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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2018 AUG 16 PM 2:00

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
 DEPARTMENT OF BANKING AND :
 SECURITIES, COMPLIANCE OFFICE :
 v. : DOCKET NO. 18 0060 (BNK-CAO)
 PACIFIC INSOLVENCY ALLIANCE LLC :
 :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed the business practices of Pacific Insolvency Alliance LLC ("PIA"), and its officers, employees and directors. Based on the results of its review, together with certain disclosures PIA has made to the Department, the Office believes that PIA operated in violation of the Debt Settlement Services Act, ("DSSA"), 63 P.S. § 2501 et seq. 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 DSSA.
2. The Office is primarily responsible for administering and enforcing the DSSA for the Department.
3. PIA's principal place of business is located at 2140 Peralta Boulevard, Suite 207, Fremont, CA 94536.

Unlicensed Period

4. The DSSA became effective on January 1, 2015.

5. The DSSA requires anyone marketing, soliciting, offering to provide or providing debt settlement services for a fee or other consideration to an individual residing in Pennsylvania at the time of the agreement to be licensed, 63 P.S. § 2521.

6. PIA is not, and never has been, licensed under the DSSA.

7. PIA has been providing debt settlement services to Pennsylvania consumers since June 6, 2017.

8. PIA had ceased accepting new clients when it learned of the licensing requirements but has continued to serve its existing clients.

9. PIA has been utilizing contracts that are not compliant under the DSSA.

Authority of the Department

10. The DSSA grants the Department the authority to issue orders as may be necessary for enforcement. 63 P.S. § 2571(4).

11. The Department may “impose a civil penalty of up to \$10,000 for each violation of this act.” 63 P.S. § 2574.

VIOLATION

12. PIA violated the DSSA when it engaged in the business of a debt settlement services company while unlicensed, 63 P.S. § 2521.

13. PIA’s disclosures were non-compliant with the DSSA in that they did not disclose the following:

a. The amount of time necessary to achieve the represented results, 63 P.S. § 2502(a)(1)(i) and the total estimated program costs if the consumer meets all program obligations and completes the program. 63 P.S. § 2502(a)(a)(iv).

b. The extent to which the debt settlement services may include a settlement offer to any of the individual's creditors or debt collectors, including the time by which the provider will make a bona fide settlement offer to each of the individual's creditors or debt collectors. 63 P.S. § 2502(a)(1)(if).

c. If the provider requests or requires the individual to place funds in an account at a bank, that the individual owns the funds held in the account, the individual may withdraw from

the debt settlement services at any time without penalty and, if the individual withdraws, that the individual shall receive all funds in the account, other than funds earned by the provider, within seven business days of the individual's request. 63 P.S. § 2502(a)(4).

- d. The funds are held in an account at a bank solely in the name of the client. 63 P.S. § 2502(d)(1).
- e. That the amount of a debt that is forgiven or canceled by a creditor may be considered income of the individual for tax purposes. 63 P.S. § 2502(a)(6).
- f. The amount of money or the percentage of the debt amount that an individual may save by using the service. 63 P.S. § 2502(b)(1).
- g. The amount of money or the percentage of each outstanding debt that the individual shall accumulate before the provider will initiate attempts with the individual's creditors or debt collectors. 63 P.S. § 2502(b)(3).
- h. That the individual may terminate the debt settlement services agreement upon three days written notice to the debt settlement provider. 63 P.S. § 2502(a)(5).
- i. The individual may withdraw at any time without penalty and shall receive all funds in the account within seven days of the individual's request. 63 P.S. § 2502(d)(5).

14. PIA's method of collecting compensation was not compliant with the DSSA in that PIA collected monthly fees and did not collect compensation in compliance with 63 P.S. § 2502(c) of the DSSA.

RELIEF

15. Fine. PIA agrees to pay a fine of seven thousand five hundred dollars (\$7,500) in four monthly payments of \$1,875 with the first payment is due within thirty (30) days of the Effective Date of the Order as defined in paragraph 27. The fine payments shall be remitted by certified check or money order made payable to the "Department of Banking and Securities" and sent to the attention of: Department of Banking and Securities, Compliance Office, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101-2290.

16. Corrective Action. Upon the Effective Date of this Order, PIA shall not engage in the business of a debt settlement services company in Pennsylvania unless it is licensed.

17. PIA shall complete the licensing process within 30 days of the Effective Date of this Order. In order to avoid inconvenience to PIA Pennsylvania clients, the Department shall not require PIA to divest itself of its clients as long as PIA obtains a Pennsylvania license to act as a debt settlement company within 30 days of the Effective Date of this Order.

18. PIA shall refund all fees and considerations to all Pennsylvania clients within 30 days of the Effective Date of this Order. PIA shall provide to the Department confirmation all fees have been refunded to Pennsylvania clients.

19. PIA's disclosures shall be compliant with the DSSA.

20. PIA shall only collect payments in accordance with 63 P.S. § 502(c), of the DSSA.

FURTHER PROVISIONS

21. Consent. PIA hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Department's order authority under the DSSA and agrees that it understands all of the terms and conditions contained herein. PIA, 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.

22. Consumer's Rights. The Order shall not limit or impair a consumer's rights under the DSSA.

23. 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).

24. 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 kinds whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Office and PIA.

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

26. Counsel. This Order is subject to review by the Department's Legal Division. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

27. Effectiveness. PIA hereby stipulates and agrees that the Order shall become effective on the date that the Department's Legal Division docket and executes this Order ("Effective Date").

28. 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 PIA in the future regarding all matters not resolved by this Order.
- b. PIA 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.

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

30. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."

31. 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 Department of Banking and Securities, Compliance Office, and Pacific Insolvency Alliance LLC intending to be legally bound do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF BANKING AND SECURITIES, COMPLIANCE OFFICE

FOR PACIFIC INSOLVENCY ALLIANCE LLC

Redacted

Redacted

(Officer Signature)

James Keiser, Chief
Compliance Office
Department of Banking and Securities

BENEDICT LON

(Print Officer Name)

Date: August 13, 2018

CFO

(Title)

Date: 8-9-2018

