
 *
IN THE MATTER OF: *
 *
SMART MARKETING CORP. (“SMC”) *
 *
SMART FAMILY GROUP LLC (“SFG”) *
 *
RENCY MEJIA (“Mejia”) *
 *
(Collectively “Respondents”) *
 *

**FINDINGS OF FACT,
 CONCLUSIONS OF LAW
 AND ORDER**

FINDINGS OF FACT

1. On June 18, 2019, the Banking Commissioner (“Commissioner”) issued a Temporary Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty, and Notice of Right to Hearing against Respondents (collectively “Notice”). The Notice is incorporated by reference herein. (Tr. at 6; Hearing Officer Ex. 1.)
2. The Notice was issued pursuant to Sections 36a-52(a), 36a-50(a), and 36a-671a(b) of the Connecticut General Statutes. (Hearing Officer Ex. 1.)
3. The Notice alleges that Respondents acted as debt negotiators in this state without a debt negotiation license. The Notice advised Respondents that such violations form a basis to issue an order to cease and desist pursuant to Section 36a-52(a) of the Connecticut General Statutes, and an order imposing civil penalty pursuant to Section 36a-50(a) of the Connecticut General Statutes. (Hearing Officer Ex. 1.)
4. The Notice also alleges that Mejia engaged or offered to engage in debt negotiation of a residential mortgage loan on behalf of a mortgagor for compensation or gain in this state without a mortgage loan originator license. The Notice advised Mejia that such violation forms a basis to issue an order to cease and desist pursuant to Section 36a-52(a) of the Connecticut General Statutes, and an order imposing civil penalty pursuant to Section 36a-50(a) of the Connecticut General Statutes. (Hearing Officer Ex. 1.)
5. The Notice advised Respondents that if any Respondent did not request a hearing within the time period prescribed or failed to appear at any such hearing, the allegations in the Notice would be deemed admitted. Accordingly, the Order to Make Restitution would remain in effect and become permanent against Respondents, and the Commissioner would issue an order that Respondents

cease and desist from violating Sections 36a-671(b) and 36a-671e of the Connecticut General Statutes, and may order a civil penalty in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation upon Respondents. (Hearing Officer Ex. 1).

6. On July 3, 2019, Mejia requested a hearing on the Notice on behalf of Respondents. (Tr. at 6; Hearing Officer Ex 2.)
7. On July 9, 2019, the Commissioner issued a Notification of Hearing and Designation of Hearing Officer stating that the hearing would be held on August 1, 2019, at 10 a.m. (“Hearing”), at the Department of Banking (“Department”) and appointing Attorney Matthew Saunig as Hearing Officer. The Notification of Hearing and Designation of Hearing Officer also stated that the attorney representing the Department is Jeffrey T. Schuyler, Staff Attorney. (Hearing Officer Ex. 1.)
8. Through a series of electronic communications between the Hearing Officer, Mejia, and the Department on July 15, July 16, July 31, August 1, August 6, August 8, August 12, and August 15, 2019, the Hearing was rescheduled to October 17, 2019. (Tr. at 6-9; Hearing Officer Exs. 3-15.)
9. On October 17, 2019, the Hearing was held at the Department. Attorney Schuyler represented the Department. (Tr. at 3-4.)
10. No one appeared at the Hearing on behalf of the Respondents and the Respondents did not withdraw their request for a hearing on the Notice. (Tr. at 4, 9.)
11. At the Hearing, the Hearing Officer noted for the record that he had not received any communications from Respondents excusing Respondents’ absence at the Hearing or requesting an additional continuance. (Tr. at 9.)
12. The Hearing was conducted in accordance with Chapter 54 of the Connecticut General Statutes, the “Uniform Administrative Procedure Act”, and the Department’s “Rules of Practice in Contested Cases”, Sections 36a-1-19 to 36a-1-57, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”). (Tr. at 4.)
13. SMC is a New York corporation with a principal place of business at 220 Old Country Road, Suite 202, Mineola, New York. (Hearing Officer Ex. 1.)
14. SFG is a New York limited liability company with a principal place of business at 220 Old Country Road, Suite 202, Mineola, New York. (Hearing Officer Ex. 1.)
15. Mejia is a natural person associated with SMC and SFG. (Hearing Officer Ex. 1.)
16. On or about November 30, 2017, the Department received a complaint from [REDACTED] (“[REDACTED]”), a Connecticut consumer who had entered into an agreement with SMC to assist with negotiating a modification of a residential mortgage loan secured by [REDACTED] primary residence. (Hearing Officer Ex. 1.)
17. The agreement authorized Respondents to prepare letters, documents, and other necessary correspondence and paperwork on [REDACTED] behalf. The agreement also contained a limited power of attorney, which authorized Mejia and SMC to directly communicate with [REDACTED] mortgagee to modify [REDACTED] mortgage loan. (Hearing Officer Ex. 1.)

