

1
2 **STATE OF CALIFORNIA**
3 **BUSINESS, TRANSPORTATION AND HOUSING AGENCY**
4 **DEPARTMENT OF CORPORATIONS**

5 TO: InCharge Institute of America, Inc.
6 doing business as InCharge Institute and InCharge
7 Profina Debt Solutions
8 Concord Credit
9 La Fundacion Hispana De Credito
10 National Credit Counseling Services doing business as NCCS
11
12 David C. Jones, President/CEO
13 1768 Park Center Drive, Suite 400
14 Orlando, Florida 32835

15 **DESIST AND REFRAIN ORDER**

16 The California Corporations Commissioner finds that:

- 17 1. **Incharge Institute of America, Inc.** does business as **InCharge**
18 **Institute** and **InCharge** (hereinafter "**InCharge**"). **InCharge** has a toll free phone number
19 (800) 335-6081 and an Internet web site at <http://incharge.org> and www.icinstitute.org.
20 **InCharge** works in concert or participation with others engaged in the following activities in
21 violation of the Check Sellers, Bill Payers and Proraters Law pursuant to the California
22 Financial Code section 12000 et seq.
23 2. **InCharge** offers debt management program to California consumers under
24 several names including, but not limited to, **Profina Debt Solutions**, (800) 565-8953,
25 Internet web site www.profina.org; **Concord Credit**, **La Fundacion Hispana De Credito**,
26 (800) 565-7506, Internet web site www.concordcredit.org; and **National Credit Counseling**
27 **Services (NCCS)**, (888) 454-2385, Internet web site www.nccs.org. **InCharge's** Debt
28 Management Program involves its negotiation of a repayment plan with creditors, whereby
InCharge or others, acting in concert or participation with it, will receive money from the
consumer for the purpose of paying a consumer's creditors.

1 3. A description of the services of the Debt Management Program of
2 **InCharge, Profina Debt Solutions, Concord Credit, La Fundacion Hispana De Credito,**
3 **and National Credit Counseling Services (NCCS),** includes working with the consumer
4 and creditors of the consumer to arrange a payment schedule, wherein payments are
5 distributed monthly on behalf of the consumer to the creditors of the consumer. Some
6 alleged benefits associated with the Debt Management Program include reduced interest
7 rates, waived fees and lower monthly payments.

8 4. The Department of Corporations has jurisdiction over and regulates proraters
9 under the Check Sellers, Bill Payers and Proraters Law set forth in California Financial Code
10 section 12000 et seq. California Financial Code section 12200, states:

11 No person shall engage in the business, for compensation, of
12 selling checks, drafts, money orders, or other commercial
13 paper serving the same purpose, or of receiving money as
14 agent of an obligor for the purpose of paying bills, invoices, or
15 accounts of such obligor, or acting as a prorater, nor shall any
16 person, without direct compensation and not as an authorized
17 agent for a utility company, accept money for the purpose of
18 forwarding it to others in payment of utility bills, without first
19 obtaining a license from the commissioner.

20 5. The California Corporations Commissioner has not licensed **InCharge**
21 **Institute Of America, Inc., InCharge Institute, InCharge, Profina Debt Solutions,**
22 **Concord Credit, La Fundacion Hispana De Credito, or National Credit Counseling**
23 **Services (NCCS)** in this State to act as a check seller, bill payer or prorater.

24 6. Based upon the foregoing findings, the California Corporations Commissioner
25 is of the opinion that **InCharge Institute Of America, Inc., InCharge Institute, InCharge,**
26 **Profina Debt Solutions, Concord Credit, La Fundacion Hispana De Credito, and**
27 **National Credit Counseling Services (NCCS)** engaged in the business of check selling, bill
28 paying and prorating as defined in the Check Sellers, Bill Payers and Proraters Law without a
license from the California Corporations Commissioner.

27 ///
28 ///

1 Pursuant to Financial Code section 12103, the California Corporations
2 Commissioner hereby orders **InCharge Institute Of America, Inc.** doing business as
3 **InCharge Institute** and **InCharge**), as well as **Profina Debt Solutions, Concord Credit,**
4 **La Fundacion Hispana De Credito,** and **National Credit Counseling Services (NCCS)**
5 acting in concert or participation with it, to desist and refrain from engaging in the business
6 as a check seller, bill payer or prorater unless and until it is licensed or exempt. This Order
7 is necessary in the public interest and for the protection of consumers.

