5 4. Respondents B&W and Mr. Noland are not exempt from licensure as a collection  
6 agency within the meaning of A.R.S. § 32-1004.

7 5. Respondents’ website describes B&W as “one of the most innovative and effective  
8 commercial collection agencies in the country,” and “a company that has a full staff of trained debt  
9 collectors who generally make money only if they collect money owed to their clients.” The listed  
10 services include: commercial debt recovery, accounts receivables management, legal forwarding,  
11 debtor search, on-line stat/placement, fast track remit and free background checks. See  
12 <http://bbwlf.com>.

13 6. On or about August 13, 2014, an Arizona resident, Doug W., submitted a formal  
14 complaint stating that he received a call from Tyler B., a B&W’s collector, who was attempting to  
15 collect a disputed debt allegedly owed to Yellow Pages. The complainant informed the B&W  
16 collector that he should contact his attorney. However, the same B&W collector continued to call the  
17 complainant on several more occasions and told the complainant that he could call him every day  
18 until the debt was paid.<sup>1</sup>

19 7. On or about August 20, 2014, the Department sent a letter to Respondents stating that  
20 it had reason to believe they were engaging in the collection agency business in Arizona without the  
21 benefit of a license. The letter requested that Respondents provide information which could assist the  
22 Department in its final determination as to whether any violations occurred.

23 8. On or about August 20, 2014, the Department received a response from Respondents  
24 stating that Respondents were under the assumption that B&W only had to register with the Arizona

25  
26 <sup>1</sup> A.A.C. Rule 20-4-1513(A) states, in pertinent part, “A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor tells the collection agency that the debtor is represented by a lawyer and wants the collection agency to communicate with the debtor through that lawyer.”

1 Secretary of State as a foreign entity, and that “this was all that was required when collecting on a  
2 commercial account.” Mr. Noland further informed that the complainant’s collection file would be  
3 closed and Respondents would initiate the application process to ensure that B&W is compliant with  
4 Arizona law. As of January 8, 2015, Respondents have not applied for a collection agency license  
5 with the Department.

6 9. Respondents B&W and Mr. Noland are not authorized to transact business in Arizona  
7 as a collection agency within the meaning of A.R.S. §§ 32-1001 *et seq.*

8 10. These Findings of Fact shall also serve as Conclusions of Law.

9 **CONCLUSIONS OF LAW**

10 1. Pursuant to A.R.S. § 32-1001 *et seq.*, the Superintendent has the authority and the  
11 duty to regulate all persons engaged in the collection agency business and with the enforcement of  
12 statutes, rules, and regulations relating to collection agencies.

13 2. A.R.S. § 32-1021(A) states, “A person desiring to conduct a collection agency shall  
14 make an original application to the department upon forms prescribed by the superintendent setting  
15 forth verified information to assist the superintendent in determining the applicant's ability to meet  
16 the requirements of this chapter.” A.R.S. § 32-1055(A) further states, “It is unlawful for a person to  
17 conduct a collection agency in this state without having first applied for and obtained a license under  
18 this chapter.”

19 3. B&W’s and Mr. Noland’s conduct, as alleged above, constitutes a violation of A.R.S.  
20 § 32-1021(A) and A.R.S. § 32-1055(A) by failing to obtain the required license to conduct a  
21 collection agency business in Arizona.

22 4. Neither B&W nor Mr. Noland meet any of the exemptions to the licensing  
23 requirements set forth in A.R.S. § 32-1004(A).

24 5. The violations set forth above constitute grounds for: (1) the issuance of an order  
25 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and  
26 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the

1 Superintendent to correct the conditions resulting from the unlawful acts, practices, and transactions;  
2 (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any  
3 other remedy necessary or proper for the enforcement of statutes and rules regulating collection  
4 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

5 **ORDER**

6 1. Respondents B&W and Mr. Noland shall immediately stop the violations set forth in  
7 the Findings of Fact and Conclusions of Law and cease all collection agency activity in Arizona until  
8 such time when a collection agency license is properly granted.

9 2. Respondents shall immediately pay to the Department a civil money penalty in the  
10 amount of **ten thousand dollars (\$10,000.00)**. B&W and Mr. Noland are jointly and severally  
11 liable for payment of the civil money penalty.

12 3. Respondents shall comply with all Arizona statutes and rules regulating Arizona  
13 collection agencies, A.R.S. § 32-1001 *et seq.*

14 4. The provisions of this Order shall be binding upon Respondents, their employees,  
15 agents, and other persons participating in the conduct of the affairs of Respondents.

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

19 SO ORDERED this 23rd day of January, 2015.

20 Lauren W. Kingry  
21 Superintendent of Financial Institutions

22 By:   
23 Robert D. Charlton  
24 Assistant Superintendent

24 **CONSENT TO ENTRY OF ORDER**

25 1. Respondents acknowledge that they have been served with a copy of the foregoing  
26 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the



1 **COPY** mailed/delivered same date to:

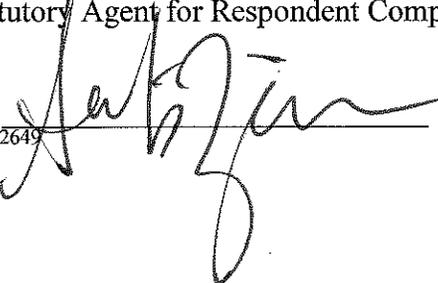
2 Natalia A. Garrett, Assistant Attorney General  
3 Office of the Attorney General  
4 1275 W. Washington St.  
5 Phoenix, AZ 85007  
6 [Natalia.Garrett@azag.gov](mailto:Natalia.Garrett@azag.gov)

7 Robert D. Charlton, Assistant Superintendent  
8 Richard Traveler, Examiner-in-Charge  
9 ATTN: Sabrina Zimmerman  
10 Arizona Department of Financial Institutions  
11 2910 N. 44th Street, Suite 310  
12 Phoenix, AZ 85018  
13 [Sabrina.Zimmerman@azdfi.gov](mailto:Sabrina.Zimmerman@azdfi.gov)

14 AND COPY MAILED SAME DATE by  
15 Certified Mail, Return Receipt Requested, and e-mailed to:

16 Joseph C. Noland, President  
17 Barnaby & Wolfe, Inc.  
18 1527 West State Highway 114  
19 Grapevine, Texas 76051  
20 Respondents  
21 [jnoland@bbwlf.com](mailto:jnoland@bbwlf.com)

22 National Registered Agents, Inc.  
23 2390 E. Camelback  
24 Phoenix, Arizona 85016  
25 Statutory Agent for Respondent Company

26 By:   
#4282649