

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

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DEPARTMENT OF CONSUMER AFFAIRS,	SETTLEMENT ORDER
Complainant,	
-against-	Violation No.: 05333266
BUREAU OF COLLECTION RECOVERY, LLC,	License No.: 1326344
Respondent.	
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1. Respondent Bureau of Collection Recovery, LLC ("BCR") 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 2009.
2. Respondent seeks renewal of its debt collection agency license, No. 1326344.
3. The Department has reviewed Respondent's license renewal application, public records and records maintained by the Department, and Respondent's 2013 Renewal Information and Documentation Form, and information provided to the Department by Respondent.
4. The Department's findings are annexed as Attachment A.
5. Respondent does not admit to any violations, but consents to the terms of this Settlement Order to obtain a license and to avoid further investigation and litigation with regard to the specific violations identified in Attachment A for the period from April 24, 2010 to the date of this Settlement Order.
6. BCR Controller of Finance, Kaveena Barretto is authorized to enter into this Settlement Order on behalf of BCR.
7. This Settlement Order shall apply to BCR, its directors, officers, employees, representative agents, assignees, and successors. For the purposes of this Settlement Order, "employee" means any person employed for hire or permitted to work by BCR 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 BCR.

8. BCR 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 Section 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. BCR 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.
10. BCR 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 BCR’s license by revocation, suspension, expiration, denial, surrender, cancellation, or operation of law BCR 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. While the Department has not made any findings that BCR collects on payday loans, BCR 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. Respondent shall implement or maintain 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,” “Check,” “Instant,” “Advance,” “Fast,” “Now,” or “Quick.”
15. With regard to any New York City consumer’s debt that arises from a usurious loan, 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., BCR shall engage in the following practices:
 - a. Whenever a New York City consumer questions, disputes, or challenges the information on which BCR is relying to collect or attempt to collect a debt, BCR 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 BCR does not complete its reasonable investigation within thirty (30) days from receipt of the dispute, BCR 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, BCR cannot substantiate that the consumer owes the debt, BCR 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, BCR shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which BCR furnishes information, a request for deletion of any negative information from the consumer's credit report.

COLLECTION OF DEBTS OWED TO DEBT BUYERS

17. BCR 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.

POLICIES, PROCEDURES AND TRAINING

18. BCR represents that it has policies and procedures in place; however, within thirty (30) days of execution of this Settlement Order, BCR 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 Settlement 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 Settlement 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 five (5) 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 Settlement Order and the requirements of all New York City Laws and Rules, set forth in paragraph 8.

COMPLIANCE MONITORING AND REPORTING

19. BCR shall appoint Kaveena Barretto, who is Controller of Finance, to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Settlement Order. Such Compliance Officer has the following title: Financial Controller, BCR.

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, BCR 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.
21. Within ten (10) days of receipt of written notice from the Department, BCR 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 Settlement Order, including but not limited to:
 - i. Copies of any complaints BCR received regarding BCR'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 BCR maintains its records.
22. BCR shall respond to all subpoenas and document requests issued to it by the Department.
23. Nothing in this section shall be construed to obviate BCR's responsibilities pursuant to Admin. Code Section 20-493(b); 6 R.C.N.Y. Sections 1-14, 1-16; and 2-193.
24. BCR shall notify the Department of all pending actions, proceedings or investigations by government agencies against it within twenty (20) days of being notified of such action, proceeding or investigation.
25. BCR 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, BCR shall respond in writing to the Department regarding those consumer complaints within twenty (20) days of receipt of any complaints.
26. For the purposes of this Settlement Order, BCR shall, unless otherwise directed by the Department, send by first class mail, and contemporaneously by email, all notifications required by this Settlement 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: 2014 Settlement Order

Email to: legaldebtcoll@dca.nyc.gov

27. For purposes of the compliance reporting and monitoring required by this Settlement Order, the Department is authorized to communicate directly with BCR.

CONSEQUENCES OF BREACH

28. A finding, after notice and hearing, that BCR has committed a breach of the terms of this Settlement Order shall constitute prima facie evidence of BCR's lack of fitness to hold a license from the Department.
29. Upon a finding, after notice and hearing, that BCR has committed violations of this Settlement Order, the Licensing Law, the Debt Collection Agency Licensing Law, or the Consumer Protection Law, BCR shall pay one thousand dollars (\$1,000) for each violation as well as the Department's costs for investigation and litigation.
30. BCR's failure to produce any of the documents required by this Settlement Order, the Admin. Code, or the Rules shall constitute prima facie evidence that BCR has failed to maintain those records and is not in compliance with the underlying terms of the Settlement Order, Law, or Rule for which documents are required to be maintained.
31. Specific breaches of this Settlement Order shall, in addition to a breach of this Settlement Order, constitute independent and separate violations of any applicable Law or Rule. If the same conduct gives rise to both a breach of this Settlement Order and a breach of the Licensing Law or Rules, the Debt Collection Agency Law or Rules, or the Consumer Protection Law or Rules, BCR shall pay two penalties as set forth in Paragraph 29: one penalty for breach of the Settlement Order and one penalty for the breach of the applicable Law or Rule.

