

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 12F-BD027-SBD

3 **INNOVATIVE COLLECTION CONCEPTS,**  
4 **INC dba NATIONAL CHILD SUPPORT**  
5 **and MICHAEL HIGGINS, CHIEF**  
6 **EXECUTIVE OFFICER**  
7 **11353 Reed Hartman Highway, Suite #100**  
8 **Cincinnati, OH 45241**

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

9 Respondents.

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

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

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

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

14 If Respondents do not request a hearing, this Order shall become final. If Respondents  
15 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
16 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the  
17 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time  
18 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,  
19 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-  
20 132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; and (4)  
21 an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating  
22 collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

### 23 FINDINGS OF FACT

24 1. Respondent Innovative Collection Concepts, Inc., dba National Child Support  
25 ("NCS") is an Ohio corporation operating as a collection agency, who is not and was not, at any time  
26

1 material herein, authorized to transact business in Arizona as a collection agency within the meaning  
2 of A.R.S. § 32-1001 *et seq.* The nature of NCS's business is that of a collection agency within the  
3 meaning of A.R.S. § 32-1001(2).

4 2. Respondent Michael Higgins ("Mr. Higgins") is the Chief Executive Officer of NCS  
5 and is not authorized to transact business in Arizona as a collection agency within the meaning of  
6 A.R.S. § 32-1001 *et seq.*

7 3. NCS and Mr. Higgins are not exempt from licensure as a collection agency within the  
8 meaning of A.R.S. § 32-1004.

9 4. A.R.S. § 32-1001(2) defines "collection agency" as any person who "engage[s]  
10 directly or indirectly in soliciting claims for collection or in collection of claims owed, due or  
11 asserted to be owed or due." A.R.S. § 32-1001(2) defines the term "claim," in general, as "an  
12 obligation for the payment of money or its equivalent and a sum or sums owed, due or asserted to be  
13 owed or due to another, for which a person is employed to demand payment and collect or enforce  
14 such payment."<sup>1</sup> *See also* A.A.C. Rule 20-4-1501 (defining the term "debt").

15 5. On August 19, 2011, the Department received a consumer complaint from a Phoenix  
16 resident ("Complainant"), alleging that NCS is conducting collections activity against him in the  
17 state of Arizona without a license,<sup>2</sup> and requesting that NCS be ordered to cease and desist all  
18 collection agency activity against him. Complainant provided several letters received from NCS  
19 showing collection agency activity.

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21 <sup>1</sup> The term "obligation" has been broadly construed under Arizona law to include an  
22 agreement or acknowledgement of liability to pay a certain amount whether the duty is imposed by  
23 law, contract or social relations. *See State v. Taylor*, 223 Ariz. 486, 488-89, 224 P.3d 983, 985-86  
(App. 2010).

24 <sup>2</sup> Upon information and belief, Complainant reported that NCS signed an agreement with his  
25 ex-wife, pursuant to which NCS is entitled to 50% of any payment received from Complainant.  
26 NCS's website likewise states that NCS "only get[s] paid if [NCS] can collect child support," *see*  
<http://www.nationalchildsupport.com>, which indicates that NCS is not collecting its own debt having  
purchased a debt obligations, but is rather undertaking collections on behalf of third parties.

1           6.       On November 1 2010, NCS wrote to Complainant, stating that they had been retained  
2 to collect delinquent child support in the amount of \$28,451.50. NCS informed Complainant that if  
3 he failed to obey the terms of the child support order, NCS could take enforcement actions such as  
4 “income withholding, foreclosure, placing liens on property, license suspension or contempt of  
5 court,” and that “[a]ny remaining or undisputed portion of the above listed balance w[ould] be  
6 reported to the national credit bureaus after 45 days from the date of this notice.” NCS further  
7 informed Complainant that it had started a full investigation into his personal and financial  
8 background had begun and that “[t]his investigation includes reviewing [Complainant’s] credit  
9 report, gathering financial and any other location information through “possible creditors,  
10 employers, tax assessors, relatives and neighbors.”

11           7.       On November 19, 2010, NCS sent a second letter to Complainant informing him *inter*  
12 *alia* that if the delinquent court ordered child support was not paid, the case would be “prosecuted  
13 without further notice, which may result in further collection or legal action.”

