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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 INTERNATIONAL CREDIT
13 RECOVERY, INC.; BETTIE DIORIO;
and RICHARD DIORIO, JR.,

14 Defendants.

NO.

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF

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I. INTRODUCTION

17 1.1 Plaintiff the State of Washington, (“the State”), by and through its attorneys
18 Robert W. Ferguson, Attorney General, and Kimberlee Gunning, Assistant Attorney General,
19 brings this action against Defendants International Credit Recovery, Inc., Bettie Diorio, and
20 Richard Diorio, Jr. The claims for relief alleged herein arise from Defendants’ unfair practices in
21 collecting, and attempting to collect, alleged debts from businesses, other entities, and/or persons
22 in Washington. These debt collection activities violate the Consumer Protection Act, RCW
chapter 19.86, and the Collection Agency Act, RCW chapter 19.16.

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II. PARTIES

25 2.1 Plaintiff is the State of Washington.
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1 2.2 Defendant International Credit Recovery, Inc. (“ICR”) is a company with its
2 principal place of business in Vestal, New York. ICR was registered as a domestic business
3 corporation with the State of New York in 1991, but has not had a valid corporate registration
4 with the State of New York since 2004. At the present time, it does not maintain a valid
5 corporate registration in any state. ICR is a collection agency, specializing in business-to-
6 business collections.

7 2.3 Defendant Bettie Diorio is now and has been at all times relevant to this action,
8 president of ICR. Upon information and belief, she has participated in, or with constructive or
9 actual knowledge approved of, the acts, practices, and activities of ICR that are the subject
10 matter of this Complaint.

11 2.4 Defendant Richard Diorio, Jr. is now and has been at all time relevant to this
12 action, vice-president of ICR. Upon information and belief, he has participated in, or with
13 constructive or actual knowledge approved of, the acts, practices, and activities of ICR that are
14 the subject matter of this Complaint.

15 2.5 For purposes of this Complaint, the term "Defendants," unless otherwise specified,
16 shall refer collectively to ICR, Bettie Diorio, and Richard Diorio, Jr.

17 III. JURISDICTION

18 3.1 The State files this complaint and institutes these proceedings under the
19 provisions of the Consumer Protection Act, RCW chapter 19.86 (“CPA”) and the Collection
20 Agency Act, RCW chapter 19.16 (“CAA”). The Attorney General is authorized under RCW
21 19.86.080 and RCW 19.86.140 to bring suit to enforce the CPA’s prohibitions on unfair or
22 deceptive acts or practices in the conduct of trade or commerce, including violations of the
23 CAA, which are *per se* unfair acts or practices in the conduct of trade or commerce for
24 purposes of the CPA. *See* RCW 19.16.440. The Attorney General is authorized under RCW
25 19.16.460 to bring suit to restrain and prevent any violation of the CAA.
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1 3.2 This Court has personal jurisdiction over Defendants pursuant to RCW
2 19.86.160 RCW 4.28.180 and RCW 4.28.185 because they have purposely acted or
3 consummated transactions in the State of Washington, and thus have purposely availed
4 themselves of the privilege of conducting business in the State of Washington. Since July
5 2010, ICR has collected or attempted to collect debts from over 3,000 businesses, other
6 entities, and/or persons in Washington State. The violations of RCW chapter 19.86 and RCW
7 chapter 19.16 alleged herein arise from or are connected with those transactions. Exercise of
8 personal jurisdiction over Defendants comports with traditional notions of fair play and
9 substantial justice, and jurisdiction is not inconsistent with the United States Constitution or the
10 Washington State Constitution.

11 3.3 This Court has subject matter jurisdiction over this action under RCW
12 19.86.140.

13 IV. VENUE

14 4.1 Venue is proper in King County pursuant to RCW 4.12.020 and 4.12.025, and
15 Civil Rule 82 because ICR transacts business in King County – to wit, by collecting or
16 attempting to collect debts from businesses, other entities, and/or persons located in King
17 County – and transacted such business in King County at the time the causes of action in this
18 Complaint arose.

