

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Collection Agency License of: No. 15F-BD002-BNK

3 **RESURGENT CAPITAL SERVICES, L.P.**
4 55 Beattie Place, Suite 110MS 425
Greenville, SC 29601

CONSENT ORDER

5 Petitioner.

6
7 On July 11, 2014, the Arizona Department of Financial Institutions (“Department”)
8 issued an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of
9 Order, alleging that Petitioner had violated Arizona law. Wishing to resolve this matter in lieu
10 of an administrative hearing, and without admitting the Findings of Fact or Conclusions of
11 Law, Petitioner consents to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Resurgent Capital Services, L.P. (“Resurgent”) is a Delaware limited
14 partnership authorized to transact business in Arizona as a collection agency, license
15 number CA-0905404, within the meaning of A.R.S. § 32-1001, *et seq.* The nature of
16 Resurgent’s business is that of soliciting claims for collection and collection of claims owed,
17 due, or asserted to be owed, or due, within, the meaning of A.R.S. § 32-1001(2)(a).

18 2. Resurgent is not exempt from licensure as a collection agency within the
19 meaning of A.R.S. § 32-1004.

20 3. The Department conducted an examination of Resurgent on May 1, 2013, and
21 noted the following:

22 a. In its 2012 and 2013 license renewal applications, Resurgent disclosed an
23 administrative action brought by the Maryland State Collection Agency
24 License Board, in the Office of the Commissioner of Financial Regulation,
25 captioned *In the Matter of LVNV Funding LLC and Resurgent Capital*
26 *Services Limited Partnership*, No. CFR-FY2012-012, but did not provide all
27 of the information on that matter as requested in the license renewal
28 applications, including copies of charges, orders, or consent agreements.

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- b. One of Resurgent’s trust accounts was mislabeled for three months in 2013. This trust account was used for a former client, and Resurgent thereafter used this account for a new client’s trust activities, while still labeled under the former client’s name. The same account also was overdrawn a total of four (4) instances in the three-month period.
- c. The Department reviewed twenty-two (22) consumer complaints filed against Resurgent from 2007-2013. The complaints were filed with the Department, the Arizona Attorney General’s Office, the Better Business Bureau of Upstate South Carolina, or the South Carolina Department of Consumer Affairs. The Department believes that the complaints allege various violations of Titles 6 and 32 of the Arizona Revised Statutes and the rules promulgated thereunder.
- d. Resurgent disputes the allegations in the twenty two (22) complaints for various reasons, including that the complaints were abandoned, resolved or no enforcement action was taken.
- e. Resurgent affirmatively states that it will undertake compliance with all Arizona statutes and rules.

4. These Findings of Fact shall also serve as Conclusions of Law.

CONCLUSIONS OF LAW

- 1. Pursuant to A.R.S. Title 6 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. The conduct of Resurgent, as alleged above, constitutes a violation of the statutes and rules governing collection agents, including: A.R.S. § 6-124(C); A.R.S. § 32-1051(3) and (4); A.R.S. § 32-1053(A)(2), (3), (5) and (6); A.A.C. R20-4-1504(D); A.A.C. R20-4-1505; A.A.C. R20-4-1513; A.A.C. R20-4-1514; A.A.C. R20-4-1521;
- 3. The Department contends that the violations alleged above constitute grounds

1 for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and
2 desist from violative conduct and to correct the conditions resulting from any unlawful acts,
3 practices, and transactions; (2) the imposition of a financial assessment under Title 6 of the
4 Arizona Revised Statutes; and (3) an order or any other remedy necessary or proper for the
5 enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123
6 and 6-131.

7 ORDER

8 1. Resurgent shall immediately stop the violations alleged in the Findings of Fact
9 and Conclusions of Law. Resurgent:

