
*
IN THE MATTER OF: *
*
DEBT MANAGEMENT, INC. *
d/b/a CAPITAL RECOVERY SYTEMS *
NMLS# 931163 *
*
(“DMI”) *
*

CONSENT ORDER

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part XII of Chapter 669, Sections 36a-800 to 36a-814, inclusive, of the Connecticut General Statutes, “Consumer Collection Agencies”, and the regulations promulgated thereunder, Sections 36a-809-6 to 36a-809-17, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”);

WHEREAS, DMI is a Massachusetts corporation that has been licensed to act as a consumer collection agency in Connecticut since at least April 2010;

WHEREAS, on March 22, 2018, the Commissioner, through the Consumer Credit Division (“Division”) of the Department of Banking, commenced a coordinated examination of DMI, pursuant to the authority granted by Section 36a-17(a) of the Connecticut General Statutes and Section 36a-801(d) of the 2018 Supplement to the General Statutes to determine if it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes and Regulations within the jurisdiction of the Commissioner (“2018 Examination”);

WHEREAS, as a result of the 2018 Examination, on June 29, 2018, the Commissioner issued an Order of Summary Suspension, Temporary Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Revoke Consumer Collection Agency

License, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing against DMI (collectively, “Notice”);

WHEREAS, the Notice alleged that DMI: (1) charged Connecticut consumer debtors convenience fees not authorized by the debtor’s contract with the creditor, in violation of Section 36a-805(a)(12) of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable, and Section 36a-809-12(1) of the Regulations; (2) engaged in conduct that created a false impression to Connecticut consumer debtors that it was a law firm and intended to take legal action when DMI had no intentions or authorization to take legal action, constituting an unfair or deceptive act or practice in violation of Section 36a-806(a) of the 2018 Supplement to the General Statutes, and false, deceptive or misleading practices in violation of subdivisions (3), (5), (10) and (13) of Section 36a-809-11 of the Regulations; (3) referred to itself as “The Offices of CRS” and “CRS” in communications with Connecticut consumer debtors, which is neither DMI’s legal name nor the name authorized by its license in Connecticut, in violation of Section 36a-801(i) of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable, and Section 36a-809-11(14) of the Regulations; (4) engaged in conduct which the natural consequence was to harass a Connecticut consumer debtor in connection with the collection of a debt, in violation of Section 36a-809-10 of the Regulations; (5) commingled monies in its trust account for the benefit of creditors, in violation of Section 36a-811(b) of the Connecticut General Statutes; (6) acted as a consumer collection agency from an unlicensed location, in violation of subsections (a) and (i) of Section 36a-801 of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable; (7) communicated with a third party regarding a consumer debtor’s account without such debtor’s authorization, in violation of Section 36a-809-9(d)(2) of the Regulations; (8) failed to establish, enforce and maintain policies and procedures for supervising employees and office operations that were reasonably designed to achieve compliance with applicable consumer collection laws and regulations, in violation of Section 36a-805(a)(16) of the 2018 Supplement to the General Statutes; and (9) failed to disclose clearly in communications with Connecticut consumer

debtors that it was attempting to collect a debt and that any information obtained would be used for that purpose, in violation of Section 36a-809-11(11) of the Regulations;

WHEREAS, the Notice also alleges that DMI's conduct renders the Commissioner unable to determine that the financial responsibility, character, reputation, integrity and general fitness of DMI are such as to warrant belief that the business will be operated soundly and efficiently, in the public interest and consistent with the purposes of Sections 36a-800 to 36a-812, inclusive, of the Connecticut General Statutes;

WHEREAS, the Commissioner asserts that the allegations made in the Notice constitute sufficient grounds for the Commissioner to revoke DMI's consumer collection agency license in Connecticut pursuant to Sections 36a-804(a) and 36a-804(a)(3) of the Connecticut General Statutes and Section 36a-51 of the 2018 Supplement to the General Statutes, and forms a basis to issue an order to cease and desist pursuant to Section 36a-804(b) of the Connecticut General Statutes and Section 36a-52(a) of the 2018 Supplement to the General Statutes, an order to make restitution pursuant to Section 36a-804(b) of the Connecticut General Statutes and Section 36a-50(c) of the 2018 Supplement to the General Statutes and to impose a civil penalty pursuant to Section 36a-804(b) of the Connecticut General Statutes and Section 36a-50(a) of the 2018 Supplement to the General Statutes, in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation;

