

**DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK**

-----X
DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

CAVALRY PORTFOLIO SERVICES LLC,

Respondent.
-----X

CONSENT ORDER

Violation No.: 5369443

License Nos.: 1126494, 1126497,
1126502, 1143718.

1. Respondent Cavalry Portfolio Services LLC (“Cavalry” or “Respondent”) has been licensed by the New York City Department of Consumer Affairs (the “Department”) as a debt collection agency pursuant to Section 20-490 of the New York City Administrative Code (“Admin. Code”) since 2002.
2. Respondent seeks renewal of its debt collection agency licenses, Nos. 1126494, 1126497, 1126502, and 1143718.
3. The Department has reviewed Respondent’s license renewal applications, public records and records maintained by the Department, and Respondent’s 2013 Renewal Information and Documentation Form, and additional information provided to the Department by Respondent.
4. The Department finds Respondent violated Admin. Code § 20.493.2(a), 6 RCNY § 2-190(a), (b), and 6 RCNY § 1.01 (a), (b).
5. Respondent does not admit to and contests the Department’s findings, but consents to a Consent Order with the Department to obtain a license and to avoid further investigation and litigation with regard to the specific findings identified in paragraph 4 for the period from April 24, 2010 to the date of this Consent Order.
6. Stephen Anderson, as EVP and COO, represents and warrants that he is authorized to enter into this Consent Order on behalf of Respondent.

7. This Consent Order shall apply to Respondent, its directors, officers, employees, representative agents, assignees, and successors. For the purposes of this Consent Order, "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 and any person whose earnings are based in whole or in part on commission for work performed for Respondent.
8. Respondent agrees to comply fully with all relevant laws and rules related to debt collection from New York City consumers including, but not limited to: (a) the Licensing Law and Rules, Admin. Code sections 20-101 *et seq.* and Title 6 of the Rules of the City of New York ("6 R.C.N.Y." or "the Rules") sections 1-01 *et seq.*; (b) the Debt Collection Agencies Licensing Law and Rules, Admin. Code sections 20-488 *et seq.* and 6 R.C.N.Y. sections 2-190 *et seq.*; and (c) the Consumer Protection Law and Rules, Admin. Code sections 20-700 *et seq.* and 6 R.C.N.Y. sections 5-76 *et seq.*

LICENSING

9. The Department did not find any violations related to paragraphs 10-11; however, Respondent agrees to comply with paragraphs 10-11.
10. Respondent shall not act as a debt collection agency as defined in Section 20-489 of the Admin. Code at any time without holding a valid license from the Department.
11. Respondent shall maintain policies and procedures that obligate process server individuals and agencies used in furtherance of its work as a debt collection agency to be licensed by the Department when required by subchapter 23 of the Admin. Code. Further, Respondent shall conduct audits to confirm compliance with the obligations discussed in this paragraph.

PAYDAY LOANS

12. The Department did not find any violations related to paragraphs 13-15; however, Respondent agrees to comply with paragraphs 13-15. Respondent represents that Respondent has never purchased or collected payday loans.
13. Respondent shall continue not to purchase, collect, or attempt to collect debts from New York City consumers if those debts arise from payday loans.
14. Respondent shall continue to implement policies and procedures corresponding to paragraph 13 that include, but are not limited to, a screening process for debts which are likely to be payday loans, such as those for which the original creditor's name contains the terms "Payday," "Cash," "Check," "Instant," "Advance," "Fast," "Now," or "Quick."
15. If Respondent discovers it has inadvertently purchased a payday loan allegedly owed by a New York City consumer, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondent furnishes

information, a request for deletion of any negative information from the consumer's credit report.

