

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

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DEPARTMENT OF CONSUMER AFFAIRS,  Complainant,  -against-  PROFESSIONAL RECOVERY ASSOCIATES, INC.,  Respondent.	SETTLEMENT AGREEMENT AND CONSENT ORDER  Violation No.: 05333247  License No.: 1076688
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1. Respondent Professional Recovery Associates, Inc. (“Professional” 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 2001.
2. Respondent seeks renewal of its debt collection agency license, No. 1076688.
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 violated § 2-192(a) of Title 6 of the Rules of the City of New York (“RCNY” or “the Rules”) by failing to identify “the specific amount and due date of each payment” in written confirmations of debt payment schedules sent to New York City consumers.
5. Respondent does not admit to these violations, but consents to this Settlement Agreement and Consent Order with the Department to obtain a license renewal and to avoid further investigation and litigation with regards to the specific violations identified in the Department’s letter dated April 5, 2013 pertaining to Respondent’s renewal application for the period from April 24, 2010 to the date of this Settlement Agreement and Consent Order.

6. Steven Castaldo, as President/CEO, represents and warrants that he is authorized to enter into this Settlement Agreement and Consent Order on behalf of Respondent.
7. This Settlement Agreement and Consent Order shall apply to Respondent, its directors, officers, employees, representative agents, assignees, and successors. For the purposes of this Settlement Agreement and 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 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 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. 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**

15. 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 that the account be marked paid in full or settled in full.

#### **COLLECTION OF DEBTS OWED TO DEBT BUYERS**

16. 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**

17. Within thirty (30) days of execution of this Settlement Agreement and Consent Order, Respondent shall:
- a. implement policies and procedures to ensure compliance with the terms of this Settlement Agreement and 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 Settlement Agreement and Consent Order and the requirements of all New York City Laws and Rules set forth in paragraph 8 and the policies and procedures required by paragraph 17(a), 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;
  - c. 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;
  - d. take and document appropriate disciplinary action against any employee who fails to comply with this Settlement Agreement and Consent Order and the requirements of all New York City Laws and Rules, set forth in paragraph 8.

### **COMPLIANCE MONITORING AND REPORTING**

18. Respondent shall appoint Steven Castaldo, who is the President and CEO, to serve as the Compliance Officer responsible for ensuring adherence to the terms of this Settlement Agreement and Consent Order. Such Compliance Officer has the following title: President/CEO.
- a. The telephone number of the Compliance Officer is: [REDACTED].
  - b. The address of the Compliance Officer is: [REDACTED],  
[REDACTED].
  - c. The email address of the Compliance Officer is:  
[REDACTED].

19. 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 ten (10) days of such change.
20. 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 Settlement Agreement and 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. Documents sufficient to identify the manner in which Respondent maintains its records.
    - iii. Documents verifying that Respondents implemented the policies and procedures required by paragraph 17 and conducted trainings required by August 6, 2014.
21. Respondent shall respond to all subpoenas and document requests issued to it by the Department.
22. 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.
23. 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.
24. Respondent shall make good faith efforts 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.
25. For the purposes of this Settlement Agreement and Consent Order, Respondent shall, unless otherwise directed by the Department, send by first class mail, and contemporaneously by email, all notifications required by this Settlement Agreement and Consent Order to the Department to the following addresses:

First Class Mail to:

LEGAL DIVISION  
NYC Department of Consumer Affairs  
42 Broadway, 9<sup>th</sup> Floor  
New York, NY 10004

Re: 2014 Settlement Agreement and Consent Order

Email to: [legaldebtcoll@dca.nyc.gov](mailto:legaldebtcoll@dca.nyc.gov)

26. For purposes of the compliance reporting and monitoring required by this Settlement Agreement and Consent Order, the Department is authorized to communicate directly with the Respondent.

**CONSEQUENCES OF BREACH OF THIS SETTLEMENT AGREEMENT AND CONSENT ORDER**

27. A finding, after notice and hearing, that Respondent has committed a breach of the terms of this Settlement Agreement and Consent Order shall constitute prima facie evidence of Respondent's lack of fitness to hold a license from the Department.
28. Upon a finding, after notice and hearing, that Respondent has committed violations of this Settlement Agreement and 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.
29. Respondent's failure to produce any of the documents required by this Settlement Agreement and 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 Settlement Agreement and Consent Order, Law, or Rule for which documents are required to be maintained.
30. Specific breaches of this Settlement Agreement and Consent Order shall, in addition to a breach of this Settlement Agreement and 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 Settlement Agreement and 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 28: one penalty for breach of the Settlement Agreement and Consent Order and one penalty for the breach of the applicable Law or Rule.

### **SETTLEMENT PAYMENT AND OTHER TERMS AND CONDITIONS**

31. Respondent shall pay \$10,000 to the Department, due upon execution of this Settlement Agreement and 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: 2014 Debt Collection Renewal, 42 Broadway, 9th Floor, New York, New York 10004.
32. This Settlement Agreement and Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

### **WAIVER OF APPEALS**

33. 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**

34. The acceptance of this Settlement Agreement and 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. The acceptance of this Settlement Agreement and Consent Order by Respondent shall not be deemed an admission of fault, wrongdoing or liability on the part of Respondent.
35. The acceptance of this Settlement Agreement and Consent Order resolves the findings made in the Department's April 5, 2013 letter regarding Respondent's renewal application. This Settlement Agreement and Consent Order does not limit the Department's ability to bring charges for violations outside the time period covered by this Settlement Agreement and Consent Order.
36. Nothing in this Settlement Agreement and 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.
37. The Department will consider this matter fully resolved and settled upon execution of this Settlement Agreement and Consent Order and receipt of the sum set forth in Paragraph 31 above.
38. After execution of this Settlement Agreement and Consent Order and payment by Respondent of the sum set forth in Paragraph 31 above, the Department shall renew Respondent's debt collection license number 1076688 for the period from

the date this Settlement Agreement and Consent is fully-executed until January 31, 2015.

39. This Settlement Agreement and Consent Order shall be effective for a period of four years from the date of this Settlement Agreement and Consent Order as set forth in the "Agreement Dated" field below and shall expire automatically.

Agreed to for the Respondent by:

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

Steven Castaldo  
President

[Redacted]  
Staff Attorney

[Redacted Signature]  
Signature

[Redacted Signature]  
Signature

7-1-14  
Date

7/9/2014  
Date

Agreement Dated: 7/9/2014

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