WHEREAS, on June 29, 2018, the Notice was e-mailed to the individual designated as the primary contact in the contact employee fields of DMI's account on the Nationwide Multistate Licensing System and Registry ("NMLS");

WHEREAS, on July 6, 2018, the Division received an Appearance and Request for Hearing from DMI;

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, DMI represents that, effective June 29, 2018, it has ceased acting, directly or indirectly, as a consumer collection agency in Connecticut;

WHEREAS, on July 13, 2018, DMI submitted a letter indicating its intent to surrender its consumer collection agency license in Connecticut;

WHEREAS, James George Fox, III is the President, majority owner and a “control person” of DMI, as such term is defined in Sections 36a-485 and 36a-800 of the 2018 Supplement to the General Statutes;

WHEREAS, as the control person responsible for overseeing the daily collection operations of DMI, James George Fox, III failed to establish, enforce and maintain policies and procedures for supervising employees and office operations that were reasonably designed to achieve compliance with applicable consumer collection laws and regulations, in violation of Section 36a-805(a)(16) of the 2018 Supplement to the General Statutes;

WHEREAS, DMI and James George Fox, III each voluntarily agree to consent to the entry of the sanctions imposed below, including the bars set forth in paragraphs 4 and 5 of the Consent to Entry of Sanctions, without admitting or denying the allegations contained in the Notice and set forth herein solely for the purpose of obviating the need for further formal administrative proceedings concerning the allegations contained in the Notice and set forth herein;

WHEREAS, the Commissioner, DMI and James George Fox, III now desire to resolve the matters alleged in the Notice and set forth herein;

WHEREAS, DMI and James George Fox, III agree that the Notice may be used in construing the terms of this Consent Order;

WHEREAS, DMI and James George Fox, III acknowledge that this Consent Order is a public record and is a reportable event for purposes of the regulatory disclosure questions on NMLS, as applicable;

WHEREAS, DMI and James George Fox, III specifically assure the Commissioner that the violations alleged in the Notice and set forth herein shall not occur in the future;

WHEREAS, James George Fox, III, through his execution of this Consent Order, voluntarily agrees to waive his procedural rights, including a right to a notice and an opportunity for a hearing as it pertains to the allegation set forth herein, and voluntarily waives his right to seek judicial review or otherwise challenge or contest the validity of this Consent Order;

AND WHEREAS, DMI, through its execution of this Consent Order, voluntarily agrees to waive its procedural rights, including a right to a hearing as it pertains to the allegations contained in the Notice and set forth herein, and voluntarily waives its right to seek judicial review or otherwise challenge or contest the validity of this Consent Order.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, DMI and James George Fox, III, through their respective execution of this Consent Order, consent to the Commissioner's entry of a Consent Order imposing the following sanctions:

1. No later than the date this Consent Order is executed by DMI, it shall remit to the Department of Banking by wire transfer, cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut", the sum of Seventy-Five Thousand Dollars (\$75,000) as a civil penalty;
2. No later than the date this Consent Order is issued by the Commissioner, DMI shall request surrender on NMLS of its consumer collection agency license in Connecticut;
3. DMI shall cease and desist from: (1) charging Connecticut consumer debtors convenience fees not authorized by the debtor's contract with the creditor, in violation of Section 36a-805(a)(12) of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable, and Section 36a-809-12(1) of the Regulations, (2) engaging in conduct that creates a false impression to Connecticut consumer debtors that it is a law firm and intends to take legal action when DMI has no intentions or authorization to take legal action, constituting an unfair or deceptive act or practice in violation of Section 36a-806(a) of the 2018 Supplement to the General Statutes, and false, deceptive or misleading practices in violation of subdivisions (3), (5), (10) and (13) of Section 36a-809-11 of the Regulations; (3) referring to itself by a name which is neither DMI's legal name nor the name authorized by its license in Connecticut, in violation of Section 36a-801(i) of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable, and Section 36a-809-11(14) of the Regulations; (4) engaging in conduct which the natural consequence is to harass a Connecticut consumer debtor in connection with the collection of a debt, in violation of Section 36a-809-10 of the Regulations; (5) commingling monies in its trust account for the benefit of creditors, in

violation of Section 36a-811(b) of the Connecticut General Statutes; (6) acting as a consumer collection agency from an unlicensed location, in violation of subsections (a) and (i) of Section 36a-801 of the 2018 Supplement to the General Statutes or the Connecticut General Statutes, as applicable; (7) communicating with a third party regarding a consumer debtor's account without such debtor's authorization, in violation of Section 36a-809-9(d)(2) of the Regulations; (8) failing to establish, enforce and maintain policies and procedures for supervising employees and office operations that are reasonably designed to achieve compliance with applicable consumer collection laws and regulations, in violation of Section 36a-805(a)(16) of the 2018 Supplement to the General Statutes; and (9) failing to disclose clearly in communications with Connecticut consumer debtors that it was attempting to collect a debt and that any information obtained would be used for that purpose, in violation of Section 36a-809-11(11) of the Regulations;

