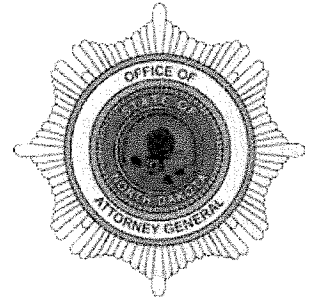




OFFICE OF ATTORNEY GENERAL  
 CONSUMER PROTECTION AND ANTITRUST DIVISION  
 GATEWAY PROFESSIONAL CENTER  
 1050 E INTERSTATE AVENUE, STE 200  
 BISMARCK, NORTH DAKOTA 58503-5574



701-328-5570 (Telephone)  
 701-328-5568 (Facsimile)

STATE OF NORTH DAKOTA  
 OFFICE OF ATTORNEY GENERAL

STATE OF NORTH DAKOTA EX REL.  
 WAYNE STENEHJEM,  
 ATTORNEY GENERAL,

Petitioner,

-vs-

PORTFOLIO RECOVERY MANAGEMENT  
 INC., and JASON JAKUBEC, Individually

Respondents.

**CEASE AND DESIST ORDER,  
 NOTICE OF CIVIL PENALTY  
 AND NOTICE OF RIGHT  
 TO REQUEST A HEARING**

CPAT 190167.002

**To the individual and entity identified below hereinafter "Respondent"):**

PORTFOLIO RECOVERY MANAGEMENT INC.  
 C/O SPIEGEL & UTRERA P.A., P.C.  
 1 MAIDEN LANE 5TH FLOOR  
 NEW YORK, NY 10038-5154

PORTFOLIO RECOVERY MANAGEMENT INC.  
 C/O JASON JAKUBEC  
 1561 KENMORE AVENUE  
 KENMORE, NY 14217

JASON JAKUBEC  
 PMB 1011  
 2780 E FOWLER AVE  
 TAMPA FL 33612-6297

(including all of those entities' officers, directors, owners, agents, servants, employees and representatives as well as all other persons in active concert or participation with them, extending to all "doing business as" names, formal corporate names, fictitious names of any kind or any variations of the same)

## **BACKGROUND**

1. The Attorney General of North Dakota has a reasonable basis to believe Respondents have engaged in and are engaging in acts or practices declared unlawful by North Dakota Century Code (N.D.C.C.) ch. 51-15, the "Consumer Fraud Law," and ch. 31-05, the "Collection Agency Law." It is necessary and appropriate in the public interest and for protection of consumers to restrain the Respondents' unlawful acts or practices.

2. Respondent Portfolio Recovery Management, Inc. is a New York domestic business corporation with an address for service of process and registered agent at Spiegel & Utrera P.A., P.C., 1 Maiden Lane 5<sup>th</sup> Floor, New York, New York 10038.

3. Respondent Jason Jakubec is a resident of the State of New York and is an owner or officer of Portfolio Recovery Management, Inc., and obtained the phone number used by Portfolio Recovery Management, Inc.

4. Respondent Portfolio Recovery Management, Inc. and Jason Jakubec ("Respondents") are engaged in debt collection in the State of North Dakota. Respondents are or have engaged in debt collection activities under the false or fictitious name of Karl Frankovitch Law Firm.

5. The Attorney General received a consumer complaint on September 5, 2019, from a North Dakota consumer alleging that Respondents attempted to collect an alleged debt from the consumer via telephone. While doing so, Respondents falsely identified themselves as the Trail County Sheriff and stated they needed to serve the

consumer with a summons. When making the calls, Respondents deceptively caused the Trail County Sheriff's Department telephone number to be displayed on the consumer's telephone, and the caller identified himself as Mike Jacobs with the Trail County Sheriff's Department. Respondents also claimed to be a prosecuting attorney and referred to themselves as Karl Frankovitch Law Firm. In addition, Respondents called the consumer's mother and daughter in order to force the consumer to pay on the alleged debt. The consumer disputes owing the debt, and it appears the debt Respondents attempted to collect is a false, invalid or already satisfied debt.

6. N.D.C.C. section 51-15-02 prohibits the act, use, or employment of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise.

7. N.D.C.C. section 13-05-02 prohibits any person from engaging in debt collection in North Dakota without having obtained a collection agency license from the commissioner of financial institutions. The term debt collection means the act of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. N.D.C.C. § 13-05-01.1 (7).

8. Respondents have not obtained the required collection agency license from the commissioner of financial institutions. Respondents have engaged in debt collection in North Dakota without the required collection agency license. A violation of N.D.C.C. section 13-05-02 is a class C felony and is subject to a five-thousand-dollar penalty imposed by the commissioner.

9. Respondents have made false, deceptive and misleading statements in connection with the attempted collection of debts or alleged debts relating to the sale of

merchandise, in the State of North Dakota, in violation of N.D.C.C. §51-15-02. Respondents falsely identified themselves as Trail County Sheriff's Department, used a false name of Mike Jacobs, falsely identified themselves as a prosecuting attorney, falsely referred to themselves as representatives of a law firm, and falsely represented the existence of legal action and legal papers involving the consumer, with the intent that the consumer rely on the representations and pay the alleged debt.

