

IN THE MATTER OF:
BLACKOUT TOWING, LLC,
Respondent.

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

Case No.: CFR-FY2012-160

SUMMARY ORDER TO CEASE AND DESIST

WHEREAS, pursuant to the Maryland Collection Agency Licensing Act (or “MCALA,” at Business Regulations Article (“BR”), § 7-101 *et seq.*, Annotated Code of Maryland), the State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation (hereinafter 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 of the Maryland Consumer Debt Collection Act (“MCDCA,” at Commercial Law Article (“CL”), § 14-201 *et seq.*, Annotated Code of Maryland); and

WHEREAS, Blackout Towing, LLC (the “Respondent”), was duly licensed under MCALA as a Maryland collection agency as that term is defined in BR § 7-101(c), holding License Number 04-5137 from August 6, 2008 until August 6, 2012, on which date the license expired, for its location at 8034 Fernham Lane, District Heights, Maryland 20747; and

WHEREAS, the Agency finds grounds to allege that Respondent failed to remain in compliance with various provisions of MCALA, and the Agency finds that action under

Financial Institutions Article (“FI”), § 2-115, Annotated Code of Maryland, is appropriate.

NOW, THEREFORE, the Agency has determined, for the reasons set forth below, that it is 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 of Maryland.

1. Pursuant to BR § 7-303(b), in order to be qualified 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 collection agency licensure in the State of Maryland, as it is a mechanism by which Maryland consumers can recover money for losses or other damages caused by a licensee’s violations of MCALA or the MCDCA. The requirement for licensed collection agencies to hold a valid and current surety bonds 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 Maryland Consumer Debt Collection Act 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. Thus the Agency has the authority to bring actions under MCALA against persons engaged in illegal activities in connection with the collection of any consumer claim.

5. Further, FI §§ 2-115(a) and (b) set forth the Commissioner's authority to issue summary cease and desist orders, and to take additional actions for violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction, in addition to taking any other action permitted by law, and subject to a hearing or waiver of hearing, providing as follows:

(a) *Summary cease and desist orders.*- When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest,

the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

(b) *Other authorized actions for violations.*- When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

(1) Issue a final cease and desist order against the person;

(2) Suspend or revoke the license of the person;

(3) Issue a penalty order against the person imposing a civil penalty up to the maximum amount of \$1,000 for a first violation and a maximum amount of \$5,000 for each subsequent violation; or

(4) Take any combination of the actions specified in this subsection.

6. In the present matter, the Agency has determined that the Collection Agency Bond issued to the Respondent by Great American Insurance Company ("GAIC") in satisfaction of BR § 7-304(a), Bond Number FS1376448, was canceled by GAIC effective October 22, 2011, and that said surety bond has not been in effect since that time. Further, the Agency has not received any information which would indicate that Respondent has obtained a new bond from a different surety, nor did the Respondent surrender its Maryland collection agency license.

7. By failing to hold the requisite surety bond after October 22, 2011, Respondent was no longer in compliance with § 7-304(a), and thus was in violation of MCALA.

8. Further, based on Respondent's failure to maintain the requisite surety bond, the Agency has reasonable grounds to conclude that Respondent no longer satisfied the requirements to be licensed as a collection agency in Maryland pursuant to BR § 7-303(b), as 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 negated this essential consumer protection mechanism, thereby demonstrating a disregard not only for Maryland State debt collection laws, but also for the interests of Maryland consumers.

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

WHEREFORE, having determined that immediate action is in the public interest, and pursuant to the aforementioned provisions of the Annotated Code of Maryland, it is, by Commissioner of Financial Regulation on behalf of the Agency, **HEREBY**

ORDERED that, pursuant to FI § 2-115(a), Respondent shall 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 of Maryland; it is further

ORDERED that Respondent shall immediately CEASE AND DESIST from violating the aforementioned laws governing debt collection activities; and that Respondent should be assessed statutory monetary penalties for all such violations; and it is further

ORDERED that all provisions of this Summary Order to Cease and Desist (“Summary Order”), including all Orders and Notices set forth herein, also apply to all unnamed owners, partners, members, officers, employees, and agents of the Respondent business entity named above.

FURTHERMORE,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI § 2-115, BR § 7-309, and State Government Article (“SG”) § 10-226(c)(2), Annotated Code of Maryland, the Respondent is entitled to a hearing before the Agency to determine whether this Summary Order should be vacated, modified, or entered as a Final Order of the Agency; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI § 2-115, BR § 7-309, and SG § 10-226(c)(2), this Summary Order will be entered as a Final Order of the Agency if Respondent does not request a hearing within 15 days of the receipt of this Summary Order; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to SG §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), business entities are only permitted to

appear at a hearing through an attorney authorized to practice law in Maryland at the Respondent's own expense; and further,

RESPONDENT IS HEREBY NOTIFIED that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Enforcement Unit, Administrator
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202;


and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to BR § 7-308, the foregoing violations provide a basis upon which the Agency may revoke Respondent's Maryland collection agency license. Pursuant to BR § 7-205, the Agency may also issue an order requiring Respondent to cease and desist from engaging in these violations and any further similar violations, may issue a monetary penalty of \$500 per violation up to a total of \$5,000, and may require Respondent to take affirmative action to correct the violations. Additionally, pursuant to FI § 2-115(b), as a result of a hearing, or of Respondent's failure to timely request a hearing in the manner described above, the Commissioner of Financial Regulation, may, in addition to taking any other action authorized by law, enter an Order making this Summary Order final, revoke the collection agency license of Respondent, impose a civil penalty against Respondent up to \$1,000 for each violation of the above-referenced collection agency laws, issue a penalty up to \$5,000 for each subsequent violation of these laws, or may take any combination of the aforementioned actions against Respondent; and further

RESPONDENT IS HEREBY NOTIFIED that this Summary Order, along with any subsequent Order making this Summary Order final, may be modified or vacated if Respondent provides to the Agency a valid surety bond for the period at issue, in full compliance with BR § 7-304(a).

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

4/9/2013
Date

By: 
Keisha Whitehall Wolfe
Acting Deputy Commissioner of
Financial Regulation

For Mark Kaufman
Commissioner of Financial Regulation
Chairperson, State Collection Agency
Licensing Board