

CA2404679/KRJ

STATE OF MINNESOTA  
COMMISSIONER OF COMMERCE

In the Matter of JMS Associates, Inc.

**CEASE AND DESIST ORDER AND  
NOTICE OF RIGHT TO HEARING**

TO: JMS Associates, Inc.  
1489 West Palmetto Park Road  
No. 480  
Boca Raton, FL 33486

Minnesota Law prohibits any person from conducting within the State a collection agency or engaging within the State the business of collecting claims for others without having first applied for and obtained a collection agency license issued by the Commissioner of Commerce pursuant to Minn. Stat. § 332.33 (2004), unless such person is exempt from said licensing requirements. *See* Minn. Stat. §§ 332.31 - 332.45 (2004).

Pursuant to the above-referenced statutes, Commissioner of Commerce Glenn Wilson has determined as follows:

**STATEMENT OF CHARGES**

1. Respondent JMS Associates, Inc. ("Respondent") is not licensed by the Department of Commerce ("Department") in any capacity.

2. In approximately June 2004, Respondent called and left a message for Minneapolis residents Mark and Elpida Ready regarding an alleged check they wrote that was dishonored for insufficient funds. Respondent indicated that it was unlawful to write bad checks in Minnesota and that they would be arrested if they did not pay.

3. On or about June 14, 2004, Mrs. Ready called the toll-free number provided in Respondent's message. The agent who answered the phone refused to provide Mrs. Ready with Respondent's business name. Mrs. Ready was transferred to another agent, who said that

Respondent was attempting to collect a debt arising from an alleged \$3,989 NSF check issued in 2001 for payment of merchandise purchased on a COD order.

4. Mrs. Ready told Respondent that she retained legal counsel in April 2002 to dispute this purported debt and referred Respondent to her lawyer. Respondent's agent responded by threatening that that he would send the sheriff to arrest her.

5. On June 25, 2004, Respondent sent a facsimile to the Readys' attorney that requested the Readys pay the purported debt by sending a \$3,000 check made "payable to JMS ASSOCIATES TRUST ACCOUNT." Further, Respondent's facsimile indicated that it was "licensed and bonded" and that it accepted major credit cards.

6. On July 6, 2004, the Department wrote Respondent regarding its unlicensed collection activities. Specifically, the Department requested copies of collection documents and an explanation of Respondent's collection activities within ten days. On July 12, 2004, Respondent signed the certified mail card acknowledging delivery of the Department's correspondence. To date, Respondent has not responded to the Department's request.

7. This Order is in the public interest.

## **VIOLATIONS**

### **COUNT I**

By conducting business within the State as a collection agency and/or by engaging within the State in the business of collecting claims for others without having first applied for and obtained a collection agency license, Respondent has engaged in unlicensed collection agency and/or collector activities in violation of Minn. Stat. § 332.33, subd. 1 (2004).

## COUNT II

By making false, deceptive, and/or misleading representations and means in connection with the collection of any debt and by threatening to take an action that cannot legally be taken or that is not intended to be taken, Respondent has engaged in prohibited practices in violation of the Fair Debt Collection Practices Act of 1977 and Minn. Stat. § 332.37(12) (2004).

**NOW, THEREFORE, IT IS HEREBY ORDERED** that, pursuant to Minn. Stat. §§ 45.027, subd. 5a and 332.33, subd. 1 (2004), Respondent JMS Associates, Inc. shall cease and desist from conducting within this State a collection agency or engaging within this State in the business of collecting claims for others until compliance with Minn. Stat. §§ 332.31 - 332.45 (2004) is achieved, including licensure under Minn. Stat. § 332.33, subd. 1 (2004).

**IT IS FURTHER ORDERED** that, pursuant to §§ 45.027, subd. 5a and 332.37 (2004), Respondent shall cease and desist from engaging in prohibited practices, including without limitation, the following: falsifying documents with the intent to deceive a debtor, creditor, or governmental agency; making false, deceptive, and/or misleading representations and means in connection with the collection of any debt; threatening to take an action that cannot legally be taken or that is not intended to be taken; and attempting to collect amounts that are not authorized or permitted by law.

**IT IS FURTHER ORDERED** that, pursuant to Minn. Stat. § 45.027, subd. 5a (2004), Respondent may request a hearing in this matter. Such request shall be made in writing and served upon the Commissioner, whereupon the Commissioner shall set a date for hearing within ten (10) days after receipt of the request unless Respondent and the Department by agreement waive the 10-day time period. If no hearing is requested by Respondent within thirty (30) days

of service of this Order and none is ordered by the Commissioner, this Order will become permanent and will remain in effect until it is modified or vacated by the Commissioner.

**IT IS FURTHER ORDERED** that if a hearing is requested, this Order will remain in effect until it is modified or vacated or made permanent by further order of the Commissioner pursuant to Minn. Stat. § 45.027, subd. 5a (2004). The administrative proceeding provided by Minn. Stat. § 45.027, subd. 5a (2004), and subsequent appellate judicial review of that administrative proceeding, constitutes the exclusive remedy for determining whether the Commissioner properly issued this Order and whether this Order should be made permanent.

**IT IS FURTHER ORDERED** that notwithstanding the provisions of Minn. Stat. § 45.027, subds. 5a through 5b (2004), if Respondent requests a hearing under Minn. Stat. § 45.027, subd. 5a (2004), they may, within fifteen (15) days after service of this Order, bring an action in Ramsey County District Court for issuance of an injunction to suspend enforcement of this Order pending a final decision of the Commissioner under Minn. Stat. § 45.027, subd. 5a (2004), to vacate or make permanent this Order. The Court shall determine whether to issue such an injunction based on traditional principles of temporary relief.

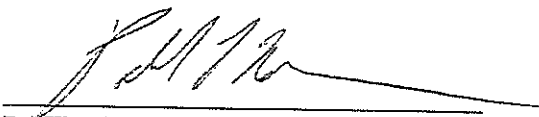
**IT IS FURTHER ORDERED** that in the event a hearing is requested in this matter, it will be held before an Administrative Law Judge to be appointed by the Chief Administrative Law Judge for the State of Minnesota, Office of Administrative Hearings, 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota 55402, (612) 341-7600. All parties have the right to represent themselves or be represented throughout the proceedings herein by legal counsel or a person of their choice if not otherwise prohibited as the unauthorized practice of law.

The contested case proceedings are conducted in accordance with the Minnesota Rules of Professional Conduct and the Professional Aspirations adopted by the Minnesota State Bar Association. The hearing will be conducted pursuant to the contested case procedures as prescribed in Minn. Stat. §§ 14.57-14.69 (2004), and the Rules of the Office of Administrative Hearings, Minn. R. 1400.5100-1400.8401 (2003) as amended. Failure to attend a hearing in this matter may result in the allegations of this Order being taken as true. Questions concerning the issues raised in this Order, informal disposition of this proceeding or discovery may be directed to Assistant Attorney General Christopher M. Kaisershot, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, (651) 282-9992.

GLENN WILSON  
Commissioner

Dated: \_\_\_\_\_

3/26/15

  
PATRICK L. NELSON  
Deputy Commissioner  
Market Assurance Division

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AG: #1424179-v1