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- TEMPORARY ORDER TO CEASE AND DESIST
NOTICE OF INTENT TO ISSUE ORDER TO CEASE AND DESIST
NOTICE OF INTENT TO IMPOSE CIVIL PENALTY AND NOTICE OF RIGHT TO HEARING

3. LEGAL AUTHORITY AND JURISDICTION

The Banking Commissioner ("Commissioner") is charged with the administration of Sections 36a-67c to 36a-67j, inclusive, of the Connecticut General Statutes contained in Part D of Chapter 660 of the Connecticut General Statutes, "Debt Negotiation and Debt Repossession".

Pursuant to the authority granted by Section 36a-17(a) of the 2012 Supplement to the General Statutes, the Commissioner, through the Consumer Credit Division of the Department of Banking, has investigated the activities of Respondent to determine if it has violated, is violating or is about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner.

Section 36a-67(a) of the 2012 Supplement to the General Statutes provides that:

The commissioner, in the commissioner's discretion, may make such public or private investigations or examinations within or outside this state, concerning any person subject to the jurisdiction of the commissioner, as the commissioner deems necessary to carry out the duties of the commissioner.

Section 36a-67 of the Connecticut General Statutes provides, in pertinent part, that:

(4) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of the general statutes within the jurisdiction of the commissioner, ... the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the person in the aforesaid manner on the date of actual receipt, or seven days after mailing or sending. Any such notice shall include: (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statute ... alleged to have been violated; (4) a short and plain statement of the nature asserted; and (5) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. (If a hearing is requested, unless the person fails to appear at the hearing, the commissioner shall determine whether an order to cease and desist should be issued against the person named in the notice. If the person fails to request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner shall issue an order to cease and desist against the person. No such order shall be issued except in accordance with the provisions of chapter 54.)

(5) If the commissioner finds that the public welfare requires immediate action, the commissioner may incorporate a finding to that effect in the notice sent in accordance with subsection (4) of this section and issue a temporary order requiring the person to cease and desist from the activity which constitutes such alleged violation and to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purpose of the section. Such temporary order shall be effective on receipt and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Section 36a-67(a) of the Connecticut General Statutes provides, in pertinent part, that:

(1) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, ... the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending. Any such notice shall include: (A) a statement of the time, place, and nature of the hearing; (B) a statement of the legal authority and jurisdiction under which the hearing is to be held; (C) a reference to the particular sections of the general statute ... alleged to have been violated; (D) a short and plain statement of the nature asserted; (E) the maximum penalty that may be imposed for such violation; and (F) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such person fails to appear at the hearing. After the hearing, if the commissioner finds that the person has violated any such provision, ... the commissioner may, in the commissioner's discretion, in addition to any other remedy authorized by law, order that a civil penalty, not exceeding one hundred thousand dollars per violation be imposed upon such person. If such person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner may, at the facts require, order that a civil penalty, not exceeding one hundred thousand dollars per violation be imposed upon such person.

(3) Each action undertaken by the commissioner under this subsection shall be in accordance with the provisions of chapter 54.

Section 36a-67(a)(3) of the 2012 Supplement to the General Statutes provides, in pertinent part, that:

Upon complaint, the commissioner may review any fees or charges assessed by a person engaging or offering to engage in debt negotiation services and order the reduction of such fees or charges or repayment of such amount of the fees or charges that the commissioner deems excessive, taking into consideration the fees that other persons performing similar debt negotiation services charge for such services and the benefits to the consumer of such services.

II. MATTERS ASSERTED

- 1. Respondent is a Florida corporation with a place of business at 23123 US 441, Suite 235, Boca Raton, Florida.
2. From at least October 1, 2009 to February 1, 2010, Respondent engaged in debt negotiation services in this state on behalf of at least thirty-seven (37) Connecticut residents who, while physically present in this state, agreed to contract terms concerning their unsecured debt and remitted total payments of at least \$47,200.71 to Respondent.
3. From at least October 1, 2009 to the present, at least thirty-seven (37) Connecticut residents remitted payments to Respondent in excess of amounts that debt negotiators may charge for services pursuant to the Schedule of Maximum Fees established by the Commissioner on or about October 1, 2009.
4. On or about October 1, 2009, the Commissioner established a Schedule of Maximum Fee, which provides, in pertinent part, that "[a] debt negotiator of unsecured debt may collect total aggregate fees including the initial fee and service fees, not to exceed ten percent (10%) of the amount by which the consumer's debt is reduced as part of such settlement as agreed to in the debt negotiation service contract as such settlement is achieved".
5. As no time relevant hereto did Respondent perform or successfully complete the services specified in the contracts.
6. At no time relevant hereto was Respondent licensed to engage or offer to engage in debt negotiation in this state, nor did Respondent qualify for an exemption from such licensure.
7. On June 2, 2010, the Commissioner received a complaint from a Connecticut resident concerning the fees paid to Respondent for debt negotiation services.

