

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Collection Agency License  
3 of:

No. 11F-B003-SBD

**CONSENT ORDER**

4 **NCO FINANCIAL SYSTEMS, INC.**  
5 **MICHAEL J. BARRIST, PRESIDENT**  
20401 N. 29th Avenue, Suite 110  
Phoenix, AZ 85027

6 Respondents.

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8 On July 1, 2010, the Arizona Department of Financial Institutions (“Department”) issued an  
9 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order (“Cease  
10 and Desist Order”), alleging that Respondents had violated Arizona law. Denying liability, yet  
11 wishing to resolve this matter in lieu of an administrative hearing, Respondents consent to the  
12 following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

13 **FINDINGS OF FACT**

14 1. Respondent NCO Financial Systems, Inc. (“NCO”) is a Pennsylvania corporation  
15 authorized to transact business in Arizona as a collection agency, license number CA0019052,  
16 within the meaning of A.R.S. § 32-1001, *et seq.* The nature of NCO’s business is that of soliciting  
17 claims for collection and collection of claims owed, due, or asserted to be owed, or due, within, the  
18 meaning of A.R.S. § 32-1001(2)(a).

19 2. Respondent Michael J. Barrist (“Mr. Barrist”) is the President of NCO. NCO is  
20 authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§  
21 32-1001, *et seq.*

22 3. NCO is not exempt from licensure as a collection agency within the meaning of A.R.S. §  
23 32-1004.

24 4. While denied by NCO, an examination of NCO, conducted by the Department, revealed  
25 that NCO failed to implement procedures to correct harassment and other violations of Arizona  
26 statutes and rules since their previous examination in November 2004, in 49 complaints filed with

1 the Department since the November 2004 examination.

2 5. These Findings of Fact shall also serve as Conclusions of Law.

3 **CONCLUSIONS OF LAW**

4 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the authority  
5 and duty to regulate all persons engaged in the collection agency business and with the enforcement  
6 of statutes, rules, and regulations relating to collection agencies.

7 2. By the conduct set forth in the Findings of Fact, and while denied by NCO, NCO has  
8 violated the following:

- 9 a. A.A.C. R20-4-1504(D) by failing to maintain all records required and make them  
10 available for examination, investigation, or audit in Arizona within three working  
11 days after the Superintendent demands the records;
- 12 b. A.A.C. R20-4-1511(A) by using unauthorized or oppressive tactics designed to harass  
13 any person to pay a debt;
- 14 c. A.A.C. R20-4-1511 (C) by stating, implying or tending to imply, in written or oral  
15 communications that any person is guilty of fraud or any other crime;
- 16 d. A.A.C. R20-4-1512(A) by failing to contact a debtor by telephone only during  
17 reasonable hours, to make a reasonable attempt to contact a debtor at the debtor's  
18 residence, and/or by failing to contact a debtor at the debtor's place of employment if  
19 a reasonable attempt to contact the debtor at the debtor's residence has failed;
- 20 e. A.A.C. R20-4-1507(1) by failing to represent itself as a collection agency in all  
21 communications with debtors, either orally or in writing;
- 22 f. A.A.C. R20-4-1509(C) by threatening legal action when there was no intention to  
23 sue;
- 24 g. A.A.C. R20-4-1512(B)(1) by disclosing information about a debt to a third party.
- 25 h. A.A.C. R20-4-1513(B)(2) by failing to cease and desist communication with a debtor  
26 after receiving written notice from the debtor;

- 1 i. A.A.C. R20-4-1520(A)(2) by allowing their debt collectors, agents, representatives,  
2 employees, or officers to claim to be, or imply that the person is, an attorney unless  
3 the person is licensed to practice law;  
4 j. A.R.S. § 32-1051(3) by failing to deal openly, fairly and honestly in the conduct of  
5 the collection agency business;  
6 k. A.R.S. § 32-1051(4) by engaging in unfair or misleading practices; and  
7 l. A.A.C. R20-4-1510(C) by misrepresenting the remedies available to NCO.

8 3. NCO does not meet any of the exemptions to the licensing requirements set forth in  
9 A.R.S. § 32-1004(A).

10 4. By the conduct set forth above, NCO has failed to conduct its collection agency business  
11 in accordance with the law, by violating numerous provisions of the Arizona Revised Statutes and  
12 Arizona Administrative Code, which is grounds for the suspension or revocation of NCO's license,  
13 pursuant to A.R.S. § 32-1053(3).

14 5. The violations, set forth above, constitute grounds for: (1) the issuance of an order  
15 pursuant to A.R.S. § 6-137 directing NCO to cease and desist from the violative conduct and to take  
16 the appropriate affirmative actions, within a reasonable period of time prescribed by the  
17 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
18 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the  
19 suspension or revocation of NCO's license pursuant to A.R.S. § 32-1053; and (4) an order or any  
20 other remedy necessary or proper for the enforcement of statutes and rules regulating collection  
21 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

22 **ORDER**

23 1. NCO shall immediately stop the violations set forth in the Findings of Fact and  
24 Conclusions of Law. NCO shall use its best faith efforts to:

- 25 a. maintain all records required and make them available for examination, investigation,  
26 or audit in Arizona within three working days after the Superintendent demands the

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records;

- b. immediately cease from using unauthorized or oppressive tactics designed to harass any person to pay a debt;
- c. immediately cease from stating, implying or tending to imply, in written or oral communications that any person is guilty of fraud or any other crime;
- d. contact a debtor by telephone only during reasonable hours, to make a reasonable attempt to contact a debtor at the debtor's residence, and/or by failing to contact a debtor at the debtor's place of employment if a reasonable attempt to contact the debtor at the debtor's residence has failed;
- e. represent themselves as a collection agency in all communications with debtors, either orally or in writing;
- f. immediately cease from threatening legal action when there was no intention to sue;
- g. immediately cease from disclosing information about a debt to third parties.
- h. immediately cease and desist communication with a debtor after receiving written notice from the debtor;
- i. immediately cease from allowing their debt collectors, agents, representatives, employees, or officers to claim to be, or imply that the person is, an attorney unless the person is licensed to practice law;
- j. immediately deal openly, fairly and honestly in the conduct of the collection agency business;
- k. immediately cease from engaging in unfair or misleading practices; and
- l. immediately cease from misrepresenting the remedies available to NCO.

2. NCO shall immediately pay to the Department an assessment in the amount of **two hundred thousand dollars (\$200,000.00)**, including late penalty fees.

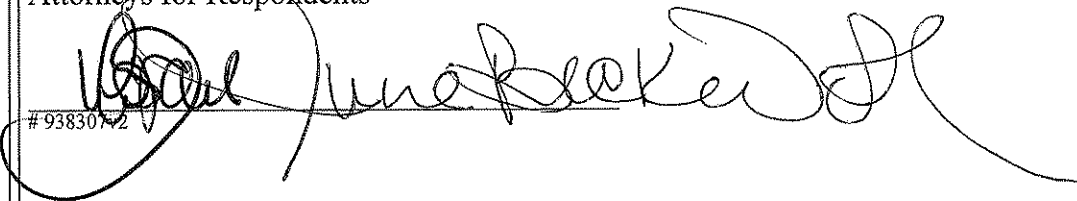
3. NCO shall comply with all Arizona statutes and rules regulating Arizona collection agencies (A.R.S. §§ 32-1001, *et seq.*).





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