

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

Case No.: 13F-BD031-SBD

3 **BAXTER, MITCHELL & ASSOCIATES, INC.**
4 **a/k/a MEYERS, MARROCCO &**
5 **ASSOCIATES, INC.; RIC PACE, a/k/a RICO**
6 **PACE, ENRICO PACE OR E.R. PACE,**
7 **PRESIDENT AND ASSOCIATE OWNER**

CONSENT ORDER

8 **AND**

9 **SUCCESS RESOURCE GROUP INC. d/b/a**
10 **SUCCESS RECOVERY AGENCY; ADELE M.**
11 **GILDER-PACE a/k/a A.M. GILDER-PACE,**
12 **PRESIDENT AND DIRECTOR; RIC PACE,**
13 **a/k/a ENRICO PACE OR E.R. PACE,**
14 **ASSOCIATE OWNER**

15 2880 West Oakland Park Blvd. Suite 108
16 Fort Lauderdale, FL 33311

17 Respondents.

18 On October 30, 2012, the Arizona Department of Financial Institutions ("Department") issued a
19 Cease and Desist Order, Notice of Opportunity for Hearing, Consent to Entry of Order, alleging that
20 Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an administrative
21 hearing, Respondents consent to the Following Findings of Fact and Conclusions of Law, and consent
22 to the entry of the following Order.

23 FINDINGS OF FACT

24 1. At all times material hereto, Respondent Baxter, Mitchell & Associates, Inc. ("B.M.A.")
25 a/k/a Meyers, Marrocco & Associates, Inc. ("M.M.A.") is a Florida corporation that was not authorized
26 to transact business in Arizona as a collection agency within the meaning of A.R.S. § 32-1001 *et seq.*¹

¹ According to the records of the Florida Department of State, Division of Corporations, B.M.A. was incorporated on
September 21, 2005 and is currently on inactive status due to administrative dissolution as of September 23, 2011 for failure
to file an annual report with the Florida Department of State Division of Corporations. See
http://sunbiz.org/scripts/cordet.exe?action=DETFIL&inq_doc_number=P05000130286&inq_came_from=NAMFWD&cor_web_names_seq_number=0000&names_name_ind=N&names_cor_number=L06000058600&names_name_seq=0000&names_name_ind=N&names_comp_name=BAXTERMEDICAL&names_filing_type=

1 2. Respondent Ric Pace, a/k/a Rico Pace, Enrico Pace or E.R. Pace ("Mr. Pace") is the
2 President of B.M.A. and is not authorized to transact business in Arizona as a collection agency within
3 the meaning of A.R.S. §§ 32-1001 *et seq.*

4 3. Respondent Success Resource Group Inc. d/b/a Success Recovery Agency ("S.R.G.") is a
5 Florida corporation that is not authorized to transact business in Arizona as a collection agency within
6 the meaning of A.R.S. § 32-1001 *et seq.*²

7 4. Respondent Adele M. Gilder-Pace, a/k/a A.M. Gilder-Pace ("Ms. Gilder-Pace") is the
8 President and Director of S.R.G. and is not authorized to transact business in Arizona as a collection
9 agency within the meaning of A.R.S. §§ 32-1001 *et seq.*

10 5. Mr. Pace is the Associate Owner of both B.M.A. and S.R.G. and is not authorized to transact
11 business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001 *et seq.*

12 6. The nature of Respondents' business is that of soliciting claims for collection and collection
13 of claims owed, due, or asserted to be owed, or due, within the meaning of A.R.S. § 32-1001(1),(2)(a).

14 7. Respondents B.M.A., S.R.G., Ms. Gilder-Pace and Mr. Pace (collectively, "Respondents")
15 are not exempt from licensure as a collection agency within the meaning of A.R.S. § 32-1004.

