

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Negotiation Credit Services LLC
dba negotiationcreditservices.com
Respondent

Enforcement Case No. 15-12646

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Issued and entered
this 12th day of October, 2015
by Rhonda J. Fossitt,
Senior Deputy Director

ORDER TO CEASE AND DESIST

The Department of Insurance and Financial Services (DIFS), pursuant to the Michigan Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq.*, the Debt Management Act, 1975 PA 148, as amended, MCL 451.411 *et seq.* (Act), and the rules promulgated under the Act, says that:

**I.
BACKGROUND**

1. DIFS is responsible for the licensing and regulation of debt management companies and the enforcement of the provisions of the Act.
2. Negotiation Credit Services LLC dba negotiationcreditservices.com (hereinafter "NCC" or Respondent) is a business with an office located at 6600 Taft Street, Suite 404, Hollywood, Florida 33024.
3. At all times pertinent to the matter herein, NCC was not licensed by DIFS to provide debt management services to residents of Michigan.
4. DIFS became aware of NCC because of a radio commercial in which NCC described its business activities as that of a debt management company. A DIFS' representative reviewed DIFS' database and determined that NCC was and is not a Michigan licensed debt management company. DIFS subsequently sent a letter to NCC on or about June 12, 2015, requesting a copy of its debt management agreement, the nature of its business, and a list of Michigan clients.
5. NCC responded to DIFS's inquiry on June 12, 2015, via an email from its operations manager, who conceded that NCC failed to obtain a debt management license as required

by the Act. On July 6, 2015, NCC provided DIFS with a list of 26 Michigan clients and a template of the agreement its clients are required to execute in order to conduct business with NCC.

6. A review of the information provided by NCC and its website indicate that NCC is engaged in debt management. Specifically, NCC consolidates its clients' payday loan debts and requires its clients to establish a "Dedicated Account." Each month, clients are required to electronically transmit money from their checking or savings account into the Dedicated Account for the purpose of satisfying their consolidated payday loan debts in installment payments. The Dedicated Account is administered by a third party administrator. The third party administrator charges bank fees for opening the account.

WHEREAS, Section 2(a) of the Act, MCL 451.412(a), states that the business of debt management means providing or offering to provide debt management to 1 or more residents of this state; and

WHEREAS, Section 2(e) of the Act, MCL 451.412(e), states that debt management means the planning and management of the financial affairs of a debtor and the receipt of money from the debtor for distribution to 1 or more of the debtor's creditors in payment or partial payment of the debtor's obligations; and

WHEREAS, DIFS has information that Respondent is engaged in debt management and/or the business of debt management in the state of Michigan with residents of Michigan; and

WHEREAS, Section 4(1) of the Act, MCL 451.414(1), requires all persons located within or outside the boundaries of the state of Michigan to be licensed in order to conduct debt management business in the state of Michigan; and

WHEREAS, Respondent NCC is not licensed with the state of Michigan under the Act; and

WHEREAS, Section 4(1) of the Act, MCL 451.414(1), provides that a contract of debt management as defined by this Act made by a person without a license is null and void; and

WHEREAS, based on the foregoing, DIFS Staff recommend that the Senior Deputy Director find that NCC has engaged in acts or practices that violate Section 4 of the Act and Rules promulgated under the Act; and

WHEREAS, this action is necessary, appropriate and in the best interest of the protection of the public, and consistent with the purposes fairly intended by the policy and provisions of the Act,

II. ORDER

IT IS THEREFORE ORDERED, pursuant to Section 23 of the Act, MCL 451.433, and Section 24 of the Act, MCL 451.434, that:

1. Respondent shall immediately CEASE AND DESIST from executing debt management contracts with residents of Michigan without being licensed under the Act.
2. Within 30 days of the issuance and entry of this Order, Respondent shall provide its Michigan clients, active as of the date of this Order, with a list of debt management companies licensed by DIFS, and provide notice to each Michigan client that Respondent will transfer its Michigan client accounts and account balances to a debt management company licensed by DIFS and give notice that the client may alternatively request cancellation of his or her contract.
3. Within 30 days of the issuance and entry of this Order, Respondent shall provide DIFS with a written list of its Michigan clients, active as of the date of this Order, and a complete copy of the documentation it has provided to its Michigan clients, which will include the list of Michigan licensed debt management companies and notification of the client's opportunity to cancel the debt management contract.
4. Within 30 days of the issuance and entry of this Order, Respondent shall refund to its Michigan clients all fees that it collected pursuant to debt management contracts with Michigan clients, regardless of how Respondent obtained the contract.
5. Within 60 days of the issuance and entry of this Order, Respondent shall transfer all accounts and funds held for Michigan clients to a debt management company licensed by DIFS unless a client requests cancellation of the contract.
6. Respondent shall, within 60 days of the issuance and entry of this Order, provide each Michigan client whose account is transferred in accordance with Paragraph 5 above the name and address of the licensed debt management company to which his or her Michigan client account was transferred.
7. Respondent shall, within 60 days of the issuance and entry of this Order, provide each Michigan client whose contract is cancelled in accordance with Paragraph 2 above written confirmation of the contract cancellation, and shall return the Michigan client's account balance in full.
8. Respondent shall, within 60 days of the issuance and entry of this Order, provide DIFS with the name(s) of the licensed debt management company to which it has transferred its Michigan client accounts and account balances, and confirm that Respondent no longer holds any Michigan client contracts or client account balances. This document shall also include a complete list of the names and addresses of the Michigan clients whose accounts have been transferred to a licensed debt management company, and the account balance of each client account. Respondent shall also provide DIFS with documentation sufficient to evidence the refund of all fees to Michigan clients in accordance with Paragraph 4 above.

9. Failure to comply with this ORDER will subject Respondent to one or more of the following:

MCL 451.433(2) states:

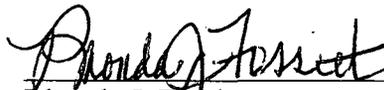
A person who knowingly authorizes, directs, or aids in violation of a final cease and desist order, or who knowingly fails to comply with the terms of a final cease and desist order, is guilty of a misdemeanor, and may be fined not more than \$5,000.00, or imprisoned for not more than 6 months, or both. Each violation constitutes a separate offense.

MCL 451.434(2) states in part:

A person who violates an injunction or a cease and desist order issued pursuant to this act shall be guilty of criminal contempt. For the purpose of this act the court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in those cases the attorney general acting in the name of the state may seek appropriate remedies.

10. Communication regarding this Order should be addressed to the Department of Insurance and Financial Services, Office of General Counsel, Attention: Marlon F. Roberts, Staff Attorney, P.O. Box 30220, Lansing, Michigan 48909.

DEPARTMENT OF INSURANCE
AND FINANCIAL SERVICES



Rhonda J. Fossitt
Senior Deputy Director