
*
IN THE MATTER OF: *
*
MIDWEST RECOVERY SYSTEMS, LLC *
NMLS # 1587525 *
*
(“Midwest Recovery”) *
*

CONSENT ORDER

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part XII of Chapter 669, Sections 36a-800 to 36a-814, inclusive, of the Connecticut General Statutes, “Consumer Collection Agencies”, and the regulations promulgated thereunder, Sections 36a-809-6 to 36a-809-17, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”), and Part III of Chapter 668, Sections 36a-555 to 36a-573, inclusive, of the Connecticut General Statutes, “Small Loan Lending and Related Activities”, and the regulations promulgated thereunder, Sections 36a-570-1 to 36a-570-17, inclusive, of the Regulations;

WHEREAS, Midwest Recovery is a Missouri limited liability company with its principal address at 514 Earth City Plaza, Suite 100, Earth City, Missouri;

WHEREAS, Midwest Recovery has never been licensed to act as a consumer collection agency in Connecticut;

WHEREAS, at all relevant times hereto, the control persons of Midwest Recovery were Brandon Tumber (NMLS # 1651550), Kenny Conway (NMLS # 1633174), and Joseph Smith (NMLS # 1633176);

WHEREAS, the Commissioner, through the Consumer Credit Division of the Department of Banking, conducted an investigation pursuant to Section 36a-17 of the Connecticut General Statutes into

the activities of Midwest Recovery to determine if it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes and Regulations within the jurisdiction of the Commissioner;

WHEREAS, as a result of such investigation, on February 6, 2020, the Commissioner issued a Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing against Midwest Recovery (“Notice”), which Notice is incorporated herein by reference;

WHEREAS, the Commissioner alleged in the Notice that Midwest Recovery’s acting within this state as a consumer collection agency without a consumer collection agency license constitutes a violation of Section 36a-801(a) of the Connecticut General Statutes, in effect at such time;

WHEREAS, the Commissioner further alleged in the Notice that Midwest Recovery’s collecting or receiving payments of principal and interest on at least one small loan made by a person who had not obtained a small loan license constitutes a violation of Section 36a-573(a) of the Connecticut General Statutes, in effect prior to July 1, 2016, and subdivisions (4) and (5) of Section 36a-556(a) and Section 36a-556(a) of the Connecticut General Statutes, in effect at such time;

WHEREAS, the Commissioner asserts that the allegations made in the Notice against Midwest Recovery form the basis to issue an order to cease and desist against Midwest Recovery pursuant to Sections 36a-804(b), 36a-570(b) and 36a-52(a) of the Connecticut General Statutes, and to impose a civil penalty pursuant to Sections 36a-804(b), 36a-570(b) and 36a-50(a) of the Connecticut General Statutes;

WHEREAS, on February 7, 2020, the Notice was mailed by certified mail, return receipt requested, to Midwest Recovery (Certified Mail No. 70151730000224113632);

WHEREAS, on March 6, 2020, Midwest Recovery requested a hearing, which hearing is currently scheduled for February 25, 2021;

WHEREAS, on November 25, 2020, the Federal Trade Commission (“FTC”) entered a Stipulated Order for Permanent Injunction and Monetary Judgment (“FTC Order”) as a result of Midwest

Recovery's participation in deceptive acts or practices in the collection of consumer debts, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692p, the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x ("FCRA"), and Regulation V, Subpart E—Duties of Furnishers of Information, 12 C.F.R. §§ 1022.40-1022.43, issued pursuant to Section 623(e)(1) of the FCRA, 15 U.S.C. § 1681s-2(e)(1);

WHEREAS, as a result of the FTC Order, Midwest Recovery represents that it has gone out of business and has no viable assets or ability to pay a civil penalty;

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, Midwest Recovery specifically represents to the Commissioner that it will not knowingly collect or attempt to collect from any Connecticut consumer debtor any debt or purported debt that was lent in violation of any Connecticut usury or small loan law, including, without limitation, Part III of Chapter 668, Sections 36a-555 to 36a-573, inclusive, of the Connecticut General Statutes;

WHEREAS, Midwest Recovery voluntarily agrees to consent to the entry of the sanctions imposed below solely for the purpose of obviating the need for further formal administrative proceedings concerning the allegations contained in the Notice and set forth herein;

WHEREAS, the Commissioner and Midwest Recovery now desire to resolve the matters contained in the Notice and set forth herein;

WHEREAS, Midwest Recovery specifically assures the Commissioner that the violations alleged herein shall not occur in the future;

WHEREAS, Midwest Recovery agrees that the Notice may be used in construing the terms of this Consent Order;

WHEREAS, Brandon Tumber, Kenny Conway and Joseph Smith acknowledge that this Consent Order is a public record and is a reportable event for the purposes of the regulatory disclosure questions on NMLS, as applicable;

WHEREAS, Midwest Recovery acknowledges that this Consent Order is a public record and is a reportable event for the purposes of the regulatory disclosure questions on NMLS, as applicable;

AND WHEREAS, Midwest Recovery, Brandon Tumber, Kenny Conway and Joseph Smith, through their execution of this Consent Order, voluntarily agree to waive their procedural rights, including a right to a notice and an opportunity for a hearing as it pertains to the allegations set forth herein, and voluntarily waive their right to seek judicial review or otherwise challenge or contest the validity of this Consent Order;