16 8. On or about April 25, 2012, the Department received a complaint from Jonathan R. and/or
17 Joyce E. (referred to as "Joyce E."), who are owners/managers of an Arizona business that utilized the
18 services of B.M.A. while seeking to collect on accounts owed to their business by other Arizona
19 businesses. Specifically:

- 20 a. B.M.A. provided Joyce E. with several handouts indicating that B.M.A. was a collection
21 agency. One of the handouts addressed "To All Prospective Clients" stated that B.M.A.'s
22 objective was to convince debtors "to pay NOW before there is NO MONEY left to
23 collect!" The other handout described B.M.A.'s services as follows:

24 _____
25 ² According to the records of the Florida Department of State, Division of Corporations, S.R.G. was incorporated on June 7,
26 1999 and is currently active. See
http://sunbiz.org/scripts/cordet.exe?action=DETFIL&inq_doc_number=P99000052178&inq_came_from=NAMFWD&cor_web_names_seq_number=0000&names_name_ind=&names_cor_number=&names_name_seq=&names_name_ind=&names_comp_name=SUCCESSRESOURCEGROUP&names_filing_type=

1 "[B.M.A.] specializes in the rapid recovery of past due accounts. We are one of the
2 few effective third party agencies mediating problem delinquencies. We know how
3 to pursue your debtors using all aspects of collection and recovery law. Our
4 professional practices will help attain maximum dollar retrieval, while using
5 reputable collection procedures to maintain your clients['] goodwill. There are *no*
upfront fees, and no minimum required for placement of your accounts. . . . We
rely on trained professional mediators with over 18 years or more of experience in
collection law, negotiation and arbitration."

- 6 b. B.M.A. provided Joyce E. with an instruction form dated January 4, 2010, in which
7 Sharon Amato, an employee of B.M.A., thanked Joyce E. "for taking the time to speak"
8 and directed her to fax over all supporting documents such as invoices, statements, etc.
9 The B.M.A.'s instruction form contained Joyce E.'s Arizona telephone and fax numbers.
- 10 c. Joyce E. engaged the collection services of B.M.A, M.M.A. and/or S.R.G³ in 2010 and
11 2011 on several occasions. Specifically:
- 12 (i) Joyce E. sent several past-due accounts for collection to B.M.A. on or about
13 December 6, 2010, January 6, 2011 and September 22, 2011, using a B.M.A.'s
14 form agreement (B.M.A.'s letterhead), which described B.M.A. as "a professional
15 debt recovery & legal forwarding company."
- 16 (ii) Joyce E. sent several past-due accounts for collection to B.M.A. using M.M.A.'s
17 forms (M.M.A.'s letterhead) on August 9, 2011 and September 9, 2011, and at least
18 one past-due account to B.M.A. using a S.R.G. form/letterhead on July 28, 2011.
19 (The forms used by B.M.A., M.M.A. and S.R.G. were nearly identical with the
20 exception of the company's name.)
- 21 (iii) Further, Kattie Messier corresponded with Joyce E. as the Marketing Department
22 Manager for either B.M.A., M.M.A., or S.R.G. In her email to Joyce E., Kattie
23 Messier stated, "[t]his situation is a tough one . . . but i am going to have my
24 collector attempt the collection"

25
26 ³ B.M.A. operated under the names of M.M.A. and S.R.G.

1 d. Overall, Joyce E. reports that she sent ten (10) accounts for collection to B.M.A.,
2 M.M.A., or S.R.G. seeking to collect approximately \$13,700.00 and that she called
3 B.M.A., M.M.A., or S.R.G. numerous times asking for updates. During one conversation,
4 Kattie Messier requested Joyce E. to fax copies of each check she received from her
5 creditors so that B.M.A., M.M.A., or S.R.G. could offset monies they collected from the
6 same creditor. However, Joyce E. never received regular updates, as promised, or any
7 monies from B.M.A., M.M.A., or S.R.G.

8 e. Further, in her April 25, 2012, complaint, Joyce E. specifically alleged that after she
9 engaged B.M.A. sometime in November 2011 to collect \$6,322.05 from an Arizona
10 business, B.M.A. asked her whether she wanted to retain an attorney and, if so, she had to
11 make two (2) payments of \$600.00, a total of \$1,200.00, to B.M.A., which Joyce E. did.
12 However, Joyce E. did not receive any money or information from B.M.A. Nor did she
13 hear back from B.M.A. or other associated entities. After Joyce E. followed up with the
14 law firm who received the alleged referral from B.M.A., she was informed that the
15 attorney was never paid by B.M.A.

16 9. On or about August 2, 2012, the Department notified Respondent B.M.A. that as a result of
17 examination or other investigation, there was reason to believe that Respondent B.M.A. operated as a
18 collection agency which must be licensed and gave Respondent B.M.A. an opportunity to respond.

