

IN THE MATTER OF:

**VISION CREDIT SOLUTIONS, LLC
d/b/a VCS and ASSOCIATES**

and

JAMES P. BELSTADT

Respondents.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

and

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

Case No.: CFR-FY2010-069

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the State Collection Agency Licensing Board (the “Board”), in the Office of the Commissioner of Financial Regulation, a unit in the Department of Labor, Licensing and Regulation, a principal department of the State of Maryland (the “Commissioner” and together, hereinafter the “Agency”) undertook an investigation into the business activities of Vision Credit Solutions, LLC, d/b/a VCS and Associates, and James P. Belstadt, (collectively “Respondents”); and

WHEREAS, as a result of that investigation, the Commissioner finds grounds to allege that Respondents violated various provisions of the Annotated Code of Maryland (the “Code”), including Commercial Law Article (“CL”), Title 14, Subtitle 2, the Maryland Consumer Debt Collection Act (the “MCDCA”), and Business Regulation Article (“BR”), Title 7, Subtitles 3 and 4, the Maryland Collection Agency Licensing Act (the “MCALA”); and the Agency finds that action under Financial Institutions Article (“FI”) § 2-115 is appropriate; and

WHEREAS, pursuant to the MCALA, BR, §7-101 *et seq.*, the Board is responsible for licensing and regulating persons engaged in collection agency activities in the State of Maryland (the “State”), and for otherwise enforcing the provisions of MCALA and the MCDCA, located at CL §14-201 *et seq.*; and

WHEREAS, the Board finds grounds to allege that Respondents have engaged in acts or practices which constitute violations of MCALA and MCDCA; and the Board finds that action under FI §2-115 is appropriate; and

WHEREAS, the Agency issued a Summary Order to Cease and Desist and Order to Produce (the “Summary Order”) against Respondents on May 13, 2013, after determining that Respondents were in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from collecting directly or indirectly through third party collection agencies or law firms, on any loan previously made to Maryland consumers; from engaging directly or indirectly in the business of collecting consumer claims from Maryland consumers; and from otherwise engaging in the collection agency and debt collection business in the State; and

WHEREAS, the Summary Order notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Agency to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondents did not request a hearing within 15 days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondents’ failure to request a hearing, the Agency may, in the Agency’s discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue penalty orders against Respondents, issue orders requiring

Respondents to pay restitution and other money to consumers, as well as take other actions related to Respondents' business activities; and

WHEREAS, the Summary Order was properly served on Respondents via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondents failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in FI § 2-115, BR §7-309 or pursuant to State Government Article §10-226(c)(2) of the Code, and have not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this "Final Order"); and

WHEREAS, the Agency began an investigation into the Respondents' business activities as a result of a series of consumer complaints and has based its decision in this Final Order that Respondents engaged in unlicensed and predatory business practices in violation of various provisions of Maryland law, including but not limited to, violation of, MCALE and the MCDCA, on the following determinations:

1. Pursuant to FI §11-204, "[u]nless a person is licensed by the Commissioner, the person may not: (1) [m]ake a loan; or (2) [i]n any way use any advantage provided by the Maryland Consumer Loan Law."

2. The Maryland Consumer Loan Law ("MCLL") is found in CL Title 12 Subtitle 3. Pursuant to CL §12-302, a "person may not engage in the business of making loans under this subtitle unless the person is licensed under or is exempt from the licensing requirements of Title 11, Subtitle 2 of the Financial Institutions Article, Annotated Code of Maryland, known as the Maryland Consumer Loan Law – Licensing Provisions."

3. Pursuant to CL §12-301(c), a "lender" means a person who makes a loan under [Title 12, Subtitle 3 of the Commercial Law Article]."

4. Pursuant to CL §12-301(e), a “loan” “means any loan or advance of money or credit made under [Title 12, Subtitle 3 of the Commercial Law Article].”

5. Pursuant to CL §12-303, “[a] lender may not make a loan under this subtitle unless the loan is in an original amount or value which does not exceed \$6,000.”