18. ██████ paid \$2,700 to Respondents for the debt negotiation services. The Notice stated that ██████ paid \$3,100 to Respondents, but at the Hearing the Department noted that, upon further investigation, it was only able to identify payment of \$2,700 from ██████ to Respondents. (Tr. at 13-14; Hearing Officer Ex. 1.)
19. At no time relevant hereto were Respondents licensed to engage or offer to engage in debt negotiation in this state, nor did Respondents qualify for an exemption from such licensure. (Hearing Officer Ex. 1.)
20. At no time relevant hereto was Mejia licensed in this state as a mortgage loan originator, nor did Mejia qualify for an exemption from such licensure. (Hearing Officer Ex. 1.)
21. Respondents acting within this state as a debt negotiator without a debt negotiation license constitutes a violation of Section 36a-671(b) of the Connecticut General Statutes. (Hearing Officer Ex. 1.)
22. Mejia acting within this state as a debt negotiator of a residential mortgage loan on behalf of a mortgagor for compensation or gain without a debt negotiation license constitutes a violation of Section 36a-671e of the Connecticut General Statutes. (Hearing Officer Ex. 1.)
23. A maximum civil penalty of \$100,000 per violation may be imposed upon each Respondent based on a violation of Section 36a-671(b) of the Connecticut General Statutes. During the Hearing, the Department requested a civil penalty of \$100,000 be imposed upon on each Respondent based on their respective violations of Section 36a-671(b) of the Connecticut General Statutes. (Tr. at 10-11.)
24. A maximum civil penalty of \$100,000 per violation may be imposed upon Mejia based on a violation of Section 36a-671e of the Connecticut General Statutes. During the Hearing, the Department requested a civil penalty of \$100,000 be imposed upon Mejia based on his violation of Section 36a-671e of the Connecticut General Statutes. (Tr. at 11.)
25. At the Hearing, the Department also requested that Respondents also pay restitution to ██████ in the amount of \$2,700. (Tr. at 11.)

CONCLUSIONS OF LAW

The Commissioner has jurisdiction over the licensing and regulation of debt negotiators pursuant to Part II of Chapter 669, Sections 36a-671 to 36a-671f, inclusive, of the Connecticut General Statutes. The Notice issued by the Commissioner comported with the requirements of Section 4-177(b) of the Connecticut General Statutes. The Notice complied with the notice requirements of Sections 36a-50(a) [civil penalty] and 36a-52(a) [cease and desist order] of the Connecticut General Statutes. The Respondent received notice that the Hearing was originally scheduled for August 1, 2019 and then rescheduled for October 17, 2019.

The Commissioner's broad regulatory authority includes the power to impose civil penalties pursuant to Section 36a-50(a) of the Connecticut General Statutes, and to issue orders to cease and desist pursuant to Section 36a-52(a) of the Connecticut General Statutes.

Section 36a-50(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 . . . certified mail, return receipt requested 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 . . . 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-52(a) 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 . . . certified mail, return receipt requested 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 . . . 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.

Section 4-177(c) of the Connecticut General Statutes provides, in pertinent part, that “[u]nless precluded by law, a contested case may be resolved . . . by the default of a party.”

Section 36a-1-31(b) of the Regulations provides, in pertinent part, that:

When a party fails to appear at a scheduled hearing, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, the presiding officer shall submit to the commissioner a proposed final decision containing the relief sought in the notice, provided the presiding officer may, if deemed necessary, receive evidence from the department, as part of the record, concerning the appropriateness of the amount of any civil penalty, fine, or restitution sought in the notice. The commissioner shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and section 36a-1-52 of the Regulations of Connecticut State Agencies.

Pursuant to Section 36a-1-31(b) of the Regulations of Connecticut State Agencies, the allegations made in the Notice against Respondents are deemed admitted.