19 V. FACTS

20 5.1 ICR is a collection agency, specializing in business-to-business collections. On
21 its website, <http://www.intlcreditrec.com>, it describes itself as a “full service corporate
22 collection firm” and states that “[w]e surpass the competition in that we are an industry leader
23 in percentage of accounts collected.”
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1 5.2 ICR is currently owned by Bettie Diorio, whose late husband founded the
2 company. Ms. Diorio is the president of ICR and her son, Richard Diorio, Jr., is the vice-
3 president of ICR.

4 5.3 Over 90 percent of ICR's revenue is derived from collection activity on behalf
5 of Pennsylvania-based Progressive Business Publications, Inc. ("Progressive"). All of ICR's
6 collection activity in Washington is on behalf of Progressive. Pursuant to a "verbal contract"
7 with Progressive, Progressive pays ICR 25 percent of all monies collected.

8 5.4 Progressive is in the business of marketing and selling business-to-business
9 newsletters, with titles ranging from "Administrative Professional Update" to "Supervisors
10 Safety Bulletin." Progressive also publishes newsletters targeted at nonprofit organizations,
11 including "Foundation & Corporate Funding Advantage" and "Nonprofit Board Report." The
12 annual subscription price for the newsletters ranges from \$28.99 to \$299. The average annual
13 subscription price is approximately \$230.

14 5.5 The primary method by which Progressive secures orders for its newsletters is
15 by telephone solicitation. Progressive's sales representatives place calls to consumers at their
16 place of employment during business hours, offering them "no-risk" trial subscriptions to the
17 newsletters. The consumer is allegedly told that he or she may review the first two issues free
18 of charge. He or she is also allegedly told about Progressive's cancellation policy: any
19 consumer who wishes to cancel an order, after receiving an invoice, may do so at any time
20 within sixty days. During the calls, Progressive's sales representatives allegedly obtain the
21 consumer's agreement to accept the trial subscription, by asking for his or her name, month
22 and day of birth, address and email address or fax number. Progressive records the calls but
23 only retains the recordings for about two weeks.

24 5.6 Progressive claims that it always sends a follow-up email or fax to the consumer
25 confirming his or her agreement to the newsletter subscription. After the trial subscription runs
26

1 out, Progressive claims it sends monthly invoices to the accounts receivables department of the
2 solicited consumer's place of employment. The invoices request payment, do not state the
3 cancellation policy, and do not contain Progressive's phone number or an email address to
4 contact the company. There is no form on the invoice, or enclosed with the invoice, that
5 clearly and conspicuously discloses that the subscriber will receive future issues of the
6 newsletter unless he or she instructs Progressive that he or she does not want to receive future
7 issues.

8 5.7 Progressive's stated policy is to terminate, without further obligation, any
9 subscription for which a cancelled invoice is received within five months after the initial phone
10 call. After the five month period, to which an additional month is sometimes added, past-due
11 accounts are turned over to ICR.

12 5.8 ICR contacts businesses, other entities, and/or persons in Washington regarding
13 their alleged debts to Progressive via mail, email and telephone. An example of the collection
14 letter ICR uses for collection on Progressive account is attached hereto as Exhibit 1
15 ("Collection Letter"). The Collection Letter states that "Your past due account has been
16 referred to us for immediate collection. Your account is now in a serious delinquent stage.
17 Action on your part is needed now!!! Do not make the mistake of delaying any longer." The
18 Collection Letter also includes information for the recipient about the procedures to be
19 followed if they dispute the debt and includes the so-called "Mini Miranda" warning required
20 by the Federal Debt Collection Practices Act, 15 U.S.C. § 1692e(11), which requires a debt
21 collector to state in its initial communication with a consumer that the debt collector is
22 attempting to collect a debt and that any information obtained will be used for that purpose.
23 The Collection Letter thus creates the net impression that it is a communication from a licensed
24 collection agency.

