

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

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

PALISADES COLLECTION, LLC, PALISADES
ACQUISITION XVI, LLC.

Respondent.
-----X

CONSENT ORDER

Violation No.: 5349401

License Nos.: 1223521,1294062

1. Respondent Palisades Collection, LLC ("Palisades Collection" 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 2006 under license No. 1223521.
2. Respondent seeks renewal of its debt collection agency license, No. 1223521.
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.
5. Respondent does not admit to these violations and specifically denies the alleged violations and any wrongdoing, but consents to a Consent Order with the Department to obtain a renewal license and to avoid further investigation and litigation with regard to the specific violations identified in Attachment A for the period of April 24, 2010 to the date of this Consent Order.
6. Seth Berman, as General Counsel and Chief Compliance Officer, 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 instruct the attorneys who bring debt collection actions on its behalf against New York City consumers in New York City courts to only employ process server individuals and agencies that 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. The Department did not find violations related to Paragraph 13-16; nonetheless, Respondent agrees to comply with the following as a condition of this consent order.
13. Respondent shall not refer to a third party for collection, collect, or attempt to collect debts from New York City consumers if those debts arise from usurious loans, including payday loans.
14. "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.
15. Respondent shall implement policies and procedures corresponding to paragraph 13 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."

16. 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

17. 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 if Respondent had previously filed a report ; 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 has previously reported information on that account, a request for deletion of any negative information from the consumer's credit report.

COLLECTION OF DEBTS OWED TO DEBT BUYERS

18. 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 on or after the date of execution of this Consent Order includes terms in which the seller warrants and represents 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 Debt Collection Agencies Licensing Law and Rules regarding documentation that must be obtained, maintained or transferred with a debt.

POLICIES, PROCEDURES AND TRAINING

19. Within thirty (30) days of execution of this Consent Order, Respondent shall:
- a. implement and disseminate policies and procedures to any officer, agent or employee having responsibility with respect to the collection of consumer debts from New York City consumers, on the terms of this Consent Order and the requirements of all New York City Laws and Rules set forth in paragraph 8 above;
 - b. provide training to any officer, agent or employee having responsibility with respect to the collection of consumer debts from New York City consumers, on the requirements of this Consent Order and the requirements of all New York City Laws and Rules set forth in paragraph 8 above;
 - c. provide periodic refresher training on the subjects identified in paragraph 19(b) above, to any officer, agent or employee having responsibility with respect to the collection of consumer debts from New York City consumers, no less frequently than once each year and more frequently if any New York City Laws and Rules set forth in paragraph 8 above are amended;
 - d. provide ongoing training on the subjects identified in paragraph 19(b) above, to any new officer, agent or employee having responsibility with respect to the collection of consumer debts from New York City consumers, no later than five (5) days from the time the officer, agent or employee assumes such responsibility;
 - 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 above, in connection with the collection of consumer debts from New York City consumers.

COMPLIANCE MONITORING AND REPORTING

20. Respondent shall appoint Seth Berman, 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: General Counsel and Chief Compliance Officer.
 - a. The telephone number of such Compliance Officer is: (201) 308-9200 ext. 1296.
 - b. The address of such Compliance Officer is: Palisades Collection, LLC, 210 Sylvan Avenue, Englewood, NJ 07632.
 - c. The email address of such Compliance Officer is: sberman@astafunding.com.
21. 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 five (5) days of such change.
22. Within thirty (30) 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 compliance with any provision of this Consent Order, including but not limited to:
 - i. Copies of any complaints that Respondent received regarding Respondent's methods of attempting to collect debt purportedly owed by New York City consumers. This shall not be construed to apply to consumers' requests for verification or validation or other disputations of the debt.
 - ii. 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.
23. Respondent shall respond to all subpoenas and document requests issued to it by the Department.
24. Nothing in this section shall be construed to obviate Respondent's responsibilities pursuant to Admin. Code § 20-493(b); 6 R.C.N.Y. §§ 1-14, 1-16, and 2-193.

