

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:
3 **BUSINESS COLLECTION AGENCY, INC.**
4 **and STEPHEN J. HOFFMAN, PRESIDENT**

No. 14F-BD058-SBD

CONSENT ORDER

5 2116 South Minnesota Avenue, #14
6 Sioux Falls, South Dakota 57105

7 Respondents.

8 On January 6, 2014, the Arizona Department of Financial Institutions (“Department”) issued
9 an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order,
10 alleging that Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an
11 administrative hearing, Respondents consent to the following Findings of Fact and Conclusions of
12 Law, and consent to the entry of the following Order.

13 FINDINGS OF FACT

14 1. At all times material hereto, Respondent Business Collection Agency, Inc. (“B.C.A.”)
15 is a South Dakota corporation that was not authorized to transact business in Arizona as a collection
16 agency within the meaning of A.R.S. § 32-1001 et seq.¹

17 2. Respondent Stephen J. Hoffman is the President, Secretary, and Owner for B.C.A.,
18 and is not authorized to transact business in Arizona as a collection agency within the meaning of
19 A.R.S. § 32-1001 et seq.

20 3. The nature of B.C.A.’s business is that of soliciting claims for collection and
21 collection of claims owed, due, or asserted to be owed, or due, within the meaning of A.R.S. § 32-
22 1001(1),(2)(a).

23 4. Respondents B.C.A. and Mr. Hoffman are not exempt from licensure as a collection
24 agency within the meaning of A.R.S. § 32-1004.

25 5. On or about April 17, 2013, the Department received a complaint from Arizona

26 ¹ According to the records of the South Dakota Department of State, Division of Corporations, B.C.A. was incorporated on January 2, 1997 and is currently in good standing. Their most recent Annual Report was filed in 2013.

1 residents Nicholas and Desiree P. (referred to as “the Complainants”). The Complainants received a
2 collection notice from B.C.A. and were disputing the debt.

3 6. On or about September 25, 2013, the Department notified B.C.A. that as a result of an
4 examination or other investigation, there was reason to believe that B.C.A. operated as a collection
5 agency which must be licensed and gave B.C.A. an opportunity to respond.

6 7. On or about October 3, 2013, the Department received a written response from Mr.
7 Hoffman on behalf of B.C.A dated September 29, 2013. Mr. Hoffman related that on April 26,
8 2013, he spoke to the Complainants, which resulted in B.C.A. stopping its collection efforts,
9 returning the account to the creditor and purging it from the company’s collection system.

10 8. On or about October 3, 2013, the Department sent a follow up letter to B.C.A.
11 requesting a listing of their collection activity in Arizona from January 1, 2012 to the present.
12 Respondents failed to provide the information requested by the Department, stating that the
13 collection system contained 30,000 clients and there was no way B.C.A. or Mr. Hoffman could print
14 a listing of clients of only Arizona debtors.

15 9. These Findings of Fact shall also serve as Conclusions of Law.

16 **CONCLUSIONS OF LAW**

17 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the
18 authority and duty to regulate all persons engaged in the collection agency business and with the
19 enforcement of statutes, rules, and regulations relating to collection agencies.

20 2. By the conduct set forth in the Findings of Fact, Respondents have violated the
21 following:

- 22 a. A.R.S. § 32-1021(A) by failing to make an original application to the Department
23 upon forms prescribed by the Superintendent before conducting collection agency
24 activity;
- 25 b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without
26 having first applied for and obtained a license;

1 c. A.R.S. §§ 6-123(3) and 6-124(C) by failing to provide documentation to the
2 Department for inspection and examination.

3 3. Respondents are not exempt from licensure as a collection agency within the meaning
4 of A.R.S. § 32-1004(A).

5 4. The violations set forth above constitute grounds for: (1) the issuance of an order
6 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
7 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
8 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
9 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an
10 order or any other remedy necessary or proper for the enforcement of statutes and rules regulating
11 collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

12 **ORDER**

13 1. Respondents shall immediately stop the violations set forth in the Findings of Fact
14 and Conclusions of Law. Specifically, Respondents shall immediately stop all collection agency
15 activity in Arizona; and provide to the Department a complete and accurate accounting of all monies
16 collected on behalf of all Arizona creditors.

17 2. Respondents shall immediately pay to the Department a civil money penalty in the
18 amount of **one thousand, five hundred dollars (\$1,500.00)**.

19 3. Respondents are jointly and severally liable for payment of the civil money penalty.

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

22 5. This Order shall become effective upon service, and shall remain effective and
23 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,

24 . . .
25 . . .
26 . . .

1 or set aside.

2 SO ORDERED this 11 day of March, 2014.

3 Lauren Kingry
4 Superintendent of Financial Institutions

5
6 By: 
7 Robert D. Charlton
8 Assistant Superintendent of Financial Institutions

9 **CONSENT TO ENTRY OF ORDER**

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

13 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the
14 foregoing Findings of Fact, Conclusions of Law, and Order.

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

17 4. Respondents agree to immediately cease from engaging in the violative conduct set forth
18 in the Findings of Fact and Conclusions of Law.

19 5. Respondents acknowledge that the acceptance of this Agreement by the Superintendent is
20 solely to settle this matter and does not preclude this Department, any other agency or officer of this
21 state or subdivision thereof from instituting other proceedings as may be appropriate now or in the
22 future.

23 6. Stephen J. Hoffman, on behalf of Business Collection Agency, Inc. and himself,
24 represents that he is the President and that, as such, has been authorized by Business Collection
25 Agency, Inc. to consent to the entry of this Order on its behalf.

26 7. Respondents waive all rights to seek judicial review or otherwise to challenge or contest

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DEPT. OF FINANCIAL
INSTITUTIONS

1 the validity of this Cease and Desist Order.

2 DATED this 14th day of February, 2014.

3
4 By: Steph J. Hoffman
5 Stephen J. Hoffman, President
6 Business Collection Agency, Inc.

7 **ORIGINAL** of the foregoing filed this _____
8 day of _____, 2014, in the office of:

9 Lauren W. Kingry
10 Superintendent of Financial Institutions
11 Arizona Department of Financial Institutions
12 ATTN: Sabrina Zimmerman
13 2910 N. 44th Street, Suite 310
14 Phoenix, Arizona 85018

o/o Robert Charlton

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

13 Natalia Garrett, Assistant Attorney General
14 Office of the Attorney General
15 1275 West Washington
16 Phoenix, Arizona 85007

16 Robert D. Charlton, Assistant Superintendent
17 Lori Mann, Examiner-in-Charge
18 Arizona Department of Financial Institutions
19 2910 N. 44th Street, Suite 310
20 Phoenix, Arizona 85018

20 **COPY** mailed and e-mailed same date to:

21 Stephen J. Hoffman, President
22 Business Collection Agency, Inc.
23 2116 South Minnesota Avenue, #14
24 Sioux Falls, South Dakota 57105
25 Respondents

26 # 3704058