DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

DEPARTMENT OF CONSUMER AFFAIRS, Complainant, -against- Medical Services Inc., Respondent.	SUPERSEDING CONSENT ORDER Violation No.: LL5333212 License No.: 1271409

1. Respondent Medical Services Inc. ("MSI" 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 2007.

2. Respondent seeks renewal of its debt collection agency license, No. 1271409.

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 Respondent.

4. The Department finds that Respondent collects or attempts to collect approximately a total of 200 defaulted debts a year. The Department finds that Respondent violated section 2-192(a) of Title 6 of the Rules of the City of New York ("R.C.N.Y." or "the Rules") by failing to identify "the employee . . . who concluded the debt payment schedule or agreement or the employee's direct supervisor" in written confirmations of debt payment schedules to New York City Consumers; and section 2-193(b)(2) by failing to maintain "Recordings of complete conversations with all consumers or with a randomly selected sample of at least 5% of all calls made or received by the debt collection agency and a copy of contemporaneous notes of all conversations with consumers."

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 Paragraph 4 for the period from April 24, 2010 to the date of this Consent Order. This Consent

Order supersedes the Consent Order dated May 21, 2007 between the Respondent and the Department.

6. Jochen Dilchert, as Chief Executive Officer ("CEO"), represents and warrants that:

   a. as CEO of Respondent he is authorized to enter into this Consent Order on behalf of Respondent;

   b. he is the sole owner and only employee of Respondent; and

   c. Respondent collects or attempts to collect a total of approximately 200 defaulted debts a year.

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 section 20-101 *et seq.* and 6 R.C.N.Y. 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. 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 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 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 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 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 Jochen Dilchert, 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: CEO.

    a. The telephone number of such Compliance Officer is: (516) 897-6379.

    b. The address of such Compliance Officer is: P.O. Box 457, Long Beach, NY 11561.

    c. The email address of such Compliance Officer is: msi002@verizon.net.

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 five (5) days of such change.

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.

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. 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.

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. Within ninety days after the execution of this Consent Order Respondent shall deliver to the Department:

    a. three written confirmations of debt payment schedules actually sent to New York City Consumers subsequent to the date of the Consent Order; and

    b. three consecutive days of phone call recordings maintained in compliance with 6 R.C.N.Y. section 2-193(b)(2), with such three-day period to be specified by the Department.

27. 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

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 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.

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.

32. 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 30: 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

33. Respondent shall pay $500 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.

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

WAIVER OF APPEALS

35. 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

36. 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.

37. The acceptance of this Consent Order resolves the findings made in this Consent Order in Paragraph 4. This Consent Order does not limit the Department's ability to bring charges for violations outside this time period.

38. 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.

39. 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:

Print Name
Jochen Dilchert

Title
CEO

Signature

Date
7.23.14

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

[redacted]
Print Name

Staff Attorney
Title

[redacted]
Signature

7/31/14
Date

Agreement Dated: 7/31/14

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.