PENALTIES AND OTHER TERMS AND CONDITIONS

32. BCR shall pay \$100,000 to the Department, due within 14 days of execution of this Settlement 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: 2014 Debt Collection Renewal, 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 findings in Attachment A in connection with 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 Settlement Order by the Department shall not be deemed approval by the Department of any of BCR's business practices, and BCR shall make no representation to the contrary.
36. The acceptance of this Settlement Order resolves the findings made in this Settlement Order in Attachment A. This Settlement Order does not limit the Department's ability to bring charges for violations outside this time period.
37. The acceptance of this Settlement Order does not limit the Department's ability, nor Respondent's obligation to respond to consumer complaints that arose prior to the date of this Settlement Order as set forth in the "Agreement Dated" field below.
38. Nothing in this Settlement 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 BCR by:

Accepted for the New York City Department of Consumer Affairs, by:

Kaveena Barretto
Controller of Finance


Staff Attorney



Signature



Signature

Date May 13, 2014

Date May 2, 2014

Agreement Dated: May 20, 2014

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, 5th 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.

ATTACHMENT A

The Department has reviewed Respondent's license renewal applications, public records, records maintained by the Department, Respondent's 2013 Renewal Information and Documentation Form and information provided to the Department by the Respondent. Based on this review, the Department makes the following findings:

- (1) Background – BCR collected or attempted to collect From 31,182 New York City consumers in the past two years:
 - a. Question 17(A) of the 2013 Renewal Form asks: “In the past two years, did you collect or attempt to collect debts from any New York City consumers?” Question 17(B) of the 2013 Renewal Form asks: “[H]ow many accounts did you collect or attempt to collect from New York City consumers in 2011?” Question 17(C) of the 2013 Renewal Form asks: “[H]ow many accounts did you collect or attempt to collect from New York City consumers in 2012?”
 - b. BCR answered “Yes” to Question 17(A), answered “10,350” to Question 17(B), and answered “20,832” to Question 17(C). BCR therefore admits that it collected or attempted to collect 10,350 accounts from New York City consumers in 2011 and 20,832 accounts from New York City consumers in 2012.
- (2) BCR Violated Requirements for Written Communication and Made False Statements About Its Compliance With Those Requirements:
 - a. Question 20(B)(iii) of the 2013 Renewal Form asks: “[I]n each written communication to a New York City consumer, do you provide the consumer with: . . . the originating creditor of the debt?”
 - b. Question 20(B)(iv) of the 2013 Renewal Form asks: “[I]n each written communication to a New York City consumer, do you provide the consumer with: . . . the name of the person to call back?”
 - c. Question 20(B)(vi) of the 2013 Renewal Form asks: “[I]n each written communication to a New York City consumer, do you provide the consumer with: . . . your DCA license number?”
 - d. Admin. Code § 20-493.1(a) requires, in relevant part, that a debt collection agency provide “[i]n any permitted communication with the consumer . . . the originating creditor of the debt; [and] . . . the name of a person to call back.”
 - e. 6 RCNY § 1-05 requires, in relevant part: “[a]ny . . . letterhead . . . or other printed matter of a licensee must contain the license number assigned to the licensee by the [Department].”
 - f. 6 RCNY § 1-01.1(a) provides: “No applicant for a license or a renewal thereof shall fail to provide complete and truthful responses to all the information

requested on an application for such license or renewal thereof and any documents related thereto.”

- g. 6 RCNY § 1-01.1(b) provides: “No applicant for a license or renewal thereof shall conceal any information, make a false statement or falsify or allow to be falsified any certificate, form, signed statement, application or report required to be filed with an application for a license that is to be issued by the department or for a renewal thereof.”
- h. BCR answered “Yes” to Question 20(B)(iii), “Yes” to Question 20(B)(iv), and “Yes” to Question 20(B)(vi). BCR’s answers falsely indicate that it identifies the “originating creditor of the debt,” the “name of the person to call back,” and its “DCA license number” in each written communication to New York City consumers. The Department’s records contain at least one dunning letter sent by BCR to New a York City consumer in November 2011 that did not identify the “name of a person to call back,” and did not contain BCR’s current DCA license number (No. 1326344), and, instead, contained only a DCA license number that had expired in January 2011 (No. 1150415). CD500129723 (2011). Additionally, as its responses to Questions 23(C), 24(C), and 25(B) of its 2013 Renewal Form, BCR attached a total of nine different letters, of which five were letters that BCR sent to New York City consumers in the past two years. All five of those letters similarly failed to provide BCR’s current DCA license number (No. 1326344); instead, each letter contained only the DCA license number that had expired in January 2011 (No. 1150415). As discussed further below, in one of the five letters, dated December 24, 2012, BCR listed the name of a debt buyer (Asset Acceptance) as BCR’s client, but failed to identify the originating creditor of the debt.¹
- i. BCR violated Admin. Code § 20-493.1(a) by failing to identify the “name of a person to call back” in written communications with New York City consumers.
- j. BCR violated 6 RCNY § 1-05 by failing to include the correct “license number assigned to [BCR] by the [Department]” in written communications BCR sent to New York City consumers dated after February 1, 2011.
- k. BCR violated 6 RCNY § 1-01.1 by making false statements in its response to Questions 20(B)(iii), 20(B)(iv), and 20(B)(vi) of the 2013 Renewal Form.

