

IN THE MATTER OF:
CREDIT SERVICE, LLC, and
J. SCOTT MORSE,

Respondents.

* **BEFORE THE MARYLAND**
* **STATE COLLECTION AGENCY**
* **LICENSING BOARD IN THE**
* **OFFICE OF THE COMMISSIONER**
* **OF FINANCIAL REGULATION**

* **CFR-FY2012-077**

* * * * *

SETTLEMENT AGREEMENT AND CONSENT ORDER

This Settlement Agreement and Consent Order (the "Agreement") is entered into this 14th day of October, 2011, by and between the Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation (the "Agency"), and Credit Service, LLC and J. Scott Morse (the "Respondents"). The Commissioner and the Respondents ("the Parties") consent to the entry of this Agreement as a final resolution of this matter. All paragraphs below are intended to be part of the contractual obligations of the Parties hereto, so far as they may be so construed, and are not mere recitals to this Agreement.

1. Pursuant to the Maryland Collection Agency Licensing Act ("MCALA"), at Md. Code Ann., Bus. Reg. ("BR"), § 7-101 *et seq.*, the Agency is responsible for licensing and regulating persons engaged in collection agency activities in the State of Maryland (the "State").

2. The definition of "collection agency" under BR § 7-101(c) includes, among other things, "a person who engages directly or indirectly in the business of: (1)(i) collecting for, or soliciting from another, a consumer claim; or (ii) collecting a consumer

claim the person owns, if the claim was in default when the person acquired it.”

3. BR § 7-401(a) provides that, “except as otherwise provided in this title, a person may not knowingly and willfully do business as a collection agency in the State unless the person has a license.”

4. A non-exempt person who acquires consumer claims in default at the time of acquisition (a "consumer debt purchaser"), who then attempts to collect on those debts through litigation in Maryland State courts, is conducting business as a “collection agency” in the State under BR § 7-101(c). This applies regardless of whether the consumer debt purchaser is represented in litigation by attorneys who are also licensed as collection agencies. As such, a consumer debt purchaser collecting debts through litigation in Maryland State courts is required to be licensed as a collection agency under MCALA, and is subject to the regulatory authority of the Agency in the conduct of that litigation.

5. At all times relevant to the facts set forth herein, Credit Service, LLC acted as a consumer debt purchaser, and was duly licensed under MCALA as a Maryland collection agency as that term is defined in BR § 7-101(c), holding collection agency license number 04-5373.

6. A consumer debt purchaser collecting debts through litigation in Maryland State courts also meets the definitions of “collector” under Md. Code Ann., Com. Law (“CL”), § 14-201(b) of the Maryland Consumer Debt Collection Act (“MCDCA”), at CL § 14-201 *et seq.*, and of “debt collector” under 15 U.S.C. § 1692(a) of the Fair Debt Collection Practices Act (“FDCPA”), at 15 U.S.C. § 1692 *et seq.*

7. Pursuant to BR § 7-308(a), the Agency can bring an action to suspend or revoke the license of a collection agency “if the licensee or any owner, director, officer,

member, partner, or agent of the licensee” engages in various prohibited activities, including, among other things, the following: “(3) in connection with the collection of any consumer claim: . . . (ii) engages in any illegal or dishonest activities; or (4) knowingly or negligently violates the Maryland Consumer Debt Collection Act.”

8. Thus, the Agency has the authority to bring actions under MCALA against persons engaged in various prohibited activities in connection with the collection of any consumer claim, including, but not limited to, for violations of the FDCPA pursuant to BR § 7-308(a)(3)(ii) (engaging in illegal activities), and for violations of the MCDCA pursuant to BR §§ 7-308(a)(3)(ii) and 7-308(a)(4). This includes both litigation-related collection activities, as well as non-litigation (*i.e.*, “traditional”) collection activities.

9. Pursuant to BR § 7-205 of MCALA, as a result of a hearing, or of providing an opportunity for a hearing, the Agency may issue an order requiring persons to cease and desist from engaging in collection-related violations of the law, may issue a monetary penalty, and may require persons to take affirmative action to correct the violations, including providing restitution to all aggrieved consumers. Additionally, pursuant to Md. Code Ann., Fin. Inst. (“FI”), § 2-115(b), as a result of a hearing, or of providing the opportunity to request a hearing, the Commissioner of Financial Regulation (the “Commissioner”) may, in addition to any other authorized actions taken by the Agency, enter a final order to cease and desist, revoke any collection agency licenses, impose a civil penalty up to \$1,000 for each violation of MCALA, the MCDCA, and the FDCPA (as violations of MCALA), issue a penalty up to \$5,000 for each subsequent violation of these Acts, or may take any combination of the aforementioned actions.