25. Respondent shall notify the Department of all pending actions, proceedings, civil investigative demands or subpoenas by government agencies against it within thirty (30) days of being notified of such action, proceeding, or investigation.
26. 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.
27. Any notices required or permitted by this Consent Order shall be in writing and sent by first class mail, and contemporaneously by email to the following addresses:

If to the Department:

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

If to Respondent:

First Class Mail to:

Palisades Collection, LLC
Attn: Seth Berman
210 Sylvan Avenue
Englewood, NJ 07632
Re: NYC DCA – 2013 Consent Order

Email to: sberman@astafunding.com

Copy to:

Karen Lederer, Esq.
Troutman Sanders LLP
875 Third Avenue
New York, New York 10022
Karen.Lederer@troutmansanders.com

28. For purposes of the compliance reporting and monitoring required by this Consent Order, the Department is authorized to communicate directly with the Compliance Officer.

CONSEQUENCES OF BREACH OF CONSENT ORDER

29. A finding, after notice and hearing, that Respondent has committed a material 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 be subject to a penalty of not less than seven hundred (\$700) nor more than 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, but rebuttable 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 Agencies Licensing Law or Rules, or the Consumer Protection Law or Rules, Respondent shall pay two penalties as set forth in paragraph 30 above: 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. Upon the execution of this Consent Order by the Department, Respondent shall pay to the Department a civil penalty of \$35,000 and costs of investigation of \$10,000. 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 findings contained in Attachment A hereto under Section 20-104 of the Admin. Code or under Article 78 of the New York State Civil Practice Law and Rules.

THE DEPARTMENT'S OBLIGATIONS

36. Upon the execution of this Consent Order by the Department and the payment by Respondent of the amounts specified in paragraph 33 above, the Department shall renew Respondent's license (License No. 1223521) and the license of Palisades Acquisition XVI LLC (License No. 1294062) for the period February 1, 2013 to January 31, 2015 and shall issue to them Temporary Operating Letters for the period after January 31, 2015 as reasonably necessary to enable them to apply to renew their licenses for the period February 1, 2015 to January 31, 2017.

MISCELLANEOUS

37. Nothing in this Consent Order shall be construed to authorize or require any action by Respondent in violation of any applicable federal, state or local law, regulation or rule.
38. If compliance with any provision of this Consent Order would render compliance with any federal or state law, regulation or rule relating to the same subject matter impossible, then compliance with such provision of federal or state law, regulation or rule shall be deemed compliance with the relevant provision of this Consent Order.
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. This Consent Order constitutes a complete settlement and release by the Department of all claims and causes of action against Respondent and its affiliates, successors and assigns, including any of their officers, directors, members, employees, agents or law firms, with respect to Respondent's collection practices, whether known or unknown, suspected or unsuspected, whether legal, equitable or statutory, whether directly, indirectly, representatively, derivatively or in any other capacity, and which the Department has or may have had, up to the Department's execution of this Consent Order.

41. This Consent Order does not limit the Department's ability to bring charges for violations occurring after the Department's execution of this Consent Order.
42. The acceptance of this Consent Order does not limit the Department's ability, nor the Respondent's obligation to respond to consumer complaints that were made prior to the date of the Department's execution of this Consent Order.
43. Subject to paragraph 40 above, 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:

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

Seth Berman
 Print Name
General Counsel
 Title
Seth Berman
 Signature
6/8/2015
 Date

[REDACTED]
 Print Name
Attorney
 Title
[REDACTED]
 Signature
6/11/15
 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, 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) Palisades Collection Collected or Attempted to Collect On 219,971 accounts from New York City Consumers in 2011 and 2012.
 - 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. Palisades Collection answered "Yes" to Question 17(A), answered "215,829" to Question 17(B), and answered "213,939" to Question 17(C). Palisades Collection therefore admits that it collected or attempted to collect 215,829 accounts from New York City consumers in 2011 and 213,939 accounts from New York City consumers in 2012.
 - c. By affidavit dated June 1, 2015, Steven Braun, Assistant Vice President of Operations and the Director of Litigation for Asta Funding, Inc., the parent of Palisades Collection, swore that there was a large amount of overlap between the accounts collected on in 2011 and in 2012, and that during that period Palisades Collection collected or attempted to collect on approximately 219,971 accounts from New York City consumers.
- (2) Failure to Disclose a Court Finding of Violations:
 - a. Question 6(A) of the 2013 Renewal Form asks: "In the past five years, has any court or any administrative agency found you — or any person or entity that you listed in response to question 2 — to have violated any statute or regulation on the basis of conduct that was in any way related to the collection of debt?"
 - 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. Palisades Collection answered “No” to Question 6(A). Palisades Collection’s answer falsely indicated that, in the past five years, no court found Palisades Collection to have violated any statute or regulation on the basis of conduct that was in any way related to the collection of debt. In fact, on at least one occasion in the past five years, a court found that Palisades Collection violated laws and rules in connection with Palisades Collection’s attempts to collect debt. See *In re Tezla*, No. 08-12700, 2009 WL 212542 (Bankr. E.D. Pa. Jan. 28, 2009) (finding that Palisades Collection willfully violated automatic bankruptcy stay – by, *inter alia*, making “unrelenting automated phone calls at all hours and all days of the week” to collect a debt – and imposing \$11,000 in punitive damages against Palisades Collection).
- e. Therefore, Palisades Collection violated 6 RCNY § 1-01.1 by failing to provide complete and truthful information in response to Question 6(A) of the 2013 Renewal Form.

