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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF COMPLIANCE
AND LICENSING

v.

Docket No. 13 0018 (ENF-CO)

DEBTWAVE CREDIT COUNSELING, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities, ("Department"), Bureau of Compliance and Licensing ("Bureau"), has reviewed the license application submitted by DebtWave Credit Counseling, Inc., ("DebtWave") to provide debt management services to Pennsylvania residents. Based on its review of the license application, the Bureau concludes that DebtWave operated in violation of the Debt Management Services Act ("DMSA") of October 9, 2008, P.L. 1421, No. 117, 63 P.S. § 2401, *et. seq.*, prior to its application for licensure. The parties to the above-captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the DMSA.
2. The Bureau is primarily responsible for administering and enforcing the DMSA for the Department.

3. DebtWave is located at 8665 Gibbs Drive, Suite 100, San Diego, California 92123.
4. DebtWave is a non-profit corporation that provides debt management services to individuals.
5. A debt management services company receives "funds from a consumer and then distribut[es] those funds to creditors of the consumer in partial or full payment of the consumer's personal debts." 63 P.S. § 2402.
6. On September 28, 2012, DebtWave filed an application for a debt management services license with the Department.
7. In that application, DebtWave disclosed to the Department that on August 3, 2011 it had taken over the servicing of 129 debt management service agreements for Pennsylvania residents from a company that was no longer able to service the agreements.
8. DebtWave provided the Department with a list of contact information and fees charged for those Pennsylvania residents whose debt management service agreements DebtWave assumed.
9. DebtWave was not licensed by the Department at the time it assumed the servicing of these accounts.
10. At the time of application, DebtWave represented to the Department that it would not enter into any additional contracts for debt management service agreements with Pennsylvania residents until it obtained a license from the Department.
11. DebtWave was approved for a Debt Management Services license on January 17, 2013; license number 39966.

VIOLATION

12. Section 3(a) of the DMSA provides that “[n]o person may advertise, solicit, state or represent that it can offer, obtain or procure debt management services to or for a consumer or provide debt management services to a consumer unless the person is licensed by the department under this act.” 63 P.S. § 2403(a).

13. The DMSA applies to, in relevant part, “[a]ny debt management services agreement . . . which is . . . notwithstanding the place of execution, entered into with a resident of this Commonwealth.” 63 P.S. § 2448(1)(iii).

14. By servicing the 129 debt management service agreements with Pennsylvania residents before being licensed by the Department, DebtWave violated Section 2403(a) of the DMSA.

15. By signing this Order, DebtWave does not admit that it, in any way, violated the law or engaged in any wrongdoing.

16. The Department has the authority to issue “orders to ensure the proper administration or enforcement” of DMSA. 63 P.S. § 2417(4).

17. The Department “may impose a civil penalty up to \$10,000 for each violation of this act.” 63 P.S. § 2416(a).

RELIEF

18. Fine. DebtWave shall pay a fine in the amount of \$6,450.00 to the Department. The fine shall be due and payable to the Department within 30 days of the effective date of this Order, as defined in Paragraph 24. The fine payment shall be remitted by certified check or money order made payable to the “Department of Banking and Securities” and delivered (via mail or in person) to the Licensing Division of the Bureau of Compliance and Licensing, 17 N.

Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

FURTHER PROVISIONS

19. Consent. DebtWave hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the DMSA and agrees that it understands all of the terms and conditions contained herein. DebtWave, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

20. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking and Securities Code. 71 P.S. § 733-302.A.(5).

21. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and DebtWave.

22. Binding Nature. The Department, DebtWave, and all officers, owners, directors, employees, heirs and assigns of DebtWave intend to be and are legally bound by the terms of this Order.

23. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

24. Effective Date. DebtWave hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

25. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against DebtWave in the future regarding

all matters not resolved by this Order.

b. DebtWave acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

26. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

27. Counterparts. This Order may be executed in separate counterparts and by facsimile and email.

28. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Bureau of Compliance and Licensing and DebtWave Credit Counseling, Inc., intending to be legally bound, do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
BANKING AND SECURITIES,
BUREAU OF COMPLIANCE AND
LICENSING

FOR DEBTWAVE CREDIT
COUNSELING, INC.

(Officer Signature)

Robert E. Knaub,
Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking and Securities

ANTONY MURIGN
(Printed Officer Name)

PRESIDENT
(Title)

Date: 2/12/13

Date: 2/8/13