14           8.       On November 27, 2010, NCS sent a third letter to Complainant as the last courtesy  
15 notification provided to settle the case on a voluntary basis, informing him that NCS had verified  
16 that Complainant owned the property located in Phoenix, Arizona. NCS’s letter referenced a copy  
17 of the court order stating that Complainant owed \$6,515.05 in principal and \$21,936.45 in interest as  
18 of October 12, 2010. The letter further advised Complainant of the standard legal actions that “can  
19 transpire should this case be prosecuted.” The letter stated that if the case was settled voluntarily,  
20 NCS would not report the record of the default to any of the nation’s credit bureaus and the  
21 Complainant would not have to pay any attorney’s fees or have his property or assets attached. NCS  
22 stated that it “normally gets these attorneys fees awarded when a case goes to court.”

23           9.       Complainant further alleged that NCS had hired a Phoenix-based attorney to initiate a  
24 legal proceeding against him, seeking that all collected payments be mailed to the P.O. Box address  
25 of NCS at: P.O. Box 42437, Cincinnati, OH 45242. See [http://www.national](http://www.nationalchildsupport.com/contactus.asp)  
26 [childsupport.com/contactus.asp](http://www.nationalchildsupport.com/contactus.asp).



1 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the  
2 suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; and (4) an order or  
3 any other remedy necessary or proper for the enforcement of statutes and rules regulating collection  
4 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

5 **ORDER**

6 1. NCS and Mr. Higgins shall immediately stop the violations set forth above in the  
7 Findings of Fact and Conclusions of Law. NCS and Mr. Higgins:

8 a. Shall immediately stop engaging in activities of a collection agency without having  
9 first applied for and obtained a license.

10 b. Shall immediately stop engaging in unfair or misleading practices, resorting to any  
11 oppressive, vindictive or illegal means or methods of collection and threatening to  
12 collect an attorneys' fee or misrepresenting the remedies available to collection  
13 agency.

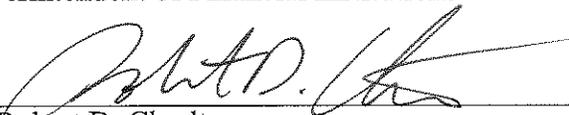
14 5. Respondents shall immediately pay to the Department a civil money penalty in the  
15 amount of **ten thousand dollars (\$10,000.00)**.

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

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

21 SO ORDERED this 7th day of October 2011.

22 Lauren W. Kingry  
23 Superintendent of Financial Institutions

24 By   
25 Robert D. Charlton  
26 Assistant Superintendent of Financial Institutions



1 ORIGINAL of the foregoing filed this 7th  
2 day of October, 2011, in the office of:

3 Lauren W. Kingry  
4 Superintendent of Financial Institutions  
5 Arizona Department of Financial Institutions  
6 ATTN: June Beckwith  
7 2910 N. 44th Street, Suite 310  
8 Phoenix, AZ 85018

9 COPY mailed/delivered same date to:

10 Natalia A. Garrett, Assistant Attorney General  
11 Office of the Attorney General  
12 1275 W. Washington Street  
13 Phoenix, AZ 85007

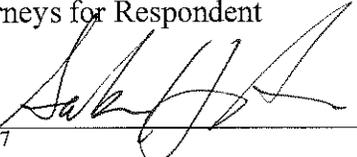
14 Robert D. Charlton, Assistant Superintendent  
15 Lori Mann, Senior Examiner  
16 ATTN: Sabrina Hampton  
17 Arizona Department of Financial Institutions  
18 2910 N. 44th Street, Suite 310  
19 Phoenix, AZ 85018

20 AND COPY MAILED SAME DATE by  
21 Certified Mail, Return Receipt Requested, to:

22 Innovative Collection Concepts, Inc.,  
23 dba National Child Support  
24 ATTN: Michael Higgins, CEO  
25 11353 Reed Hartman Highway, Suite 100  
26 Cincinnati, OH 45241  
27 Respondent

28 Michael Higgins, CEO  
29 National Child Support  
30 11353 Reed Hartman Highway, Suite 100  
31 Cincinnati, OH 45241  
32 Respondent

33 Douglas A. Schwarz, Esq.  
34 3414 Edwards Rd., Suite 7  
35 Cincinnati, OH 45208  
36 Attorneys for Respondent

37 By:   
38 2301367