

NYC DEPARTMENT OF CONSUMER AFFAIRS

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NYC DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

CAPITAL MANAGEMENT SERVICES, LP
726 Exchange Street, Suite 700
Buffalo, New York 14210,

Respondent.
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SETTLEMENT
AGREEMENT

Violation # LL 5143293
License # 1242722

TO THE ABOVE NAMED RESPONDENT:

- Capital Management Services, LP** ("Respondent")
1. **Services, LP** ("Respondent") consents to a final Settlement Agreement ("Agreement") with the New York City Department of Consumer Affairs ("DCA") in the above matter.
 2. Jeffrey Hauser, as CEO of Respondent, represents and warrants that he or she is authorized to settle this action and to enter into a final Agreement with DCA on behalf of Respondent.
 3. This Agreement shall apply to Respondent, whether acting through Jeffrey Hauser or any other directors, officers, employees, representative agents, assignees, successors, contractors, or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondent. For the purposes of this Agreement, "employee" means any person employed for hire or permitted to work by Respondent including, but not limited to, any person who manages or oversees the work of another, any person whose principal activity is the selling of any goods or services for Respondent, and any person whose earnings are based in whole or in part on commission for work performed for Respondent.
 4. Respondent acknowledges that it was duly-served with a Notice of Hearing ("NOH") on or about September 27, 2010, citing Respondent for violating New York City Administrative Code ("Code") Title 20, Section 20-493.1, which requires debt collection agencies to provide the name of the person at the debt collection agency that the consumer can call back when the debt collection agency engages in any permitted communication with the consumer.
 5. Respondent shall comply with all relevant laws and rules related to debt collection in New York City including, but not limited to, Sections 20-101 et seq. ("License Enforcement Law"), 20-488 et seq. ("Debt Collection Agencies Law"), and 20-700 et seq. ("Consumer Protection Law") of the Code, and Title 6 of the Rules of the City of

New York ("Rules"), Sections 1-01 et seq. ("License Enforcement Rules"), 2-190 et seq. ("Debt Collection Agencies Rules"), and 5-01 et seq. ("Consumer Protection Law Rules").

6. Within twenty (20) days of the execution of this Agreement, Respondent shall implement and disseminate policies and procedures to employees to ensure compliance with the terms of this Agreement and the requirements of all relevant City laws, set forth in Paragraph 5.

LICENSE

7. Respondent shall not act as a debt collection agency as defined in Section 20-489 of the Code at any time without holding a valid license from DCA.
8. Respondent shall ensure that process servers used in furtherance of its work as a debt collection agency licensed by DCA are licensed by DCA when required by subchapter 23 of the Code.

WRITTEN COMMUNICATIONS WITH CONSUMERS

9. For two (2) years from the date of execution of this Agreement, with all written communications that Respondent sends to New York City consumers regarding the collection of a debt, Respondent shall include a copy of the flyer attached as Exhibit A or a copy of one of the three flyers in the document attached as Exhibit B.

TRAINING

10. Respondent shall provide all employees with responsibilities related to collection or attempted collection of debts from New York City consumers with initial training and periodic refresher training on the requirements of this Agreement, the policies and procedures required pursuant to this Agreement, the License Enforcement Law, the Consumer Protection Law, the Debt Collection Agencies Law, the License Enforcement Rules, the Debt Collection Agencies Rules, and the Consumer Protection Law Rules. Respondent shall provide employees with such initial training within thirty (30) days of the execution of this Agreement, and such periodic refresher training no less frequently than once each year. Respondent shall further provide such training to all new employees within fifteen (15) days of employees' start dates.

MONITORING

11. Respondent shall appoint Jeff Joyce, who is a senior executive, to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Agreement. Such Compliance Officer has the following title: Director of Compliance & Licensing.

12. The telephone number of such Compliance Officer is: 800-519-2687.
13. The address of such Compliance Officer is: 726 Exchange Street, Ste. 700,
Buffalo, NY 14210.
14. The email address of such Compliance Officer is: compliance@cms-collect.com.
15. If the identity of such Compliance Officer changes at any time within the following year, Respondent shall provide to DCA the name, title, telephone number, address, and email address of the replacing Compliance Officer within ten (10) days of such change.
16. Within forty-five (45) days of execution of this Agreement, Respondent shall provide to DCA a notarized affidavit describing the policies and procedures Respondent has developed and implemented to comply with Section 20-493.1 of the Code.
17. Upon ten (10) days' notice, Respondent shall provide to DCA any books, reports, records or other documents as DCA deems necessary to ascertain compliance with this Agreement. Nothing in this Agreement shall be construed to alter or diminish Respondent's obligation to maintain and produce all documents as required by the Code and Rules.
18. Respondent shall further develop and implement policies and procedures for disciplining, up to and including the termination of, employees who have not complied with the requirements of this Agreement and/or all applicable laws, including, but not limited to, the License Enforcement Law, Debt Collection Agencies Law, Consumer Protection Law, License Enforcement Rules, Debt Collection Agencies Rules, and/or Consumer Protection Law Rules. Respondent shall also develop and implement such policies and procedures with regard to employees with management responsibilities who fail to adequately address non-compliance by subordinate employees.
19. Respondent shall keep for a period of three (3) years written records of each report of, and its response to, any written notification and/or any internal documentation regarding non-written notification that its employees are or may be in violation of the requirements of this Agreement and/or any applicable laws, including, but not limited to, the License Enforcement Law, Debt Collection Agencies Law, Consumer Protection Law, License Enforcement Rules, Debt Collection Agencies Rules, and/or Consumer Protection Law Rules.

