

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

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DEPARTMENT OF CONSUMER AFFAIRS,	CONSENT ORDER
Complainant,	
-against-	Violation No.: LL05349322
TRS RECOVERY SERVICES, INC.,	License No.: 1157511
Respondent.	
-----X	

1. Respondent TRS Recovery Services, Inc. ("TRS" 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. 1157511.
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, 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. Brian Connolly, as President of TRS, 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, independent contractors, 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

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oversees the work of another. For the purposes of this Consent Order, "independent contractor" means any person who would qualify as an "independent contractor" for Respondent under federal or New York State law who engages in debt collection activities on behalf of 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 or maintain existing 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 disputes or challenges the information on which Respondent is relying to collect or attempt to collect a debt, and has sufficiently confirmed their identity and identified the account in dispute, Respondent shall either:

- i. Cease collecting the debt, including the forwarding out of the debt, until it has conducted a reasonable investigation into the validity of the debt, determined it to be valid debt and reported back to the consumer, in writing, its findings, within thirty (30) days from receipt of the consumer's dispute. This thirty (30) day period may be extended by up to fifteen (15) additional days if Respondent receives information from the consumer during that period that is relevant to the investigation. If within thirty (30) days from receipt of the consumer's dispute, which may be extended by up to fifteen (15) additional days if Respondent receives information from the consumer during that period that is relevant to the investigation, Respondent cannot substantiate that the consumer owes the debt, Respondent shall request deletion of that item from the consumer's credit reporting file; or
- ii. 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.

- 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 the agreement transferring or providing for transfer of ownership of the debt included terms in which the seller warranted and represented information about the debt and the documentation supporting the debt to ensure its accuracy and completeness. 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 implement and disseminate policies and procedures to ensure compliance with the terms of this Consent Order and the requirements of the New York City Laws and Rules related to debt collection set forth in paragraph 8.
19. Within thirty (30) days of execution of this Consent Order with respect to officers and any TRS employee and independent contractor having responsibility with respect to the collection of consumer debts from New York City consumers, Respondent shall:
 - a. provide training on the requirements of this Consent Order and all the requirements of the New York City Laws and Rules related to debt collection, set forth in paragraph 8;
 - b. provide periodic refresher training during the term of this Consent Order no less frequently than once each year regarding New York City Laws and Rules related to debt collection, and provide instruction, in writing, of any relevant amendments to New York City Laws and Rules related to debt collection;
 - c. provide training to all new officers and employees subject to this Section no later than five (5) days from the time the employee assumes responsibilities with respect to the collection of debts by consumers in New York City;
 - d. take and document appropriate disciplinary action against any employee who fails to comply with this Consent Order.

COMPLIANCE MONITORING AND REPORTING

20. Respondent shall appoint Katie Schindler, a compliance manager of the Corporate Compliance Department of Respondent's parent company, First Data Corporation, to serve as the Compliance Officer responsible for ensuring

adherence to the terms of this Consent Order. Such Compliance Officer has the following title: Manager Regulatory Compliance.

- a. The telephone number of such Compliance Officer is: 402-222-4349
 - b. The address of such Compliance Officer is: 6902 Pine Street, Omaha, NE 68106.
 - c. The email address of such Compliance Officer is: Katie.Schindler@FirstData.com.
21. If the identity of such Compliance Officer changes at any time within the term of this Consent Order, 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. The information provided by Respondent may be with regard to an interim Compliance Officer, and Respondent is not required to name a new, permanent Compliance Officer within fourteen (14) days of the prior officeholder's departure. 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.
22. Within twenty (20) 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 twenty (20) 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.
23. Respondent shall respond to all subpoenas and document requests issued to it by the Department, subject to all rights and remedies afforded to it by law or equity.

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, and investigations by government agencies against it relating to debt collection practices within fourteen (14) days of being notified of each action, proceeding or investigation, unless prohibited by law. For purposes of this paragraph, "investigation" shall mean any written communication from a government agency relating to Respondent's debt collection practices, to which TRS must respond, except for individual consumer complaints. "Investigation" shall not include a written communication from a government agency relating to specific licensing requirements and inquiries. 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.
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 communications required by this Consent Order to the following address:

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, but rebuttable, evidence of Respondent's lack of 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 be subject to

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a penalty of not less than seven hundred (\$700) nor more than one thousand dollars (\$1,000) for each violation. Respondent may also be responsible for the Department's costs for investigation and litigation if Respondent has been found to have committed repeated, multiple or persistent violations of this Consent Order, the Licensing Law, the Debt Collection Agency Licensing Law, or the Consumer Protection Law.

