



June 2, 2021

Agence De Recouvrement Solutions Inc. / Collection Agency Solutions Inc.  
930 Rue Jacques-Cartier Est. 3e étage Chicoutimi  
Saguenay, Quebec  
G7H7K9

### **Important Notice**

**RE: Notice of Licence Suspension and License Conditions– Debt Collection #70324  
Annual Financial Statement**

### **INTRODUCTION**

Agence De Recouvrement Solutions Inc. / Collection Agency Solutions Inc. (“the respondent”) is a debt collector, licensed to engage in the activity of debt collection under Consumer Protection BC license number 70324 (“the license”). Debt collectors are required under the Debt Collection and Repayment Regulation (“the regulation”) to submit an annual financial statement within 90 days of the end of the fiscal period.

On April 30, 2021, Agence De Recouvrement Solutions Inc. / Collection Agency Solutions Inc. was provided with a Notice of Pending Action (“the notice”) advising that this office was taking action respecting the above noted licence for allegedly violating section 10 (1) of the regulation.

As the Director of Business Practices and Classification, I have been delegated the authority of the Director to decide if a contravention to the legislation has taken place and what consequences, if any, should flow from a confirmed contravention.

### **OPPORTUNITY TO BE HEARD**

Prior to action being taken under the *Business Practices and Consumer Protection Act* (“BPCPA”) and the regulation, the person or business subject to the action must be provided with an opportunity to be heard.

An opportunity to be heard was given in the notice, which was emailed to the respondent on April 30, 2021. The notice outlined the allegation and provided the respondent with the opportunity to submit a written response. The written response was due by May 14, 2021.

The respondent did not provide a response to the allegation.

I conclude that the requirement for an opportunity to be heard has been completed.

### **ALLEGED CONTRAVENTION**

- (1) Failure to provide the required annual financial statement within 90 days of the fiscal year ending December 31, 2020, contrary to section 10 (1) of the regulation.

### **CONSUMER PROTECTION BC**

#200 – 4946 Canada Way  
Burnaby, B.C. V5G4H7

**P** 604.320.1664 **F** 250.920.7181 **TF** 1.888.564.9963

**E** [businesspractices@consumerprotectionbc.ca](mailto:businesspractices@consumerprotectionbc.ca) **W** [www.consumerprotectionbc.ca](http://www.consumerprotectionbc.ca)

## LEGISLATION

### Business Practices and Consumer Protection Act

#### Part 9

#### *Actions by director respecting licence*

**146** (1) *The director may*

- (a) *refuse to issue or renew a licence,*
- (b) *suspend or cancel a licence, or*
- (c) *amend, impose or rescind conditions on a licence.*

(2) *Without limiting the authority of the director under subsection (1), the director may make a decision under subsection (1) if the applicant or licensee does any of the following:*

- (a) *contravenes this Act or the regulations;*
- (b) *fails to meet or no longer meets the minimum requirements for a licence as specified in the regulations;*
- (c) *contravenes a condition of a licence;*
- (d) *engages in a pattern of conduct that shows, in the director's opinion, that the person is unfit to have a licence;*
- (e) *is convicted of an offence under*
  - (i) *this Act or any other enactment, or*
  - (ii) *a law enacted by the government of Canada, another province of Canada or a foreign jurisdiction for conduct that shows, in the director's opinion, that the person is unfit to have a licence.*

(3) *Without limiting the authority of the director under subsection (1), the director may make a decision under subsection (1) if the applicant or licensee is an employer, employee, officer, director or agent of a licensee against whom the director has made a decision under subsection (1).*

(4) *A licensee must immediately give a cancelled licence to the director.*

#### Part 10

#### *Administrative penalties*

**164** (1) *After giving the person an opportunity to be heard, the director may impose an administrative penalty on the person if the person contravenes*

- (a) *a prescribed provision of this Act or the regulations,*
- (b) *a condition of a licence,*
- (c) *a compliance order,*
- (d) *a direct sales prohibition order,*
- (e) *a property freezing order, or*
- (f) *an undertaking.*

(2) *Before the director imposes an administrative penalty on a person, the director must consider the following:*

- (a) *previous enforcement actions for contraventions of a similar nature by the person;*
- (b) *the gravity and magnitude of the contravention;*
- (c) *the extent of the harm to others resulting from the contravention;*
- (d) *whether the contravention was repeated or continuous;*
- (e) *whether the contravention was deliberate;*

*(f) any economic benefit derived by the person from the contravention;*

*(g) the person's efforts to correct the contravention.*

*(3) If the director imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention may not be brought against the person.*

*(4) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.*

*(5) If a corporation contravenes*

*(a) a prescribed provision of this Act or the regulations,*

*(b) a condition of a licence,*

*(c) a compliance order,*

*(d) a direct sales prohibition order,*

*(e) a property freezing order, or*

*(f) an undertaking,*

*an officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention is also liable under this section, whether or not an administrative penalty is imposed on the corporation.*

## Debt Collection and Repayment Regulation

### *Annual financial statement*

*10 (1) A licensee must submit a financial statement to the director*

*(a) for the licensee's previous calendar year or other period approved by the director, within 90 days of the end of the calendar year or other period, and*

*(b) when requested by the director and for the period requested by the director.*

*(2) The financial statement must contain the information required by the director.*

*(3) The director may require the financial statement to be an audited statement.*

*(4) A person who holds more than one licence may submit one financial statement that contains the information in respect of all licences held by the person.*

### **FACTS**

On January 13, 2021 and March 10, 2021, Consumer Protection BC notified the respondent via email that the financial statement for the fiscal year end of December 31, 2020 was due in this office by March 31, 2021.

