

DEPARTMENT OF CONSUMER AFFAIRS  
OF THE CITY OF NEW YORK

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NYC DEPARTMENT OF CONSUMER  
AFFAIRS,

Complainant,

-against-

MERCHANTS ASSOCIATION  
COLLECTION DIVISION, INC. d/b/a/ MAF  
Collection Services,

Respondent.  
-----X

SUPERSEDING CONSENT ORDER

Violation No.: PL 1055960

SUPERSEDES CONSENT JUDGMENT  
ORDER

Violation No.: PL 1049901

1. Merchants Association Collection Division, Inc. d/b/a MAF Collection Services, ("Respondent") consents to a final Consent Order ("CO") with the New York City Department of Consumer Affairs (the "Department") to resolve the charges in the above captioned matter,
2. Charles E. Greer, as President of Respondent, represents and warrants that he or she is authorized to settle this action and to enter into a final Consent Order with the Department on behalf of Respondent.
3. On April 2, 2007, Respondent entered into a Consent Judgment Order ("2007 CJO") with the Department, resolving the charges the Department brought against Respondent for unlicensed activity (PL 001049901). A copy of the 2007 CJO is attached as Appendix ("App.") A.
4. Respondent acknowledges that it was duly served with an Amended Notice of Hearing (PL 1055960) on or about December 13, 2011 charging Respondent with violating, *inter alia*,:
  - i. New York City Administrative Code ("Code") Section 20-490, by acting as a debt collection agency without a license from the Department from at least April 2, 2007, the date of the 2007 CJO;
  - ii. Section 6-42 (c) of Chapter 6 of the Rules of the City of New York ("Rules"), by failing to comply with the 2007 CJO.
5. This Consent Order shall supersede the 2007 CJO entered between Respondent, d/b/a MAF Collection Services and the Department of Consumer Affairs.

6. This Consent Order shall apply to Respondent, whether acting through its directors, officers, employees, representative agents, assignees, or successors. It shall also apply to any other individuals or business entities whose acts, practices, or policies in connection with collecting or attempting to collect debts, are directed, formulated, or controlled by Respondent. 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, any person whose principal activity is the selling of services for Respondent, any person who works as an independent contractor or consultant, and any person whose earnings are based in whole or in part on commission for work performed for Respondent.

#### LICENSE

7. Respondent shall not act as a debt collection agency directed at New York City consumers as defined in Section 20-489 of the Code at any time without holding a valid license or temporary operating letter from the Department.
8. Upon the termination of a license by revocation, expiration, denial, or surrender, Respondent shall immediately cease its debt collection activities with respect to New York City consumers, and Respondent shall return all creditor accounts relating to consumers residing in the City of New York to the creditor(s) within thirty (30) days with a copy of this Consent Order.
9. Upon the termination of a license by revocation, expiration, denial, or surrender, Respondent shall not collect or attempt collection of purported debts of New York City consumers.
10. Respondent 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 § 20-101 *et seq.* and Title 6 of the Rules of the City of New York (“6 R.C.N.Y.”) §§ 1-01 *et seq.*; (b) Section of “the Debt Collection Agencies Licensing Law and Rules,” Admin. Code §§ 20-488, 20-489, 20-490, 20-491, 20-492 and 20-493.

#### POLICIES, PROCEDURES, AND TRAINING

11. Within ninety (90) days of execution of this Consent Order, Respondent shall develop and implement written policies and procedures to ensure that Respondent complies with each of the provisions of this Consent Order, and all relevant laws and rules related to debt collection from New York City consumers including, but not limited to, the Licensing Law and Rules, the Debt Collection Agencies Licensing Law and Rules, the Consumer Protection Law, and the Debt Collection Rules.
12. For all employees who engage in collection activities related to New York City consumers or supervise such activities, Respondent shall train such employees

before they do so and train all new employees who will engage in such collection activities or supervise such activities within ten (10) days of their start date and all employees who engage in such collection activities or supervise such activities annually on the requirements of this Consent Order and all relevant laws and rules related to debt collection from New York City consumers including, but not limited to, the Licensing Law and Rules, the Debt Collection Agencies Licensing Law and Rules, the Consumer Protection Law, and the Debt Collection Rules. Respondent shall maintain a chronological log of training it conducts and the employees in attendance.

13. Take and document appropriate disciplinary action against any employee who fails to comply with this Consent Order and all relevant laws and rules related to debt collection from New York City consumers including, but not limited to the Licensing Law and Rules, the Debt Collection Agencies Licensing Law and Rules, the Consumer Protection Law, and the Debt Collection Rules.

