

1 **BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY**

2 **LAS VEGAS, NEVADA**

3
4 **IN THE MATTER OF:**)

5 **FINANCIAL INSTITUTIONS DIVISION,**)

6 **Claimant,**)

7 **v.**)

8 **Bryant, Inc. dba Nevada Professional**)

9 **Collections Services, Inc.**)

10 **and**)

11 **Larry D. Bryant,**)

12 **Respondents.**)

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

13 This is the final order in the contested case between Claimant, the Financial
14 Institutions Division of the Nevada Department of Business and Industry (FID), and
15 Respondents, Bryant, Inc. d/b/a Nevada Professional Collections Services, Inc.
16 (“NPCS”) and Larry D. Bryant (“Bryant”) (collectively, “Respondents”).¹

17 **I. PROCEDURAL HISTORY**

18 FID commenced this action on August 8, 2017, with the issuance of an Order to
19 Cease and Desist Activities Under NRS 649 and NAC 649, an Administrative Complaint
20 for Disciplinary Action, and a Notice Pursuant to NRS 233B.127(3) of Intent to Take
21 Administrative Action on Qualified Manager Certificate.

22 On December 20, 2017, I issued an Order Setting Discovery Schedule and
23 Hearing Date (“Order Setting Hearing Date”), which set this matter to proceed to
24 hearing on January 31, 2018, at 9:00 a.m. The Order Setting Hearing Date was sent by
25 certified mail, and Bryant signed for its receipt. However, at the time and place set for
26 hearing, Respondents were not present. Petitioner, its attorneys Vivienne Rakowsky,
27 Esq. and Rickisha Hightower-Singletary, Esq., and I waited for one hour for
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¹ NRS 233B.125.

1 Respondents to appear. We placed two phone calls and left two voicemails for Bryant
2 during that time, and sent Bryant one email, all advising him that we intended to proceed
3 with the hearing if we did not hear from him before the expiration of one hour.
4 Respondents failed to be in contact with Petitioners or me. Therefore, on January 31,
5 2018, at 10:00 a.m., we proceeded with the hearing. Testimony under oath was taken
6 from Mary Young. The following documentary exhibits were admitted into evidence: FID
7 1-52 and LB 1-19.

8 **II. ISSUE**

9 Whether Respondents committed unlicensed collection activities in violation of
10 NRS 649.035, NRS 649.075(1), NRS 649.196, NRS 649.245(3), and NAC 649.210(2).

11 **III. FINDINGS OF FACT**

12 All findings of fact are based upon a preponderance of the evidence, as that term
13 is defined in NRS 233B.0375. See *Nassiri v. Chiropractic Physicians' Bd.*, 327 P.3d
14 487, 491 (Nev. 2014) (citing *Brown v. State*, 107 Nev. 164, 166, 807 P.2d 1379, 1381
15 (1991) for the statement that "a preponderance of the evidence amounts to whether the
16 existence of the contested fact is found to be more probable than not").

17 Service of the Order Setting Hearing Date on Respondents was proper.
18 Respondents failed to appear despite having a full and fair opportunity to address
19 Petitioner's charges.

20 NPCCS held a collection agency license issued by FID from 2001 until 2014.
21 Bryant held a manager certificate issued by FID, CM10425, and was the Qualified
22 Manager for NPCCS until NPCCS's license expired in 2014. Bryant's manager license
23 expired in June 2017.

24 On March 22, 2016, Bryant sent a letter to Cy Bassin on NPCCS letterhead,
25 stating, "Your account with Las Palmas Apt, has been placed with this office for
26 collection."² The letter set forth the debt owed by Mr. Bassin as \$1,087.17 and offered
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² FID 0022.

1 to accept payment online, by telephone, or by check mailed to a Texas address.³ The
2 letter also stated in bold font, **“This is a communication from a debt collector. This
3 is an attempt to collect a debt. Any information obtained will be used for that
4 purpose.”**⁴

5 IV. CONCLUSIONS OF LAW

6 NRS Chapter 649 governs the business of professional collections in the State
7 of Nevada. FID has primary jurisdiction for the licensing and regulation of persons
8 operating and/or engaging in collection services. NRS 649.051. In pertinent part, NRS
9 649.075(1) defines collection activity as including, “collecting claims for others, . . . [or]
10 seek[ing] and mak[ing] collection or obtain[ing] payment of any claim on behalf of
11 another.”

12 NRS 649.075 dictates that any entity or person engaging in collections activity
13 be licensed as a collection agency by FID. NRS 649.175 dictates that any person
14 desiring to be a manager of a collection agency be licensed as a manager by FID. A
15 licensed manager is not permitted to engage in collections activity unless he or she is
16 “[d]esignated as the manager of a collection agency.” NRS 649.035(2).