COMPLAINT RESOLUTION

20. Respondent shall appoint Cory Magnuson to serve as the Complaint Resolution Officer responsible for addressing complaints received by

DCA against Respondent. Such Complaint Resolution Officer has the following title:
General Counsel.

21. The telephone number of such Complaint Resolution Officer is: _____
[REDACTED]
22. The address of such Complaint Resolution Officer is: 726 Exchange Street,
Ste. 700, Buffalo, NY 14210.
23. The email address of such Complaint Resolution Officer is compliance@cms-
collect.com.
24. If the identity of such Complaint Resolution Officer changes at any time within the following year, Respondent shall provide to DCA the name, title, telephone number, address, and email address of the replacing Complaint Resolution Officer within ten (10) days of such change.
25. Respondent shall develop and implement policies and procedures to ensure that Respondent complies with Section 1-13 of the Rules.
26. Respondent shall resolve all consumer complaints filed with DCA or which may be filed with Respondent by consumers. In the event such complaints cannot be resolved between the parties with or without the assistance of DCA, Respondent shall submit to DCA's jurisdiction to adjudicate such complaints and abide by any DCA determination made on the merits of said complaints.

FINES AND OTHER PROVISIONS

27. Respondent shall pay a fine of sixty thousand dollars (\$60,000.00) by bank check, certified check or money order made payable to the NYC Department of Consumer Affairs. Respondent shall deliver the amount specified to: NYC Department of Consumer Affairs, R&I, 42 Broadway, 9th Floor, New York, NY 10004. DCA shall receive such amount within ten (10) days of the execution of this Agreement. Respondent may also pay the fine by credit card after DCA has received this signed Agreement by logging onto www.nyc.gov/consumers, clicking on the Business Information tab, and following the directions for paying fines online.
28. If DCA does not receive such fine within ten (10) days of the execution of this Agreement, DCA shall assess a \$100 late charge and the balance due under this Agreement shall be due immediately.
29. Respondent waives any further right to a hearing and/or appeal of the above-reference citation under Section 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.
30. Any material breach of a provision of this Agreement shall, if proven: (i) be deemed grounds for suspension or revocation of Respondent's license(s); (ii) be assessed at

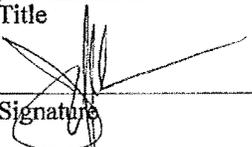
the maximum penalties allowed by law pursuant to the License Enforcement Law, Consumer Protection Law, Debt Collection Agencies Law, and Rules; and/or (iii) be deemed proof that any person with an equity interest of more than ten (10) percent or more in Respondent, or significant managerial responsibility for the operation of Respondent's business, is not possessed of the integrity, honesty, and fair dealing required of persons who hold a license issued by DCA.

31. The acceptance of this Agreement by DCA shall not be deemed approval by DCA of any of Respondent's business practices, and Respondent shall make no representation to the contrary.
32. This matter will be considered settled upon execution of this Agreement and payment of the settlement sum as set forth in Paragraph 27 above.
33. A faxed or electronic copy of Respondent's signature shall be considered to have the same force and effect of an original signature.

Agreed to by:

Jeffrey Hauser
Print name

CEO
Title


Signature

March 14, 2011
Date

Accepted for Jonathan Mintz,
Commissioner of Consumer Affairs
for the City of New York by:


Print name

Staff Counsel
Signature


Signature

3/14/11
Date

All businesses must comply with all relevant local, state and federal laws. Copies of New York City's laws and rules pertaining to debt collection agencies are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY 10004; by calling 311, New York City's 24-hour Citizen Service Hotline; or by going online at www.nyc.gov/consumers.

EXHIBIT A

Money Worries?

**We can help you
take control.**

Call 311 and ask for a
Financial Empowerment Center.



Managing your money can be overwhelming. The City's free **Financial Empowerment Centers** can help you take control.

Financial Empowerment Centers can help when:

- You are having trouble managing your budget or paying down debt.
- You are getting calls or letters from a debt collector and don't know how to respond.
- You are thinking about a debt consolidation loan or debt settlement but are unsure if this is the right step.
- You want to find the government benefits for which you are eligible.
- Your identity has been stolen or you have been the victim of a financial scam.
- You need help opening a bank account or saving money.

Services are provided for free by professional financial counselors, in English, Spanish, and Chinese, in person or by phone. Call 311 to schedule an appointment today!

For more information, visit the New York City Department of Consumer Affairs Office of Financial Empowerment (OFE) online at nyc.gov/ofe

NYC

Michael R. Bloomberg
Mayor

Department of Consumer Affairs
Office of Financial Empowerment

Jonathan Metz
Commissioner

**Protect
your Money**

EXHIBIT B



Michael R. Bloomberg
Mayor

Department of Consumer Affairs
Office of Financial Empowerment

Jonathan Mintz
Commissioner

|| **Protect** _____
your **Money** ||

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Michael R. Bloomberg
Mayor

Department of Consumer Affairs
Office of Financial Empowerment

Jonathan Mintz
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