



CONNECTICUT DEPARTMENT OF BANKING

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Howard F. Pitkin Commissioner

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***** *
IN THE MATTER OF: *
CHRISTOPHER ROJAS *
d/b/a LEGACY HOLDING *
GROUP, INC. *
LAUREN ROJAS *
d/b/a LEGACY HOLDING *
GROUP, INC. *
(collectively "Respondents") *
***** *

I. LEGAL AUTHORITY AND JURISDICTION

The Banking Commissioner ("Commissioner") is charged with the administration of Sections 36a-671 to 36a-671e, inclusive, of the Connecticut General Statutes contained in Part II of Chapter 669 of the Connecticut General Statutes, "Debt Adjusters and Debt Negotiation".

Pursuant to the authority granted by Section 36a-17(a) of the 2012 Supplement to the General Statutes, as amended by Public Act 12-96, the Commissioner, through the Consumer Credit Division of the Department of Banking, has investigated the activities of Respondents to determine if they have violated, are violating or are about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner.

Section 36a-17(a) of the 2012 Supplement to the General Statutes, as amended, provides, in pertinent part, that:

The commissioner, in the commissioner's discretion, may, subject to the provisions of section 36a-21 and the Freedom of Information Act, as defined in section 1-200: (1) 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-52 of the Connecticut General Statutes provides, in pertinent part, that:

(a) 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 on the earlier of 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 statutes . . . alleged to have been violated; (4) a short and plain statement of the matters 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 within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice, unless the person fails to appear at the hearing. After 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 does not 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.

(b) 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 (a) 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 purposes of this section. Such temporary order shall become 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-50(a) of the Connecticut General Statutes, as amended by Public Act 12-96, 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 statutes . . . alleged to have been violated; (D) a short and plain statement of the matters 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 not later than fourteen days after 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 and 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, as 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-671a(c) 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 benefit to the consumer of such services. . . .

II. MATTERS ASSERTED

- 1. Respondents are individuals with an office at 3115 South Price Road, Suite 130, Chandler, Arizona.
2. On May 16, 2011, a Connecticut resident, while physically present in this state, completed an application to engage the services of Respondents for debt negotiation services in connection with the Connecticut resident's mortgage on residential property located in this state ("Application").
3. In connection with the Application, the Connecticut resident paid \$3,360 to Respondents, which amount is 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 ("Schedule of Maximum Fees").
4. The Schedule of Maximum Fees provides, in pertinent part, that "[a] debt negotiator of secured debt, including Short Sales and Foreclosure Rescue Services, may impose a fee upon the mortgagor or debtor for performing debt negotiation services not to exceed five hundred dollars (\$500). Such fee shall only be collectable upon the successful completion of all services stated in the debt negotiation service contract".
5. At no time relevant hereto have Respondents been licensed to engage or offer to engage in debt negotiation in this state, nor did Respondents qualify for an exemption from such licensure.
6. On March 27, 2012, the Commissioner received a complaint filed by the Connecticut resident concerning Respondents' failure to perform the debt negotiation services.

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

Section 36a-671 of the Connecticut General Statutes in effect prior to October 1, 2011, provided, in pertinent part, that:

(a) As used in this section and sections 36a-671a to 36a-671d, inclusive, (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; . . . (4) "mortgagor" means a debtor who is an owner of residential property, including, but not limited to, a single-family unit in a common interest community, who is also the borrower under a mortgage encumbering such residential property; . . . and (7) "residential property" means one-to-four family owner-occupied real property.

(b) No person shall engage 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 conducted. . . . A person is engaging in debt negotiation in this state if such person: . . . (2) has a place of business located outside of this state and the debtor is a resident of this state who negotiates or agrees to the terms of the services contract in person, by mail, by telephone or via the Internet while physically present in this state; or (3) has a place of business located outside of this state and the contract concerns a debt that is secured by property located within this state.

Section 36a-671b(b) of the Connecticut General Statutes provides, in pertinent part, 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 any consumer 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.

Section 36a-671a(b) 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-671 to 36a-671e, inclusive, . . . the commissioner may take action against such person . . . in accordance with sections 36a-50 and 36a-52. For purposes of sections 36a-671 to 36a-671e, inclusive, each engagement and each offer to engage in debt negotiation shall constitute a separate violation.