19 10. In response, the Department received a letter from Respondent Mr. Pace dated August 10,
20 2012, stating that B.M.A. "ceased to operate[]" after Sept. 2010, and was completely closed not later than
21 Dec. 31, 2010 [although B.M.A.] . . . tried to complete the collection process on those few debtors in
22 Arizona." Mr. Pace further stated, "because we do own (2) other agencies we would be willing to
23 license one of the companies to do business in the State," and that "[t]he company we would look to
24 license is known as Success Resources Group, Inc. and also doing business as, Success Recovery
25 Agency."

26 11. As of October 17, 2012, the Department has not received an application from Success

1 Resources Group, Inc. d/b/a Success Recover Agency for a collection agency license.

2 12. These Findings of Fact shall also serve as Conclusions of Law.

3 CONCLUSIONS OF LAW

4 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the authority
5 and duty to regulate all persons engaged in the collection agency business and with the enforcement of
6 statutes, rules, and regulations relating to collection agencies.

7 2. By the conduct set forth in the Findings of Fact, Respondents have violated the
8 following:

9 a. A.R.S. § 32-1021(A) by failing to make an original application to the Department upon
10 forms prescribed by the Superintendent before conducting collection agency activity;

11 b. A.R.S. § 32-1055(A) by conducting collection agency activity in Arizona without having
12 first applied for and obtained a license.

13 3. Respondents are not exempt from licensure as a collection agency within the meaning of
14 A.R.S. § 32-1004(A).

15 4. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are
16 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each
17 day.

18 5. The violations set forth above constitute grounds for: (1) the issuance of an order
19 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to
20 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
21 Superintendent to correct the conditions resulting from the unlawful acts, practices, and transactions;
22 (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; and (3) an order or any other
23 remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies
24 pursuant to A.R.S. §§ 6-123 and 6-131.

25 ORDER

26 1. Respondents shall immediately stop the violations set forth in the Findings of Fact and

1 Conclusions of Law. Specifically, Respondents shall immediately stop all collection agency activity in
2 Arizona; and provide to the Department a complete and accurate accounting of all monies collected on
3 behalf of all Arizona creditors.

4 2. Respondents shall immediately cease all collection agency business in Arizona until
5 such time as they have obtained a collection agency license from the Superintendent as prescribed by
6 A.R.S. §§ 32-1001 *et seq.*

7 3. Respondents shall pay to the Department a civil money penalty in the amount of six
8 thousand dollars (\$6,000.00), which shall be paid with a certified or cashier's check in five (5)
9 installments according to the following schedule:

- 10 a. One thousand dollars (\$1,000.00) is due no later than January 15, 2013;
- 11 b. One thousand dollars (\$1,000.00) is due on or before January 31, 2013;
- 12 c. One thousand dollars (\$1,000.00) is due on or before February 15, 2013;
- 13 d. One thousand dollars (\$1,000.00) is due on or before February 28, 2013; and
- 14 e. Two thousand dollars (\$2,000.00) is due on or before March 15, 2013.

15 4. Respondents shall immediately (a) provide the Department a complete and accurate
16 accounting of all monies collected on behalf of the complainant; (b) return all accounts or collections
17 assigned back to the complainant; and (c) pay all monies collected and due and owing to the
18 complainant. Specifically, to satisfy their obligations to the complainant, Respondents shall issue a
19 certified or cashier's check made payable to the complainant (Jonathan Robins Bakery) in the amount
20 of seven hundred twenty-five dollars and sixty cents (\$725.60) and mail it to the Department upon
21 execution of this Order and no later than January 9, 2013, which the Department will distribute to the
22 complainant.

23 5. Respondents' failure to make any payment as scheduled above will make the settlement
24 achieved pursuant to this Consent Order null and void: specifically, the Cease and Desist Order issued
25 by the Department on October 30, 2012 seeking a civil money penalty in the amount of ten thousand
26 dollars (\$10,000.00) will become enforceable as the final administrative action. Respondents do not

1 dispute the findings of fact and conclusions of law set forth in the October 30, 2012 Cease and Desist
2 Order. Respondents agree to become jointly and severally responsible for the entire, initial amount of
3 the penalty assessed, which is \$10,000.00, should they not fulfill their obligations under this Consent
4 Order within the time schedule provided above. To ensure finality of this settlement or the Cease and
5 Desist Order (in case any of the payments are not timely made), contemporaneously with the execution
6 of this Consent Order, Respondents will seek withdrawal of their request for a hearing, which resulted
7 in a hearing being set on March 27 and March 28, 2013 by entering into the Stipulation to Vacate
8 Administrative Hearing.