10. The FDCPA provides, in relevant part, as follows:

§ 1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

* * *

(2) The false representation of--

(A) the character, amount, or legal status of any debt; or

* * *

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

* * *

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

* * *

§ 1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

* * *

11. The MCDCA provides, at CL § 14-202(8), as follows: “[i]n collecting or attempting to collect an alleged debt,” a debt collector (or “collector”) may not “[c]laim, attempt, or threaten to enforce a right with knowledge that the right does not exist.”

12. The Agency commenced an investigation of Credit Service, LLC and its sole member and owner J. Scott Morse after receiving complaints related to Respondents’ collection-related business activities. The Agency’s investigation demonstrated that Respondents had engaged in activities which violated MCALA, the MCDCA, and the FDCPA, (the “violations”), including but not limited to the following:

a. Filing actions in Maryland courts intended to obtain judgment on affidavit under Md. Rule 3-306, but which contained affidavits that were based, in part, on the affiant's knowledge, information and belief, a standard insufficient to obtain such judgments or which otherwise failed to comply with the Maryland Rules of Civil Procedure, thereby violating CL § 14-202(8) and 15 U.S.C. §§ 1692(e)(2),(5),(10) and 1692(f);

b. Claiming and receiving unauthorized attorney's fees, since under Maryland law attorneys representing their own business interests are not entitled to collect attorney's fees, and failing to disclose this business interest to the courts and to consumers, which pursuant to the position of the Agency violates CL § 14-202(8) and U.S.C. §§ 1692(e)(2),(5),(10) and 1692(f)(1);

c. Claiming and receiving prejudgment interest amounts that included compound interest, and misrepresenting the correct amount of principal and interest in the documents filed with their complaints, in violation of CL § 14-202(8) and U.S.C. §§ 1692(e)(2),(5),(10) and 1692(f)(1);

d. Filing complaints alleging ownership of particular consumer claims, but which complaints contained invalid or deficient assignment documents indicating that Respondents did not actually own the consumer claims at issue, in violation of CL § 14-202(8) and U.S.C. §§ 1692(e)(2),(5),(10) and 1692(f)(1);

e. Filing complaints beyond the 3-year statute of limitations applicable to such claims in Maryland, in violation of CL § 14-202(8) and U.S.C. §§ 1692(e)(2),(5) and 1692(f); and

f. Mailing collection letters to consumers threatening to file lawsuits based on consumer claims that were already beyond the 3-year statute of limitations applicable to such claims in Maryland, in violation of CL § 14-202(8) and U.S.C. §§ 1692(e)(2),(5) and 1692(f).

13. The present Agreement is intended to resolve all administrative, judicial, or other legal actions which the Agency could have brought against the Respondents prior to the execution of this Agreement, relating to those issues and pending collection matters which are currently known to the Parties, and to permit further reconsideration of the collection agency license application of Sunshine Financial Group, LLC, another business entity which is also solely owned and operated by Respondent J. Scott Morse.

14. Respondents do not admit to the violations set forth herein but, nonetheless, wish to resolve the violations in lieu of a separate administrative action being filed, thereby avoiding the costs associated with an administrative hearing and any potential appeals, and therefore agree to resolve this matter fully, finally, and completely as set forth in this Agreement, and further accept without condition, and fully agrees to abide by, each and every term set forth in this Agreement.

15. The Agency desires to ensure that Respondents comply with all applicable statutes, regulations, and others laws governing collection agency activities in the State of Maryland, including complying with MCALA, the MCDCA, the FDCPA, and the Maryland Rules of Procedure, and further wishes to avoid the costs to the taxpayers of an administrative hearing and any potential appeals.

16. Respondents agree to take each and every one of the following actions in exchange for a final resolution of this matter:

a. Respondents will pay a penalty of **\$2,000** (TWO THOUSAND DOLLARS) in the form of a check made payable to the “Commissioner of Financial Regulation” immediately upon this Agreement being fully executed.

b. Within 15 days of the date this Agreement is fully executed, Respondents will take all necessary actions to dismiss each of the 46 active collection-related cases that Respondents previously filed in Maryland State courts on behalf of Credit Service, LLC and which were not previously reduced to judgment, and will notify the Agency once this has been completed. All cases that had been filed past Maryland’s 3-year statute of limitations, and all cases where collection letters had been sent to affected Maryland consumers prior to the date that this Agreement is fully executed in connection with consumer claims that were already beyond Maryland’s 3-year statute of limitations period at the time the claims were acquired by Respondents or by any other business entity owned, managed, or operated by any of the Respondents, will be dismissed with prejudice; all other cases will be dismissed without prejudice. The cases to be dismissed are provided at **Attachment 1**.

