

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTION

2 In the Matter of the Unlicensed Activity of:

No. 15F-BD019-SBD

3 **MEDSYNERGIES, INC.**

**CONSENT ORDER**

4 909 Hidden Ridge, Suite 300  
5 Irving, Texas 75038

6 Respondent.

7 On August 14, 2014, the Arizona Department of Financial Institutions (“Department”) issued  
8 an Order to Cease and Desist: Notice of Opportunity for Hearing, Consent to Entry of Order (“Cease  
9 and Desist Order”) upon MedSynergies, Inc. (“MSI”). Wishing to resolve this matter in lieu of an  
10 administrative hearing, MSI consents to the following Findings of Fact and Conclusions of Law, and  
11 consent to the entry of the following Order.

12 FINDINGS OF FACT

13 1. MedSynergies, Inc. (“MSI”) is a Delaware corporation, with its principal place of business  
14 located in Delaware. MSI has been registered with the Arizona Corporation Commission for  
15 purposes of transacting business in Arizona since October 31, 2005.

16 2. MSI is not and was not at any time material herein authorized to transact business in  
17 Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001 *et seq.* The nature of  
18 MSI’s business is that of soliciting claims for collection and collection of claims owed, due, or  
19 asserted to be owed or due within the meaning of A.R.S. § 32-1001(2)(a).

20 3. MSI is not exempt from licensure as a collection agency pursuant to A.R.S. § 32-1004.

21 4. A.R.S. § 32-1001(2) defines “collection agency” as any person who (a) “engage[s] directly  
22 or indirectly in soliciting claims for collection or in collection of claims owed, due or asserted to be  
23 owed or due,” or (b) “in the process of collecting debts occurring in the operation of his own  
24 business, uses any name other than his own which would indicate that a third person is collecting or  
25 attempting to collect such debts.”

26 5. In the course of addressing a complaint from a consumer, an Arizona resident, received on

1 or about April 18, 2013, the Department discovered that a company named IPC The Hospitalist, Inc.  
2 d/b/a InPatient Consultants of Arizona (“IPC”) was engaging in collection agency activities  
3 collecting on accounts for Hospitalists of Arizona, Inc. (“HOA”), including hiring MSI to assist in  
4 its collection activities, even though MSI was unlicensed as a collection agency. Specifically, the  
5 Department established that:

- 6 a. MSI has been performing collection services for IPC, such as sending out billing  
7 statements to consumers, sending out reminders, and placing calls to Arizona debtors  
8 with balances owed to HOA. The Service Agreement between MSI and IPC provides  
9 that MSI “is in the business of providing medical billing and collection services . . .”
- 10 b. As a result of MSI’s activities during the period from January 1, 2001 through  
11 December 6, 2013, HOA received debtor payments in the total amount exceeding  
12 three million dollars.

13 6. These Findings of Fact shall also serve as Conclusions of Law.

14 **CONCLUSIONS OF LAW**

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

18 3. The conduct of Respondent, as alleged above, constitutes a violation of the statutes and  
19 rules governing collection agents as follows:

- 20 a. A.R.S. § 32-1021(A) by failing to make an original application to the Department  
21 upon forms prescribed by the Superintendent before conducting collection agency  
22 activity; and
- 23 b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without  
24 having first applied for and obtained a collection agency license under A.R.S.  
25 § 32-1001, *et seq.*

26 4. MSI is not exempt from licensure as a collection agency within the meaning of A.R.S. §

1 32-1004(A).

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

5 6. The violations set forth above constitute grounds for: (1) the issuance of an order  
6 pursuant to A.R.S. § 6-137 directing Respondent 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 transactions;  
9 (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any  
10 other remedy necessary or proper for the enforcement of statutes and rules regulating collection  
11 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

12 **ORDER**

13 1. Respondent shall immediately stop the violations set forth in the Findings of Fact and  
14 Conclusions of Law.

15 2. Respondent shall immediately stop all collection agency activity in Arizona until such  
16 time as Respondent have obtained a collection agency license from the Superintendent as prescribed  
17 by A.R.S. § 32-1021.

18 3. Respondent shall immediately pay to the Department a civil money penalty in the  
19 amount of **fifteen thousand dollars (\$15,000.00)**. MSI is liable for payment of the civil money  
20 penalty.

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

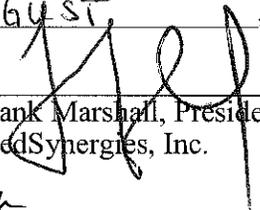
23 5. Failure to correct the violations set forth above or any future findings of repeat  
24 violations shall result in disciplinary action which may include a greater civil money penalty.

25 6. The provisions of this Order shall be binding upon Respondent, their employees,  
26 agents, and other persons participating in the conduct of the affairs of Respondent.



1  
2 7. Respondent waives all rights to seek judicial review or otherwise to challenge or contest  
3 the validity of this Order.

4 DATED this 29<sup>th</sup> day of August, 2014.

5 By:   
6 Frank Marshall, President  
7 MedSynergies, Inc.

8 **ORIGINAL** of the foregoing filed this 24<sup>th</sup>  
9 day of September, 2014, in the office of:

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

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

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