The express terms of Section 36a-52(a) of the Connecticut General Statutes require that the Commissioner issue a cease and desist order against the Respondents given Respondents’ failure to appear at the hearing.

Pursuant to Section 36a-1-31(b) of the Regulations, the Hearing Officer, deeming it necessary, received evidence from the Department as part of the record solely concerning the appropriateness of the amount of the civil penalty and restitution sought in the Notice.

Section 36a-671 of the Connecticut General Statutes provides, in pertinent part, that:

(4) “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, including the negotiation of short sales of residential property or foreclosure rescue services.;

(5) “Debtor” any individual who has incurred indebtedness or owes a debt for personal, family or household purposes;

(4) “Mortgagee” means the original lender under a mortgage loan secured by residential property or its agents, successors or assigns.

Section 36a-671(b) of the Connecticut General Statutes provides, in pertinent part, that:

No person shall engage or offer to engage in debt negotiation in this state unless such person has first obtained a license for its main office and for each branch office where such business is conducted in accordance with the provisions of sections 36a-671 to 36a-671f, inclusive. Any activity

subject to licensure pursuant to sections 36a-671 to 36a-671f, inclusive, shall be conducted from an office located in a state, as defined in section 36a-2. 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; or (3) has its place of business located outside of this state and the services concern a debt that is secured by property located within this state.

Section 36a-671e of the Connecticut General Statutes provides, in pertinent part, that:

(b) No individual shall engage or offer to engage in debt negotiation of a residential mortgage loan on behalf of a mortgagor for compensation or gain or with the expectation of compensation or gain without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489 unless such individual is exempt from such licensure under subdivision (2) of subsection (b) of section 36a-486.

Respondents acted within this state as debt negotiators without a debt negotiation license, in violation of Section 36a-671(b) of the Connecticut General Statutes, which forms a basis for an order to cease and desist to be issued against Respondents and for the imposition of a civil penalty upon Respondents pursuant Section 36a-671a(b) of the Connecticut General Statutes and Sections 36a-52(a) and 36a-50(a) of the General Statutes of Connecticut.

ORDER

Having read the record, I hereby **ORDER**, pursuant to Section 36a-671a(b) of the Connecticut General Statutes and Sections 36a-52(a) and 36a-50(a) of the Connecticut General Statutes, that:

1. Smart Marketing Corp. **CEASE AND DESIST** from violating Section 36a-671(b) of the Connecticut General Statutes;
2. Smart Family Group LLC **CEASE AND DESIST** from violating Section 36a-671(b) of the Connecticut General Statutes;
3. Rency Mejia **CEASE AND DESIST** from violating Section 36a-671(b) of the Connecticut General Statutes;
4. Rency Mejia **CEASE AND DESIST** from violating Section 36a-671e of the Connecticut General Statutes;
5. **A CIVIL PENALTY** of One Hundred Thousand Dollars (\$100,000) be imposed upon Smart Marketing Corp., to be remitted to the Department by cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut", no later than thirty (30) days from the date the Order is mailed;
6. **A CIVIL PENALTY** of One Hundred Thousand Dollars (\$100,000) be imposed upon Smart Family Group LLC, to be remitted to the Department by cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut", no later than thirty (30) days from the date the Order is mailed;

7. A **CIVIL PENALTY** of Two Hundred Thousand Dollars (\$200,000) be imposed upon Rency Mejia, to be remitted to the Department by cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut", no later than thirty (30) days from the date the Order is mailed;
8. **RESTITUTION** in the amount of Two Thousand Seven Hundred Dollars (\$2,700) to be paid by Respondents to [REDACTED] no later than thirty (30) days from the date the Order is mailed; and
9. The Order shall become effective when mailed.

Dated at Hartford, Connecticut,
this 6th day of January 2020.

_____/s/_____
Jorge L. Perez
Banking Commissioner

This Order was sent by certified mail, return receipt requested, to Rency Mejia on behalf of all Respondents and hand delivered to Jeffrey T. Schuyler, Staff Attorney, State of Connecticut Department of Banking on January 7, 2020.

Rency Mejia
Smart Marketing Corp.
55 N. Central Avenue
Valley Stream, NY 11580

Certified Mail No. 7016 2710 0000 5897 1486