- 10 a. Shall provide on its license renewal applications a copy of any order entered
11 against it by an administrative agency of Arizona, the federal government or
12 another state of the United States; and shall not make a material
13 misstatement or omission on the application for a license or any document
14 required to be filed with the Superintendent;
- 15 b. Shall not transfer funds to the operating account in excess of trust funds
16 necessary to pay clients, and shall not mislabel operating accounts.
- 17 c. Shall not pay any unauthorized funds from its trust account(s) except as
18 provided by law, expressly authorized in its contracts with clients, or as
19 authorized in writing by the Superintendent; and shall amend its accounting
20 practices to ensure no trust shortages or commingling of funds occurs.
- 21 d. Shall obtain and be able to inform the debtor, within five (5) days after the
22 initial communication with the debtor, the name of the creditor, the time and
23 place of the creation of the debt, the merchandise, services, or other value
24 provided in exchange for the debt, and the date when the account was turned
25 over to the Petitioner by the creditor.
- 26 e. Shall give the debtor access to any of Petitioner's records that contain the
27 information listed in A.A.C. R20-4-1514(A).
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f. Shall, at debtor's request, provide, free of charge, a copy of any of Petitioner's records that contain the information listed in A.A.C. R20-4-1514(A).

g. Shall not contact a debtor, directly or indirectly, if the debtor gives Petitioner written notice that the debtor refuses to pay the debt, or wants Petitioner to stop all further communication with the debtor.

h. Shall give copies of Resurgent's evidence of the debt to the debtor or the debtor's attorney on request, and after providing the evidence shall investigate any claim by the debtor or the debtor's attorney that the debtor has been misidentified, the debt has been paid, the debt has been discharged in bankruptcy, or based on any other reasonable claim, that the debt is not owed before continuing its collection efforts against the debtor.

i. Shall, upon request of the Superintendent, make its books and records available for inspection and examination by the Superintendent or the Superintendent's Examiners, and shall make the requested records available within three (3) working days after the Superintendent demands the records.

2. Resurgent shall immediately pay to the Department, pursuant to A.R.S. § 6-132, an assessment in the amount of ninety-five thousand dollars (\$95,000).

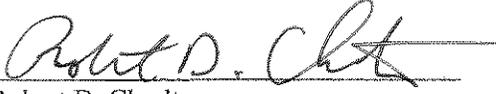
3. Petitioner shall comply with all Arizona statutes and rules regulating Arizona collection agencies (A.R.S. §§ 32-1001, *et seq.*).

4. The provisions of this Order shall be binding upon Petitioner, its employees, agents, and other persons participating in the conduct of the affairs of Petitioner.

5. 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.

1 SO ORDERED this 23 day of October, 2014.

2 Lauren W. Kingry
3 Superintendent for Financial Institutions

4 By: 
5 Robert D. Charlton
6 Assistant Superintendent of Financial Institutions

7 **CONSENT TO ENTRY OF ORDER**

8 1. Petitioner acknowledges that it has been served with a copy of the foregoing
9 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the
10 same, is aware of its right to an administrative hearing in this matter, and has waived the same.

11 2. Petitioner admits the jurisdiction of the Superintendent and consents to the entry
12 of the foregoing Findings of Fact, Conclusions of Law, and Order.

13 3. Petitioner states that no promise of any kind or nature has been made to induce
14 it to consent to the entry of this Order, and that it has done so voluntarily.

15 4. Petitioner agrees not to engage in the violative conduct set forth in the Findings
16 of Fact and Conclusions of Law.

17 5. Petitioner acknowledges that the acceptance of this Agreement by the
18 Superintendent is solely to settle this matter and does not preclude this Department, any other
19 agency or officer of this state or subdivision thereof from instituting other proceedings as may
20 be appropriate now or in the future.

21 6. Timothy M. Grant, on behalf of Resurgent Capital Services, L.P., represents that
22 he is the President and that, as such, has been authorized by Resurgent Capital Services, L.P. to
23 consent to the entry of this Order on its behalf.

24 7. Petitioner waives all rights to seek judicial review or otherwise to challenge or
25 contest the validity of this Consent Order.

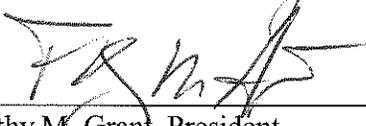
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DATED this 17 day of October, 2014.

Resurgent Capital Services, L.P.

By: 
Timothy M. Grant, President

ORIGINAL of the foregoing filed this 30th
day of October, 2014, in the office of:

Lauren W. Kingry
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Sabrina Zimmerman
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Craig A. Raby, Assistant Attorney General
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Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Lori Mann, Examiner-in-Charge
Arizona Department of Financial Institutions
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Phoenix, AZ 85018

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

Resurgent Capital Services, L.P.
c/o Timothy M. Grant, President
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Petitioner

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