c. Within 30 days of the date this Agreement is fully executed, Respondents will make full restitution to each affected Maryland consumer of the greater of the following: the sum of (i) all attorney’s fees claimed by, or awarded to, the Respondents, (ii) all prejudgment interest in cases where the amount claimed or awarded included, in part, compound interest, and (iii) all postjudgment interest in cases where the amount of the judgment included, in part, compound interest; or (iv) the full amount of the claim or judgment awarded for cases that had been filed past Maryland’s 3-year statute of limitations; or (v) the full amount of the consumer claim or judgment awarded, regardless

of whether a complaint had been filed by the Respondents in Maryland State courts, where prior to the date that this Agreement is fully executed collection letters were sent to affected Maryland residents for consumer claims that were already beyond Maryland's 3-year statute of limitations period at the time the claims were acquired by Respondents or by any other business entity owned, managed, or operated by any of the Respondents, (collectively, the "restitution categories"), as follows:

(1). In all consumer claims owned by the Respondents, whether reduced to judgment or not, where the affected Maryland consumer has paid the pertinent claim or judgment in full or has paid any portion of the claim or judgment attributable to any of the restitution categories, the Respondents shall issue refunds to each affected Maryland consumer in accordance with the following:

(a). Respondents shall mail a check in the total amount of money paid by the consumer attributable to the restitution categories, via First Class U.S. Mail, to each affected consumer's last known address. Each refund shall be accompanied by a letter indicating that that the refund is being issued pursuant to a Settlement Agreement between the Respondents and the Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation, and that the Settlement Agreement does not in any way affect the consumer's legal rights. For letters to be sent to consumers pursuant to restitution categories (iv) or (v), such letters shall also contain the information required by paragraph 16.e, below. **Attachment 2** is a spreadsheet providing the name of each affected Maryland consumer, the associated court and case number (if applicable), the amount of money paid by the consumer in the applicable restitution categories, and the total amount of money to be refunded to each affected consumer

(collectively, the “refund amount”).

(b). Additionally, within 60 days of the date this Agreement is fully executed, Respondents shall furnish evidence to the Agency that refunds were tendered to each affected consumer in the agreed amount by providing a copy of the front and back of the cancelled check for each refund payment that was negotiated by the affected consumer.

(c). If, within 90 days from the date this Agreement is fully executed, any refund payment checks mailed by the Respondents to affected consumers in accordance with Agreement are either not cashed or are returned to Respondents as non-deliverable (collectively, the “Undeliverable Refunds”), such Undeliverable Refunds will escheat to the State of Maryland. In such event, Respondents will stop payment on such undeliverable refund payment checks, and shall pay the total amount of all Undeliverable Refunds in the form of a single check made payable to the “Comptroller of Maryland,” which shall be submitted to the Comptroller, copy to the Agency, both of which shall be accompanied by an update to the spreadsheet referenced above as Attachment 2, which updated spreadsheet shall be submitted in both hard copy and in an electronic format mutually agreeable to both Parties, and which shall be supplemented with the following additional information for each affected consumer: the last known address of the consumer, the social security number of the consumer (if known), the date of birth of the consumer (if known), the total amount of the refund mailed to each consumer at their last known address, the date on which each refund check was mailed, and an indication of which refund checks were cashed, and which refund checks were either not cashed or were returned to Respondents as non-deliverable. Such action on

the part of Respondents shall relieve the Respondents of any further obligation to make refunds to the affected consumers pursuant to this Agreement.

(d). Where affected Maryland consumers had made payment on consumer claims that had been, or were subsequently, reduced to judgment, and where the consumer claims are subject to restitution categories (iv) or (v), Respondents will file motions or take other appropriate action to have the judgments vacated and to have the cases dismissed with prejudice.

(2). In all collection-related cases filed by the Respondents in Maryland district courts on behalf of Credit Service, LLC that have been reduced to judgment, and where the affected Maryland consumers have not paid any portion of their judgments attributable to any of the restitution categories, the Respondents agree to forfeit the total amount of each judgment award attributable to the restitution categories. In such cases, the Respondents will take all necessary actions to ensure that the restitution category awards in each case are reflected as being satisfied with the courts, except that for cases subject to restitution categories (iv) or (v), Respondents will file motions or take other appropriate action to have the judgments vacated and to have the cases dismissed with prejudice. **Attachment 3** is a spreadsheet providing the name of each affected Maryland consumer, the applicable court and case number, the amount of money awarded in the applicable restitution categories, and the total amount of the judgment forfeited by the Respondents in each case.