6. CL §12-306 specifies the maximum interest rates which a lender is permitted to charge on a loan under Title 12, Subtitle 3 of the Commercial Law Article.

a. Section 12-306(a)(6)(i) provides as follows: “For any loan with an original principal balance of \$2,000 or less, 2.75 percent interest per month on that part of the unpaid balance not more than \$1,000.” Therefore, this section permits a lender to charge a maximum annual interest rate of 33 percent on unpaid principal balances up to \$1,000, and 24 percent on unpaid balances over \$1,000.

b. Section 12-306(a)(6)(ii) provides: “For any loan with an original principal balance of more than \$2,000, the maximum rate of interest is 2 percent per month on the unpaid principal balance of the loan.” This section permits a lender to charge a maximum annual interest rate of 24 percent on the unpaid principal balance of the loan.

7. Interest on unpaid loan balances, refinanced loans, and computation of interest are discussed in CL §§12-306(b) through (d), which state the following respectively:

(b) *Interest on balance unpaid after original maturity date.*

If any principal balance remains unpaid 6 months after the loan matures as originally scheduled or deferred, the lender may not contract for, charge, or receive interest at a rate exceeding 6 percent simple interest per annum on the actual unpaid principal balances from time to time.

(c) *Refinanced loan.* If the lender refinances a loan in the ordinary course of business, he may not add to the principal balance or deduct from the proceeds of the new loan more than 60 days’ interest then due.

(d) *Computation of interest.*

(1) The lender shall compute interest on the actual unpaid principal balances outstanding from time to time, and he may not contract for, charge, or received interest in advance or compounded interest.

- (2) For each day on which an unpaid principal balance is outstanding, the lender may charge on that unpaid balance 1/30th of the interest permitted under this subtitle to be charged for 1 month.

* * *

8. Pursuant to CL §12-313(a)(1), a lender may not “[d]irectly or indirectly contract for, charge, or receive any interest, discount, fee, fine, commission, charge, brokerage, or other consideration in excess of that permitted by this subtitle.”

9. CL §12-314 provides in relevant part, as follows:

(a) *Prohibited.* A person may not lend \$6,000 or less if the person directly or indirectly contracts for, or receives a greater rate of interest, charge, discount, or other consideration than that authorized by the laws of this State.

(b) *Loans unenforceable; exceptions.*

(1) A loan made in the amount of \$6,000 or less, whether or not the loan is or purports to be made under this subtitle, is unenforceable if a rate of interest, charged, discount or other consideration greater than that authorized by the laws of this State is contracted for by any person unless the excess rate contracted for is the result of a clerical error or mistake and the person corrects the error or mistake before any payment is received under the loan.

(2) The person who is neither a licensee nor exempt from licensing may not receive or retain any principal, interest, or other compensation with respect to any loan that is unenforceable under this subsection.

* * *

10. Pursuant to CL §12-315, the provisions of Title 12, Subtitle 3 “shall be interpreted and construed to effectuate its general remedial purpose,”

11. BR §7-101 provides, in part, the following definitions:

(b) *Board.* “Board” means the State Collection Agency Licensing Board.

(c) *Collection agency.* “Collection agency” means a person who engaged 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;

* * *

(d) *Commissioner.* “Commissioner” means the Commissioner of Financial Regulation.

(d) *Consumer claim.* “Consumer claim” means that:

(1) is for money owed or said to be owed by a resident of the State; and

- (2) arises from a transaction in which, for a family, household, or personal purpose, the resident sought or got credit, money, personal property, real property, or service.
- (e) *License*. “License” means a license issued by the Board to do business as collection agency.
- (f) *Licensed collection agency*. “Licensed collection agency” means a person who is licensed by the Board to do business as a collection agency.

12. Pursuant to BR §7-201, “[t]here is a State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation in the Department [of Labor, Licensing, and Regulation].” Further, BR §7-203 provides that, “[t]he Commissioner is chairman of the Board.”

13. 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.”

14. Pursuant to the Maryland Consumer Debt Collection Act (“MCDCA”) (CL §14-201 *et seq.*) and specifically, at CL §14-202 “[i]n collecting or attempting to collect an alleged debt a collector may not”: “[c]laim, attempt, or threaten to enforce a right with knowledge that the right does not exist.” (§14-202(8)).