17 A. Violation of Nevada Law

18 Bryant engaged in collections activity in March 2016 when he sent a letter to Mr.
19 Bassin attempting to collect a debt from Mr. Bassin on behalf of Las Palmas Apt.
20 Although Bryant was still licensed as a manager at the time of the March 2016 collection
21 attempt, he was not then associated with a licensed collections agency since NPC’s
22 collections agency license expired in 2014. Therefore, Bryant engaged in unlicensed
23 collections activity in March 2016 when he sought to collect a debt without being
24 designated as the manager of a licensed collections agency.

25 It is not a legal excuse that NPC was, at the time of the March 2016 collection
26 attempt, licensed as a collection agency in Texas. Any person or entity performing
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28 ³ FID 0022.

⁴ FID 0022.

1 collection activity in Nevada must be licensed as a collection agency by the FID. It is
2 also not a legal excuse that Bryant was the holder of a manager's license issued by FID
3 at the time of the March 2016 collection attempt. A licensed manager must, by
4 definition, be designated as the manager of an FID-licensed collections agency.
5 Because Bryant was not the manager of an FID-licensed collections agency at the time
6 of his March 2016 collection attempt, that attempt constituted unlicensed collection
7 activity.

8 **B. Imposition of Administrative Penalty**

9 NAC 649.330 authorizes the revocation of a manager's certificate if the manager
10 violates any provision of NRS Chapter 649 or NAC Chapter 649. NRS 649.390(2)
11 authorizes the issuance of a cease and desist order prohibiting an unlicensed person
12 from engaging in an activity for which a license is required under NRS Chapter 649.
13 NRS 649.390(3)(a) authorizes the imposition of a \$10,000 administrative fine for the
14 performance by an unlicensed person of activity for which a license is required if the
15 person fails to cease conducting the activity after being served with a cease and desist
16 order. NRS 649.440 also authorizes the imposition of a \$10,000 administrative fine
17 upon an unlicensed person who conducts activity for which a license is required or who
18 violates any other provision of Chapter 649. Finally, NRS 649.375(1) prohibits any
19 licensee, or its agents or employees, from using any deceptive means or
20 representations to collect any debt.

21 Pursuant to NAC 649.330, Bryant's manager certificate is revoked for his
22 violation of NRS 649.075.

23 Pursuant to NRS 649.390(2), Respondents are ordered to cease and desist
24 engaging in any collections activity in the State of Nevada, whether under the name
25 NPCCS, in Bryant's personal capacity, or otherwise.

26 For his unlicensed conduct and pursuant to NRS 649.390(3)(a) and NRS
27 649.440, Bryant shall be subject to an administrative fine in the amount of \$5,000.
28 Bryant engaged in unlicensed collections activity in Nevada two years after ceasing his

1 affiliation with an FID-licensed collections agency. As a licensed manager and the
2 owner of a collection agency licensed in this state for 13 years, Bryant knew or should
3 have known the parameters of permissible collections activities.⁵ While the FID
4 requests a \$10,000 fine, and such fine is authorized by statute, I exercise my discretion
5 in setting the fine amount at \$5,000 in recognition that Bryant's unauthorized March
6 2016 collection attempt was Bryant's first violation under Chapter 649.

7 **V. ORDER**

8 IT IS ORDERED that:

9 Pursuant to NAC 649.330, Bryant's manager certificate is revoked.

10 Pursuant to NRS 649.390(2), Respondents are ordered to cease and desist
11 engaging in any collections activity in the State of Nevada, whether under the name
12 NPCS, in Bryant's personal capacity, or otherwise.

13 Pursuant to NRS 649.390(3)(a) and NRS 649.440, Bryant shall pay an
14 administrative fine in the amount of \$5,000. Bryant shall pay this amount to FID in full
15 within 60 days.

16 Dated this 9th day of February, 2018.

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18 /s/ Denise S. McKay
19 Denise S. McKay
20 Administrative Law Judge
21 State of Nevada
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28 ⁵ See *Nevada Restaurant Services, Inc. v. Clark County*, 981 F.Supp.2d 947, 955 (D. Nev. 2013) ("Regulated businesses are responsible to make themselves aware of applicable laws and regulations.").

1 **CERTIFICATE OF MAILING**

2 I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage
3 prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct
4 copy of the foregoing ORDER DENYING MOTION FOR CONTINUATION OF
5 PREHEARING CONFERENCE to the following:

6 Bryant, Inc.
7 Attn: Larry D. Bryant
8 122 North Holderrieth Blvd. #77
9 Tomball, TX 77375

Certified Mail:70142870000184996691
Email: coast2coastcollections@msn.com

9 Bryant, Inc.
10 Attn: Larry D. Bryant
11 P.O. Box 77
12 Tomball, TX 77377

Certified Mail:70142870000184996684

11 Vivienne Rakowsky, Esq.
12 Rickisha Hightower-Singletary, Esq.
13 Nevada Office of the Attorney General
14 555 E. Washington Ave., Ste. 3900
15 Las Vegas, NV 89101

Certified Mail:70142870000184996677
Email: RSingletary@ag.nv.gov
VRakowsky@ag.nv.gov

16 Dated this 9th day of February, 2018.

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