AND WHEREAS, Midwest Recovery, through its execution of this Consent Order, voluntarily agrees to waive its procedural rights, including an opportunity for a hearing as it pertains to the allegations set forth herein, and voluntarily waives its right to seek judicial review or otherwise challenge or contest the validity of this Consent Order.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Midwest Recovery, through its execution of this Consent Order, consents to the Commissioner's entry of a Consent Order imposing the following sanctions:

1. Midwest Recovery and its successors or assigns shall be **PERMANENTLY BANNED** from acting as a consumer collection agency in Connecticut;
2. For a period of five (5) years commencing on the date this Consent Order is issued by the Commissioner, Brandon Tumber (NMLS # 1651550), Kenny Conway (NMLS # 1633174), and Joseph Smith (NMLS # 1633176), shall be **BANNED** from acting as a director, manager, owner, supervisor, control person or qualified individual of any entity acting directly as a consumer collection agency in Connecticut, or acting indirectly in such capacity through a third-party entity, or being involved, directly or indirectly, in the collection of any consumer debt in Connecticut;
3. After the expiration of the time period set forth in paragraph 2 above, if any consumer collection agency for which Brandon Tumber, Kenny Conway or Joseph Smith acts as a director, manager, owner, supervisor, control person or qualified individual of any entity acting

directly or indirectly, applies for licensure in Connecticut, the issuance of any such license shall be in the sole discretion of the Commissioner. In addition to the requirements set forth in Part XII of Chapter 669, any application for consumer collection agency licensure shall include evidence, satisfactory to the Commissioner, that such consumer collection agency has implemented an effective system of supervision and control to achieve compliance with all applicable consumer collection laws and regulations; and

4. Midwest Recovery shall cease and desist from acting as a consumer collection agency in Connecticut without a license, in violation of Section 36a-801(a) of the Connecticut General Statutes, and from collecting or attempting to collect on small loans not made in compliance with Sections 36a-555 to 36a-573, inclusive, of the Connecticut General Statutes, in violation of Section 36a-556(a) of the Connecticut General Statutes.

CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanctions set forth above be and are hereby entered;
2. Upon issuance of this Consent Order by the Commissioner, this matter will be resolved and the Commissioner will not take any future enforcement action against Midwest Recovery, Brandon Tumber, Kenny Conway and Joseph Smith based upon the allegations set forth herein; provided that issuance of this Consent Order is without prejudice to the right of the Commissioner to take enforcement action against Midwest Recovery, Brandon Tumber, Kenny Conway and Joseph Smith based upon a violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by Midwest Recovery, Brandon Tumber, Kenny Conway and Joseph Smith and reflected herein is subsequently discovered to be untrue;
3. Midwest Recovery, Brandon Tumber, Kenny Conway and Joseph Smith shall not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
4. This Consent Order shall be binding upon Midwest Recovery and its successors and assigns, Brandon Tumber, Kenny Conway and Joseph Smith; and
5. This Consent Order shall become final when issued.

Issued at Hartford, Connecticut
this 29th day of January 2021.

/s/

Jorge L. Perez
Banking Commissioner

I, Brandon Tumber, state on behalf of Midwest Recovery Systems, LLC, that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Midwest Recovery Systems, LLC; that Midwest Recovery Systems, LLC, agrees freely and without threat or coercion of any kind to comply with the sanctions entered herein; and that Midwest Recovery Systems, LLC, voluntarily agrees to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/
Name: Brandon Tumber
Title: President
Midwest Recovery Systems, LLC

State of: Missouri

County of: St Louis

On this the 22 day of January 2021, before me, Anne Wilmas, the undersigned officer, personally appeared Brandon M. Tumber, who acknowledged himself/herself to be the President of Midwest Recovery Systems, LLC, a member managed/manager managed limited liability company, and that he/she as such manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as President.

In witness whereof I hereunto set my hand.

/s/
Notary Public – Anne Wilmas
Date Commission Expires: December 2, 2023

I, Brandon Tumber, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the sanctions of this Consent Order; and that I voluntarily agree to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/ _____
Brandon Tumber

State of: Missouri

County of: St Louis

On this the 22 day of January 2021, before me, the undersigned officer, personally appeared Brandon Tumber, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

/s/ _____
Notary Public – Anne Wilmas
Date Commission Expires: December 2, 2023

I, Kenny Conway, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the sanctions of this Consent Order; and that I voluntarily agree to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/ _____
Kenny Conway

State of:

County of:

On this the 20th day of January 2021, before me, the undersigned officer, personally appeared Kenny Conway, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

/s/ _____
Notary Public – Katherine Lemberger
Date Commission Expires: May 30, 2022

I, Joseph Smith, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the sanctions of this Consent Order; and that I voluntarily agree to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/ _____
Joseph Smith

State of: Missouri

County of: St Charles

On this the 13 day of January 2021, before me, the undersigned officer, personally appeared Joseph Smith, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

/s/ _____
Notary Public – Patricia Murray
Date Commission Expires: June 8, 2024