15. Fair Debt Collections Practices Act (“FDCPA”) at 15 U.S.C. §1692 *et seq.*, provided, 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 attempts 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.

* * *

16. Persons engaged in unlicensed collection activities involving Maryland consumers are in violation of BR §7-401(a) of the MCALA (“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”). Engaging in unlicensed collection activities is also a violation of CL §14-202(8) of the MCDCA (“[o]n collecting or attempting to collect an alleged debt”, a collector may not “[c]laim attempt, or threaten to enforce a right with knowledge that the right does not exist”). Unlicensed collection activities also violate various provisions of the FDCPA: they constitute false or misleading representations in violation of 15 U.S.C. §1692(e)(2) (false representations about the “character, amount, or legal status of any debt”), (e)(5) (“[t]he threat to take any action that cannot legally be taken or that is not intended to be taken”), and (e)(10) (“[t]he use of any false representation or deceptive means to collect or attempt to collect any debt”); and they constitute unfair or unconscionable means to collect or attempt to collect a debt, in violation of 15 U.S.C. §1692(f)(1) (the collection of any amount that is not permitted by law).

17. Pursuant to BR §7-205 of the 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 FI §2-115(b), as a result of a hearing, or providing the opportunity to request a hearing, the Commissioner may, in addition to any other authorized actions taken by the Agency, enter a final order to cease and desist, suspend or revoke any collection agency licenses, impose a civil penalty up to \$1,000 for a first violation of MCALA, the MCDCA, or of the FDCPA (as violations of MCALA), issue a penalty of up to \$5,000 for each subsequent violation, or may take any combination of the aforementioned actions.

18. The Agency issued an Advisory Notice dated July 20, 2009, (the “Advisory”) which notified all collection agencies licensed to conduct business in Maryland that it was a violation of Maryland law for them to pursue collection actions against Maryland residents for loans that were made by unlicensed entities, and that it was a violation of Maryland law for them to collect on loans that exceeded permissible interest rate caps. This notice was also made available to the general public on the Agency’s website at: <http://www.dllr.state.md.us/finance/adisories/advisory7-09a.shtml>.

19. The following relevant and credible evidence, obtained pursuant to the Agency’s investigation, was considered in the issuance of the Summary Order: internet and e-mail marketing materials by Respondents; written communication between Respondent and Maryland residents, and between Respondent and the Agency; public records and Maryland’s licensing records, and statements by Maryland consumers who had entered into agreements with or had dealings with, Respondents:

a. Respondent Vision Credit Solutions, LLC (“VCS”) is a registered business entity in New York State. VCS has never been licensed as a collection agency in Maryland. VCS is not registered with the Maryland Department of Assessments and Taxation. b.

Respondent James P. Belstadt owns, manages, directs, operates, supervises, and/or oversees the business activities of VCS.

20. The Agency began an investigation of Respondents on or about September 18, 2009 after receiving a complaint related to Respondents' efforts to collect a consumer claim originating from a loan made to Maryland consumer [REDACTED] ("Consumer A"). Consumer A applied for a consumer "payday" loan from VIP Cash ("VIP"), by completing and submitting an online loan application while Consumer A was located in Maryland. VIP has never been licensed by the Commissioner to make consumer loans to Maryland consumers, not is it exempt from licensing under MCLL. The VIP loan to Consumer A had a usurious interest rate of approximately 570.3% in violation of the MCLL.

21. Respondents knew or should have known based on the Advisory that they were prohibited from collecting on loans made by unlicensed lenders to Maryland consumers; and that they were prohibited from collecting on loans made to Maryland consumers which exceeded Maryland's permissible interest rate caps.

22. In September 2009 Respondents were notified directly by the Agency that VIP was unlicensed and its payday loans to Maryland consumer were illegal and usurious under Maryland law. Further, Respondents were informed that it was illegal for Respondents to collect or attempt to collect on claims arising from those illegal loans, or to collect or attempt to collect, consumer debts from Maryland consumers without first obtaining a license for their collection activities.