DISPUTED DEBT; CREDIT REPORTING

16. In addition to the requirements in Section 20-493.2 of the Admin Code and Sections 2-190 and 5-77(f) of 6 R.C.N.Y., if at any time a New York City consumer advises Respondent orally or in writing that he or she does not owe the debt, or requests verification or validation of the debt, Respondent shall promptly investigate the dispute or request, report the debt as disputed to any consumer reporting agency to which it was previously reported, conduct and complete a reasonable investigation into the accuracy or completeness of the information for the debt, and cease all collection efforts unless or until Respondent provides the New York City consumer with the following in writing:
- i. Copies of the documents and information required by 6 RCNY § 2-190 and Admin. Code § 20-493.2(a);
 - ii. All of the information required by Admin Code § 20-493.1(a);
 - iii. The full name of the original merchant or service provider if different than the originating creditor;
 - iv. Last four digits of the original account number, or other sufficient information to verify the identity of the original account;
 - v. Date on which the debt was charged-off by the original creditor;
 - vi. The charge-off account statement, or equivalent document, issued by the original creditor to the consumer;
 - vii. For any debt that is beyond the applicable statute of limitations, the required statement set forth in 6 RCNY § 2-191(a) in the format required by 6 RCNY § 2-191(b);
 - viii. Beginning August 30, 2015, records reflecting the amount and date of any prior settlement agreement that was reached with a debt collector on or after March 3, 2015 and
 - ix. A statement describing the complete chain of title from the original creditor to the present creditor, including the date of each assignment, sale, and transfer.
- b. If Respondent does not substantiate that the consumer owes the debt following a reasonable investigation, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, request deletion of that item of information from the consumer's credit reporting file and provide the consumer with a letter notifying the consumer that the credit reporting agencies were so requested. If Respondent does not complete its reasonable investigation within sixty (60) days from receipt of the dispute, Respondent shall request deletion of that item from the consumer's credit reporting file and cease collection activities until the reasonable investigation is complete. If as a result of its decision to permanently terminate collection efforts or if following a reasonable investigation, Respondent does not

substantiate that the consumer owes the debt, Respondent shall not sell the debt or provide it to any other entity for the purpose of collection or attempted collection. If as a result of its decision to permanently terminate collection efforts or if following a reasonable investigation, Respondent does not substantiate that the consumer owes the debt, Respondent shall be permitted to send a letter to the consumer notifying the consumer that collection efforts have been terminated and shall be permitted to send other reasonable communications so long as these communications are not attempts to collect a debt.

- c. With regard to any New York City consumer's debt that has been paid in full or settled pursuant to an oral or written agreement, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondent furnishes information, a request that the account be marked paid in full or settled in full.

COLLECTION OF DEBTS OWED TO DEBT BUYERS

17. Respondent shall not collect or attempt to collect a debt unless either the seller represented in the purchase agreement the material accuracy and reliability about the debt being sold, or there are otherwise reasonable indicia of accuracy and reliability about the debt being sold; and (2) the seller represented or warranted the title of the debt.

POLICIES, PROCEDURES AND TRAINING

18. Within thirty (30) days of execution of this Consent Order, Respondent shall:
 - a. implement and disseminate policies and procedures, to officers and any agent or employee having responsibility with respect to the collection of consumer debts from New York City consumers, to ensure compliance with the terms of this Consent Order and the requirements of all New York City Laws and Rules, set forth in paragraph 8;
 - b. provide training, to officers and any agent or employee having responsibility with respect to the collection of consumer debts, on the requirements of this Consent Order and the requirements of all New York City Laws and Rules, set forth in paragraph 8;
 - c. provide periodic refresher training, to officers and any agent or employee having responsibility with respect to the collection of consumer debts, no less frequently than once each year and more frequently if any New York City Laws and Rules are amended;
 - d. provide periodic refresher training, to all new officers and any agent or employee, no later than ten (10) days from the time the employee assumes responsibility with respect to the collection of debts;

- e. take and document appropriate disciplinary action against any employee who fails to comply with this Consent Order and the requirements of all New York City Laws and Rules, set forth in paragraph 8.

COMPLIANCE MONITORING AND REPORTING

- 19. Respondent shall appoint [REDACTED] to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Consent Order. Such Compliance Officer has the following title: Chief Compliance Officer.
 - a. The telephone number of such Compliance Officer is: [REDACTED]
 - b. The address of such Compliance Officer is: [REDACTED]
 - c. The email address of such Compliance Officer is: [REDACTED]
- 20. If the identity of such Compliance Officer changes at any time, Respondent shall provide to the Department the name, title, telephone number, address, and email address of the replacing Compliance Officer within ten (10) days of such change.
- 21. Within twenty (20) days of receipt of written notice from the Department, Respondent shall produce the following, electronically or in the format indicated by the Department, which are true and accurate:
 - a. Documents related to any provision of this Consent Order, including but not limited to:
 - i. Copies of any complaints Respondent received regarding Respondent's attempts to collect debt purportedly owed by New York City consumers.
 - ii. Recordings and copies of contemporaneous notes as required by Section 2-193(b)(2) of the Rules.
 - iii. Documents sufficient to identify the manner in which Respondent maintains its records.
- 22. Respondent shall respond to all subpoenas and document requests issued to it by the Department.
- 23. Nothing in this section shall be construed to obviate Respondent's responsibilities pursuant to Admin. Code section 20-493(b); 6 R.C.N.Y. sections 1-14, 1-16; and 2-193.
- 24. Six months following the execution of this Consent Order Respondent shall submit a sworn affidavit, together with a compliance report from Respondent's Compliance Officer, describing and documenting Respondent's compliance with this Consent Order. As part of the compliance report, Respondent shall submit (i) a list of New York City consumers who disputed the debt and/or requested

verification and the outcome of such dispute and/or request; and (ii) a copy of the complete written response sent to each consumer identified in part (i). Respondent shall continue to submit a compliance report every six months thereafter the initial compliance report for a total term of two years.