1 5.9 Between July 2010 and July 2014, ICR attempted to collect from 3,392
2 Washington businesses, nonprofit entities and government agencies who allegedly owed
3 money to Progressive. The amounts allegedly owed ranged from \$94.26 to \$864.00, with the
4 majority of the alleged debts between \$200.00 and \$300.00. ICR successfully collected over
5 30 percent of these alleged debts. The total amount collected was approximately \$244,000. Of
6 that amount, ICR earned approximately \$60,000 as payment from Progressive for its collection
7 efforts.

8 5.10 ICR does not, and has never had, a valid license in Washington as either a
9 collection agency or an out-of-state collection agency, as defined by RCW chapter 19.16.
10 Despite this, ICR has been collecting or attempting to collect alleged debts from businesses,
11 other entities, and/or persons in Washington for several years.

12 **CAUSES OF ACTION**

13 **VI. FIRST CLAIM FOR RELIEF**
14 **(Violation of RCW 19.16.110 – Acting as a Collection Agency or Out-of-State Collection**
Agency Without a License)

15 6.1 The State realleges and incorporates by reference the allegations set forth in each
16 of the preceding paragraphs of this Complaint.

17 6.2 RCW 19.16.110 prohibits any person from acting, assuming to act, or advertising
18 as a collection agency or out-of-state collection agency, as defined by RCW chapter 19.16, the
19 Collection Agency Act, without first having applied for and obtained a license from the
20 Washington State Department of Licensing.

21 6.3 ICR is a “person” within the meaning of RCW 19.16.100(11).

22 6.4 ICR is an “out-of-state collection agency” within the meaning of RCW
23 19.16.100(10). Its activities within Washington are limited to collecting debts from debtors and
24 alleged debtors located in this state by means of interstate communications from ICR’s location in
25 New York on behalf of Progressive, which is also located outside of Washington.
26

1 6.5 Washington law requires collectors of commercial or “business-to-business”
2 claims to be licensed just as it does collectors of personal or household debt. *See* RCW
3 19.16.100(2).

4 6.6 ICR does not, and has never had, a valid license in Washington as either a
5 collection agency or an out-of-state collection agency, as defined by RCW chapter 19.16. Despite
6 this, ICR has been collecting or attempting to collect alleged debts from businesses, other entities,
7 and/or persons in Washington for several years.

8 6.7 ICR’s failure to obtain a license as an out-of-state collection agency from the
9 Washington State Department of Licensing violates RCW 19.16.110.

10 6.8 RCW 19.16.430 prohibits any person who operates as an out-of-state collection
11 agency in the State of Washington without a valid license issued pursuant to the CAA from
12 charging or receiving any fee or compensation on any moneys received or collected while
13 operating without a license.

14 6.9 ICR has earned several thousand dollars in compensation for the moneys it
15 received or collected while operating in the State of Washington without a license. Upon
16 information and belief, ICR continues to receive such compensation.

17 6.10 The State requests that the Court declare that each and every attempt by ICR to
18 collect a debt from a person or business in Washington is a violation of RCW 19.16.110, and,
19 pursuant to RCW 19.16.460, enjoin and restrain ICR from violating RCW 19.16.110 and from
20 receiving any fee or compensation on any moneys received or collected while operating without a
21 license.

22 **VII. SECOND CLAIM FOR RELIEF**
23 **(Violation of RCW 19.86 – Per Se Unfair Acts or Practices Based on Violation of RCW**
 19.16.110)

24 7.1 The State realleges and incorporates by reference the allegations set forth in each
25 of the preceding paragraphs of this Complaint.
26

1 7.2 ICR, Bettie Diorio and Richard Diorio, Jr. are “persons” within the meaning of
2 RCW 19.86.010(1).

3 7.3 To establish a CPA violation, the Attorney General must prove: (1) an unfair or
4 deceptive act or practice; (2) that occurs in trade or commerce; and (3) that has a public interest
5 impact. *See State v. Kaiser*, 161 Wn. App. 705, 719, 254 P.3d 850 (2011). Unlike private
6 litigants, the State is not required to prove causation or injury. *Id.*

7 7.4 Pursuant to RCW 19.16.450, the operation of a collection agency or out-of-state
8 collection agency without a license as prohibited by RCW 19.16.110 is an unfair act or practice in
9 the conduct of trade or commerce for the purpose of the application of the CPA.

