

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS

DEBT COLLECTOR
LICENSING

Docket No. 2020-008

_____)	
In the Matter of)	
FAIR COLLECTIONS & OUTSOURCING OF)	CONSENT ORDER
NEW ENGLAND, INC.)	
Beltsville, Maryland)	
)	
Debt Collector License No. DC0973; NMLS #934298)	
_____)	

WHEREAS, FAIR COLLECTIONS & OUTSOURCING OF NEW ENGLAND, INC., Beltsville, Maryland (FCONE or the Corporation), a licensed debt collector under Massachusetts General Laws chapter 93, section 24A and 209 CMR 18.00 *et seq.*, has entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER (Consent Agreement) with representatives of the Division of Banks (Division) dated September 16, 2020, whereby, solely for the purpose of settling this matter, and without admitting any allegations or implications of fact or the existence of any violation of state or federal laws and regulations governing the conduct and operation of a debt collector, FCONE agrees to the issuance of this CONSENT ORDER (Order) by the Commissioner of Banks (Commissioner);

WHEREAS, an examination of FCONE was conducted pursuant to General Laws chapter 93, section 24D as of June 28, 2018 to assess the Corporation's level of compliance with applicable

Massachusetts and federal statutes, rules, and the Division's regulations governing the conduct of those engaged in the business of a debt collector in the Commonwealth;

WHEREAS, the Report of Examination (the Report) issued pursuant to the Division's examination of FCONE as of June 28, 2018 alleged substantial non-compliance with certain applicable state and federal statutes, rules, and regulations governing the conduct of those engaged in the business of a debt collector in Massachusetts.

ORDER

NOW COME the parties in the above-captioned matter, the Division and FCONE, and stipulate and agree as follows:

1. FCONE shall ensure that it will continue to maintain a separate client trust account at a federally insured bank, and that it will deposit all funds collected from Massachusetts consumers only into such account.

- a) FCONE shall establish, implement, and maintain procedures to ensure that the Corporation refrains from commingling money collected for clients with the Corporation's own funds or the funds of any affiliated entity.
- b) FCONE shall establish, implement, and maintain policies and procedures to ensure that all client funds are maintained in accordance with the provisions of the Division's regulation 209 CMR 18.11 and 18.12, and that such account is routinely monitored and reconciled on a monthly basis.
- c) FCONE shall establish, implement, and maintain policies, procedures, and internal controls to ensure that the Corporation does not pay business expenses out of any account holding client funds, and that no client funds are used in the operation of the Corporation's business.

d) FCONE shall fully comply with this Paragraph within thirty (30) days of the effective date of the Consent Order.

2. FCONE shall submit a payment in the amount of two thousand, five hundred dollars (\$2,500.00) in satisfaction of an administrative penalty collected in consideration of the Corporation's failure to properly handle consumer/client funds as required under 209 CMR 18.11 and 18.12. FCONE shall remit payment in full of the amount indicated above, payable to the "Commonwealth of Massachusetts," with the executed Consent Agreement.

3. FCONE shall establish, implement, and maintain internal controls and make any necessary software adjustment to ensure that the Corporation does not communicate with a Massachusetts consumer in connection with the collection of any debt in excess of two times in each seven-day period at a consumer's residence or cellphone, or in excess of two times in a 30-day period at any other number for each debt, in compliance with the provisions of the Division's regulation 209 CMR 18.14(1)(d).

4. FCONE shall establish, implement, and maintain policies, procedures, and internal controls to ensure that it does not request postdated payments from Massachusetts consumers, in compliance with the Division's regulation 209 CMR 18.17(3).

5. FCONE shall establish, implement, and maintain policies and procedures to ensure that consumers receive advance notification of the Corporation's intent to deposit payments that the consumer postdated by more than five days, with such notification to be made no more than ten, nor less than three, business days before FCONE deposits such payment, in compliance with the provisions of the Fair Debt Collection Practices Act (FDCPA), 15 USC 1692f(2).

6. FCONE shall establish, implement, and maintain policies, procedures, and internal controls to ensure that the Corporation is identified to Massachusetts consumers by its legal name

or by its approved trade name in verbal communications, in compliance with the provisions of the Division's regulation 209 CMR 18.16(14).

7. FCONE shall establish, implement, and maintain controls to ensure its collectors refrain from making false, deceptive, or misleading statements to Massachusetts debtors, in compliance with the provisions of the Division's regulation 209 CMR 18.16.

8. FCONE shall address all matters requiring attention set forth in the Report within the time frames contained therein, with the exception of any timing requirements specifically addressed in this Consent Order. The Corporation shall also adopt and implement any corrective actions discussed in the Report not specifically addressed herein by the provisions of this Consent Order.

- a) FCONE shall establish, implement, and maintain procedures and policies to ensure that all applicable personnel receive adequate instruction and ongoing periodic training to ensure proper implementation and execution of the revised practices and procedures implemented pursuant to this Consent Order.

9. FCONE shall furnish written progress reports to the Division by the thirtieth (30th) day after the end of each calendar quarter following the effective date of this Consent Order via secure email to dobprogressreport@mass.gov. The progress reports shall detail the form, content and manner of any actions taken to address each section of this Consent Order, and will describe, in detail, any other consumer compliance initiatives instituted during the calendar quarter to improve the compliance position of the Corporation, and the results thereof. Each progress report submitted to the Division pursuant to this section of the Consent Order will be reviewed and signed by a duly authorized senior officer of FCONE.

10. Nothing in this Consent Order shall be construed as permitting FCONE to violate any law, rule, regulation, or regulatory bulletin to which the Corporation is subject.

11. Failure to comply with the terms of this Consent Order may constitute grounds for license suspension and/or revocation, or other formal regulatory action pursuant to applicable provisions of the General Laws of the Commonwealth of Massachusetts.

12. This Consent Order shall become effective immediately upon the date of its issuance.

13. The provisions of this Consent Order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this Consent Order shall have been modified, terminated, suspended, or set aside by the Commissioner or upon an order of a court of competent jurisdiction.

14. This Consent Order and the Consent Agreement are the complete documents representing the resolution of this matter. There are no other agreements between the Division and FCONE.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 16th day of September, 2020.

By:
Mary L. Gallagher
Commissioner of Banks
Commonwealth of Massachusetts