25. Respondent shall notify the Department of all pending actions, proceedings or investigations by government agencies against it within ten (10) days of being notified of such action, proceeding, or investigation. For the purpose of this paragraph, "pending actions, proceedings or investigations" means any written communication from a government agency relating to Respondent's debt collection practices, to which Respondent must respond except for individual consumer complaints.
26. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within twenty (20) days of receipt of copies of those complaints, but in all instances, Respondent shall respond in writing to the Department regarding those consumer complaints within twenty (20) days of receipt of any complaints.
27. For the purposes of this Consent Order, Respondent shall, unless otherwise directed by the Department, send by recognized national overnight carrier , and contemporaneously by email, all notifications required by this Consent Order to the Department to the following addresses:

First Class Mail to:

LEGAL DIVISION
NYC Department of Consumer Affairs
42 Broadway, 9th Floor
New York, NY 10004

Re: 2015 Consent Order

Email to: legaldebtcoll@dca.nyc.gov

28. For purposes of the compliance reporting and monitoring required by this Consent Order, the Department is authorized to communicate directly with the Respondent.

CONSEQUENCES OF BREACH OF CONSENT ORDER

29. A finding, after notice and hearing, that Respondent has committed a material breach of the terms of this Consent Order shall constitute prima facie, but

rebuttable, evidence of Respondent's lack of fitness to hold a license from the Department. Nothing herein shall interfere with Respondent's rights to seek review in a judicial forum.

30. Upon a finding, after notice and hearing, that Respondent has committed violations of this Consent Order, the Licensing Law, the Debt Collection Agency Licensing Law, or the Consumer Protection Law, Respondent shall pay one thousand dollars (\$1,000) for each violation as well as the Department's costs for investigation and litigation.
31. Respondent's failure to produce any of the documents required by this Consent Order, the Admin. Code, or the Rules shall constitute prima facie evidence that Respondent has failed to maintain those records and is not in compliance with the underlying terms of the Consent Order, Law, or Rule for which documents are required to be maintained.

PENALTIES AND OTHER TERMS AND CONDITIONS

32. Respondent shall pay \$80,000 to the Department, due upon execution of this Consent Order. Payment shall be made by bank check, certified check, or money order in the full amount made payable to the New York City Department of Consumer Affairs, and delivered to the New York City Department of Consumer Affairs, Legal Division, Attn: [REDACTED] 42 Broadway, 9th Floor, New York, New York 10004.
33. This Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

WAIVER OF APPEALS

34. Respondent waives Respondent's right to a hearing on, appeal of and/or any challenge of, in any forum, the facts alleged by the above-referenced Violation Number under Sections 20-104 and 20-105 of the Admin. Code or under Article 78 of the New York State Civil Practice Law and Rules.

MISCELLANEOUS

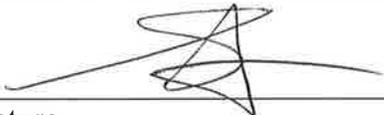
35. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representation to the contrary.
36. The acceptance of this Consent Order resolves the findings made by the Department in paragraph 4 of this Consent Order. This Consent Order does not limit the Department's ability to bring charges for violations subsequent to the date of this Order or for items Respondent had been required to disclose to the

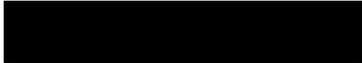
Department but failed to do so, recognizing that the Department has not found that Respondent failed to disclose documents or other information.

- 37. The acceptance of this Consent Order does not limit the Department's ability, nor Respondent's obligation to respond to consumer complaints that arose prior to the date of the Consent Order as set forth in the "Agreement Dated" field below.
- 38. Nothing in this Consent Order shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under Chapter 1, Title 20 or under Chapter 2, Title 20 of the Admin. Code.

Agreed to for the Respondent by:

Accepted for Julie Menin, Commissioner of Consumer Affairs for the City of New York, by:

Stephen Anderson
Print Name
EVP/COO
Title

Signature
11/25/15
Date


Print Name
Staff Attorney
Title

Signature
11/30/15
Date

Agreement Dated: 11/30/15

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 1st Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.