(3) Failure to Disclose Two Accepted Offers of Judgment:

- a. Question 8(A) of the 2013 Renewal Form asks: “In the past five years, has any court judgment been entered against you — or against any person or entity that you listed in response to question 2 — that was in any way related to the collection of debt?”
- 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. Palisades Collection answered “No” to Question 8(A). Palisades Collection’s answer falsely indicated that, in the past five years, no court judgments had

been entered against Palisades Collection that were in any way related to the collection of debt. In fact, on at least two occasions in the past five years, courts have entered judgments against Palisades Collection in lawsuits that were related to the collection of debt. *See Peterson v. Palisades Collection, LLC*, No. 09-cv-07586 (C.D. Cal.) (judgment entered Dec. 16, 2009, against Palisades Collection pursuant to offer of judgment, in action brought under federal Fair Debt Collection Practices Action (“FDCPA”)); *Dempsey v. Palisades Collection, Inc.*, No. 09-00309 (S.D. Ala.) (judgment entered Dec. 15, 2009, against Palisades Collection pursuant to offer of judgment, in action brought under FDCPA).

- e. Therefore, Palisades Collection violated 6 RCNY § 1-01.1 by failing to provide complete and truthful information in response to Question 8(A) of the 2013 Renewal Form.

(4) Palisades Collection Failed to Include a Call-Back Number in a Written Communication:

- a. Question 20(A) of the 2013 Renewal Form asks: “In the past two years, did you collect or attempt to collect debts from New York City consumers by sending letters to consumers?”
- 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. 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 name of the person to call back.”
- d. 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.”
- e. Palisades Collection answered “Yes” to Question 20(A). Palisades Collection therefore admits that, in the past two years, it collected or attempted to collect debts from New York City Consumers by sending letters to consumers.
- f. Palisades Collection answered “Yes” to Question 20(B)(iv). Palisades Collection’s answer falsely indicated that Palisades Collection includes, in each written communication to a New York City consumer, “the name of the person to call back.” In fact, as an attachment to its 2013 Renewal Form, in response to Question 25, Palisades Collection submitted a June 6, 2012 letter that did not contain the name of the person to call back.

- g. Therefore, Palisades Collection violated 6 RCNY § 1-01.1 by making a false statement in its response to Question 20(B)(iv) of the 2013 Renewal Form and violated Admin. Code § 20-493.1(a) by failing to include “the name of the person to call back” in a permitted communication with a New York City consumer.

(5) Palisades Collection Made an Improper Statement in Response to Question 27(B):

- a. Question 27(A) of the 2013 Renewal Form asks: “In the past two years, have you been a plaintiff in a lawsuit against a consumer in a court in New York City?”
- b. Question 27(B) of the 2013 Renewal Form states: “If the answer to (A) is yes, provide the number of lawsuits.”
- c. 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.”
- d. 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.”
- e. Palisades Collection answered “Yes” to Question 27(A), and answered “424” to Question 27(B). Public records show that, in the past two years, Palisades Collection was a plaintiff in at least 664 lawsuits against consumers in New York City courts – specifically, at least 527 consumer credit lawsuits that were filed in New York City courts in 2011, and at least 137 consumer credit lawsuits that were filed in New York City courts in 2012.
- f. Therefore, Palisades Collection violated 6 RCNY §1-01.1 by making a false statement in its response to Question 27(B) of the 2013 Renewal Form
- g. By affidavit dated June 1, 2015, Steven Braun, Assistant Vice President of Operations and the Director of Litigation for Asta Funding, Inc., the parent of Palisades Collection, swore that the discrepancy in the number of lawsuits against consumers in New York City courts was mistaken.