10 7.5 As alleged above, ICR’s failure to obtain a license as an out-of-state collection
11 agency from the Washington State Department of Licensing violates RCW 19.16.110, and thus, is
12 an unfair act or practice in the conduct of trade or commerce under the CPA.

13 7.6 ICR’s unfair practices affect the public interest because ICR collected or attempted
14 to collect alleged debts from thousands of businesses, other entities and/or persons in Washington
15 without possessing a license as an out-of-state collection agency.

16 7.7 Upon information and belief, Bettie Diorio and Richard Diorio, Jr. have
17 participated in, or with constructive or actual knowledge approved of, the acts, practices, and
18 activities of ICR that are the subject matter of this Complaint.

19 7.8 The State requests that the Court declare that the acts and practices described
20 above violate the CPA, and, pursuant to RCW 19.86.080(1), enjoin and restrain Defendants from
21 violating the CPA.

22 **VIII. THIRD CLAIM FOR RELIEF**
23 **(Violation of RCW 19.86 – Non –Per Se Unfair or Deceptive Acts or Practices)**

24 8.1 The State realleges and incorporates by reference the allegations set forth in each
25 of the preceding paragraphs of this Complaint.
26

1 8.2 ICR, Bettie Diorio and Richard Diorio, Jr. are “persons” within the meaning of
2 RCW 19.86.010(1).

3 8.3 To establish a CPA violation, the Attorney General must prove: (1) an unfair or
4 deceptive act or practice; (2) that occurs in trade or commerce; and (3) that has a public interest
5 impact. *See State v. Kaiser*, 161 Wn. App. 705, 719, 254 P.3d 850 (2011). Unlike private
6 litigants, the State is not required to prove causation or injury. *Id.*

7 8.4 An act or practice is deceptive for purposes of the CPA if it has the capacity to
8 deceive a substantial portion of the public. *See Hangman Ridge Training Stables v. Safeco Title*
9 *Ins. Co.*, 105 Wn.2d 778, 785, 719 P.2d 531 (1986).

10 8.5 ICR’s practice of collecting or attempting to collect on debts allegedly owed by
11 Washington residents without possessing the required license to do so had the capacity to deceive
12 those persons and businesses. As alleged herein, the Collection Letter creates the net impression
13 that it is a communication from a licensed collection agency.

14 8.6 An act or practice may be unfair if it offends public policy, is unethical, oppressive
15 or unscrupulous. *See Klem v. Washington Mutual Bank*, 176 Wn.2d 771, 295 P.3d 1179 (2013).

16 8.7 It is an unfair practice for ICR to collect or attempt to collect alleged debts from
17 thousands of Washington businesses and other entities and/or persons without possessing a
18 license as an out-of-state collection agency.

19 8.8 ICR’s acts occurred in trade or commerce within the meaning of RCW 19.86.010.

20 8.9 ICR’s unfair and deceptive practices affect the public interest because ICR
21 collected or attempted to collect alleged debts from thousands of Washington businesses, other
22 entities and/or persons without possessing a license as an out-of-state collection agency.

23 8.10 Upon information and belief, Bettie Diorio and Richard Diorio, Jr. have
24 participated in, or with constructive or actual knowledge approved of, the acts, practices, and
25 activities of ICR that are the subject matter of this Complaint.
26

1 8.11 The State requests that the Court declare that the acts and practices described
2 above violate the CPA, and, pursuant to RCW 19.86.080(1), enjoin and restrain Defendants from
3 violating the CPA.

4 **IX. PRAYER FOR RELIEF**

5
6 Wherefore, Plaintiff the State of Washington prays for relief pursuant to each claim for
7 relief set forth in this Complaint as follows:

8 10.1 That the Court adjudge and declare that each and every attempt by ICR to collect a
9 debt and/or alleged debt from a business, other entity, or person in Washington without a license
10 as an out-of-state collection agency is a violation of RCW 19.16.110.