(3) BCR violated the license number requirement in its debt payment schedules:

- a. Question 23(A) of the 2013 Renewal Form asks: “In the past two years, did you agree to allow any New York City consumers to pay a debt according to a debt payment schedule?”

¹ All of the example letters that BCR submitted with its 2013 Renewal Application failed to clearly identify the “originating creditor of the debt” as such; instead, BCR’s letters placed the name of BCR’s client in a field labeled “Re:” without explicitly identifying the client as a “creditor” or “current creditor,” and, where the client was a debt buyer, BCR did not list the originating creditor.

- b. Question 23(B) of the 2013 Renewal Form asks: “[D]id you provide a written confirmation of the debt payment schedule to each New York City consumer that you authorized to make payments according to a debt payment schedule?”
 - c. Question 23(C) of the 2013 Renewal Form states: “[A]ttach copies of three examples of written confirmations of debt payment schedules that you actually sent to New York City consumers dated before January 1, 2013.”
 - d. Admin. Code § 20-493.1(b) requires a debt collection agency to “[c]onfirm in writing to the consumer, within five business days, any debt payment schedule . . . reached regarding the debt.”
 - e. 6 RCNY § 1-05 requires, in relevant part: “[a]ny . . . letterhead . . . or other printed matter of a licensee must contain the license number assigned to the licensee by the [Department].”
 - f. BCR answered “Yes” to Questions 23(A) and 23(B). BCR therefore admits that it “agreed to allow . . . New York City consumers to pay a debt according to a debt payment schedule” in the past two years, and that it provided “written confirmation of the debt payment schedule to each New York City consumer that [BCR] authorized to make payments according to a debt payment schedule.”
 - g. As its response to Question 23(C), BCR attached three letters to its 2013 Renewal Form as examples of written confirmation of debt payment schedules. All of the letters failed provide BCR’s current DCA license number; instead, each letter contained a DCA license number that expired in January 2011.
 - h. BCR violated 6 RCNY § 1-05 by failing to include the correct “license number assigned to [BCR] by the [Department]” in written communications BCR sent to New York City consumers dated after February 1, 2011.
- (4) BCR violated requirements for written confirmation of settlement agreements:
- a. Question 24(A) of the 2013 Renewal Form asks: “In the past two years, did you agree to allow any New York City consumers to settle a debt?”
 - b. Question 24(B) of the 2013 Renewal Form asks: “[D]id you provide a written confirmation of the settlement agreement to each New York City consumer with whom you entered into a settlement agreement?”
 - c. Question 24(C) of the 2013 Renewal Form states: “[A]ttach copies of three examples of written confirmations of debt settlement agreements that you actually sent to New York City consumers dated before January 1, 2013.”
 - d. Admin. Code § 20-493.1(b) requires a debt collection agency to “[c]onfirm in writing to the consumer, within five business days, any . . . settlement agreement reached regarding the debt.”
 - e. 6 RCNY § 2-192(a) provides, in relevant part: “The written confirmation of the . . . settlement agreement with a consumer that a debt collection agency is

required to furnish pursuant to § 20-493.1(b) shall identify . . . the originating creditor of the debt, . . . [and] the due date of each payment”

- f. Admin. Code § 20-493.1(a) requires, in relevant part, that a debt collection agency provide “[i]n any permitted communication with the consumer . . . the originating creditor of the debt.”
- g. 6 RCNY § 1-05 requires, in relevant part: “[a]ny . . . letterhead . . . or other printed matter of a licensee must contain the license number assigned to the licensee by the [Department].”
- h. BCR answered “Yes” to Questions 24(A) and 24(B). BCR therefore admits that it “agreed to allow . . . New York City consumers to settle a debt” in the past two years, and that it provided a “written confirmation of the settlement agreement to each New York City consumer that [BCR] authorized to make payments according to a debt payment schedule.”
- i. As its response to Question 24(C), BCR attached three letters to its 2013 Renewal Form as examples of written confirmation of settlement agreements, which were dated December 13, 2012, December 18, 2012, and December 24, 2012. All of the letters failed to provide BCR’s current DCA license number; instead, each letter contained a DCA license number that expired in January 2011. Furthermore, the letter dated December 24, 2012 failed to identify the “originating creditor of the debt,” and failed to identify “the due date of each payment.”
- j. BCR violated 6 RCNY § 2-192(a) by failing to identify the originating creditor in written confirmations of settlement agreements BCR sent to New York City consumers.
- k. BCR violated 6 RCNY § 2-192(a) by failing to identify the due date of payment in written confirmations of settlement agreements BCR sent to New York City consumers.
- l. BCR violated Admin. Code § 20-493.1(a) by failing to identify the originating creditor in written communications sent to New York City consumers.
- m. BCR violated 6 RCNY § 1-05 by failing to include the correct “license number assigned to [BCR] by the [Department]” in written communications BCR sent to New York City consumers dated after February 1, 2011.