30. Respondent's failure to produce any of the documents required by this Consent Order pursuant to paragraph 22, the Admin. Code, or the Rules shall constitute prima facie, but rebuttable, evidence that Respondent has failed to maintain these 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.

PENALTIES AND OTHER TERMS AND CONDITIONS

31. Respondent shall pay \$125,000 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.
32. This 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.

TERM OF CONSENT ORDER

34. This Consent Order shall remain in effect for a period of four (4) years following its date appearing below, and shall expire automatically.

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 the findings made in this Consent Order in Attachment A. The Consent Order does not limit the Department's ability to bring charges for violations outside the time period, but Respondent

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reserves all rights, remedies and defenses it may have at law and equity and not otherwise waived under this Consent Order, including, but not limited to the right to assert that these charges are time barred by the appropriate statute of limitations.

37. 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:

BRIAN CONNOLLY
Print Name

[REDACTED]
Print Name

President
Title

Staff Attorney
Title

[Handwritten Signature]
Signature

[REDACTED]
Signature

2-24-2015
Date

2/25/15
Date

Agreement Dated: 2/25/15

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

- (1) TRS Has Collected or Attempted to Collect From 6,895 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. TRS answered "Yes" to Question 17(A), answered "6,572" to Question 17(B), and answered "6,308" to Question 17(C).
 - c. In a follow up submission to the Department dated September 20, 2013, TRS revised its responses to Questions 17(B) and (C) and stated that the correct response to (B) was 3,430 and (C) was 3,465, for a-total of 6,895 instead of 12,880 accounts as stated in the 2013 Renewal Form.
- (2) TRS Violated Requirements for Collection Phone Calls:
 - a. Question 18(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 placing telephone calls to consumers?"
 - b. Question 18(B)(i) of the 2013 Renewal Form asks: "[I]n each telephone communication with a New York City consumer, do you provide the consumer with . . . a call-back number to a phone that is answered by a natural person?"
 - c. Question 18(B)(iv) of the 2013 Renewal Form asks: "[I]n each telephone communication with a New York City consumer, do you provide the consumer with . . . the name of the person to call back?"
 - d. Admin. Code § 20-493.1(a) requires, in relevant part, that a debt collection agency provide "[i]n any permitted communication with the consumer . . . (i.) a call-back number to a phone that is answered by a natural person, (ii.) the name of the agency, (iii.) the originating creditor of the debt, (iv.) the

name of the person to call back, and (v.) the amount of the debt at the time of the communication.”

- e. TRS answered “Yes” to Question 18(A), “No” to Question 18(B)(i), and “No” to Question 18(B)(iv). TRS therefore admits in its 2013 Renewal Form that TRS “collect[s] or attempt[s] to collect debts from New York City consumers by placing phone calls to consumers,” but that TRS does not provide the consumer with a “call-back number to a phone that is answered by a natural person” or “the name of the person to call back.”
- f. TRS supplemented its 2013 Renewal Form by submitting follow up materials dated August 19, 2013 and September 20, 2013. .
- g. TRS violated Admin. Code § 20-493.1(a)(i) by failing to provide “a call-back number to a phone that is answered by a natural person” in telephone communications with New York City consumers.
- h. TRS violated Admin. Code § 20-493.1(a)(iv) by failing to provide “the name of the person to call back” in telephone communications with New York City consumers.

(3) TRS Violated Requirements for Written Communications to Consumers:

- 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: . . . (iv) the name of the person to call back?”
- c. Question 20(B)(vi) of the 2013 Renewal Form asks: “[I]n each written communication to a New York City consumer, do you provide the consumer with: . . . (vi) your DCA license number?”
- 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. 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.”
- f. TRS answered “Yes” to Question 20(A), “Yes” to Question 20(B)(iv), and “Yes” to Question 20(B)(vi). TRS therefore admits that TRS attempts to collect debts from New York City consumers by sending letters to consumers. However, TRS’ answers falsely indicated that TRS includes “the name of the person to call back” and that TRS includes its DCA license number in each written communication to a New York City consumer. Specifically, as part of its 2013 Renewal Form, TRS submitted settlement offer letters it sent to New

York consumers – dated November 29, 2012 and June 4, 2011– that failed to include “the name of the person to call back” and failed to include TRS’s DCA license number.

- g. TRS supplemented its 2013 Renewal Form by submitting follow up materials dated August 19, 2013 and September 20, 2013.
- h. TRS violated 6 RCNY § 1-05 by failing to provide TRS’s DCA license number in written communications with New York City consumers.
- i. TRS violated Admin. Code § 20-493.1(a) by failing to include the name of the person to call back in written communications with New York City consumers.

