

DEPARTMENT OF CONSUMER AFFAIRS  
CITY OF NEW YORK

|                                   |                          |
|-----------------------------------|--------------------------|
| -----X                            |                          |
| DEPARTMENT OF CONSUMER AFFAIRS,   | CONSENT ORDER            |
| Complainant,                      |                          |
| -against-                         | Violation No.: PL1051273 |
| NATIONWIDE RECOVERY SYSTEMS, LTD. |                          |
| Respondent.                       |                          |
| -----X                            |                          |

1. Nationwide Recovery Systems, Ltd. (“Respondent”) consents to a final Consent Order with the New York City Department of Consumer Affairs (the “Department”) in the above captioned matter, in which the Department alleges that Respondent violated Sections 20-490 (unlicensed activity) and 20-700 (deceptive trade practices) of the New York City Administrative Code (the “Code”) and Sections 5-77(d)(12) (using false representations or deceptive means to collect a debt) of Title 6 of the Rules of the City of New York (the “Rules”).
2. Nothing in this final Consent Order shall be construed as an acknowledgment, admission, concession, or stipulation of liability or wrongdoing by Respondent.
3. Roy Jones, as President, represents and warrants that he/she is authorized to settle this action and to enter into a final Consent Order with the Department on behalf of Respondent.
4. This Consent Order shall apply to Respondent, its directors, officers, employees, representative agents, assignees, and successors and is applicable to all claims between the Department and Respondent either known or unknown up to and including the date of the execution hereof. 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.
5. Respondents shall 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 Section 20-101 *et seq.* and Title 6 of the Rules of the City of New York 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.*

## DEFINITIONS

For the purposes of this Consent Order:

1. "Debt" shall be defined as set forth in Section 20-489(c) of the Code.
2. The term "debt collection agency" shall be defined as set forth in Section 20-489(a) of the Code.
3. The term "New York City consumer" means any natural person who resides or resided in New York City at any time relevant to the collection of a debt.
4. The term "reasonable investigation" shall mean an investigation in which Respondents objectively evaluate, weigh, and document the relevant information and circumstances which may include: the reliability of the information on which Respondents rely in collecting or attempting to collect the debt, including the credibility of the source of that information; the accuracy and completeness of any information from the credit originator, taking into account the reliability and source of the information; the accuracy and completeness of any information Respondents have obtained or may obtain from third party sources, including data aggregators, brokers or consumer reporting agencies; the strength and credibility of any information provided by the consumer questioning, disputing, or challenging the accuracy or completeness of such information or otherwise obtained by Respondents and the responsiveness of the consumer to reasonable requests for information; the nature and frequency of disputes received by Respondents about accounts within the same portfolio; with respect to information obtained from the consumer, the methods used by Respondents to collect the information, which shall be in compliance with all applicable laws; and any other reliable information that confirms, contradicts, or calls into question the accuracy or completeness of such information

## INJUNCTIVE RELIEF

### Licensing

5. Upon execution of this Consent Order, Respondent shall submit to the Department's Licensing Division a complete and truthful application for a Debt Collection Agency License.
6. 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.
7. Respondent shall not represent it is licensed to collect consumer debt in New York City on any websites it owns, controls, or maintains, in which it promotes or references debt collection, including [www.nrs.us](http://www.nrs.us), and in all other advertisements without holding a valid license from the Department.
8. Respondent shall not solicit for collection debt portfolios that include purported debts of New York City consumers without holding a valid license from the Department.

9. Respondent shall include the following with any application for a license from the Department:
  - a. A copy of this Consent Order.
  - b. A copy of all template written communications Respondent will use to collect debt from New York City consumers.
  - c. A copy of all phone scripts Respondent will use to collect debt from New York City consumers.
  - d. A copy of Respondent's policies and procedures, as described in Paragraph 21(a).
  - e. A list containing:
    - i. The jurisdictions from which it or any of its principals holds a license to collect debts.
    - ii. The jurisdictions which denied it or any of its principals a license.
    - iii. The jurisdictions which revoked or suspended its license or the license of any of its principals.
    - iv. The jurisdictions which imposed penalties or sanctions on it or any of its principals.
10. Respondent shall ensure that process server individuals and agencies used in furtherance of its work as a debt collection agency licensed by the Department are licensed by the Department when required by subchapter 23 of the Admin. Code.
11. Upon the termination of Respondent's license by revocation, suspension, expiration, denial, surrender, cancellation, or operation of law Respondent shall immediately cease its debt collection activities with respect to New York City consumers and return its license(s) to the Department.

