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Howard F. Pitkin
Commissioner

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IN THE MATTER OF:

ELITE FINANCIAL SOLUTIONS INC.
a/k/a E. F. SOLUTIONS INC.

("Respondent")

* **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**

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 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-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.

II. MATTERS ASSERTED

- Respondent is a Delaware corporation with offices at 1180 SW 36th Avenue, Suite 205, Pompano Beach, Florida and 6278 North Federal Highway, Suite 109, Ft. Lauderdale, Florida.
- From at least April 2012 to the present, Respondent offered debt negotiation services via the Internet and made various claims with respect to such services, including "[b]e completely debt free in as little as 12-36 months" and "[l]et us lower your debts as low as 25% to 75% of what you owe!" In addition, Connecticut is listed on its website whereby consumers, upon completion of a form, could request a free phone consultation from Respondent regarding its services.
- On April 16, 2012, a Connecticut resident entered into a Client Agreement with Respondent for debt negotiation services of unsecured debt. In particular, the Client Agreement stated that "EFS agrees to negotiate with Client's unsecured creditors in order to formulate a single payment debt settlement plan with Client's creditors that reduces Client's debt to an amount satisfactory to Client under the terms and conditions of this agreement".
- The Client Agreement requires that the Connecticut resident pay to Respondent an initial set up fee of \$963.33 in three payments of \$321.11, a monthly service fee of \$39.00, and for each account settled, 15% of the amount saved. Such fees were in excess of amounts that debt negotiators may charge pursuant to the Schedule of Maximum Fees established by the Commissioner on or about October 1, 2009 ("Schedule of Maximum Fees"). The Schedule of Maximum Fees 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. In May 2012, the Connecticut resident made one payment of \$321.11, which was subsequently refunded by Respondent.
- At no time relevant hereto has Respondent been licensed to engage or offer to engage in debt negotiation in this state, nor does Respondent qualify for an exemption from such licensure.

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

Section 36a-671 of the 2012 Supplement to the General Statutes, provides, 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

(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 in person, by mail, by telephone or via the Internet

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.

- Respondent's offering to engage in debt negotiation in this state without obtaining the required license, as more fully described in paragraphs 1, 2, 3 and 5 of the Matters Asserted, constitutes a violation of Section 36a-671(b) of the 2012 Supplement to the General Statutes. 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 Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.
- Respondent's 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 2012 Supplement to the General Statutes. 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 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 Respondent to cease and desist from violating Section 36a-671(b) of the 2012 Supplement to the General Statutes, 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 Respondent is continuing to offer its debt negotiation services in Connecticut via the Internet and interests of Connecticut residents who are already in debt may be materially prejudiced by Respondent's charging fees in excess of the Schedule of Maximum Fees.

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-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 Elite Financial Solutions Inc. a/k/a E. F. Solutions Inc., immediately **CEASE AND DESIST** from violating Section 36a-671(b) of the 2012 Supplement to the General Statutes. This Temporary Order shall become effective upon receipt by Elite Financial Solutions Inc. a/k/a E. F. Solutions 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 Order.

THE COMMISSIONER FURTHER ORDERS, pursuant to Section 36a-52(b) of the Connecticut General Statutes, that: Not later than 10 days from receipt of this Order, Elite Financial Solutions Inc. a/k/a E. F. Solutions Inc., shall provide to Carmine Costa, Director, Consumer Credit Division, Department of Banking, 260 Constitution Plaza, Hartford, Connecticut 06103-1800, or carmine.costa@ct.gov, 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 Respondent that the Commissioner intends to issue an order requiring Respondent to **CEASE AND DESIST** from violating Section 36a-671(b) of the 2012 Supplement to the General Statutes 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 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 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 6, 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-671(b) of the 2012 Supplement to the General Statutes 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 22nd day of October 2012.

_____/s/_____
Howard F. Pitkin
Banking Commissioner

CERTIFICATION

I hereby certify that on this 23rd 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 Elite Financial Solutions Inc. a/k/a E. F. Solutions Inc., Attention: Jerry Lowenstein, President, at 1180 SW 36th Avenue, Suite 205, Pompano Beach, Florida 33069, certified mail no. 7011200000247319889; and at 6278 North Federal Highway, Suite 109, Ft. Lauderdale, Florida 33308, certified mail no. 7011200000247315775.

_____/s/_____
Stacey L. Serrano
Prosecuting Attorney

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