

IN THE MATTER OF:

PORTFOLIO RECOVERY GROUP, LLC,

Respondent.

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

Case No.: CFR-FY2012-074

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"), has determined that Portfolio Recovery Group, LLC (the "Respondent") has been engaged in the business of a collection agency as defined under the Maryland Collection Agency Licensing Act ("MCALA"), Md. Code Ann. Bus. Reg. ("BR") § 7-101(c); and

WHEREAS, Respondent has been licensed under the MCALA, holding license number 04-5795; and

WHEREAS, pursuant to the MCALA, 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 Acting Deputy Commissioner of Financial Regulation (the "Deputy Commissioner"), found evidence to support that Respondent is not in compliance with certain

conditions of licensing, including, BR § 7-304 pertaining to surety bond requirements; and that action under Md. Code Ann., Financial Institutions Article (“FI”) § 2-115 and State Government Article (“SG”), § 10-226(c)(2) were appropriate; and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist on April 9, 2013 (the “Summary Order”), after determining that Respondent was not in compliance with the aforementioned provisions of Maryland law, and that the public welfare imperatively required that Respondent’s Maryland collection agency license be immediately suspended pursuant to SG § 10-226(c)(2); and that it was in the public interest that Respondent immediately 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;

WHEREAS, the Summary Order notified Respondent of, among other things, the following: that Respondent was 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 Respondent did not request a hearing within fifteen (15) days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondent’s 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; revoke the Respondent’s Maryland collection agency license; issue penalty orders against Respondent imposing a civil penalty; or take any combination of the aforementioned actions against Respondent; and

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

WHEREAS, Respondent failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in the Summary Order, and as provided for and in compliance with FI § 2-115(a)(2) and SG § 10-226, and has 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 Acting Commissioner (the “Commissioner”) has based his decision in this Final Order on the following:

1. Pursuant to BR § 7-303(b), in order to qualify for a license as a collection agency under MCALA, the person must satisfy the Agency of the following:

“...that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness to:

- (1) engage in business as a collection agency;
- (2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and
- (3) command the confidence of the public.”

2. A surety bond is an essential prerequisite for State collection agency licensure as it is a mechanism by which Maryland consumers can recover money for losses, or other damages caused by a licensee’s violation(s) of the MCALA or the MCDCA. The bond requirement for collection agency licensees is set forth in BR § 7-304(a), which provides as follows:

(a) *Surety bond.* –

(1) An applicant for a license shall execute a surety bond for the benefit of any member of the public who has a loss or other damage as a result of a violation of this title or the [MCDCA] by the applicant or an agent or employee of the applicant.

(2) The surety bond shall be:

- (i) in a form that the Board approves;
- (ii) with a surety that the Board approves; and
- (iii) in the amount of \$5,000.

(3) The total liability of a surety on a bond under this section may not exceed the amount of the bond, regardless of the number or amount of claims against the bond.

(4) If the amount of claims against a bond exceeds the amount of the bond, the surety:

- (i) shall pay the amount of the bond to the Board for distribution to claimants; and
- (ii) then is relieved of liability under the bond.

3. The grounds for suspending or revoking a Maryland collection agency license is addressed in BR § 7-308, which provides the following:

(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:

* * *

(ii) engages in any illegal or dishonest activities;

* * *

4. In the present matter, the Agency determined that the collection agency bond issued to the Respondent by Washington International Insurance Company (“WIIC”) in satisfaction of BR § 7-304(a), (bond number S 9 134985), was cancelled by WIIC effective October 5, 2011. Therefore, the bond has not been in effect since that date, and the Agency has not received any information or evidence that a new or replacement bond has been issued.

5. Accordingly, Respondent is no longer in compliance with BR § 7-304(a), and thus is in violation of the MCALA. Respondent’s failure to maintain the requisite surety bond creates reasonable grounds upon which the Agency concluded that Respondent no longer satisfied the requirements for State collection agency licensure pursuant to BR § 7-303(b). Specifically, Respondent no longer demonstrated the financial responsibility or general fitness sufficient for the following: to engage in business as a collection agency; to warrant the belief that Respondent’s business will be conducted lawfully, honestly, fairly, and efficiently; and to command the confidence of the public. Respondent’s failure to maintain the requisite surety

bond has negated this essential consumer protection mechanism, which demonstrates a disregard for both State collection agency licensing law, and the interests of Maryland consumers.

6. The above described violation of MCALA in connection with the collection of consumer claims constitutes illegal activity, and is grounds for revocation of the Respondent's collection agency license pursuant to FI § 2-115(b) and BR § 7-308(a)(3)(ii), and subjects the Respondent to the imposition of fines and other non-monetary penalties under both FI § 2-115(b) and the MCALA.

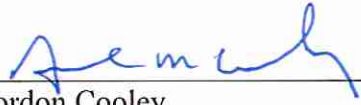
NOW, THEREFORE, having determined that the public health, safety, or welfare imperatively required emergency action, and having given Respondent written notice of the its license suspension, the finding, and the reasons supporting the finding, and having provided the Respondent with an opportunity to be heard, to which Respondent did not respond, the Respondent therefore waived its 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(b) and SB § 10-226, it is by the Acting Commissioner of Financial Regulation, hereby

ORDERED that the Summary Order to Cease and Desist and Summary Suspension of Respondent's Maryland collection agency license issued by the Deputy Commissioner against Respondent on April 9, 2013 is entered as a final order of the Commissioner, and that Respondent's Maryland collection agency license number 04-5795 is hereby revoked, and that the records of the Commissioner shall reflect such a determination; and it is further

ORDERED that Respondent shall permanently **CEASE** and **DESIST** from engaging directly or indirectly in the business of collecting for, or soliciting from another, a consumer claim from Maryland residents, and from otherwise engaging in the collection agency business in Maryland; and it is further

ORDERED that Respondent 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.

1/7/2015
Date


Gordon Cooley
Acting Commissioner