10. Based on the consumer complaint and other information, it appeared to the Attorney General that Respondents engaged in violations of North Dakota law, and the Attorney General commenced an investigation into the Respondents' business practices. On September 27, 2019, the Attorney General issued a Civil Investigative Demand to Respondents pursuant to the Attorney General's authority under N.D.C.C. § 51-15-04. Delivery was made via email to jakubec.jay@gmail.com, via mail, and via certified mail. The certified mail was delivered and sign by C. Ward at Respondent Portfolio Recovery Management, Inc.'s registered agent, Spiegel & Utrera PA, PC, 1 Maiden Lane 5<sup>th</sup> Floor, New York, NY 10038-5154 on October 16, 2019. The certified mail addressed to Respondents was also delivered to the front desk/reception/mail room at 1561 Kenmore Avenue, Kenmore, NY 14217 on September 20, 2019. The response to the Civil Investigative Demand was due October 28, 2019.

11. Respondents did not respond to the Civil Investigative Demand. On November 12, 2019, the Attorney General sent a letter to Respondents requesting compliance with the Civil Investigative Demand by November 28, 2019. Respondents did not respond to the letter or the Civil Investigative Demand or otherwise communicate with the Attorney General regarding the Civil Investigative Demand.

Pursuant to N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for Respondents' failure to respond to the Civil Investigative Demand.

12. It appears to the Attorney General that Respondents are engaged in debt collection in North Dakota without a collection agency license, which is illegal under N.D.C.C. § 13-05-02. It further appears to the Attorney General that Respondents have engaged in deceptive acts or practices that are unlawful pursuant to N.D.C.C. §51-15-02.

13. Each of the Respondents is engaged in a combination of two or more persons who have agreed to act together to inflict a wrong or an injury upon another, or who have agreed to act together to commit a lawful act using unlawful means to inflict a wrong or injury upon another, namely violation of N.D.C.C. ch. 13-05 and 51-15. In so doing, Respondents have committed acts in pursuit of the agreement and the agreement has proximately caused damage to North Dakota consumers.

14. Respondents are liable for their own misconduct and/or for directing others to engage in misconduct. *See e.g. Zimprich v. North Dakota Harvestore Sys., Inc.*, 419 N.W.2d 912, 914 (N.D. 1988); *Rickbeil v. Grafton Deaconess Hosp.*, 23 N.W.2d 247, 257 (N.D. 1946)("The general rule with reference to this feature is considered and set out in the great series of volumes of jurisprudence familiar to the courts. In 52 Am. Jur., 440, this rule is stated, 'It is a conceded general rule that all persons or entities are liable for torts committed by them, or by their agents while acting within the scope of their duties.'").

15. Respondents who are natural persons will additionally be subject to personal liability for corporate misconduct. *Hilzendager v. Skwarok*, 335 N.W.2d 768 (N.D. 1983)(quoting *Schriock v. Schriock*, 128 N.W.2d 852, 866 (N.D. 1964)("... but,

when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.' Fletcher, Private Corporations Sec. 41 (1963 rev. vol.)."). The crime/fraud exception to the protections of corporate form has long been recognized in North Dakota, "neither law nor equity will ever recognize the right of a corporate entity to become the receptacle or cover for fraud or wrong based on deception for the purpose of defeating the right of innocent parties." *McFadden v. Jenkins*, 169 N.W. 151, 163 (N.D. 1918). See also *Danks v. Holland*, 246 N.W.2d 86 (N.D. 1976); *Family Center Drug v. North Dakota St. Bd. of Pharm.*, 181 N.W.2d 738, 745 (N.D. 1970).

#### ORDER

Based upon the foregoing information, it appears to the Attorney General that: 1) Respondents have engaged in violations of N.D.C.C. chs. 13-05 and 51-15; 2) Respondents have failed or refused to respond to the Civil Investigative Demand as required by N.D.C.C. § 51-15-04; and 3) the issuance of this Cease and Desist Order is necessary and appropriate in the public interest. **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondents, individually, and where applicable his agents, servants, employees, contractors, and representatives (extending to all "doing business as" names, formal corporate names, aliases, fictitious names of any kind or any variations of the same), as well as all other persons in active concert or participation with him, whether directly or indirectly, immediately **CEASE AND DESIST** from: 1) engaging in debt collection in North Dakota without a collection agency license issued by the commissioner; 2) attempting to collect debts or alleged debts that are false, unsubstantiated, expired, discharged, or no longer owed; 3) engaging in threatening, harassing, deceptive or unlawful conduct while engaging in debt collection

in North Dakota; and 4) engaging in deceptive acts or practices, fraud, false pretenses, false promises, or misrepresentations, in violation of N.D.C.C. §51-15-02. Respondent also shall immediately **CEASE AND DESIST** from requesting, demanding, soliciting, taking, collecting, charging, billing or accepting any payment from any North Dakota consumers, including, but not limited to, cash, check, direct credit, debits or withdrawals from North Dakota consumers' credit cards, debit cards or bank accounts for any payment in connection with any past or future unlicensed, deceptive or fraudulent debt collection activities.