23. On September 23, 2009, two separate letters were sent to Respondents by Suzanne Elbon, an investigator with the Enforcement Unit of the Office of the Commissioner of Financial Regulation ("OCFR"). One letter advised Respondents that a Maryland collection agency license was required in order to engage in consumer collection activities in Maryland. The other letter set forth Maryland's consumer lending laws and advised Respondents of, among

other things, the following: it was illegal for them to collect on loans made by an unlicensed entity or to collect on loans which exceed Maryland's interest rate caps; VIP was not a licensed lender in the State of Maryland; VIP was making loans with interest rates that exceeded Maryland's interest rate caps; and, Respondents were required to stop collecting, or attempting to collect, on the consumer claim involving the loan made by VIP to Consumer A.

24. On or about February 5, 2010, Investigator Elbon received a letter from attorney Michael A. Benson on behalf of Respondents. Mr. Benson made the following representations in his letter: VCS had ceased collecting on any and all VIP loans in the State of Maryland; VCS would cease collecting on any "distressed receivables" of VIP in all other states; VCS would cease collecting on any "distressed receivables" from any Maryland consumers; and should this practice change, VCS would "properly make application for a license in the State of Maryland." Respondents have not applied for obtained a Maryland collection agency license.

25. In July 2010, the Agency received a complaint from Maryland consumer [REDACTED] ("Consumer B"). Consumer B received a debt collection letter from Respondents dated July 12, 2010, in which Respondents demanded payment on a usurious payday loan Consumer B had obtained from VIP.

26. In January 2011, the Agency received a complaint from Maryland consumers [REDACTED] (together "Consumer C").

a. On or about January 15, 2011, Respondents contacted Consumer S by telephone in an attempt to collect a debt on behalf of Check N Go. Respondents told Consumer C that Respondents would begin garnishing Consumer C's wages if they did not make a payment on the debt. As a result of this threat, on January 21, 2011, Consumer C allowed Respondents to take \$300 from their bank account via ACH transfer. Further, Consumer C agreed to settle the

debt with Respondents by making additional payments of \$200 on January 28, 2011 and \$150 on February 18, 2011.

b. When Consumer C later contacted Respondents to change the dates of the payments, Respondents threatened Consumer C, tell them that if the funds were not in the bank account on the due date, Respondents would charge Consumer C with check fraud for bounding a check, cancel the settlement, and charge Consumer C additional money in order to enforce the debt. Consumer C then asked Respondents for written verification of the debt which Respondents refused to provide.

c. Consumer C then contacted Check N Go to get more information about their account and was told that Check N Go had sent the account to United Debt Holdings (“UDH”). Consumer C left messages with UDH, but never received a response from UDH. Rather, Consumer C received a call from Respondents, who indicated that they were aware Consumer C had called UDH. At this point Consumer C contacted their bank and withdrew the authorization for Respondents to make electronic withdrawals. Consumer C never received any written documentation verifying the debt from either VCS or UDH.

27. Respondents continued to collect consumer debts from Maryland consumers without a license, even after receiving written notice of the licensing requirements, and through its attorney by letter dated February 1, 2011, assuring the Agency that they would obtain a license before engaging in further collection activities in Maryland. For example:

a. Respondents sent a collection letter to Consumer B dated July 12, 2010 for the purpose of collecting on VIP’s loan to Consumer B; and

b. Respondents contacted Consumer C by telephone on or about January 15, 2011 in an attempt to collect on the debt to Check N Go, threatened to garnish Consumer C’s

wages, and pressured Consumer C to consent to an ACH transfer in the amount of \$300 from their bank account on January 21, 2011.

28. Further, Respondents continued to collect on the loans made by VIP to Maryland consumers, which loans Respondents knew were illegal, both for VIP's unlicensed lending activity and the usurious interest rates charged on the loans. Respondents were clearly acting with knowledge after receipt of both the Advisory and the letters sent by Investigator Elbon on September 24, 2009.

