

IN THE MATTER OF:
EDISON PATRICK & ASSOCIATES, INC.
TIMMY D. JOWERS,

and
DEWAYNE CLARK,

Respondents.

BEFORE THE MARYLAND
STATE COLLECTION AGENCY
LICENSING BOARD IN THE OFFICE
OF THE COMMISSIONER OF
FINANCIAL REGULATION

Case No.: CFR-FY2013-144

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation, an office in the Department of Labor, Licensing and Regulation, a principal department of the State of Maryland (the "Agency") undertook an investigation into the business activities of Edison Patrick & Associates, Inc. ("Edison"), Timmy D. Jowers ("Jowers"), and Dewayne Clark ("Clark"), (Edison, Jowers and Clark are collectively, the "Respondents"); and

WHEREAS, pursuant to the Maryland Collection Agency Licensing Act ("MCALA"), Md. Code Ann., Business Regulations Article ("BR"), §7-101 *et seq.*, the Agency is responsible for licensing and regulating persons engaged in collection agency activities in the State of Maryland (the "State"), and for otherwise enforcing the provisions of MCALA and the Maryland Consumer Debt Collection Act ("MCDCA"), located at Md. Code Ann., Commercial Law Article ("CL") §14-201 *et seq.*; and

WHEREAS, the Agency finds grounds to allege that Respondents have engaged in acts or practices which constitute violations of MCALA and MCDCA; and the Agency finds

that action under Md. Code Ann., Financial Institutions Article (“FI”) §2-115 is appropriate;
and

WHEREAS, the Agency issued a Summary Order to Cease and Desist and Order to Produce (the “Summary Order”) against Respondents on April 4, 2014, after determining that Respondents were in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from engaging directly or indirectly in the business of collecting consumer claims from Maryland residents, and from otherwise engaging in collection agency business in the State; and

WHEREAS, the Summary Order notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Agency to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Agency; that the Summary Order would be entered as a final order if Respondents did not request a hearing within 15 days of the receipt of the Summary Order; that as a result of a hearing, or of Respondents’ failure to request a hearing, the Agency may, in the Agency’s discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue a monetary penalty, require Respondents to pay restitution to aggrieved consumers, and to take affirmative action to correct violations; and take other actions related to Respondents’ collection activities; and

WHEREAS, the Summary Order was properly served on Respondents via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondents failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in FI §§ 2-115(a)(2) and BR §7-309 or pursuant to State

Government Article §10-226(c)(2) of the Code, and have not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this “Final Order”); and

WHEREAS, the Agency began an investigation into the Respondents’ collection activities as a result of a consumer complaint and has based its decision in this Final Order that Respondents engaged in unlicensed collection activity in violation of various provisions of Maryland law, including but not limited to, violation of the MCALA and the MCDCA on the following determinations:

1. Pursuant to FI §11-204, “[u]nless a person is licensed by the Commissioner, the person may not: (1) [m]ake a loan; or (2) [i]n any way use any advantage provided by the Maryland Consumer Loan Law.”

2. BR §7-101 provides, in part, the following definitions:

(b) *Board*. “Board” means the State Collection Agency Licensing Board.

(c) *Collection agency*. “Collection agency” means a person who engages directly or indirectly in the business of:

(1) (i) collecting for, or soliciting from another, a consumer claim; or

(ii) collecting a consumer claim the person owns, if the claim was in default when the person acquired it;

* * *

(d) *Commissioner*. “Commissioner” means the Commissioner of Financial Regulation.

(e) *Consumer claim*. “Consumer claim” means a claim that:

(1) is for money owed or said to be owed by a resident of the State; and

(2) arises from a transaction in which, for a family, household, or personal purpose, the resident sought or got credit, money, personal property, real property, or services.

(f) *License*. “License” means a license issued by the Board to do business as a collection agency.

(g) *Licensed collection agency*. “Licensed collection agency” means a person who is licensed by the Board to do business as a collection agency.

3. Pursuant to BR §7-201, “[t]here is a State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation in the Department [of Labor, Licensing, and Regulation].” Further, BR §7-203 provides that, “[t]he Commissioner is chairman of the Board.”

4. BR §7-308 provides in relevant part, as follows:

(a) *In general.* – Subject to the hearing provisions of §7-309 of this subtitle, the Board may reprimand a licensee or suspend or revoke a license if the licensee or any owner, director, officer, member, partner, or agent of the licensee:

(3) in connection with the collection of any consumer claim:

(i) commits any fraud; or

(ii) engages in any illegal or dishonest activities;

(4) knowingly or negligently violates the Maryland Consumer Debt Collection Act;

(b) *Multiple licenses.* – If the Board finds that a ground for suspension or revocation of a license applies to more than 1 place of business that a licensee operates, the Board may act against:

(1) each license of the licensee;

5. BR §7-401(a) provides that, “except as otherwise provided in this title, a person may not knowingly and willfully do business as a collection agency in the State unless the person has a license.”

