

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 11F-BD058-SBD

3 **ABRAM, EDWARDS & YORK, LLC AND**
4 **JAMES E. FLETCHER, PRESIDENT**
1650 N. KOLB ROAD, SUITE 132
5 TUCSON, AZ 85715

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

6 Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to
23 allow time to arrange the accommodations. If accommodations are required, call the Office of
24 Administrative Hearings at (602) 542-9826.

25 If Respondents request a hearing, a request may also be made for an Informal Settlement
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1 Conference by filing a written request no later than **twenty (20) days** before the scheduled hearing.
2 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal
3 Settlement Conference is requested, a person with the authority to act on behalf of the Department
4 will be present (the "Department Representative"). Please note that in requesting an Informal
5 Settlement Conference, Respondents waive any right to object to the participation of the Department
6 Representative in the final administrative decision of this matter, if it is not settled. In addition, any
7 written or oral statement made by Respondents at such informal settlement conference, including
8 written documentation created or expressed solely for purposes of settlement negotiations, are
9 inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules regarding
10 informal settlement conferences.) Conversely, any written or oral statement made by Respondents
11 outside an Informal Settlement Conference is not barred from being admitted by the Department in
12 any subsequent hearing.

13 If Respondents do not request a hearing to contest the allegations set forth below, or if after
14 hearing the Superintendent affirms the following Findings of Fact and Conclusions of Law, the
15 Superintendent may affirm her Order commanding Respondents to cease and desist their illegal
16 actions and to take affirmative action to correct the conditions created by the violative conduct
17 pursuant to A.R.S. § 6-137 and to pay a civil money penalty pursuant to A.R.S. § 6-132.

18 **FINDINGS OF FACT**

- 19 1. Respondent Abram, Edwards & York, L.L.C. ("AEY") is an Arizona limited liability
20 corporation that is not authorized to transact business in Arizona as a collection agency
21 within the meaning of A.R.S. §§ 32-1001 *et seq.* The nature of AEY's business is that of
22 soliciting claims for collection and collection of claims owed, due, or asserted to be owed or
23 due within the meaning of A.R.S. § 32-1001(A)(2)(a).
- 24 2. Respondent James E. Fletcher ("Mr. Fletcher") is the President and of AEY and is not
25 authorized to transact business in Arizona as a collection agency within the meaning of
26 A.R.S. §§ 32-1001 *et seq.*

- 1 3. AEY and Mr. Fletcher are not exempt from licensure as a collection agency within the
2 meaning of A.R.S. § 32-1004(A).
- 3 4. On August 24, 2010, Lance Trester (“Mr. Trester”) President of Foreclosure Assistance USA
4 filed a complaint with the Department stating that AEY collected \$7,300.00 from Discover
5 Card in June 2010 but as of August 24, 2010 AEY had failed to remit the funds to him
6 pursuant to their agreement. In fact, on August 12, 2010, AEY informed Mr. Trester that
7 AEY has cash flow problems and will need to make payment arrangements.
- 8 5. On August 26, 2010, the Department sent a letter to AEY stating that the Department had
9 reason to believe that AEY is operating in Arizona without a collection agency license and
10 gave AEY and opportunity to respond by August 24, 2010.
- 11 6. On August 25, 2010, Mr. Fletcher responded to the Department by stating that AEY has been
12 exempt to licensing as a collection agency for seven years. AEY was licensed as a collection
13 agency by the Department from October 16, 2001 until March 23, 2003 but failed to renew
14 alleging that the Department told him that his business is exempt from licensure. On August
15 26, 2010, the Department advised Mr. Fletcher to provide documented he was given an
16 exemption but, to date, AEY has not responded to this request.
- 17 7. On August 25, 2010, the Department recommended that AEY take immediate action to bring
18 the company in full compliance with A.R.S § 32-1001 et. seq. To date, AEY has failed to
19 respond to this request.
- 20 8. On August 30, 2010, the Department received a message that AEY also failed to remit funds
21 collected on behalf of their client Curtis Industries. On August 19, 2010 AEY informed
22 Curtis Industries that AEY “has been in a heavy, ugly reorganization for over 6 months now
23 and we cannot cut any checks.”
- 24 9. Respondents are not authorized to transact business in Arizona as a collection agency within
25 the meaning of A.R.S. §§ 32-1001 *et seq.*
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CONCLUSIONS OF LAW