Respondents' engaging in debt negotiation in this state without obtaining the required license, as more fully described in paragraphs 1 through 5, inclusive, of the Matters Asserted, constitutes a violation of Section 36a-671(b) of the Connecticut General Statutes in effect prior to October 1, 2011. Such violation forms the basis to issue an order to cease and desist pursuant to Section 36a-671a(b) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes, and impose a civil penalty pursuant to Section 36a-671a(b) of the 2012 Supplement to the General Statutes and Section 36a-50(a) of the Connecticut General Statutes, as amended. Section 36a-50(a) of the Connecticut General Statutes, as amended, authorizes the Commissioner to impose a civil penalty upon each Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

IV. FINDING 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 Respondents to cease and desist from violating Section 36a-671(b) of the Connecticut General Statutes in effect prior to October 1, 2011, and to take such action as set forth herein to effectuate the purposes of Section 36a-52(b) of the Connecticut General Statutes in that the interests of the Connecticut resident is being materially prejudiced by Respondents' receipt of monies in excess of the Schedule of Maximum Fees from such Connecticut resident and failure to perform the contracted services, and that the interests of additional Connecticut residents also may be materially prejudiced. The Commissioner also finds the fees paid by the Connecticut resident identified in Exhibit A to be excessive upon consideration that the Schedule of Maximum Fees only permits a fee of \$500 to be collected upon successful completion of the debt negotiation services contract, the debt negotiation services contract was not successfully completed and the Connecticut resident received no benefit 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 Respondents have engaged in acts or conduct which forms the basis to issue an order to cease and desist pursuant to Section 36a-671a(b) of the 2012 Supplement to the General Statutes and Section 36a-52(a) of the Connecticut General Statutes, and impose a civil penalty pursuant to Section 36a-671a(b) of the 2012 Supplement to the General Statutes and Section 36a-50(a) of the Connecticut to the General Statutes, as amended;

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 Christopher Rojas d/b/a Legacy Holding Group, Inc. and Lauren Rojas d/b/a Legacy Holding Group, Inc., immediately CEASE AND DESIST from violating Section 36a-671(b) of the Connecticut General Statutes in effect prior to October 1, 2011. This Temporary Order shall become effective upon receipt by Christopher Rojas d/b/a Legacy Holding Group, Inc. and Lauren Rojas d/b/a Legacy Holding Group, Inc., 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 this Temporary Order.

THE COMMISSIONER FURTHER ORDERS, pursuant to Section 36a-671a(c) 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 this Temporary Order to Cease and Desist, Notice of Intent to Issue Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing, Christopher Rojas d/b/a Legacy Holding Group, Inc. and Lauren Rojas d/b/a Legacy Holding Group, Inc. shall:

- 1. Provide repayment of fees to the Connecticut resident and in the amount identified in Exhibit A 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@ct.gov, evidence of such repayment and a list of all Connecticut residents with whom it has entered into agreements for debt negotiation services on and after October 1, 2009. Such submission shall include: (a) A copy of each agreement, and (b) a list of 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 Respondents that the Commissioner intends to issue an order requiring Respondents to CEASE AND DESIST from violating Section 36a-671(b) of the Connecticut General Statutes in effect prior to October 1, 2011, and impose a CIVIL PENALTY upon each Respondent as set forth herein, subject to each Respondent's right to a hearing on the allegations set forth above.

A hearing will be granted to each 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 each Respondent's 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 as set forth in Section 36a-52(a) of the Connecticut General Statutes and Section 36a-50(a) of the Connecticut General Statutes, as amended. 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 shall be deemed received on the earlier of the date of actual receipt, or seven days after mailing or sending. The enclosed Appearance and Request for Hearing Form must be completed and mailed to the above address. If any 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 notification 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 December 4, 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 Respondents fail to appear at the requested hearing. At such hearing, Respondents 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 any Respondent does not request a hearing within the time prescribed, the Commissioner will issue an order that such Respondent cease and desist from violating Section 36a-671(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 each Respondent.

So ordered at Hartford, Connecticut this 11th of October 2012.

/s/
Howard F. Pitkin
Banking Commissioner

CERTIFICATION

I hereby certify that on this 11th day of October 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 Christopher Rojas d/b/a Legacy Holding Group, Inc., 3115 South Price Road, Suite 130, Chandler, Arizona 85248, certified mail no. 70112000000247319933; and Lauren Rojas d/b/a Legacy Holding Group, Inc., 3115 South Price Road, Suite 130, Chandler, Arizona 85248, certified mail no. 70112000000247319957, and 3155 South Prince Road, Suite 130, Chandler, Arizona 85248, certified mail no. 70112000000247319964.

/s/
Daniel Kitt
Prosecuting Attorney

Administrative Orders and Settlements

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