**Payday Loans; Usurious Loans**

12. Respondents shall not purchase, collect, or attempt to collect debts from New York City consumers if those debts arise from usurious loans, including payday loans.
13. "Usurious loan" is a loan with an initial principal of less than \$250,000, for which the annual percentage rate of interest exceeds the rate specified by Section 14-a of the New York Banking Law, that is void under Section 5-511 of the New York General Obligations Law.
14. For New York City accounts, Respondents shall implement policies and procedures corresponding to paragraph 12 that include, but are not limited to, a screening process for debts which are likely to be usurious payday loans, such as those for which the original creditor's name contains the terms "Payday," "Cash," "Instant," "Advance," "Fast," "Now," or "Quick."
15. With regard to any New York City consumer's debt that arises from a usurious loan, Respondents shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which

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

### **Disputed Debt; Credit Reporting**

16. If Respondents are granted a license from the Department, Respondents shall, in addition to the requirements in Section 20-493.2 of the Admin. Code and Sections 2-190 and 5-77(f) of the Rules, engage in the following practices:
  - a. Whenever a New York City consumer questions, disputes, or challenges the information on which Respondents are relying to collect or attempt to collect a debt, Respondents shall either:
    - i. Close the account, permanently terminate collection efforts with respect to the specific debt, and request deletion of that item of information from the consumer's credit reporting file; or
    - ii. Report that item of information as disputed to any consumer reporting agency to which the information was previously reported and conduct a reasonable and truthful investigation into the accuracy or completeness of such information. If Respondent does not complete its reasonable investigation within thirty (30) 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 after the investigation the Respondent cannot 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.
  - b. 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, Respondents shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondents furnish information, a request for deletion of any negative information from the consumer's credit report.

### **Collection of Debts Owed to Debt Buyers**

17. Respondents shall not collect or attempt to collect a debt owed or asserted to be owed to any buyer of delinquent debt from a New York City consumer unless each agreement transferring ownership of the debt included terms in which the seller warranted and represented that the information about the debt and the documentation supporting the debt were accurate and complete. This shall not limit any other requirements under the Law or Rules regarding documentation that must be obtained, maintained or transferred with a debt.

### **Record Keeping**

18. If Respondents are granted a license by the Department, Respondents shall maintain the following records:
  - a. All records required by Section 2-193 of the Rules.

- b. A record identifying all employees, including name, address, phone number, email address, title responsibilities, and any alias used for collection purposes.
  - c. A record of any disciplinary actions against its employees, identifying the employees.
  - d. A log of employee training, identifying each employee.
  - e. A record of all debt portfolios purchased by Respondents.
  - f. A record of insurance policies that provide coverage for litigation or investigations related to debt collection.
  - g. Copies of certified financial statements for Respondents.
  - h. A record of all calls monitored as required by Section 2-193 (b) (1) – (2) including the date, time, and duration of each call, the number called, the number from which the call was made, and the name of the person reached during the call, and any notes taken during the call by either the monitor or the caller.
19. Respondents shall maintain the records described in this section for six (6) years from the date created or obtained by Respondents, except that recordings of conversations with consumers shall be retained for one (1) year after the date of the last conversation recorded on each completed recording tape.

**Prohibited Debt Collection Practices**

20. If Respondents are granted a license from the Department, Respondents shall not:
- a. Falsely represent to any New York City consumer that they or their representative is an attorney.
  - b. Threaten the arrest of any New York City consumer for purported nonpayment of a debt.
  - c. Except as otherwise required by applicable debt collection law or unless Respondent has obtained the consumer's explicit consent, disclose the existence of any debt allegedly owed by a New York City consumer on an answering machine or voicemail message.
  - d. Disclose the existence of any debt allegedly owed by a New York City consumer on an answering machine or voicemail message, unless Respondent has obtained the consumer's explicit consent except as otherwise required by applicable debt collection law.
  - e. Collect or attempt to collect debts from New York City consumers if Respondent knows or should have known after due diligence that those debts have been paid in full or settled pursuant to an oral or written agreement.
  - f. Use any name other than an actual or fictitious name they have registered with the New York Department of State.
  - g. Sell or provide to any other entity for the purpose of collection or attempted collection:

- i. Any debt of a New York City consumer that has been paid in full, settled pursuant to an oral or written agreement.
- ii. Any debt of a New York City consumer that is more than six (6) years old.