III. STATUTORY BASIS FOR ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL PENALTY

Section 36a-67c of the Connecticut General Statutes, in effect prior to October 3, 2011, provided, in pertinent part, that:

(4) As used in this section and sections 36a-67(a) to 36a-67(d), including, (1) "debt negotiation" means, for or with the expectation of a fee, commission or other valuable consideration, assisting a debtor in negotiating or attempting to negotiate on behalf of a debtor the terms of a debtor's obligations with one or more mortgagees or creditors of the debtor; ... (2) "debtor" means any individual who has incurred indebtedness or owes a debt for personal, family or household purposes; ...

(5) No person shall engage in or offer to engage in debt negotiation in this state without a license issued under this section for each location where debt negotiation will be performed or where such person is engaged in or offers to engage in such activity. ... (2) In the event any such person violates this title, outside of this state and the offer to a resident of this state who negotiates or agrees to the terms of the service contract in person, by mail, by telephone or via the Internet while physically present in this state; ...

Section 36a-67(a)(3) of the 2012 Supplement to the General Statutes provides, in pertinent part, that:

Whenever it appears to the commissioner that any person has violated, is violating or is about to violate the provisions of sections 36a-67c to 36a-67j, inclusive, ... the commissioner may take action against such person ... in accordance with sections 36a-50 and 36a-52. For purposes of sections 36a-67(c) to 36a-67(j), inclusive, such engagement and each offer to engage in debt negotiation shall constitute a separate violation.

Section 36a-67(b)(3) of the Connecticut General Statutes provides that:

No person offering debt negotiation services may receive a fee, commission or other valuable consideration for the performance of any service the person offering debt negotiation services has agreed to perform for another person until the person offering debt negotiation services has fully performed such service. A person offering debt negotiation services may receive reasonable periodic payments as services are rendered, provided such payments are clearly stated in the contract. The commissioner may establish a schedule of maximum fees that a debt negotiator may charge for specific services.

Respondent's engaging in debt negotiation in this state without obtaining the required license, as more fully described in paragraphs 1 through 4, inclusive, of the Matters Asserted, constitutes a violation of sections 36a-67(c) to 36a-67(j) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes, and in violation of sections 36a-67(a)(3) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes, and in violation of sections 36a-67(a)(3) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes. Section 36a-67(a)(3) of the Connecticut General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

IV. FINDINGS AND STATUTORY BASIS FOR TEMPORARY ORDER TO CEASE AND DESIST

The Commissioner finds that public welfare requires immediate action to issue a temporary order requiring Respondent to cease and desist from violating Section 36a-67(b)(3) of the Connecticut General Statutes, in effect prior to October 3, 2011, and to take such other action as will be necessary to effectuate the purposes of Section 36a-52(b) of the Connecticut General Statutes, in that the interests of Connecticut residents are being materially prejudiced by Respondent's receipt of fees in excess of the Schedule of Maximum Fees. The Commissioner also finds the payment of fees by the Connecticut resident identified in Exhibit A to be excessive, upon consideration of the fact that the Schedule of Maximum Fees only permits a debt negotiator of unsecured debt to collect total aggregate fees, including the initial fee and service fees, not to exceed ten percent (10%) of the amount by which the consumer's debt is reduced as part of such achieved settlement as agreed to in the debt negotiation service contract, the debt negotiation service contract was not a properly completed and the Connecticut resident (named as debtor) from such contract.