#### RECORD KEEPING

14. Respondent shall maintain the following records:
  - i. All records required by the Code and Rules, including, but not limited to, Section 2-193 of the Rules.
  - ii. All records required by this Consent Order.
  - iii. A record identifying all employees, including name, address, phone number, email address, title, responsibilities, any alias used for collection purposes, dates of employment and dates of training(s).
  - iv. A record of any disciplinary actions against Respondent's employees, identifying employees in the manner set forth in this subsection.
  - v. A log of employee training, identifying each employee in the manner set forth in this subsection.
  - vi. A record of all debts of New York City Consumers assigned to Respondent for collection that includes the name and address of the creditor, the date of assignment, and the nature of the creditor portfolio (*e.g.*, healthcare, credit card, etc.).
  - vii. A record of all debts of New York City Consumers that Respondent purchases for collection that includes the name and address the creditor, the date of purchase, and the nature of the creditor portfolio (*e.g.*, healthcare, credit card, etc.).
  - viii. Copies of certified financial statements for Respondent.
  - ix. Copies of any insurance policies that provide coverage for litigation or investigations related to debt collection.
    - x. A list of all employees who engage in collection of debts of New York City Consumers.
15. Respondent shall maintain the records described in this section for six (6) years from the date created or obtained by Respondent, 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.

FINE

16. Respondent agrees to pay a fine of \$425,000 (four hundred and twenty-five thousand dollars) upon execution of this Consent Order. Payment shall be by certified check or money order made payable and delivered to the New York City Department of Consumer Affairs, 42 Broadway – 9<sup>th</sup> Floor, New York, New York 10004, Attn: [REDACTED]

COMPLIANCE

17. Respondent has appointed a Compliance Officer and prior to this date notified the Department of the identity of said Compliance Officer. Respondent shall advise the Department of any change of Compliance Officer within fifteen (15) days of the change.
18. Respondent shall submit a Certified Compliance Report from its Compliance Officer three (3) months following the execution of this Consent Order describing and documenting Respondent's compliance with this Consent Order. Respondent shall deliver the Report specified to: New York City Department of Consumer Affairs, 42 Broadway – 9<sup>th</sup> Floor, New York, New York 10004, Attn: [REDACTED]
19. Respondent shall submit a Certified Compliance Report from its Compliance Officer every six (6) months for three (3) years following the date of initial licensure describing and documenting Respondent's compliance with this Consent Order. Respondent shall deliver the Report specified to: New York City Department of Consumer Affairs, 42 Broadway – 9<sup>th</sup> Floor, New York, New York 10004, Attn: [REDACTED]
20. Respondent shall produce the following, electronically in the format indicated by the Department, within ten (10) days of receiving a request from the Department:
  - i. Copies of any complaints Respondent receives regarding Respondent's attempts to collect debt purportedly owed by New York City consumers.
  - ii. The records Respondent is required to keep pursuant to this Consent Order or Section 2-193 of the Rules.
  - iii. Documents sufficient to identify the manner in which Respondent maintains its records.
21. Respondent shall produce the following, electronically in the format indicated by the Department, within forty-five (45) days of receiving a request from the Department: transcripts of the recordings required by Section 2-193(b) (2) of the Rules.

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 Sections 1-14, 1-16, and 2-193 of the Rules.
24. Respondent shall report to the Department:
  - i. The resolution or result of any proceedings by government agencies against it, within thirty (30) days of the resolution or result thereof.

#### CONSEQUENCES OF BREACH

25. 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.
26. If Respondent is found to be engaging in debt collection activity without the required license(s) at any time after the execution of this Consent Order, for the purpose of imposing fines, Respondent agrees that there shall be a presumption of continuous unlicensed activity commencing on the later of the date of execution of this Consent Order or the expiration of Respondent's license.
27. Respondent's failure to produce any of the documents required by this Consent Order, the Code, or the Rules shall constitute a presumption that Respondent has failed to maintain those records and that it is not in compliance with the underlying terms of the Consent Order, Law or Rule for which documents are required to be maintained.
28. 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, the Debt Collection Agencies Licensing Law or Rules, the Consumer Protection Law, or the Debt Collection Rules, Respondent shall pay a penalty for each breach of the Consent Order and a separate penalty for each breach of the applicable Law or Rule.
29. In the event of breach of this Consent Order, Respondent shall be ordered to pay maximum fines for each violation, attorneys' fees and costs of investigation and shall be subject to revocation of its license. Violations pertaining to unlicensed collection activities shall be treated as "knowing violations."

#### OTHER TERMS AND CONDITIONS

30. 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.

31. Respondent agrees to waive any further right to a hearing and/or appeal of the above-referenced citation under Section 20-105 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.
32. This matter will be considered settled upon execution of this Consent Order and payment of the settlement sum as set forth above in Paragraph 16.
33. This Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

Agreement Dated: 4/29/16

Agreed to by:

Charles Erik Greer

Print name

President

Title

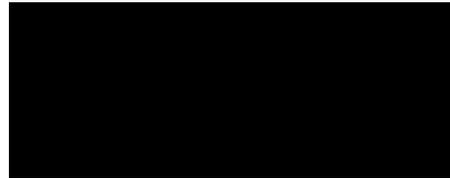


Signature

4.27.2016

Date

Accepted for Alba Pico,  
Acting Commissioner of Consumer Affairs  
for the City of New York by:



State Attorney

\_\_\_\_\_  
Signature

4/29/16

Date

**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](http://www.nyc.gov/consumers).**