

**IN THE MATTER OF
THE FAIR TRADING ACT**

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

BY:

Financial Debt Recovery Limited,
One West Pearce Street, 5th Floor
Richmond Hill, Ontario
Registered Office, 10235 101 Street, Suite 400
in the City of Edmonton, in the Province of Alberta,

(hereinafter called the "**Supplier**")

TO:

The DIRECTOR OF FAIR TRADING,

(hereinafter called the "**Director**")

WHEREAS:

- (A) The Supplier became a licensed collection agency authorized to conduct business in Alberta on March 31, 1999.
- (B) The Supplier employs collectors that require licensing if and when they are contacting Albertans.
- (C) The Supplier acknowledges that it has been advised previously that all collectors contacting Albertans require licensing.
- (D) The Supplier acknowledges that some of its collectors did contact Albertans at a time these collectors, while in the employment of the Supplier, were unlicensed to operate in Alberta.
- (E) The Supplier acknowledges that it did operate as a collection agency while it was not licensed to do so. These activities occurred prior to March 31, 1999
- (F) The Supplier acknowledges that it has through its agent, employee or representative, provided assurances to the Government of Alberta that there would be no further incidences of unlicensed collectors employed by the Supplier calling Albertans.

- (G) The Supplier acknowledges that in the ordinary course of its business an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between May 1998 and July 1998. The collector did not obtain a license to operate in Alberta.
- (H) The Supplier acknowledges that in the ordinary course of its business an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between May 1998 and July 1998. The collector did not obtain a license to operate in Alberta.
- (I) The Supplier acknowledges that in the ordinary course of its business an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between December 1998 and November 1999. The collector remains unlicensed to operate in Alberta.
- (J) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between December 1998 and November 1999. The collector remains unlicensed to operate in Alberta.
- (K) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between December 1998 and November 1999. The collector remains unlicensed to operate in Alberta.
- (L) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between January 1999 and November 1999. The collector remains unlicensed to operate in Alberta.
- (M) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between December 1998 and November 1999. The collector remains unlicensed to operate in Alberta.
- (N) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, did contact Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between August 1999 and October 1999. The collector remains unlicensed to operate in Alberta.

- (O) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, was in contact with Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between June 1999 and October 1999. The collector remains unlicensed to operate in Alberta.
- (P) The Supplier acknowledges that in the ordinary course of its business, an unlicensed collector employed by the Supplier, was in contact with Alberta resident(s) in order to attempt collection of debts owed. These contacts were made between January 1999 and March 1999. The collector remains unlicensed to operate in Alberta.
- (Q) The Supplier acknowledges that in the ordinary course of its business, it did allow other collectors to contact Albertan resident(s) in order to attempt collection of debts owed. These contacts are summarized as follows:
- November 16, 1996
 - February 11, 1997 and March 14, 1997
 - March 19, 1997
 - May 6, 1998
 - December 21, 1998 and December 30, 1998
 - January 20, 1999

Each of these individuals was unlicensed to operate in Alberta and with the exception of _____ who became licensed on March 31, 1999 remains unlicensed to represent the Supplier.

- (R) The Supplier acknowledges that the records maintained by them in the form of activity note lines may not be a complete or accurate record of all contacts made and/or undertaken by the firm or its collectors.
- (S) The Director asserts that he has reason to believe that the acts or practices of the Supplier described in recitals (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q) and (R) hereof constitute breaches of the Fair Trading Act and its predecessor legislation.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges and admits that it has failed to comply with the licensing provisions of the Fair Trading Act and its predecessor legislation and undertakes to the Director that this Supplier will not, at any time hereafter, engage in acts or practices similar to those described in recitals (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q) and (R).
2. The Supplier to the best of its ability will ensure that all collectors contacting Albertans employed by the Supplier will be properly licensed prior to them contacting Albertans.

3. The Supplier will to the best of its ability not permit any collector employed by it to carry on or engage in the collection of debts, solicit business, realize on a security, deal with or locate debtors unless the collector is licensed to do so in the Province of Alberta.
4. The Supplier will to the best of its ability ensure that all contacts made on files are correctly recorded and accurately noted on the activity note lines for each file.
5. The Supplier will to the best of its ability ensure that full and complete information is supplied to Department officials as quickly as possible whenever investigations require submission of information.
6. 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.
7. It is understood that the Supplier has:
 - i) Taken steps to ensure that all collectors that are in their employ that will be contacting Albertans will be licensed in Alberta prior to contacting Albertans;
 - ii) Established a Human Resources process that will ensure that all employees contacting Albertans have their license applications forwarded for approval to the Province of Alberta
 - iii) Established a Human Resources process that will ensure that the approved collector's license is received prior to the collector contacting residents of Alberta.
 - iv) Developed computer programs to ensure a reoccurrence of the events described in recitals (D), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), and (Q) does not reoccur.
 - v) Implemented, where possible, computer controlled systems that will prevent unlicensed collectors in the employment of the Supplier from placing calls to Alberta or receiving calls from Alberta.
 - vi) Developed a computer program that will identify Alberta postal codes with specific files and allocate those specific files only to the appropriate licensed collectors.
8. The Supplier understands that this Undertaking becomes part of the Public Record, maintained pursuant to the Fair Trading Act.
9. This Undertaking will be binding upon the Supplier and its successors and assigns unless:
 - (a) Termination 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 a 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.

- 10. 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 the Director may consider necessary.
- 11. The Supplier will pay to the Director, for deposit with the Provincial Treasurer of Alberta, the amount of Two Thousand, Five Hundred (\$2,500) Dollars which represents a portion of the costs of investigations in these matters to the date of this Undertaking. Such payment, to be made payable to the "Provincial Treasurer", shall be made within ten (10) days of the signing of this Undertaking.
- 12. The Supplier acknowledges that it was advised by Alberta Government Services, and is therefore aware that it is entitled to seek independent professional advice and has sought that 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 *29* day of *December*, 1999, caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

FINANCIAL DEBT RECOVERY LIMITED

PER: _____

Nicholas Papeo, President

ACCEPTED by the Director of Fair Trading this *4TH* day of *January, 2000*, ~~1999~~.

[Signature]

DIRECTOR OF FAIR TRADING