(3). In cases to be dismissed pursuant to paragraph 16.b., above, the Respondents agree to forfeit the total amount of each consumer claim attributable to the restitution categories. Attachment 1 provides the name of each affected Maryland

consumer, the applicable court and case number of the claims to be dismissed, the amount of money originally claimed by the Respondents in the applicable restitution categories, the total amount of the claim forfeited by the Respondents in each case, and whether the dismissal is *with* or *without* prejudice.

(4). With regard to the consumer claims owned by the Respondents where no action has been filed by the Respondents in Maryland district courts and where the Respondents have not received any payment related to any of the restitution categories from the consumers, the Respondents agree to forfeit the total amount of each consumer claim attributable to the restitution categories. **Attachment 4** provides the name of each affected Maryland consumer, the amount of money previously claimed by the Respondents in the applicable restitution categories, and the total amount of the claim forfeited by the Respondents in each case.

(5). The sum of all restitution discussed herein, *i.e.*, all money refunded or forfeited in the restitution categories discussed in paragraphs 16.c.(1) through 16.c.(4), above, totals **\$32,487.09** (THIRTY-TWO THOUSAND FOUR HUNDRED EIGHTY-SEVEN DOLLARS AND NINE CENTS).

(6). The Respondents shall not seek, and are not entitled to obtain, releases from consumers in conjunction with the restitution discussed herein.

d. With regard to the consumer claims owned by Respondents which are subject to restitution categories (iv) or (v), whether or not Respondents filed an action related to such claims in Maryland State courts, Respondents agree that they shall not attempt to collect, directly or indirectly, on the consumer claims, that they shall not sell, assign, or otherwise convey the consumer claims for any reason, and that they will send a

letter to the affected Maryland consumers indicating that, pursuant to a Settlement Agreement between the Respondents and the Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation, the following: that the Respondents have dismissed their lawsuit against the consumer (if applicable); that Respondents have forfeited the full amount of the consumer claim; that no further attempt will be made to collect on the consumer claim from the affected Maryland consumer; and that the Settlement Agreement does not in any way affect the consumer's legal rights.

e. With regard to the consumer claims that Respondents had filed in Maryland district courts but which were previously dismissed, or which are to be dismissed without prejudice pursuant to this Agreement, the Respondents agree that, if any of these cases are refiled or reopened for any reason, the Respondents will not seek recovery, directly or indirectly, of any of the restitution categories.

f. With regard to any consumer claims currently owned by, or acquired at any time in the future by, the Respondents or any other business entity owned, managed, or operated by any of the Respondents, which claims involve loans or other consumer debts that had ever been owned by CashCall, Inc. or which CashCall, Inc. had helped arrange or facilitate, (collectively, the "CashCall-related claims"), Respondents agree that all such CashCall-related claims are subject to Maryland's 3-year statute of limitations.

g. With regard to the 112 consumer claims currently owned by the Respondents, including both the 50 cases previously filed by the Respondents in Maryland district courts and the 62 consumer claims that were never filed in court, and except for those claims subject to paragraph 16.d, above, the Respondents agree that they shall not sell, assign, or otherwise convey the judgments or the underlying consumer claims (the

“debt”) unless the Respondents ensure that the relevant transaction documents clearly reflect that all future owners of the debt are not entitled to collect or attempt to collect attorney’s fees, prejudgment interest, or postjudgment interest on the debt from the affected Maryland consumers, and that all such debt is subject to Maryland’s 3-year statute of limitations.

h. Respondents agree that they are subject to the regulatory authority of the Agency with regard to their consumer collection activities, including their collection-related litigation activities in Maryland State courts.

i. Respondents agree that they will take good faith efforts to ensure that all of their collection activities in Maryland, including but not limited to their collection-related litigation activities, fully comply with all applicable federal and Maryland State laws, including but not limited to MCALA, the MCDCA, the FDCPA, and the Maryland Rules of Procedure.

17. With regard to Respondents’ consumer claims discussed above, including cases previously dismissed, cases that are to be dismissed, and claims that have never been filed in Maryland state court, the Agency does not represent that the Respondents have the right to file, refile, or reopen any such case. The existence of such right depends on various considerations that will be unique to each case, including but not limited to the legal status of those cases that have been dismissed, the applicable statute of limitations, Respondents’ ability to demonstrate the existence of the debt and proof of ownership of that debt, and other pertinent factors.