#### **Policies, Procedures, and Training**

21. Prior to obtaining a license from the Department, 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 4.
  - 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 4.
  - 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 5.

#### **Compliance Monitoring and Reporting**

22. Respondent shall appoint Scot Hildreth, who is a Director, to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Consent Order. Such Compliance Officer has the following title: Director of Compliance.
  - a. The telephone number of such Compliance Officer is: 972-798-1000.
  - b. The address of such Compliance Officer is: 4635 McEwen Rd, Dallas, Texas 75244.
  - c. The email address of such Compliance Officer is: scot.hildreth@nrs.us.
23. 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 five (5) days of such change.
24. In the event Respondent obtains a license from the Department, Respondent shall submit a sworn affidavit, together with a Compliance Report from its Compliance

- Officer three (3) months following the granting of such license describing and documenting Respondent's compliance with this Consent Order.
25. Within ten (10) 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 and sworn to under the penalty of perjury:
    - 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. Transcripts of the recordings required by Section 2-193(b)(2) of the Rules.
      - iii. Documents sufficient to identify the manner in which Respondent maintains its records.
  26. Respondent shall respond to all subpoenas and document requests issued to it by the Department.
  27. 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.
  28. 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 purposes of this paragraph, "investigation" shall mean any written communication from a government agency relating to Respondent's debt collection practices, to which Respondent must respond, except for individual consumer complaints.
  29. 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.
  30. For the purposes of this Consent Order, Respondent shall, unless otherwise directed by the Department, send by first class mail, 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, 9<sup>th</sup> Floor  
New York, NY 10004

Re: 2014 Consent Order  
Email to: [legaldebtcoll@dca.nyc.gov](mailto:legaldebtcoll@dca.nyc.gov)

31. For purposes of the compliance reporting and monitoring required by this Consent Order, the Department is authorized to communicate directly with the Respondent, unless notified in writing otherwise.

#### **Consequences of Breach of Consent Order**

32. A finding, after notice and hearing, that Respondent has committed a breach of the terms of this Consent Order shall constitute prima facie evidence of Respondent's lack of fitness to hold a license from the Department.
33. 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 be subject to a penalty of up to \$1,000 for each violation as well as the Department's costs for investigation and litigation. Nothing herein shall constitute a waiver of Respondent's right to appeal or contest such a ruling.
34. 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.
35. Specific breaches of this Consent Order shall, in addition to a breach of this Consent Order, constitute independent and separate violations of any applicable Law or Rule. If the same conduct gives rise to both a breach of this Consent Order and a breach of the Licensing Law or Rules, the Debt Collection Agency Law or Rules, or the Consumer Protection Law or Rules, Respondent shall pay two penalties as set forth in Paragraph 33: one penalty for breach of the Consent Order and one penalty for the breach of the applicable Law or Rule.

#### **Penalties and Other Terms and Conditions**

36. Respondent shall pay a total sum of \$80,000 to the Department due in 12 equal payments. The first payment shall be due upon execution of this Consent Order with the remainder due in 11 monthly payments in the amount of \$6,666.66 except that the final payment shall be \$6,666.74. Each payment shall be made by bank check, certified check, or money order 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: Emily Anderson, 42 Broadway, 9th Floor, New York, New York 10004.

37. This Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

**Waiver of Appeals**

38. 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 Notices of Hearing and the Decision and Order 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**

- 39. 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.
- 40. 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 Nationwide Recovery Systems, Ltd.:

By: Roy Jones

Print Name

President

Title

Signature

Date:

*Aug 8, 2014*

Accepted for Julie Menin, Commissioner

New York City Department of Consumer Affairs

By:

Staff Attorney

Signature

Date:

*8/11/14*