

**IN THE MATTER OF
FAIR TRADING ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the *Fair Trading Act*.

BY:

A.R.C. ACCOUNTS RECOVERY CORPORATION
4240 Glanford Avenue, Suite 100
in the City of Victoria, in the Province of British Columbia
(hereinafter called the "Supplier")

TO:

The DIRECTOR OF FAIR TRADING,
(hereinafter called the "Director")

WHEREAS:

- (A) The Supplier is a licensed collection agency authorized to conduct business in Alberta.
- (B) The Supplier employs licensed collectors, authorizing them to collect, or attempt to collect, from debtors in Alberta on behalf of their clients.
- (C) The Supplier acknowledges that on December 8, 2010, in the ordinary course of business, licensed collector Shahabaz Dewji sent a letter relating to a debt where the last payment or written acknowledgment was more than six years previous. The letter advised that a debt had been filed with the Supplier by a creditor and that the Supplier would accept \$10,250.00 as full and final settlement of the liability for this account.
- (D) The Supplier acknowledges that, after being advised that the debtor believed the debt to have been previously settled a decade previously and that the debtor had filed a complaint with Service Alberta, the Supplier obtained a statement of account from the creditor that showed the date of last payment on the loan was February 2, 1998.
- (E) The Supplier acknowledges that on July 29, 2010, licensed collector Mark Hodgson spoke to a debtor relating to a debt where the last payment or written acknowledgement was more than six years previous. The debtor advised Mr. Hodgson the debt had been paid years prior. Mr. Hodgson requested proof of payment of the debt and the debtor refused and said that the creditor and another collection agency already had the documents. Mr. Hodgson failed to seek confirmation from the creditor.
- (F) On November 5, 2010, in response to continuing collection activity, the debtor sent a letter to Mr. Hodgson, via facsimile, requesting a detailed creditor statement of account and proof of the alleged debt. Mr. Hodgson responded via facsimile on November 5, 2010 with a letter to the debtor that listed the current outstanding balance as \$15,298.19. Mr. Hodgson did not provide the creditor statement of account that would have proven that the debt was not collectable.
- (G) The Supplier acknowledges that after being informed that a debtor had filed a complaint with Service Alberta, the Supplier then obtained a statement of account from the creditor that showed the date of last payment on the loan was March 21, 2000.

(H) The Supplier acknowledges that after engaging in collections activity on a debt and being advised that the debtor had filed a complaint with Service Alberta, the Supplier obtained the date of last payment from the creditor that showed the last payment had been more than six years previous for some of the collection activity.

(I) In a letter dated February 2, 2011, the Vice President, Client Relations, of the Supplier, advised Service Alberta their agents had been provided refresher training to prevent reoccurrence of collections on debts where the last payment or written acknowledgement is more than six years previous.

(J) The Director asserts that he has reason to believe that the acts or practices of the Supplier described in recitals (C), (E), (F), (G) and (H) hereof constitute breaches of the *Fair Trading Act* and Collection and Debt Repayment Practices Regulation.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1 The Supplier acknowledges that it has failed to comply with the provisions of the *Fair Trading Act* and undertakes to the Director that the Supplier will not, at any time hereafter, engage in acts or practices similar to those described in recitals (C), (E), (F), (G) and (H) that are contrary to s. 12(1)(t) and 12(1)(x) of the *Fair Trading Act* and the Collection and Debt Repayment Practices Regulation.

2 The Supplier will ensure, to the best of its ability, collectors receive training and supervision that addresses the prohibited practices and requirements set out in the Collection and Debt Repayment Practices Regulation.

3 The Supplier will, to the best of its ability, ensure that all of its officers, partners, employees, representatives and agents are forthwith acquainted with the requirements of the *Fair Trading Act* especially as it pertains to Part 11 - Collection Practices.

4 The Supplier will, to the best of its ability, ensure that it obtains sufficient loan account history from clients on all accounts assigned to the agency to ensure the collection agency or collectors do not pursue a non-judgment debt where the last payment or written acknowledgment by the debtor is more than 6 years previous.

5 The Supplier will, to the best of its ability, ensure that collectors comply with requests from debtors or alleged debtors for sufficient information to identify the original and current creditor of the debt and the details of the debt.

6 This Undertaking will be binding upon the Supplier and its successors and assigns.

unless:

- (a) Terminated by the Director or varied with the consent of the Supplier;
- (b) Varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
- (c) Terminated by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair; however, in any such case, the termination or variance does not invalidate anything done under this undertaking prior to termination or variance,

7 The Supplier acknowledges that the Director may, upon breach by the Supplier of any term of the Undertaking, institute such proceedings and take such action under the *Fair Trading Act* as he may consider necessary.

8 The Supplier acknowledges that this Undertaking is a public document and will be maintained in the public record by the Director of Fair Trading as required by s. 157.1 of the *Fair Trading Act*.

9 The Supplier will pay to the Minister of Finance the sum of \$1000.00; an amount that represents the costs associated with investigating this matter and costs associated with this undertaking. Such payment is to be made within 45 days from the date of this Undertaking.

10 The Supplier acknowledges that it was advised by Service Alberta, and is aware that it is entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges that it is entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier, has on the 11th day of August, 2011
Caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

A.R.C. Accounts Recovery Corporation

PER: 
Joseph M. Polard, President

ACCEPTED by the Director of Fair Trading on the 15th day of August, 2011.


DIRECTOR OF FAIR TRADING