4. For a period of three (3) years commencing on the date this Consent Order is issued by the Commissioner, DMI and any successor in interest shall be **BARRED** from directly or indirectly acting as a consumer collection agency in Connecticut. Upon expiration of such three-year period, DMI or any successor in interest may apply to the Commissioner for licensure as a consumer collection agency in Connecticut, provided that the issuance of any consumer collection agency license shall be in the sole discretion of the Commissioner. In addition to the requirements set forth in Part XII of Chapter 669, any application for consumer collection agency licensure submitted by DMI or a successor in interest shall include evidence, satisfactory to the Commissioner, that it has implemented an effective system of supervision to achieve compliance with all applicable consumer collection laws and regulations and has adequately remedied all other allegations made in the Notice and set forth herein to prevent recurrence in the future;
5. For a period of three (3) years commencing on the date this Consent Order is issued by the Commissioner, James George Fox, III shall be **BARRED** from acting directly or indirectly as a manager, owner, supervisor, control person or qualified individual of any consumer collection agency acting in Connecticut; and
6. No later than the date this Consent Order is issued by the Commissioner, DMI shall: (1) refund all charges and fees paid by Connecticut consumer debtors that could not be legally added to claims charged to such consumer debtors, (2) waive any charges and fees added to Connecticut consumer debtors' accounts that could not be legally added and which have not yet been paid by or collected from such consumer debtors, and (3) provide satisfactory evidence of such refunds and adjustments to Carmine Costa, Director, Consumer Credit Division Department of Banking, 260 Constitution Plaza, Hartford, Connecticut 06103-1800, or carmine.costa@ct.gov.

CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The sanctions set forth above be and are hereby entered;
2. Upon issuance of this Consent Order by the Commissioner, the surrender of the license of DMI to act as a consumer collection agency in Connecticut shall become effective;

3. Upon issuance of this Consent Order by the Commissioner, this matter will be resolved and the Commissioner will not take any future enforcement action against DMI and James George Fox, III based upon the allegations contained in the Notice and set forth herein; provided that issuance of this Consent Order is without prejudice to the right of the Commissioner to take enforcement action against DMI or James George Fox, III based upon a violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by DMI or James George Fox, III and reflected herein is subsequently discovered to be untrue;
4. DMI and James George Fox, III shall not take any action or make or permit any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
5. This Consent Order shall be binding upon James George Fox, III and DMI and its successors and assigns; and
6. This Consent Order shall become final when issued.

Issued at Hartford, Connecticut
this 22nd day of August 2018.

_____/s/_____
Jorge L. Perez
Banking Commissioner

I, J. Fox III, state on behalf of Debt Management, Inc. d/b/a Capital Recovery Systems, that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Debt Management, Inc. d/b/a Capital Recovery Systems; that Debt Management, Inc. d/b/a Capital Recovery Systems agrees freely and without threat or coercion of any kind to comply with the sanctions entered and terms and conditions ordered herein; and that Debt Management, Inc. d/b/a Capital Recovery Systems voluntarily agrees to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: _____/s/_____
Name:
Title:
Debt Management, Inc.
d/b/a Capital Recovery Systems

State of: Virginia

County of: Virginia Beach

On this the 16th day of August 2018, before me, Jodi Jane Blaschum, the undersigned officer, personally appeared James G. Fox, III who acknowledged himself to be the President of Debt Management, Inc. d/b/a Capital Recovery Systems, a corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as James G. Fox, III.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: April 30, 2022

I, James George Fox, III, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the provisions of this Consent Order; and that I voluntarily agree to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

_____/s/_____
James George Fox, III

State of: Virginia

County of: Virginia Beach

On this the 16th day of August 2018, before me, Jodi Jane Blaschum, the undersigned officer, personally appeared James George Fox, III, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

_____/s/_____
Notary Public
Date Commission Expires: April 30, 2022