29. By collecting or attempting to collect on usurious loans and loans made by unlicensed entities to Maryland consumers, all of which loans were unenforceable and uncollectible, Respondents violated various State and federal laws, including but not limited to the following: the MCDCA, including CL §14-202 (by claiming, attempting, or threatening to enforce a right with knowledge that the right does not exist); the FDCPA, including both 15 U.S.C. §1692e (by making false or misleading representations, based on conduct which involved making false representations about the character, amount, or legal status of any debt, and conduct which involved threatening to take any action that cannot legally be taken or that is not intended to be taken), and 15 U.S.C. §1692f (by engaging in unfair or unconscionable means to collect or attempt to collect any debt, based on conduct which involved collecting any amount not expressly authorized by the agreement or permitted by law); the MCALA, including both BR §7-308(a)(3)(ii) (by engaging in any illegal or dishonest activities in connection with the collection of a consumer claim, namely the above referenced violations of the MCDCA and the FDCPA), and BR §7-308(a)(3)(iii) (by knowingly or negligently violating the MCDCA in connection with the collection of a consumer claim).

30. By engaging in collection activities in Maryland without being licensed by the Agency, Respondents violated BR §7-401 of the MCALA. Further, such unlicensed activities

violated CL §14-202(8) of the MDCDA, as well as 15 U.S.C. §§1692(e)(2), (5), (10) and 1692(f)(1) of the FDCPA.

31. Pursuant to the Commissioner's authority to conduct investigations under FI §§ 2-114, the Commissioner issued an Order to Produce (in conjunction with the Summary Order) on May 13, 2013, ordering Respondents to provide to the Commissioner within 15 days of receipt of the Summary Order a detailed list of all Maryland consumers against whom Respondents have pursued collections to include specific information relative to each consumer's loan transaction, Respondents collection activities, correspondence, fees and other documents, all as listed on the Summary Order. Respondents have not produced the documents required by this Order to Produce, and as the specified due date has passed, Respondents are in violation of FI §2-114.

NOW THEREFORE, having determined that Respondents waived their right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant to FI §§2-115, SG § 10-226(c)(2), and BR §7-309, it is by the Commissioner hereby:

ORDERED that the Summary Order to Cease and Desist issued by Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation, a unit in the Department of Labor, Licensing and Regulation, a principal department of the State of Maryland, on May 13, 2013, is entered as a Final Order of the Commissioner, and Respondents shall permanently **CEASE** and **DESIST** from engaging in any collection activities involving Maryland consumers; and that Respondents shall permanently **CEASE** and **DESIST** from engaging directly or indirectly, in the business of collecting consumer claims from Maryland consumers, and from otherwise engaging in the collection agency business in the State of Maryland; and that Respondents shall permanently **CEASE and DESIST** from violating the aforementioned laws governing debt collection activities.

ORDERED that the loans made in violation of the MCLL, CL Title 12 Subtitle 3 are illegal and unenforceable and all collection activity in connection with those loans shall permanently cease and desist.

ORDERED that the provisions of the Final Order also apply to all unnamed owners, partners, members, officers, employees and agents of all Respondents business entities identified herein.

ORDERED that the Resident Agents for all Respondent business entities identified herein shall provide a copy of the Final Order to all unnamed owners, partners, members, officers, employees and agents of those Respondent business entities.

ORDERED that, pursuant to FI §2-115(b) and upon careful consideration of (i) the seriousness of the Respondents' violations; (ii) the lack of good faith of Respondents, (iii) the history and nature of Respondents' violations; and (iv) the deleterious effect of Respondents' violations on the public and on the debt collection and collection agency businesses, Respondents shall pay to the Commissioner a total civil money penalty in the amount of **\$2,000**, which consists of the following:


Prohibited Activity and Violation	Penalty per Violation	X Number of Violations	= Penalty
Unlicensed Collection Activity in violation of MCALA (BR §7-205)	\$500	4 MD Consumers	\$2,000
		Total	\$2,000

And it is further,

ORDERED that Respondents shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of **\$2,000** within fifteen (15) days from the date of this Final Order; and it is further

ORDERED that Respondents shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202, Attn: Proceedings Administrator.

3/4/14
Date



Mark A. Kaufman
Commissioner of Financial Regulation