11 10.2 That the Court adjudge and declare that Defendants' acts and practices as alleged
12 herein are unfair or deceptive acts or practices in trade or commerce, affecting the public interest,
13 and in violation of the Consumer Protection Act, RCW chapter 19.86.

14 10.3 That the Court issue a permanent injunction prohibiting and restraining
15 Defendants and their representatives, successors, assigns, officers, agents, servants, employees,
16 and all other persons acting or claiming to act for, on behalf of, or in active concert or
17 participation with Defendants, from collecting debts and/or alleged debts from any business, other
18 entity, or person in Washington without a license to act as a collection agency or out-of-state
19 collection agency, as required by RCW 19.16.110.

20 10.4 That the Court issue a permanent injunction prohibiting and restraining
21 Defendants and their representatives, successors, assigns, officers, agents, servants, employees,
22 and all other persons acting or claiming to act for, on behalf of, or in active concert or
23 participation with Defendants from charging or receiving any fee or compensation on any moneys
24 received or collected in connection with collection activity in Washington while operating without
25 a license, pursuant to RCW 19.16.430.

1 10.5 That the Court assess civil penalties, pursuant to RCW 19.86.140, of two thousand
2 dollars (\$2,000) per violation against Defendants for each and every violation of RCW 19.86.020,
3 pursuant to RCW 19.86.140;

4 10.6 That the Court make such orders pursuant to RCW 19.86.080(2) as it deems
5 appropriate to restore to any business, other entity or person in interest any moneys or property,
6 real or personal, which may have been acquired by Defendants by means of an act prohibited by
7 the Consumer Protection Act;

8 10.7 That the Court make such orders pursuant to RCW 19.86.080 to provide that
9 Plaintiff, the State of Washington, recovers the costs of this action, including reasonable
10 attorneys' fees;

11 10.8 That the court grant Plaintiff leave to amend the Complaint to conform to the
12 evidence presented at trial; and

13 10.9 That the Court enter such other and further relief as the Court may deem equitable,
14 just and proper.

15 DATED this 27th day of March, 2015.

17
18 ROBERT W. FERGUSON
19 Attorney General


20 
21 KIMBERLEE GUNNING WSBA #33366
22 Assistant Attorney General
23 Attorney for Plaintiff, State of Washington

EXHIBIT 1



INTERNATIONAL CREDIT RECOVERY INC.

300 MAIN STREET • P.O. BOX 992 • VESTAL, NEW YORK 13851
(607) 748-4686 • www.INTLCREDITREC.com

FOR QUESTIONS, PLEASE CALL
(607) 748-4686
DATE: «DATE_RUN»
CREDITOR: Progressive Business Publications
KEY #: «KEY_NUMBER» «Acct_Number»
BALANCE: «Order_Amount»

«Name»
«Company»
«Box_and_Street»
«City_State_Zip»

Dear «Name»:

Your past due account has been referred to us for immediate collection. Your account is now in a serious delinquent stage. Action on your part is needed now!!! Do not make the mistake of delaying any longer.

SEND FULL PAYMENT AT ONCE TO :
INTERNATIONAL CREDIT RECOVERY, INC.
300 MAIN STREET
P. O. BOX 992
VESTAL, NEW YORK 13851

I.C.R.

R. Hall
Branch Manager

ICR:RH:bc

-IMPORTANT CONSUMER NOTICE-

IF YOU DISPUTE THE VALIDITY OF ALL OR ANY PORTION OF THIS DEBT, YOU MUST NOTIFY THIS OFFICE WITHIN 30 DAYS OF RECEIPT OF THIS NOTICE, OF WE WILL ASSUME THE DEBT IS VALID. IF YOU NOTIFY US IN WRITING WITHIN 30 DAYS OF RECEIPT OF THIS NOTICE, WE WILL OBTAIN VERIFICATION FROM CREDITOR, WRITE US TO THAT EFFECT AND WE WILL PROVIDE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF DIFFERENT FROM THAT LISTED. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAIN WILL BE USED FOR THAT PURPOSE.