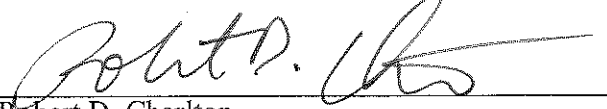
9 6. Respondents shall comply with all Arizona statutes and rules regulating Arizona
10 collection agencies.

11 7. The provisions of this Order shall be binding upon Respondents, their employees, agents
12 and other persons participating in the conduct of the affairs of Respondents.

13 8. This Order shall become effective upon service, and shall remain effective and
14 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated or
15 set aside.

16 SO ORDERED this 15 day of April, 2013.

17 Lauren W. Kingry
18 Superintendent of Financial Institutions

19 By 
20 Robert D. Charlton
21 Assistant Superintendent of Financial Institutions

22 **CONSENT TO ENTRY OF ORDER**

23 1. Respondents acknowledge that they have been served with a copy of the foregoing
24 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same,
25 are aware of the right to an administrative hearing in this matter, and have waived the same.

26 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the
foregoing Findings of Fact, Conclusions of Law, and Order.

1 3. Respondents state that no promise of any kind or nature has been made to induce them
2 to consent to the entry of this Order, and that they have done so voluntarily.

3 4. Respondents agree to immediately cease from engaging in the violative conduct set forth
4 above in the Findings of Fact and Conclusions of Law.

5 5. Respondents acknowledge that the acceptance of this Agreement by the Superintendent
6 is solely to settle this matter and does not preclude this Department, any other agency or officer of this
7 state or subdivision thereof from instituting any proceeding as may be appropriate now or in the future.

8 6. Failure to correct the violations set forth above in this Order or any future findings of
9 repeat violations may result in disciplinary action which may include a greater civil money penalty.

10 7. Respondent Ric Pace represents that he is the President of Baxter, Mitchell &
11 Associates, Inc. a/k/a Meyers, Marrocco & Associates, Inc. and the associate owner of Success
12 Resource Group Inc. d/b/a Success Recovery Agency and that, as such, has been authorized to consent
13 to the entry of this Order on its behalf.

14 8. Adele M. Gilder-Pace represents that she is the President of Success Resource Group
15 Inc. d/b/a Success Recovery Agency and that, as such, has been authorized to consent to the entry of
16 this Order on its behalf.

17 9. Respondents waive all rights to seek judicial review or otherwise to challenge or contest
18 the validity of this Cease and Desist Order.

19 DATED this 4th day of January, 2013.

20
21 By: 

Ric Pace, President of Baxter, Mitchell & Associates, Inc.
a/k/a Meyers, Marrocco & Associates, Inc.

22
23 By: 

Adele M. Gilder-Pace, President of Success Resource Group
Inc. d/b/a Success Recovery Agency

24
25
26 ORIGINAL of the foregoing filed this 15th

1 day of April, 2013, in the office of:

2 Lauren W. Kingry
3 Superintendent of Financial Institutions
4 Arizona Department of Financial Institutions
5 ATTN: June Beckwith
6 2910 N. 44th Street, Suite 310
7 Phoenix, AZ 85018

8 COPY mailed/delivered same date to:

9 Natalia A. Garrett
10 Assistant Attorney General
11 Office of the Attorney General
12 1275 W. Washington St.
13 Phoenix, AZ 85007
14 Natalia.Garrett@azag.gov

15 Robert D. Charlton, Assistant Superintendent
16 Tammy Seto, Senior Examiner
17 ATTN: Sabrina Zimmerman
18 Arizona Department of Financial Institutions
19 2910 N. 44th Street, Suite 310
20 Phoenix, AZ 85018
21 Sabrina.Zimmerman@azdfi.gov

22 COPY e-mailed/mailed same date, to:

23 Ric Pace, President and Registered Agent
24 BAXTER, MITCHELL & ASSOCIATES, INC.
25 2880 West Oakland Park Blvd. Suite 108
26 Fort Lauderdale, FL 33311
27 Respondents
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29 Adele M. Gilder-Pace, President and Director
30 SUCCESS RESOURCE GROUP, INC.
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