

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

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

CENTRAL PORTFOLIO CONTROL, INC.,

Respondent.

X
CONSENT ORDER

Violation No.: 05333223

License No.: 1136583

X

1. Respondent Central Portfolio Control, Inc. ("CPC" 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 2003.
2. Respondent seeks renewal of its debt collection agency license, No. 1136583.
3. The Department has reviewed Respondent's license renewal application, public records and records maintained by the Department, Respondent's 2013 Renewal Information and Documentation Form, and information provided to the Department by the Respondent.
4. The Department has made the findings annexed as Attachment A. Paragraphs 9 through 17 impose general obligations applicable to all debt collection agencies and are not based on findings made that Respondent engages in violations regarding unlicensed activity, process servers, payday lending, credit reporting, or debt buying.
5. Respondent does not admit to these violations, 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 violations identified in Attachment A for the period from April 24, 2010 to the date of this Consent Order.
6. Mark Hedge, as president of CPC, 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 § 20-101 *et seq.* and Title 6 of the Rules of the City of New York ("6 R.C.N.Y." or "the Rules") §§ 1-01 *et seq.*; (b) the Debt Collection Agencies Licensing Law and Rules, Admin. Code §§ 20-488 *et seq.* and 6 R.C.N.Y. §§ 2-190 *et seq.*; and (c) the Consumer Protection Law and Rules, Admin. Code §§ 20-700 *et seq.* and 6 R.C.N.Y. §§ 5-76 *et seq.*

LICENSING

9. 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.
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. Respondent 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 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., Respondent shall engage in the following practices:
 - a. Whenever a New York City consumer questions, disputes, or challenges the information on which Respondent is relying to collect or attempt to collect a debt, Respondent 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 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 for deletion of any negative information from the consumer's credit report.

COLLECTION OF DEBTS OWED TO DEBT BUYERS

17. Respondent 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. Within forty-five (45) 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 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 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], who is a senior executive, to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Consent Order. Such Compliance Officer has the following title: Senior Vice President.
 - a. The telephone number of such Compliance Officer is: [REDACTED].
 - b. The address of such Compliance Officer is: [REDACTED]
[REDACTED]

c. The email address of such Compliance Officer is:
[REDACTED].

20. If the identity of such Compliance Officer changes at any time within the following year, Respondent shall provide to the Department the name, title, telephone number, address, and email address of the replacing Compliance Officer within fourteen (14) days of such change. With respect to the fourteen (14) day period set forth in this paragraph, Respondent may request additional time for good cause shown, and the Department will entertain such request in good faith.

21. 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.

With respect to the ten (10) day period set forth in this paragraph, Respondent may request additional time for good cause shown, and the Department will entertain such request in good faith.

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 infer that Respondent has failed to fully cooperate with the Department or to obviate Respondent's responsibilities pursuant to Admin. Code § 20-493(b); 6 R.C.N.Y. §§ 1-14, 1-16; and 2-193.

24. Respondent shall notify the Department of all pending actions, proceedings or investigations relating to debt collection practices by government agencies against it within thirty (30) days of being notified of such action, proceeding, or investigation.

25. 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.
26. 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, 9th Floor
New York, NY 10004

Re: 2013 Consent Order

Email to: legaldebtcoll@dca.nyc.gov

27. 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

28. 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. Nothing in this paragraph shall be construed to state or infer that as of the date of this Consent Order, Respondent lacks fitness to hold a license from the Department.
29. 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.
30. If, after a written request and time period to respond as set forth in this Consent Order or as agreed to by the Department and Respondent, Respondent fails to produce any of the documents required by this Consent Order, the Admin. Code, or the Rules, such failure 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.

31. 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 29: 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

32. Respondent shall pay \$19,000 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: 2013 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 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 all of the findings made in this Consent Order in Attachment A and constitutes a final disposition of the above-captioned matter. This Consent Order does not limit the Department's ability to bring charges for violations outside this time period. The Department fully releases the Respondent from any and all claims, demands and actions arising out of the violations alleged in Attachment A through the date of this Consent Order as set forth in the "Agreement Dated" field below, unless the Department learns that information provided by Respondent with regard to the findings made was false.

- 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 this 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.
- 39. Respondent's obligations and liabilities pursuant to this Consent Order that exceed the requirements and liabilities set forth in the Laws of the City of New York shall terminate four years after the date of execution of this Consent Order.