V. TEMPORARY ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO ISSUE ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE CIVIL PENALTY AND NOTICE OF RIGHT TO HEARING

WHEREAS, the Commissioner has reason to believe that Respondent has engaged in acts or conduct which forms the basis to issue an order to cease and desist pursuant to Section 36a-67(a)(3) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes, and engage a civil penalty pursuant to Section 36a-67(a)(3) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes;

AND WHEREAS, the Commissioner has made the finding required under Section 36a-52(b) of the Connecticut General Statutes;

THE COMMISSIONER THEREFORE ORDERS, pursuant to Section 36a-52(b) of the Connecticut General Statutes, that the Consumer Law Group, P.A. immediately CEASE AND DESIST from violating Section 36a-67(b)(3) of the Connecticut General Statutes, in effect prior to October 3, 2011. The Temporary Order shall become effective upon receipt by the Consumer Law Group, P.A., and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the Temporary Order.

THE COMMISSIONER FURTHER ORDERS, pursuant to Section 36a-67(a)(3) of the 2012 Supplement to the General Statutes and Section 36a-52(b) of the Connecticut General Statutes, that: Not later than 10 days from receipt of the Order, The Consumer Law Group, P.A. shall:

- 1. Provide repayment of \$2,186.99 to the Connecticut resident identified in Exhibit A and provide repayment of all fees received from the Connecticut residents identified in Exhibit B by cashier's check, certified check or money order; and
2. Provide to Carmine Costa, Director, Consumer Credit Division, Department of Banking, 260 Constitution Plaza, Hartford, Connecticut 06103-1800, or carmine.costa@dot.gov, evidence of such repayments and a list of all Connecticut residents with whom it has entered into agreements for debt negotiation services to date and to date of such agreements were entered into on and after October 1, 2009. Such submission shall include: (a) a copy of each agreement pursuant to which The Consumer Law Group, P.A. provided or is providing such debt negotiation services, and (b) each debtor's name and address, and full itemization of each debtor's payments made pursuant to the agreement, specifying the dates, amounts and to whom such payments were made.

NOW THEREFORE, notice is hereby given to Respondent that the Commissioner intends to issue an order requiring Respondent to CEASE AND DESIST from violating Section 36a-67(b)(3) of the Connecticut General Statutes, in effect prior to October 1, 2011, and impose a CIVIL PENALTY upon Respondent as set forth herein, subject to Respondent's right to a hearing on the allegations set forth above.

A hearing will be granted to Respondent if a written request for a hearing is received by the Department of Banking, Consumer Credit Division, 260 Constitution Plaza, Hartford, Connecticut 06103-1800 within fourteen (14) days following its receipt of this Temporary Order to Cease and Desist, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing. The hearing will be held on the date of actual receipt, or seven days after mailing or sending. The enclosed Appearance and Request for Hearing Form shall be completed and mailed to the above address. If Respondent will not be represented by an attorney at the hearing, please complete the Appearance and Request for Hearing Form as "pro se". Once a written request for a hearing is received, the Commissioner may issue a modification of hearing and designation of hearing officer that acknowledges receipt of a request for a hearing, designates a hearing officer and sets the date of the hearing in accordance with Section 4-177 of the Connecticut General Statutes and Section 36a-1-21 of the Regulations of Connecticut State Agencies. If a hearing is requested, the hearing will be held on July 15, 2012, at 10 a.m., at the Department of Banking, 260 Constitution Plaza, Hartford, Connecticut.

The hearing will be held in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, unless Respondent fails to appear at the requested hearing. At such hearing, Respondent will have the right to appear and present evidence, rebuttal evidence and argument on all issues of fact and law to be considered by the Commissioner.

If Respondent does not request a hearing within the time prescribed, the Commissioner will issue an order that Respondent cease and desist from violating Section 36a-67(b) of the Connecticut General Statutes, in effect prior to October 1, 2011, may issue an order of repayment of fees, and may order a civil penalty in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation be imposed upon Respondent.

So ordered at Hartford, Connecticut this 10th day of May 2012. /s/ Howard F. Pitkin Banking Commissioner

CERTIFICATION

I hereby certify that on this 10th day of May 2012, the foregoing Temporary Order to Cease and Desist, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing was sent by certified mail, return receipt requested to The Consumer Law Group, P.A., 2001 West Sample Road, Suite 412, Pompano Beach, Florida 33064, certified mail no. 70112180000047300502, and The Consumer Law Group, P.A., Attention: Michael Netzer, Registered Agent, 2011 West Sample Road, Suite 412, Pompano Beach, Florida 33064, certified mail no. 70112180000047300499.

/s/ David Hill Prosecuting Attorney

Administrative Order and Settlements

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