On March 10, 2021 an incomplete financial statement was submitted by the respondent. The financial statement was missing significant information such as trust account details and numeric values for total gross amount collected and commissions. In addition, the financial statement submitted was signed by a person that did not have signing authority for the respondent.

On April 15, 2020 an email was sent to the respondent advising them that the financial statement was now overdue and that a late fee had been applied.

The respondent replied on April 15, 2021 stating: “Attached is the BC report previously submitted via email” and inquired as to whether the late fee would still be required. The respondent had attached the incomplete submission from March 10<sup>th</sup> to the email.

Consumer Protection BC responded on April 15, 2021 advising the respondent the financial statement submitted on March 10<sup>th</sup> was deficient. The respondent was also notified that a ‘Notice of Change - Change of Senior Officer form’ would be

required in order to give signing authority to the person that submitted the incomplete financial statement back on March 10<sup>th</sup>. The Notice of Change form was to be sent back to our office by April 20, 2021. The respondent replied saying they would complete the form as soon as possible.

On April 22, 2021 the respondent emailed Consumer Protection BC apologizing for the delay and stating that they were working on it and would submit the form by the end of the week.

A Notice of Change form was not submitted.

On April 30, 2021, the respondent was emailed a Notice of Pending Action (“the notice”) indicating that the financial statement which was due March 31, 2021 had not been received by our office and the respondent had failed to meet the requirement under section 10 (1) of the Debt Collection and Repayment Regulation. The notice further advised that a late filing fee had been applied and stated that administrative/regulatory proceedings were being initiated for failing to provide the required financial statement. A response to the notice was requested by May 14, 2021.

No response was received to the notice dated April 30, 2021.

The completed financial statement and late filing fee have not been submitted by the respondent.

## **ANALYSIS**

Annual financial statements are required to be filed with the director 90 days following the licensee’s fiscal year end, consistent with section 10 (1) of the regulation. Ninety days following the respondent’s fiscal year end date of December 31, 2020 was March 31, 2021. The financial statement that was submitted on March 10, 2021 by the respondent was wholly deficient, in that the primary and critical information on the form was left blank. Additionally, the financial statement was submitted by a person that did not have signing authority for the respondent. The respondent was notified of the deficiencies and did not take action to remedy the deficient financial statement. An exceptionally deficient submission like the one submitted by the respondent is equivalent to not submitting one at all. To say otherwise would allow for the absurdity of a debt collector to submit a blank form and say they have discharged the legislated obligation of submitting a financial statement. Inherent in the requirement to submit a financial statement is that the document needs to be complete. Accordingly, I find the respondent failed to submit the required financial statement by the deadline of March 31, 2021. I confirm a contravention to section 10 (1) of the regulation.

## **DUE DILIGENCE**

The respondent is entitled to the complete defence of due diligence against the allegation if they show that all reasonable steps were taken to prevent the contravention from happening. The onus is on the respondent to establish this defence. I was not presented with any evidence to show due diligence.

## **CONCLUSION**

I conclude that the respondent contravened DCRR 10(1) by failing to submit an annual financial statement to the Director within 90 days of the fiscal year end date of March 31, 2021.

## **LICENSING AND ENFORCEMENT ACTION**

As the decision maker determining that the violations occurred, I may take one or more of the following actions:

- Impose an administrative monetary penalty (“AMP”) of up to \$5,000 on an individual, or up to \$50,000 on a corporation (under section 164 of the Act), since each of the violated provisions of the Act are prescribed (under the Business Practices and Consumer Protection Regulation)
- Take licencing action such as:
  - Suspending or cancelling a licence,
  - Amend, impose or rescind conditions on a licence.

I have considered each of these possible enforcement actions. I have decided that the suspension of licence and placement of two conditions on the licence is warranted. I address these in my reasons below.

## **SUSPENSION**

The submission of an annual financial statement allows the Director to discharge the legislated responsibility of ensuring the licensee meets a basic licence requirement of having sufficient security. Accordingly, the licence will remain suspended until such time as the required financial report is submitted AND the director is satisfied on a review of the financial statement that sufficient security for the respondent to conduct business as a debt collection agent has been lodged with the Director.

Pursuant to section 146 (1) of the Act, I hereby serve a notice of suspension upon licence #70324.

## **CONDITIONS ON LICENCE**

I place two conditions on the license:

- i. The respondent must not engage in the business or occupation of “debt collection agent” or conduct designated debt collection activities in the province of British Columbia while the licence remains suspended. This suspension is being imposed for violation of section 10 (1) of the Debt Collection and Repayment Regulation.
- ii. The respondent must submit a complete and accurate financial statement to Consumer Protection BC by June 18, 2021.

This suspension and conditions on the licence will remain in effect until rescinded by the Director.

## **RECONSIDERATION**

If the licensee wishes to request reconsideration in this matter within 30 days of receiving these reasons, in accordance with sections 181 and 182 of the Act, they may apply to Consumer Protection BC:

- by fax to 604-320-1663;
- by electronic mail to [shahid.noorani@consumerprotectionbc.ca](mailto:shahid.noorani@consumerprotectionbc.ca);
- or by mail or courier to the address below:

Consumer Protection BC  
Attention: Shahid Noorani, Vice President  
200 – 4946 Canada Way  
Burnaby, BC V5G 4H7

Considered on June 2, 2021 in Burnaby, BC.



Tegan Scardillo  
Director of Business Practices and Classification  
Consumer Protection BC

Enclosed: Notice of Suspension