(4) TRS Violated Requirements for Sending Written Confirmations of Debt Settlement Agreements:

- a. Question 24(A) of the 2013 Renewal Form asks: “In the past two years, did you agree to allow any New York City consumers to settle a debt?”
- b. Question 24(B) of the 2013 Renewal Form asks: “[D]id you provide a written confirmation of the settlement agreement to each New York City consumer with whom you entered into a settlement agreement?”
- c. Question 24(C) of the 2013 Renewal Form states: “[A]ttach copies of three examples of written confirmations of debt settlements agreements 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 . . . settlement agreement reached regarding the debt.”
- e. 6 RCNY § 2-192(a) provides: “The written confirmation of the . . . settlement agreement with a consumer that a debt collection agency is required to furnish pursuant to § 20-493.1(b) shall identify the originating creditor of the debt, the debt collection agency, the employee of such agency who concluded the . . . agreement or the employee’s direct supervisor, the name and address of the consumer, the date on which the . . . agreement was made, the specific amount and due date of each payment, the address where the payments are to be mailed or where payment may otherwise be transmitted, any other terms of the debt payment schedule or agreement, and the conditions for satisfying the outstanding balance.”
- f. TRS answered “Yes” to Questions 24(A) and (B). TRS therefore admits that TRS “provide[d] a written confirmation of the settlement agreement to each New York City consumer with whom [TRS] entered into a settlement agreement.”
- g. TRS supplemented its 2013 Renewal Form by submitting follow up materials dated August 19, 2013 and September 20, 2013. In fact, TRS revised its

response to Question 24(B) and stated that the answer should have been “No.” TRS further stated that it determined after a thorough review that there were eight unpaid check debts settled with four individual consumers during 2011 and 2012.

- h. TRS violated Admin. Code § 20-493.1(b) by failing on eight occasions to “[c]onfirm in writing to the consumer, within five business days, any . . . settlement agreement reached regarding the debt.”
- i. TRS violated 6 RCNY § 2-192(a) by failing on eight occasions to “identify the originating creditor of the debt, the debt collection agency, the employee of such agency who concluded the . . . agreement or the employee’s direct supervisor, the name and address of the consumer, the date on which the . . . agreement was made, the specific amount and due date of each payment, the address where the payments are to be mailed or where payment may otherwise be transmitted, any other terms of the debt payment schedule or agreement, and the conditions for satisfying the outstanding balance” in written confirmations of settlement agreements reached with New York City consumers.

(5) TRS Violated Requirements for Sending Written Confirmations of Satisfaction of Indebtedness:

- a. Question 24(B) of the 2013 Renewal Form asks: “[D]id you provide a written confirmation of the settlement agreement to each New York City consumer with whom you entered into a settlement agreement?”
- b. Question 25(A) of the 2013 Renewal Form asks: “For each New York City consumer who satisfies a debt according to a . . . settlement agreement, do you send the consumer a written confirmation of the satisfaction of indebtedness.”
- c. 6 RCNY § 2-192(d) provides: “Upon a consumer’s payment of a debt as stated in . . . [a] settlement agreement, the debt collection agency shall, within 21 calendar days after receipt of the final payment, send to the consumer a written confirmation of the satisfaction of the indebtedness that identifies the originating creditor and the original account number of the indebtedness.”
- d. TRS answered “Yes” to Question 24(B), and answered “No” to Question 25(A). TRS therefore admits in its 2013 Renewal Form that TRS “provide[d] a written confirmation of the settlement agreement to each New York City consumer with whom [TRS] entered into a settlement agreement,” but that TRS does not “send . . . a written confirmation of the satisfaction of indebtedness” to each consumer who satisfies a debt according to a settlement agreement.

- e. TRS supplemented its 2013 Renewal Form by submitting follow up materials dated August 19, 2013 and September 20, 2013. In fact, TRS revised its response to Question 24(B) and stated that the answer should have been "No." TRS further stated that it determined after a thorough review that there were eight unpaid check debts settled with four individual consumers during 2011 and 2012 who did not receive written confirmations of satisfaction of indebtedness.
- f. TRS violated 6 RCNY § 2-192(d) by failing to send, within 21 calendar days, "a written confirmation of the satisfaction of the indebtedness that identifies the originating creditor and the original account number of the indebtedness" to at most eight accounts identified to four individuals who satisfied a debt according to a settlement agreement.