

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 10F-BD077-SBD

3 **GOLD KEY CREDIT, INC. AND ROBERT E.**
4 **JENKINS, III, PRESIDENT**
5 16070 Aviation Loop Drive
6 Brooksville Florida 34604-6802

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

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 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
3 Department will be present (the "Department Representative"). Please note that in requesting an
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the
5 Department Representative in the final administrative decision of this matter, if it is not settled. In
6 addition, any written or oral statement made by Respondents at such informal settlement conference,
7 including written documentation created or expressed solely for purposes of settlement negotiations,
8 is inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
18 132; (3) an order to pay restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*,
19 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or
20 proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§
21 6-123 and 6-131.

22 **FINDINGS OF FACT**

23 1. Respondent Gold Key Credit, Inc. ("Gold Key") is a Florida corporation that is not
24 and was not, at any time material herein, authorized to transact business in Arizona as a collection
25 agency within the meaning of A.R.S. §§ 32-1001, *et seq.* The nature of Gold Key's business is that
26 of soliciting claims for collection and collection of claims owed, due or asserted to be owed or due

1 within the meaning of A.R.S. § 32-1001(2).

2 2. Respondent Robert E. Jenkins, III (“Mr. Jenkins”) is the President of Gold Key and is
3 not and was not, at any time material herein, authorized to transact business in Arizona as a
4 collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.*

5 3. Gold Key and Mr. Jenkins are not exempt from licensure as a collection agency
6 within the meaning of A.R.S. §§ 32-1004.

7 4. Respondents previously held an Arizona collection agency license, number CA
8 0907094, from April 5, 2005 through February 1, 2006, when it was terminated due to non-renewal.

9 5. On February 11, 2009, the Department received a complaint from an Arizona resident
10 who stated that the original creditor of her complaint is a hospital who had rejected payment and
11 instructed her to re-file with insurance. The Complainant claims that on July 30, 2008, she received
12 a harassing telephone call to her Arizona cellular telephone number at 5:23 a.m. from Gold Key, and
13 provided telephone records from T-Mobile to show an incoming call at 5:23 a.m. from the number 1-
14 800-218-3280. The Complainant also claims that she was unaware of who Gold Key was, therefore,
15 she refused to provide the caller with her social security number.

16 6. The Complainant claims that on or about September 8, 2008, she received a
17 voicemail message from Ted Murphy of Gold Key at 6:09 a.m.

18 7. The Complainant also claims that Gold Key has repeatedly called her parents’
19 residence in New York, although she has not lived in New York for years.

20 8. The Complainant claims that Gold Key has also updated a lien on her credit report in
21 July 2008 that lists her current Arizona residence.

22 9. On or about February 23, 2009, the Department sent a letter to Gold Key stating that
23 the Department had reason to believe that Gold Key was operating in Arizona without the benefit of
24 a collection agency license, and gave Gold Key an opportunity to respond by March 10, 2009.

25 10. On March 3, 2009, the Department granted an extension until March 20, 2009 for
26 Gold Key’s attorneys to respond.

1 11. On or about March 11, 2009, the Department received a letter from Mayas D.
2 Erickson ("Ms. Erickson") of Sessions Fishman Nathan & Israel, LLP on behalf of Gold Key. Ms.
3 Erickson stated, in part, "...As Gold Key would no longer be contacting Arizona consumers or
4 servicing an Arizona client, Gold Key did not renew its Arizona license. Gold Key suppressed
5 Arizona area codes and addresses within its computer system to ensure that Gold Key would not
6 attempt contact with Arizona consumers... Any contact with Arizona consumers after Gold Key's
7 license expired was unintentional, and occurred despite procedures in place to avoid such contact."

8 12. As of August 26, 2009, the Department had not received a collection agency license
9 application from Gold Key.

10 13. On March 18, 2009 at 2:50 p.m., Lori Mann, Examiner at the Department, called and
11 confirmed that 1-800-218-3280 is a valid and operating telephone number for Gold Key.

12 14. These Findings of Fact shall also serve as Conclusions of Law.

13 **CONCLUSIONS OF LAW**

14 1. Pursuant to A.R.S. §§ 32-1001, *et seq.*, the Superintendent has the authority and the
15 duty to regulate all persons engaged in the collection agency business and with the enforcement of
16 statutes, rules, and regulations relating to collection agencies.

17 2. The conduct set forth in the Findings of Fact by Gold Key Credit, Inc. and Mr.
18 Jenkins constitutes the conduct of a collection agency in the State of Arizona without having first
19 applied for and obtained a collection agency license pursuant to Chapter 9 of Title 32, in violation of
20 A.R.S. §§ 32-1021(A) and 32-1055(A).

21 3. Respondents do not meet any of the exemptions to the licensing requirements set
22 forth in A.R.S. § 32-1004(A).

23 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
24 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
25 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
26 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and

1 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) an order
2 to pay restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§
3 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or proper for the
4 enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-
5 131.

6 **ORDER**

7 1. Gold Key Credit, Inc. and Mr. Jenkins shall immediately stop all collection agency
8 activity in Arizona until such time as Respondents have obtained a collection agency license from
9 the Superintendent as prescribed by A.R.S. § 32-1021.

10 2. Respondents shall immediately pay to the Department a civil money penalty in the
11 amount of **ten thousand dollars (\$10,000.00)**.

12 3. Mr. Jenkins shall comply with all Arizona statutes and rules regulating Arizona
13 collection agencies (A.R.S. §§ 32-1001, *et seq.*).

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

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

19 SO ORDERED this 16th day of December, 2009.

20 Thomas L. Wood
21 Acting Superintendent of Financial Institutions

22 By: 

23 Thomas J. Giallanza
24 Acting Deputy Superintendent of Financial Institutions

24 **CONSENT TO ENTRY OF ORDER**

25 1. Respondents acknowledge that they have been served with a copy of the foregoing
26 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 immediately cease from engaging in the violative conduct set
7 forth in 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. Jenkins, on behalf of Gold Key Credit, Inc. and himself, represents that he is the
13 President and that, as such, has been authorized by Gold Key Credit, Inc. to consent to the entry of
14 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 Order.

17 DATED this _____ day of _____, 2009.

18
19 By: _____
20 Robert E. Jenkins, III, President
21 Gold Key Credit, Inc.

22 ORIGINAL of the foregoing filed this 16th
23 day of December, 2009, in the office of:

23 Thomas L. Wood
24 Acting Superintendent of Financial Institutions
25 Arizona Department of Financial Institutions
26 ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 COPY mailed/delivered same date to:

2 Erin O. Gallagher
3 Assistant Attorney General
4 Office of the Attorney General
5 1275 West Washington
6 Phoenix, AZ 85007

7 Thomas J. Giallanza, Acting Deputy Superintendent
8 Lori Mann, Senior Examiner
9 Arizona Department of Financial Institutions
10 2910 N. 44th Street, Suite 310
11 Phoenix, AZ 85018

12 AND COPY MAILED SAME DATE by
13 Certified Mail, Return Receipt Requested, to:

14 Robert E. Jenkins, III, President
15 Gold Key Credit, Inc.
16 16070 Aviation Loop Drive
17 Brooksville, FL 34604-6802
18 Respondents

19 CT Corporation System, Statutory Agent for:
20 Gold Key Credit, Inc.
21 2394 E. Camelback Road
22 Phoenix, AZ 85016

23

24 By: 
25 #475148

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