**YOU ARE NOTIFIED** that pursuant to N.D.C.C. § 12.1-09-03 a person is guilty of a criminal offense if he or she intentionally "alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability" in an official proceeding. As such, intentional destruction of any documents related to this matter may result in criminal prosecution.

#### **NOTICE OF CIVIL PENALTIES**

**YOU ARE FURTHER NOTIFIED** that pursuant to N.D.C.C. § 51-15-07 any violation of this Cease and Desist Order is subject to civil penalties not to exceed \$1,000 per violation. Any violation of this Order that also is a violation of N.D.C.C. ch. 51-15 may result in additional civil penalties of not more than \$5,000 per violation. Such penalties are separate and in addition to any costs, expenses, investigation fees, and attorney fees allowed pursuant to N.D.C.C. ch. 51-15, and any civil penalties, costs, expenses, investigation fees, and attorney fees allowed pursuant to or any other applicable statute. Any violation of this Order that also is a violation of N.D.C.C. § 13-05-02 is a class C felony. Nothing in this Order is intended to limit or waive any rights and remedies available to the State of North Dakota or consumers.

**NOTICE OF RIGHT TO REQUEST HEARING**

**YOU ARE NOTIFIED** that pursuant to N.D.C.C. § 51-15-07 you may request a hearing before the Attorney General if such a request is made in writing WITHIN TEN (10) DAYS AFTER THE RECEIPT OF THIS ORDER. Respondent has the right to be represented by legal counsel at the hearing at Respondents' expense.

Dated this 13th day of July, 2020.

**STATE OF NORTH DAKOTA**

Wayne Stenehjem  
Attorney General

BY: Parrell D. Grossman  
Parrell D. Grossman (ND ID 04684)  
Assistant Attorney General  
Director, Consumer Protection and  
Antitrust Division  
Office of Attorney General  
Gateway Professional Center  
1050 East Interstate Avenue Ste. 200  
Bismarck, ND 58503-5574  
(701) 328-5570



STATE OF NORTH DAKOTA  
BURLEIGH COUNTY

BEFORE THE  
ATTORNEY GENERAL

IN THE MATTER OF:

PORTFOLIO RECOVERY MANAGEMENT  
INC., and JASON JAKUBEC, Individually

**AFFIDAVIT OF SERVICE  
BY MAIL, CERTIFIED MAIL, AND  
EMAIL**

Respondents

CPAT 190167.002

STATE OF NORTH DAKOTA    )  
  ) ss  
COUNTY OF BURLEIGH    )

1. Kimberley Missel states under oath as follows: I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct and made upon personal knowledge.

2. I am of legal age and on the 13th day of July, 2020, I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING upon the following by placing true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL

SPIEGEL & UTRERA PA PC  
1 MAIDEN LANE  
5TH FLOOR  
NEW YORK NY 10038-5154

CERTIFIED MAIL RECEIPT # 70191120000077814828

SPIEGEL & UTRERA PA PC  
1 MAIDEN LANE  
5TH FLOOR  
NEW YORK NY 10038-5154

FIRST CLASS MAIL

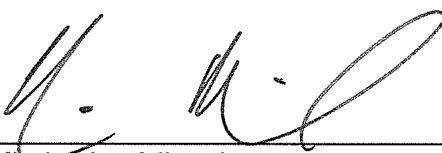
JASON JAKUBEC  
PORTFOLIO RECOVERY MANAGEMENT INC  
1561 KENMORE AVENUE  
KENMORE NY 14217

CERTIFIED MAIL RECEIPT # 70191120000077814835

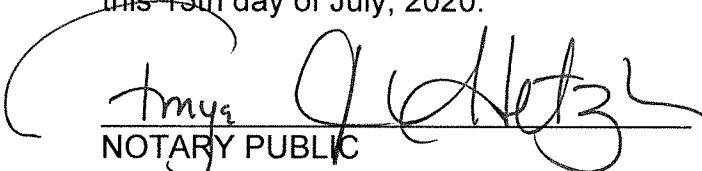
JASON JAKUBEC  
PORTFOLIO RECOVERY MANAGEMENT INC  
1561 KENMORE AVENUE  
KENMORE NY 14217

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota, as first class mail and as CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

3. Also on the 13th day of July, 2020, I served the CIVIL INVESTIGATIVE DEMAND upon Respondents via electronic mail by e-mailing the document to jacubec.jay@gmail.com.

  
\_\_\_\_\_  
Kimberley Missel

Subscribed and sworn to before me  
this 13th day of July, 2020.

  
\_\_\_\_\_  
NOTARY PUBLIC