18. Respondents acknowledge that they have voluntarily entered into this Agreement with full knowledge of their right to a hearing pursuant to the Maryland

Administrative Procedures Act – Contested Cases, Md. Code Ann., State Gov’t. (“SG”), § 10-201 *et seq.*, and pursuant to BR § 7-309 and FI § 2-115, and that Respondents hereby waive their right to a hearing. Respondents further acknowledge that they have had an opportunity to consult with independent legal counsel in connection with their waiver of rights and with the negotiation and execution of this Agreement, and that Respondents have in fact consulted with independent legal counsel.

19. The Parties hereto agree that this Agreement shall be binding upon the Parties and enforceable in a court of competent jurisdiction by the Agency and by the Respondents, shall be admissible in court, if relevant, and shall be binding upon and inure to any of the Respondents’ present and future owners, principals, directors, officers, members, partners, managers, agents, successors, and assigns.

20. The Parties hereto acknowledge and agree that this Agreement does not in any way relate to, impact, or otherwise affect the legal rights of, persons not Parties to this Agreement.

21. The Parties hereto agree that any notices hereunder shall be effectively “delivered” when sent via overnight delivery or certified mail as follows:

a. To the Agency:

Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202-3651
Attn: Anne Balcer Norton, Deputy Commissioner

Copy to:

W. Thomas Lawrie, Assistant Attorney General
Office of the Attorney General
Department of Labor, Licensing, and Regulation
500 North Calvert Street, Suite 406
Baltimore, Maryland 21202-3651

b. To Respondents:

J. Scott Morse, Esquire
Credit Service, LLC
9 Newburg Avenue, Suite 201
Catonsville, Maryland 21228

Copy to:

Ronald S. Canter, Esquire
The Law Offices of Ronald S. Canter, LLC
11300 Rockville Pike, Suite 1200
Rockville, Maryland 20852

NOW, THEREFORE, it is, by the Commissioner of Financial Regulation on behalf of the Agency, HEREBY

ORDERED that Respondents shall adhere to all terms of this Settlement Agreement; it is further

ORDERED that Respondents shall use good faith efforts to conduct their collection agency business activities in compliance with all applicable federal and Maryland State laws, including but not limited to MCALA, the MCDCA, the FDCPA, and the Maryland Rules of Procedure; and it is further

ORDERED that, in the event Respondents, or any of the owners, directors, officers, members, partners, employees, or agents of Respondents, violate any provision of this Settlement Agreement, or otherwise engage in activities similar to those which formed the basis for the violations set forth above, the Agency may, at the Agency's discretion, take any enforcement actions available under FI § 2-115 and/or BR § 7-205, as well as take any other enforcement actions as permitted by, and in accordance with, applicable State law; and that such enforcement actions could include an order to cease and desist, suspension or revocation of a Maryland State collection agency license, civil money

penalties of up to \$1,000 for a first violation and up to \$5,000 for each subsequent violation, and an order to provide restitution or to take other affirmative action to correct the violation; and it is further

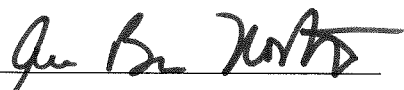
ORDERED, that this matter shall be resolved in accordance with the terms of this Settlement Agreement and the same shall be reflected among the records of the Office of the Commissioner of Financial Regulation; and it is further

ORDERED that this document shall constitute a Final Order of the Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation, and that the Agency may consider this Settlement Agreement in connection with, and in deciding, any action or proceeding before the Agency; and that this Settlement Agreement may, if relevant, be admitted into evidence in any matter before the Agency.

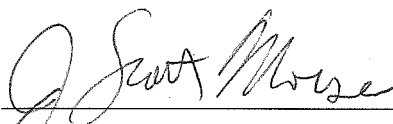
It is so **ORDERED**.

IN WITNESS WHEREOF, this Settlement Agreement is executed on the day and year first above written.

MARYLAND STATE COLLECTION
AGENCY LICENSING BOARD IN THE
OFFICE OF THE COMMISSIONER OF
FINANCIAL REGULATION

By: 
Anne Balcer Norton
Deputy Commissioner of Financial
Regulation

CREDIT SERVICE, LLC

By: 
J. Scott Morse,
Individually, and Managing Member,
Credit Service, LLC