6. Pursuant to the MCDCA, and specifically, at CL §14-202(8) “[i]n collecting or attempting to collect an alleged debt a collector may not:

(8) [c]laim, attempt, or threaten to enforce a right with knowledge that the right does not exist.”

7. Fair Debt Collections Practices Act (“FDCPA”) at 15 U.S.C. §1692 *et seq.*, provided, in relevant part as follows:

§1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

* * *

- (2) The false representation of –
(A) the character, amount, or legal status of any debt; or

* * *

- (5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

* * *

- (10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

* * *

§1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

* * *

8. Persons engaged in unlicensed collection activities involving Maryland consumers are in violation of BR §7-401(a) of the MCALA (“...[e]xcept as otherwise provided in this title, a person may not knowingly and willfully do business as a collection agency in the State unless the person has a license”). Engaging in unlicensed collection activities is also a violation of CL §14-202(8) of the MCDCA (“[i]n collecting or attempting to collect an alleged debt a collector may not: (8) [c]laim attempt, or threaten to enforce a right with knowledge that the right does not exist”). Unlicensed collection activities also violate various provisions of the FDCPA: they constitute false or misleading representations

in violation of 15 U.S.C. §1692(e)(2) (false representations about the “character, amount, or legal status of any debt”), (e)(5) (“[t]he threat to take any action that cannot legally be taken or that is not intended to be taken”), and (e)(10) (“[t]he use of any false representation or deceptive means to collect or attempt to collect any debt”); and they constitute unfair or unconscionable means to collect or attempt to collect a debt, in violation of 15 U.S.C. §1692(f)(1) (the collection of any amount that is not permitted by law).

9. The Agency issued an Advisory Notice dated July 20, 2009, (the “Advisory”) which notified all collection agencies licensed to conduct business in Maryland that it was a violation of Maryland law for them to pursue collection actions against Maryland residents for loans that were made by unlicensed entities, and that it was a violation of Maryland law for them to collect on loans that exceeded permissible interest rate caps. This notice was also made available to the general public on the Agency’s website at: <http://www.dllr.state.md.us/finance/adisories/advisory7-09a.shtml>.

10. The following relevant and credible evidence, obtained pursuant to the Commissioner’s investigation, was considered in the issuance of the Summary Order: internet information; written communication between Respondents and the Consumer; public records and Maryland’s licensing records, and statements by Maryland residents who had dealings with Respondents:

a. Edison was a registered business entity based in the State of Florida until September 2012, when it was administratively dissolved. Edison has never been licensed as a collection agency in Maryland. Jowers and Clark are the owners, directors, officers, managers, employees and/or agents of Edison.

b. In October 2013 the Agency received a complaint related to Respondents' efforts to collect a consumer claim purported arising from a loan allegedly made to a Maryland resident, [REDACTED] ("Consumer A").

c. In April 2012, someone identifying himself as an attorney and named Dwayne Clark ("Mr. Clark") called Consumer A. Mr. Clark informed Consumer A that he was calling from Edison Patrick & Associates to collect on a payday loan on which Consumer A had allegedly defaulted. Mr. Clark would not provide Consumer A with the name of the alleged lender. He further threatened that if Consumer A did not make a payment immediately, he would have the police come and arrest Consumer A at her place of employment. He demanded that Consumer A provide him with bank account details, which Consumer A did. However Consumer A did not give Mr. Clark permission to access or withdraw any funds. Mr. Clark told her he would keep the information "on hold" and not process the transaction until Consumer A called back to confirm that she had placed ample funds in the account. Mr. Clark informed Consumer A that he would give her three hours to deposit \$770 into the subject bank account, an amount sufficient to cover the debt. On or about April 24, 2012, without receiving authorization from Consumer A, Respondents debited \$354.01 from Consumer A's bank account.

11. On or about May 9, 2013, Stacy Lewis, a Financial Regulation Examiner with the Consumer Services Unit of the Office of the Commissioner of Financial Regulation sent Respondent a letter via certified mail. The letter advised that a license was required in order to engage in collections activity in Maryland; set forth Maryland's consumer lending laws; and advised Respondents of, among other things, the following: that it was illegal for them to collect on loans made by unlicensed entities, or to collect on loans which exceed

Maryland's interest rate caps. The letter also included a copy of the Advisory. The letter requested a written response within ten days of Respondents' receipt thereof. The Agency received a signed certified mail return-receipt card indicating that the letter was received on May 14, 2013 however the Agency received no response from Respondents.

