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ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Collection Agency License of:	No. 09F-BD083-BNK
CHILD SUPPORT NETWORK, INC. AND DANIEL M. JACOBSON, PRESIDENT 212 East Osborn Road, Suite 210 Phoenix, Arizona 85012	**NOTICE OF HEARING TO REVOKE**
Petitioners.	(Assigned to ALJ Lewis Kowal)

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for September 3, 2009, at 8:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners 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) the suspension or revocation of Petitioners' license pursuant to A.R.S. § 32-1053; (4) 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 (5) 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.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis Kowal, at the address and phone number listed

above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law Judge is specifically prohibited from entering.

Motions to continue this matter shall be made in writing to the Administrative Law Judge **not less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be made by a court reporter. The transcription of the hearing proceedings by the court reporter shall be the official record for purposes of the Administrative Law Judge's Recommended Decision and the Superintendent's Final Decision and Order. Any party that requests a transcript of the proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Erin O. Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona 85007.

NOTICE OF APPLICABLE RULES

On February 7, 1978, the Arizona Department of Financial Institutions (the "Department") adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting

forth the rules of practice and procedure applicable in contested cases and appealable agency actions before the Superintendent. The hearing will be conducted pursuant to these rules and the rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through R2-19-122. A copy of these rules is enclosed.

Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20) days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position or defense and shall specifically admit or deny each of the assertions contained in this Notice of Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioners shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised in the answer is deemed waived.

If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be deemed in default and the Superintendent may deem the allegations in this Notice of Hearing as true and admitted and the Superintendent may take whatever action is appropriate, including suspension, revocation, denial of Petitioners' license or affirming an order to Cease and Desist and imposition of a civil penalty or restitution to any injured party.

Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection & Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

Persons with disabilities may request reasonable accommodations such as interpreters, alternative format or assistance with physical accessibility. Requests for 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.

COMPLAINT

1. Petitioner Child Support Network, Inc. ("CSN") is an Arizona corporation that is authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq*. The nature of CSN's business is that of a collection agency within the meaning of A.R.S. § 32-1001(2).

2. Petitioner Daniel M. Jacobson ("Mr. Jacobson") is the President of CSN and is authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.*

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

4. On June 26, 2006, the Department received a consumer complaint from a Florida resident ("Complainant") who alleged that CSN exhibited dishonesty, gross negligence, made a disclosure to a third party, and made misrepresentations while attempting to collect a debt. Complainant stated that CSN misrepresented the remedies available to CSN and threatened to fax a request to the motor vehicle division and have Complainant's driver's license suspended for failure to pay the debt. Complainant included a recorded disc as evidence. Complainant stated that CSN's collector continued to contact his employer after being ordered by the employer to cease this practice. The recording provided by Complainant also confirmed that CSN threatened to fax a wage garnishment Order to Complainant's human resources department if Complainant failed to pay.

5. According to Complainant, CSN made representations to Complainant's father that Complainant would be jailed if his father failed to pay the debt on Complainant's behalf. Complainant stated that out of fear, his father wrote a check to CSN for two thousand, one hundred twenty six dollars ($2,126.00), which equaled ten percent (10%) of the outstanding debt.

6. On June 29, 2006, the Department mailed a copy of the consumer complaint to CSN and requested a response within ten (10) days regarding matters described by Complainant.

7. On July 7, 2006, CSN responded that the case was being litigated in the First Judicial Court

in Florida with Complainant as petitioner and CSN as respondent. The Complainant filed a Notice of Voluntary Dismissal in case number 05CA437 in the Circuit Court of the First Judicial Circuit in and for Okaloosa County, Florida on August 17, 2006.

8. On November 28, 2006, the Department mailed a letter to Complainant and requested copies of any further documentation regarding this matter.

9. Based upon the above findings, the Department issued and served upon CSN and Mr. Jacobson an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease and Desist Order") on May 21, 2009.

10. On June 24, 2009, the Department received Petitioners' Request For Hearing/Notice of Appeal to appeal the Cease and Desist Order.

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. By the conduct set forth in the Complaint, Child Support Network, Inc. and Mr. Jacobson violated the following:

a. A.R.S. § 32-1051(4) and A.A.C. R20-4-1510(C), by engaging in unfair or misleading practices, resorting to any oppressive, vindictive or illegal means or methods of collection and threatening to take any action that cannot legally be taken or that is not intended to be taken;

b. A.A.C. R20-4-1512(B), by informing a third party relative about an obligation and pressuring the third party relative to pay for the obligation; and

c. A.A.C. R20-4-1511(A), by using oppressive and unauthorized tactics when attempting to collect a debt.

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

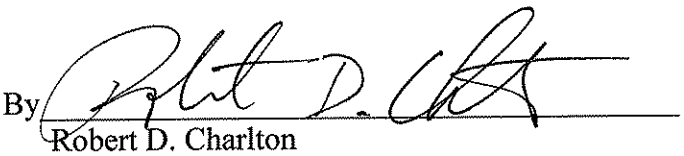
4. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, 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) the suspension or revocation of Petitioners' license pursuant to A.R.S. § 32-1053; (4) 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 (5) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and 6-131.

5. Pursuant to A.R.S. § 6-132, Petitioners' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars ($5,000.00) for each violation for each day.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may affirm the May 21, 2009, Cease and Desist Order pursuant to A.R.S. § 6-137; impose a civil money penalty pursuant to A.R.S. § 6-132; suspend or revoke Petitioners' license pursuant to A.R.S. § 32-1053; order payment of 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 order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and 6-131.

DATED this 29 day of July, 2009.

Felecia A. Rotellini
Superintendent of Financial Institutions

By 
Robert D. Charlton
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 29th day of July, 2009, in the office of:

Felecia A. Rotellini, Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed same date to:

Lewis Kowal, Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

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

Thomas J. Giallanza, Assistant Superintendent
Robert D. Charlton, Assistant Superintendent
Richard Traveler, 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:

Cynthia L. Fulton, Esq.
Fulton, Friedman & Gullace LLP
130 N. Central Ave., Ste. 200
Phoenix, AZ 85004
Attorneys for Petitioners

By: Susan Longo
PHX-AGN-2009-0199; 499036