ORDER DENYING APPLICATION FOR LICENSURE UNDER NRS CHAPTER 649 AND NAC 649; NOTICE OF RIGHT TO APPEAL

ORDER DENYING APPLICATION FOR LICENSURE PURSUANT TO NRS CHAPTER 649 AND NAC 649

The State of Nevada Department of Business and Industry, Financial Institutions Division (hereinafter "Division") hereby denies the application of Commonwealth Financial Systems, Inc., (hereinafter "Applicant").

JURISDICTION

1. The business of collecting claims for others or of soliciting the right to collect or receive payment for another of any claim in the State of Nevada is governed by NRS Chapter 649 and NAC Chapter 649.

2. The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in collection services. NRS 649.020; NRS 649.045; NRS 649.051 et seq.; NRS 649.075 et seq.

3. Pursuant to the authority vested by NRS Chapter 649, the Division hereby makes the following Findings of Fact, Conclusions of Law, and Order.
FINDINGS OF FACT

4. Applicant has been registered with the State of Nevada Secretary of State as a foreign entity since October 5, 2004.

5. Applicant's business address is 245 Main Street, Dickson City, Pennsylvania 18519.

6. Applicant received a Cease and Desist Order on December 28, 2011, for unlicensed activity discovered through a complaint filed with the Division. The Division received four additional complaints after issuing the Cease and Desist Order.

7. On or about December 2, 2013, Applicant submitted an application for licensure.

8. On or about July 24, 2014, the application was considered expired and abandoned due to an incomplete application package with no response from the Applicant.

9. On or about November 22, 2016, Applicant filed a new application with the Division.

10. Jeffrey Kotula is the designated Qualified Manager for the Applicant.

11. On or about May 15, 2017, the Division received a complaint from a Nevada resident with evidence of unlicensed activity being conducted by Applicant.

12. Through the course of its investigation, the Division discovered that Applicant engaged in and/or is engaging in the business of a collection agency in the State of Nevada without a license as the Division confirmed that Applicant had reported a debt on the complainant’s credit report without first having obtained a license.

13. Furthermore, the investigation revealed that within the last four years, more than nineteen (19) Nevada residents filed complaints against Applicant with federal agencies. Additionally, over 1,200 complaints have been filed nationwide against Applicant.

14. If any Finding of Fact is more properly characterized as a Conclusion of Law, it shall be considered as such.
CONCLUSIONS OF LAW

15. Pursuant to NRS 649.135, the Commissioner shall approve an application for a license if an "applicant has met all the [. . .] requirements of this chapter pertaining to the applicant's qualifications and application."

16. However, pursuant to NRS 649.085, the Commissioner has the authority to deny an application based upon an applicant's lack of qualifications as follows:

NRS 649.085 Qualifications of applicant for license.
Every individual applicant, every officer and director of a corporate applicant, and every member of a firm or partnership applicant for a license as a collection agency or collection agent must submit proof satisfactory to the Commissioner that he or she:
1. Is a citizen of the United States or lawfully entitled to remain and work in the United States.
2. Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business of a collection agency in a manner which protects the interests of the general public.
3. Has not had a collection agency license suspended or revoked within the 10 years immediately preceding the date of the application.
4. Has not been convicted of, or entered a plea of nolo contendere to:
   (a) A felony relating to the practice of collection agencies or collection agents; or
   (b) Any crime involving fraud, misrepresentation or moral turpitude.
5. Has not made a false statement of material fact on the application.
6. Will maintain one or more offices in this State or one or more offices in another state for the transaction of the business of his or her collection agency.
7. Has established a plan to ensure that his or her collection agency will provide the services of a collection agency adequately and efficiently.

17. The Commissioner finds that the Applicant has not met all of the requirements of this Chapter, and the Applicant lacks qualifications pursuant to NRS 649.085

18. NRS 649.075(1) reads as follows:

1. Except as otherwise provided in this section, a person shall not conduct within this State a collection agency or engage within this State in the business of collecting claims for others, or of soliciting the right to collect or receive payment for another of any claim, or advertise, or solicit, either in print, by letter, in person or otherwise,
the right to collect or receive payment for another of any claim, or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained a license from the Commissioner.

19. NRS 649.020 defines a "collection agency" as:

1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.

20. As defined in the Federal Fair Debt Collection Practices Act ("FDCPA") § 803 (6), the term "debt collector" means:

any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 1692f(6) of this title, such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests.

21. As defined in FDCPA § 803 (2), the term "communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium. Reporting a debt on a credit report is considered communication by a debt collector as defined in FDCPA.

22. Applicant has violated NRS 649.075 by engaging in the business of a collection agency in the State of Nevada without having first obtained proper licensure from the Division.

23. Based upon the Division's finding that Applicant conducted the business of a collection agency without first obtaining a license, the nineteen (19) complaints filed by Nevada residents against Applicant with federal agencies, and more than 1,200 complaints filed nationwide against Applicant with federal agencies, the Applicant has failed to
demonstrate to the Commissioner that Applicant has a good reputation for honesty, trustworthiness and integrity and did not satisfy the requirements of NRS 649.085.

24. Pursuant to NRS 649.155, the Commissioner shall enter into an order denying the application if the Applicant does not meet the requirements of NRS 649.135.

25. This Order shall constitute notice of denial of Applicant's license.
ORDER

IT IS HEREBY ORDERED that the application of Commonwealth Financial Systems, Inc. for licensure pursuant to NRS Chapter 649 is hereby DENIED.

DATED this 21st day of December 2017.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By: [Signature]
Mary Young
Acting Deputy Commissioner
APPEAL RIGHTS

RESPONDENT HAS THE RIGHT TO REQUEST A HEARING IN THIS MATTER. If you wish to request a hearing you must file a request within thirty (30) calendar days after this Order Denying Application for Licensure was served on the Respondent.

Your request for a hearing must be delivered to:

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION
3300 W. Sahara Ave., Suite 250
Las Vegas, Nevada 89102

Other important rights you have are listed in Nevada Revised Statutes Chapters 649 and 233B and the Nevada Administrative Code Chapter 649.

DATED this 20th day of December 2017.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By: ____________________________
Mary Young
Acting Deputy Commissioner
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on ___ day of December 2017, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER DENYING APPLICATION FOR LICENSE PURSUANT TO NRS CHAPTER 649 AND NAC 649; NOTICE OF RIGHT TO APPEAL, addressed as follows:

Commonwealth Financial Systems, Inc.
Attention: Jeffrey Kotula
245 Main Street
Dickson City, Pennsylvania 18519
Certified Mail: 7014 2870 0001 8495 1560

Commonwealth Financial Systems, Inc.
Attention: Jeffrey Kotula
232 Main Street
Dickson City, Pennsylvania 18519
Certified Mail: 7014 2870 0001 8495 1577

Commonwealth Financial Systems, Inc.
C/O: The Corporation Trust Company of Nevada, Resident Agent
701 S. Carson Street, Suite 200
Carson City, Nevada 89701
Certified Mail: 7014 2870 0001 8495 1584

An Employee of the State of Nevada
Department of Business and Industry
Financial Institutions Division