8
9 Dated: December 16, 2002
10 Los Angeles, California

11 DEMETRIOS A. BOUTRIS
12 California Corporations Commissioner

13 By _____

14 ALAN S. WEINGER
15 Supervising Counsel
16 Enforcement and Legal Services Division
17
18
19
20
21
22
23
24
25
26
27
28

1 WILLIAM P. WOOD
California Corporations Commissioner
2 VIRGINIA J. DUNLAP (CA BAR NO. 142221)
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Supervising Counsel
4 DEPARTMENT OF CORPORATIONS
320 West 4th St. Suite 750
5 Los Angeles, California 90013-2344
Telephone: (213) 575-6205

6 Attorneys for Complainant
7

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the DESIST AND REFRAIN)
ORDER and CONSENT ORDER Issued To:)
11 InCharge Institute of America, Inc. doing)
12 business as InCharge Institute and InCharge;)
Profina Debt Solutions now known as InCharge) CONSENT ORDER
13 Debt Solutions; Concord Credit La Fundacion)
Hispana De Credito; and National Credit)
14 Counseling Services doing business as NCCS)
15 1768 Park Center Drive, Suite 400)
Orlando, Florida 32835)
16 and 2101 Park Center Drive, Suite 320)
Orlando, Florida 32853)

17)
18 Respondents.)
19)
20)

21 On December 16, 2002, the California Corporations Commissioner issued an order to
22 InCharge Institute of America, Inc. doing business as InCharge Institute and InCharge, Profina Debt
23 Solutions now known as InCharge Debt Solutions, Concord Credit La Fundacion Hispana De
24 Credito, and National Credit Counseling Services doing business as NCCS (hereinafter
25 "Respondents") finding that they had engaged in violations of the Check Sellers, Bill Payers and
26 Proraters Law and ordering them to desist and refrain from further violations of Financial Code
27 section 12200.
28

1
2 The California Corporations Commissioner and Respondents do hereby agree to
3 this Consent Order in settlement of this matter. This Consent Order is intended to resolve all factual
4 and legal issues raised by the Desist and Refrain Order issued on December 16, 2002, without the
5 necessity of holding an administrative hearing to determine the validity of the Desist and Refrain
6 Order.
7

8 Respondents neither admit nor deny the findings set forth in the desist and refrain order dated
9 December 16, 2002, which are hereby incorporated by reference into this Consent Order.
10

11 **CONSENT ORDER**

12 Based upon the foregoing,

13 IT IS AGREED AND ORDERED that Respondents will desist and refrain from engaging in
14 the business as a check seller, bill payer or proater unless and until they are licensed or exempt.

15 It is further agreed that Respondents upon the signing of this agreement shall pay to the
16 Department of Corporations its investigative costs of \$130,000.00. Upon receipt of the payment, the
17 Department agrees to close its investigation of unlicensed activity by Respondents prior to January 1,
18 2003.
19

20 It is further agreed that the Commissioner shall indicate on the California Department of
21 Corporation's web site that the Desist and Refrain Order issued on December 16, 2002 has been
22 vacated. The vacated Order however is a public document and will remain on the web site with that
23 notation. The Commissioner shall further post this Consent Order on the web site.
24

25 It is further agreed that the Commissioner has jurisdiction to enter this Consent Order.
26 Respondents agree that the jurisdiction extends to this proceeding only.

27 In consideration of this Consent Order, Respondents waive their right to a hearing on this
28

1 matter and to judicial review of this matter pursuant to Code of Civil Procedure section 1094.5. The
2 Commissioner hereby vacates the desist and refrain order dated December 16, 2002 as to
3 Respondents except to the extent that its findings have been incorporated by reference into this
4 Consent Order.
5

6 Dated: November 10, 2004

InCharge Institute of America, Inc.,
d/b/a InCharge Institute and InCharge;

7 By _____
8 Robert J. Barrett, President

9
10
11 Dated: November 10, 2004

Profina Debt Solutions, n/k/a InCharge
Debt Solutions, d/b/a Concord Credit La Fundacion
Hispana De Credito

12
13
14 By: _____
15 Robert W. Closs, Jr., President

16 Dated: November 10, 2004

National Credit Counseling Services, d/b/a NCCS

17
18 By: _____
19 Robert W. Closs, Jr., President

20 Dated: November 15, 2004

21 WILLIAM P. WOOD
22 California Corporations Commissioner

23 By: _____
24 Alan S. Weinger
25 Supervising Counsel
26 Enforcement and Legal Services Division
27
28