12. On or about June 17, 2013, Suzanne Elbon, an Investigator with the Enforcement Unit of the Office of the Commissioner of Financial Regulation sent a letter to Respondents again informing Respondents that a license was required, and requesting that Respondents provide a list of all Maryland consumers from whom Respondents had collected in the five year period from June 2008 through June 2013. The letter set forth a response due date of Tuesday July 2, 2013. The Agency received a signed certified mail return-receipt indicating that the letter was received on June 20, 2013. Investigator Elbon did not receive a response from Respondents.

13. Respondents knowingly collected consumer debts from Maryland residents without first obtaining a license.

14. Respondents knowingly collected on a loan made by a lender suspected to be unlicensed, to a Maryland consumer even after the Agency issued the Advisory.

15. By attempting to collect on a loan made by an unlicensed entity to a Maryland consumer, the loan was unenforceable and uncollectible, and by threatening Consumer A with arrest in order to coerce her into paying an alleged debt, Respondents violated various State and federal laws, including but not limited to the following: the MCDCA, including CL §14-202 (by claiming, attempting, or threatening to enforce a right with knowledge that the right does not exist); the FDCPA including both 15 U.S.C. §1692e (by making false or misleading representations, based on conduct which involved making

false representations about the character, amount, or legal status of any debt, and conduct which involved threatening to take any action that cannot legally be taken or that is not intended to be taken), and 15 U.S.C. §1692f (by engaging in unfair or unconscionable means to collect or attempt to collect any debt, based on conduct which involved collecting any amount not expressly authorized by the agreement, or permitted by law); and MCALA, including both BR §7-308(a)(3)(ii) (by engaging in any illegal or dishonest activities) in connection with the collection of a consumer claim, namely the above referenced violations of MCDCA and the FDCPA), and BR §7-308(a)(4) (by knowingly or negligently violating the MCDCA in connection with the collection of a consumer claim).

16. By engaging in unlicensed collection activities in Maryland without being duly licensed by the Agency, Respondents engaged in unlicensed collection agency activities in violation of BR §7-401 of MCALA. Further, such unlicensed collection activities violated CL §14-202(8) of the MCDCA, as well as 15 U.S.C. §§1692(e)(2), (5), (10) and 1692(f)(1) of the FDCPA.

NOW THEREFORE, having determined that Respondents waived their right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant to FI §§2-115(a), SG § 10-226(c)(2), and BR §7-309, it is by the Commissioner hereby:

ORDERED that the Summary Order to Cease and Desist issued by Maryland State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation on April 4, 2014, is entered as a Final Order of the Agency, and Respondents shall permanently **CEASE** and **DESIST** from engaging in any collection activities involving Maryland consumers; and that Respondents shall permanently **CEASE** and **DESIST** from

engaging directly or indirectly in the business of collecting consumer claims from Maryland residents, and from otherwise engaging in the collection agency business in the State of Maryland; and that Respondents shall permanently **CEASE** and **DESIST** from violating the aforementioned laws governing debt collection.

ORDERED that, pursuant to FI §2-115(b) and upon careful consideration of: (1) the seriousness of the Respondents' violations; (2) the lack of good faith of Respondents, (3) the history and nature of Respondents' violations; and (4) the deleterious effect of Respondents' violations on the public and on the debt collection and collection agency businesses, Respondents shall pay to the Agency a total civil money penalty in the amount of **\$2,000**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Collection Activity in Violation of MCALE</i>	\$1,000	1Md. Consumer	\$1,000
<i>Violation of MCDCA 14-202</i>	\$1,000	1 Md. Consumer	\$1,000
		TOTAL	\$2,000

And it is further,

ORDERED that Respondents shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of **\$2,000** within fifteen (15) days from the date of this Final Order; and it is further

ORDERED that Respondents shall pay restitution to Consumer A in the amount of \$354.01; and it

ORDERED that Respondents shall pay the required monetary award to Consumer A within 30 days of the date of this Final Order. Respondents shall make payment by mailing to Consumer A a check in the amount specified above via U.S. First Class Mail at the most recent address of that consumer known to the Respondents. If the mailing of a payment is returned as undeliverable by the U.S. Postal Service, Respondents shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payments, the Respondents shall furnish evidence of having made the payments to the Commissioner within sixty (60) days of this Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for each payment; and it is further

ORDERED that Respondents shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202, Attn: Proceedings Administrator.

12/11/2014
Date


Keisha Whitehall Wolfe,
Acting Deputy Commissioner
of Financial Regulation