Agreed to for the Respondent by:

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

Robert Barnett
Print Name

[Redacted]
Print Name

Senior Vice President
Title

Deputy Director
Title

[Signature]
Signature

[Redacted]
Signature

12/24/2013
Date

1/3/14
Date

Agreement Dated: 1/3/14

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's Findings

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 Respondent. Based on this review, the Department makes the following findings:

- (1) Background – CPC Has Collected or Attempted to Collect From 111 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. CPC answered “Yes” to Question 17(A), answered “47” to Question 17(B), and answered “64” to Question 17(C). CPC therefore admits that it collected or attempted to collect 47 accounts from New York City consumers in 2011 and 64 accounts from New York City consumers in 2012.
- (2) CPC Made a False Statement in Response to Question 7(A):
 - a. Question 7(A) of the 2013 Renewal Form asks: “In the past five years, have you . . . entered into any settlement agreement with any administrative agency or government entity, that was in any way related to the collection of debt or the conduct of your business?”
 - b. 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.”
 - c. 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.”
 - d. CPC answered “No” to Question 7(A). CPC's answers therefore falsely indicated that, CPC had not “entered into any settlement agreement with any administrative agency or government entity, that was in any way related to the collection of debt or the conduct of [its] business.” In fact, CPC entered into

an assurance of discontinuance on August 21, 2008 with the State of West Virginia Office of the Attorney General, including relief in which CPC agreed to “permanently refrain from collecting payday loans from West Virginia consumers” and agreed to “refund all payments that it collected on West Virginia Accounts originating from internet payday loans.”

- e. CPC violated 6 RCNY §1-01.1 by falsely answering Question 7(A) in its 2013 Renewal Form.

(3) CPC Violated Collection Letter Requirements and Made a False Statement 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)(vi) of the 2013 Renewal Form asks: “[I]n each written communication to a New York City consumers, do you provide the consumer with: . . . your DCA license number?”
- c. 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.”
- d. 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].”
- e. 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.”
- f. 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.”
- g. CPC answered “Yes” to Question 20(B)(iii). CPC’s therefore admits that it identifies the “originating creditor of the debt” in each communication with a consumer. In fact, the Department’s records include at least one 2012 dunning letter from CPC to a New York City consumer that failed to identify the originating creditor in the “orig. creditor” field of CPC’s letter. CD500131314 (2012).
- h. CPC answered “No” to Question 20(B)(vi). CPC therefore admits that it does not include CPC’s DCA license number in “each written communication to [a] New York City consumer[s].” The Department’s records confirm CPC’s admission, as dunning letters from CPC to New York City consumers failed to

include CPC's DCA license number. CD500122849 (2010), CD500124739 (2010) and CD500131314 (2012).

- i. CPC violated Admin. Code § 20-493.1(a) by failing to include the name of the originating creditor of the debt in permitted communications with New York City consumers.
- j. CPC violated 6 RCNY §1-01.1 by falsely answering Question 20(B)(iii) in its 2013 Renewal Form.
- k. CPC violated 6 RCNY §1-05 by failing to include its license number in all written communications it sent to New York City consumers.

(4) CPC Violated Requirements for Sending Written Confirmations of 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?"
- 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 § 2-192(a) provides, in relevant part: "The written confirmation of the debt payment schedule . . . with a consumer that a debt collection agency is required to furnish pursuant to § 20-493.1(b) shall identify, the date on which the debt payment schedule or agreement *was made* [and] the specific amount and *due date of each payment . . .*" (emphasis added).
- f. CPC answered "Yes" to Questions 23(A) and (B). CPC therefore admits that CPC "provide[d] a written confirmation of the debt payment schedule to each New York City consumer that [CPC] authorized to make payments according to a debt payment schedule."
- g. As its response to Question 23(C), CPC submitted three letters as examples of letters that CPC sent to New York City consumers in 2011 and 2012 to confirm a debt payment schedule. All three letters fail to identify "the date on which the [payment arrangement] was made" and the "specific . . . due date of each payment." Department records also include at least four letters involving debt payment schedules, sent to New York City consumers in 2010 (CD500122849, CD500124739), 2012 (CD500131314) and 2013 (CD50013446), in which CPC informs the consumer that "[e]ach payment is

due within 30 days of the previous payment.” These letters failed to identify the “specific . . . due date of each payment.”

- h. CPC violated 6 RCNY § 2-192(a) by failing to identify “the date on which the debt payment schedule . . . was made” in the written confirmations of debt payment schedules it sent to New York City consumers.
- i. CPC violated 6 RCNY § 2-192(a) by failing to identify “the specific . . . due date of each payment” in the written confirmations of debt payment schedules it sent to New York City consumers.