ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Unlicensed Activity of: **AIS SERVICES, LLC.** 8996 Miramar Road, Suite 220 San Diego, California 92126, Respondents.	No. 10F-BD144-SBD **ORDER TO CEASE AND DESIST; NOTICE OF OPPORTUNITY FOR HEARING; CONSENT TO ENTRY OF ORDER**

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

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

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

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

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

If Respondents do not request a hearing, this Order shall become final. If Respondents request a hearing, the purpose of the hearing shall be to determine if grounds exist 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; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) an order to pay restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

FINDINGS OF FACT

1. Respondent AIS Services LLC ("AIS") is a Delaware limited liability company that is not and was not, at any time material herein, authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.* The nature of AIS's business is that of soliciting claims for collection and collection of claims owed, due or asserted to be owed or

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

2. Bennett Capital Management, Inc. ("BCM") is the owner of AIS and is not and was not, at any time material herein, authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.*

3. Respondent Peter Bennett ("Mr. Bennett") is the Managing Member of BCM and is not and was not, at any time material herein, authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.*

4. AIS and Mr. Bennett are not exempt from licensure as a collection agency within the meaning of A.R.S. §§ 32-1004.

5. On May 6, 2009, the Department received a complaint filed against AIS. The complainant disputed the debt contained in a collection notice sent by AIS on January 4, 2009.

6. On June 11, 2009, AIS submitted a collection agency application to the Department.

7. On September 23, 2009, the Department received a letter from AIS requesting to withdraw the pending application.

8. On September 22, 2009, the Department sent a letter to AIS at its primary address in San Diego, California indicating that the Department has reason to believe that AIS violated or is violating applicable Arizona laws and/or rules and is engaging or has engaged in the operation of a collection agency without the benefit of a license pursuant to A.R.S. § 32-1055(A). The Department gave AIS an opportunity to respond to the letter by October 13, 2009.

9. On October 28, 2009, the Department sent a second letter to AIS via certified mail indicating that a response had not been received regarding the September 22, 2009 letter.

10. On November 2, 2009, the Department received a return receipt for the certified letter mailed on October 28, 2009.

11. On November 6, 2009, the Department received a facsimile from Mr. Manuel H. Newburger of Barron, Newburger and Sinsley, PLLC stating that he sent a letter to the Department on October 13, 2009. The attached October 13 letter stated:

a. "AIS...twice previously filed applications for collection agency licensure in Arizona. The first application was filed in 2006, but that application was shortly thereafter withdrawn. That withdrawal was made unbeknownst to AIS management, as the application was withdrawn by a lower-level clerk previously employed by AIS;"

b. "A recent assessment of our licensure status led AIS making a second application earlier this year, and in connection with that application, AIS received an inquiry from the Arizona Department of Financial Institutions with a response deadline of September 13, which deadline was extended to September 23, 2009, at which time AIS was asked to determine and advise your office as to whether and to what extent and pre-license collection activities may have occurred;" and

c. "Any unlicensed collection by AIS in Arizona was entirely unintended. Our management believed, until recently, that we had complied with our obligations in 2006. AIS regards compliance with the various statutes governing our activity as our most urgent obligation..."

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

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. Title 6, Chapter 12 and Title 32, Chapter 9, the Superintendent has the authority and the 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 set forth in the Findings of Fact by AIS and Mr. Bennett constitutes the conduct of a collection agency in the State of Arizona without having first applied for and obtained a collection agency license pursuant to Chapter 9 of Title 32, in violation of A.R.S. §§ 32-1021(A) and 32-1055(A).

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

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

ORDER

1. AIS and Mr. Bennett shall immediately stop all collection agency activity in Arizona until such time as Respondents have obtained a collection agency license from the Superintendent as prescribed by A.R.S. § 32-1021.

2. Respondents shall immediately pay to the Department a civil money penalty in the amount of **five thousand dollars ($5,000.00)**.

3. AIS and Mr. Bennett 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 Respondents, their employees, agents, and other persons participating in the conduct of the affairs of Respondents.

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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.

SO ORDERED this 22nd day of April, 2010.

Lauren W. Kingry
Superintendent of Financial Institutions

By: _____
Robert D. Charlton
Assistant Superintendent of Financial Institutions

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

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

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

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

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

6. Mr. Peter Bennett, on behalf of AIS Services LLC and himself, represents that he is the Managing Member of the owner of AIS, Bennett Capital Management, Inc., and that, as such, has been authorized by AIS Services LLC to consent to the entry of this Order on its behalf.

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

DATED this _____ day of _____, 2010.

By:_____
Peter Bennett, Managing Member
Bennett Capital Management, Inc., Owner
AIS Services LLC

ORIGINAL of the foregoing filed this 22nd day of April, 2010, in the office of:

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

COPY mailed/delivered same date to:

Erin O. Gallagher
Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Roy Wiley, Senior Examiner
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

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

Peter Bennett , Managing Member
AIS Services LLC
8996 Miramar Rd., Ste. 220
San Diego, CA 92126
Respondents

CT Corporation System, Statutory Agent for:
AIS Services LLC
2394 E. Camelback Road
Phoenix, AZ 85016

By: Susan Longo
#712396