1. Pursuant to A.R.S. Title 6, Chapter 12 and Title 32, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules, and regulations relating to collection agencies.
2. By the conduct set forth in the Findings of Fact, AEY and Mr. Fletcher violated the following:
 - a. A.R.S. § 32-1021(A) by failing to make an original application to the department upon forms prescribed by the superintendent; and
 - b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without having first applied for and obtained a license.
 - c. A.R.S. § 32-1055(D)(1)&(2) for failing to pay clients for whom monies have been collected and for failing to deposit all client's monies as required in this section.
3. AEY and Mr. Fletcher are not exempt from licensure as a collection agency within the meaning of A.R.S. § 32-1004(A).
4. The violations of applicable laws, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, and (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132.

ORDER

1. AEY and Mr. Fletcher shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. AEY and Mr. Fletcher:
 - a. shall immediately stop all collection agency activity in Arizona.
 - b. shall immediately provide the Department with documented evidence

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disclosing the amounts collected per client and the amounts still owed to each client.

- c. shall immediately provide a current ledger of all active clients
- d. shall immediately provide the Department with your written plan to reimburse each past due client.
- e. shall immediately make restitution to all clients pursuant to the written agreement.


2. Abram, Edwards, & York, L.L.C. and Mr. Fletcher shall immediately pay to the Department a civil money penalty in the amount of twenty five thousand dollars (\$25,000.00). Abram, Edwards, & York, L.L.C. and Mr. Fletcher are jointly and severally liable for payment of the civil money penalty.

3. The provisions of this Order shall be binding upon Respondents, their employees, agents, and other persons participating in the conduct of the affairs of Respondents.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

SO ORDERED this 15th day of September, 2010.

Lauren W. Kingry
Superintendent of Financial Institutions

By: 
Robert D. Charlton
Assistant Superintendent

CONSENT TO ENTRY OF ORDER

1. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the

1 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

2 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
3 the foregoing Findings of Fact, Conclusions of Law, and Order.

4 3. Respondents state that no promise of any kind or nature has been made to induce
5 them to consent to the entry of this Order, and that they have done so voluntarily.

6 4. Respondents agree to cease from engaging in the violative conduct set forth above in
7 the Findings of Fact and Conclusions of Law.

8 5. Respondents acknowledge that the acceptance of this Agreement by the
9 Superintendent is solely to settle this matter and does not preclude this Department, any other agency
10 or officer of this state or subdivision thereof from instituting other proceedings as may be
11 appropriate now or in the future.

12 6. Mr. James E. Fletcher on behalf of Abram, Edwards, & York, L.L.C., and himself,
13 represents that he is the President, and that, as such, has been authorized by Abram, Edwards, &
14 York, L.L.C. to consent to the entry of this Order on its behalf.

15 7. Respondents waive all rights to seek judicial review or otherwise to challenge or
16 contest the validity of this Cease and Desist Order.

17 DATED this _____ day of _____, 2010.

18
19 By: _____
James E. Fletcher, President
Abram, Edwards, & York, L.L.C.

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21
22 ORIGINAL of the foregoing filed this 15th
day of September, 2010, in the office of:

23 Lauren W. Kingry
24 Superintendent of Financial Institutions
Arizona Department of Financial Institutions
25 ATTN: Susan Longo
2910 N. 44th Street, Suite 310
26 Phoenix, AZ 85018

1 COPY mailed/delivered same date to:

2 Craig A. Raby
3 Assistant Attorney General
4 Office of the Attorney General
5 1275 West Washington
6 Phoenix, AZ 85007

7 Robert D. Charlton, Assistant Superintendent
8 Richard Traveler, Senior Examiner
9 Arizona Department of Financial Institutions
10 2910 N. 44th Street, Suite 310
11 Phoenix, AZ 85018

12 AND COPY DELIVERED/SERVED SAME DATE
13 by Process Server, to:

14 James E. Fletcher, President
15 Abram, Edwards, & York, L.L.C.
16 1650 N. Kolb Road Suite 132
17 Tucson, AZ 85715

18 AND COPY MAILED SAME DATE by
19 Certified Mail, Return Receipt Requested, to:

20 James E. Fletcher, President
21 Abram, Edwards, & York, L.L.C.
22 1650 N. Kolb Road Suite 132
23 Tucson, AZ 85715

24 By: *Susan Long*

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