
IN THE MATTER OF:

JONATHAN MICHAEL KELLEY
d/b/a ADVOCATE PROCESSING
SERVICES

(“Respondent”)

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

I. LEGAL AUTHORITY AND JURISDICTION

1. The Banking Commissioner (“Commissioner”) is charged with the administration of Sections 36a-671 to 36a-671f, inclusive, of Part II of Chapter 669 of the Connecticut General Statutes, “Debt Adjusters and Debt Negotiation”.

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

3. As a result of the Investigation, the Commissioner has reason to believe that Respondent has violated Section 36a-671(b) of the Connecticut General Statutes, in effect prior to October 1, 2017.

4. As a result of the Investigation, the violation alleged by the Commissioner forms the basis to issue an order to cease and desist against Respondent pursuant to Sections 36a-671a(b) and 36a-52(a) of the Connecticut General Statutes.

5. As a result of the Investigation, the violation alleged by the Commissioner forms the basis to issue a civil penalty against Respondent pursuant to Sections 36a-671a(b) and 36a-50(a) of the Connecticut General Statutes.

6. As a result of the Investigation, the violation alleged by the Commissioner forms the basis to issue an order to make restitution pursuant to Sections 36a-671(b) and 36a-50(c) of the Connecticut General Statutes.

II. MATTERS ASSERTED

7. Respondent is an individual doing business under the fictitious business name Advocate Processing Services, with a place of business at 22102 Bianco, Laguna Hills, California.

8. At all relevant times hereto, Respondent advertised and purported to offer mortgage modification services and received or expected to receive compensation in connection with those services.

9. On or about September 28, 2015, a Connecticut mortgagor (“Mortgagor”) entered into a contract purporting to authorize Respondent to represent the Mortgagor in the modification of such Mortgagor’s residential mortgage loan (“Fee Agreement”).

10. In connection with the Fee Agreement, the Mortgagor made an initial payment to Respondent of \$998, and at least \$16,986 to Respondent by automatic withdrawals from Mortgagor’s bank account between September 30, 2015 and August 1, 2016.

11. In connection with the Fee Agreement, the Mortgagor paid to Respondent a total of Seventeen Thousand Nine Hundred Eighty-Four Dollars (\$17,984) for the purported loan modification services.

12. The sum the Mortgagor paid to Respondent in connection with such services is in excess of the amount that debt negotiators may charge for services related to secured debt pursuant to the Schedule of Maximum Fees established by the Commissioner on or about October 1, 2009 (“Schedule of Maximum Fees”).

13. 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”.

14. At no time relevant hereto has Respondent been licensed to engage or offer to engage in debt negotiation in this state, nor did Respondent qualify for an exemption from such licensure.

15. In July 2016, the Mortgagor received notice regarding the initiation of foreclosure proceedings on the residential mortgage loan that Respondent had contracted with the Mortgagor to modify.

16. The mortgagee indicated that it had never received payment from Respondent and had no knowledge that Respondent was involved in any mortgage modification on behalf of the Mortgagor.

17. The Division made several attempts to contact Respondent through certified mail and e-mail correspondence, but no response has been received.

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

Respondent’s engaging or offering to engage in debt negotiation in this state without obtaining the required license, as more fully described in paragraphs 7 through 17, inclusive, of the Matters Asserted, constitutes at least one violation of Section 36a-671(b) of the Connecticut General Statutes, in effect prior to October 1, 2017. Such violation forms the basis to issue an order to cease and desist pursuant to Sections 36a-671a(b) and 36a-52(a) of the Connecticut General Statutes, issue an order to make restitution pursuant to Sections 36a-671a(b) and 36a-50(c) of the Connecticut General Statutes, and impose a civil penalty pursuant to Sections 36a-671a(b) and 36a-50(a) of the Connecticut General Statutes. Section 36a-50(a) 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. 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**

WHEREAS, the Commissioner has reason to believe that Respondent has engaged in acts or conduct which forms the basis to issue an order to make restitution pursuant to Sections 36a-671a(b) and 36a-50(c) of the Connecticut General Statutes, issue an order to cease and desist pursuant to Sections 36a-671a(b) and 36a-52(a) of the Connecticut General Statutes, and impose a civil penalty pursuant to Sections 36a-671a(b) and 36a-50(a) of the Connecticut General Statutes.

THE COMMISSIONER THEREFORE ORDERS, pursuant to Section 36a-50(c) of the Connecticut General Statutes, that Jonathan Michael Kelley d/b/a Advocate Processing Services **MAKE RESTITUTION** of any sums obtained as a result of Jonathan Michael Kelley d/b/a Advocate Processing Services violating Section 36a-671(b) of the Connecticut General Statutes in effect prior to October 1, 2017, plus interest at the legal rate set forth in Section 37-1 of the Connecticut General Statutes. Specifically, the Commissioner **ORDERS** that: Not later than thirty (30) days from the date this Order to Make Restitution becomes permanent, Jonathan Michael Kelley d/b/a Advocate Processing Services shall:

1. Repay \$17,984 plus interest to the Connecticut debtor identified in Exhibit A attached hereto and repay any other Connecticut debtor who entered into an agreement for debt negotiation services with Jonathan Michael Kelley d/b/a Advocate Processing Services on and after October 1, 2009, any fees paid by such Connecticut debtor to Jonathan Michael Kelley d/b/a Advocate Processing Services, plus interest. Payments shall be made by cashier's check, certified check or money order; and
2. Provide evidence of such repayments to Carmine Costa, Director, Consumer Credit Division, Department of Banking, 260 Constitution Plaza, Hartford, Connecticut 06103-1800, or carmine.costa@ct.gov.

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 Connecticut General Statutes, and impose a **CIVIL PENALTY** upon Respondent as set forth herein, subject to Respondent's right to a hearing on the allegation 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 or submitted by e-mail to DOB.hearingsupport@ct.gov within fourteen (14) days following Respondent's receipt of this 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 as set forth in Sections 36a-52(a), 36a-50(a) and 36a-50(c) of the Connecticut General Statutes. This 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 shall be deemed received on the earlier of the date of actual receipt, or seven (7) days after mailing or sending. To request a hearing, complete and return the enclosed Appearance and Request for Hearing Form to one of the above addresses. 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 remotely via videoconference using Microsoft Teams on March 4, 2021, at 10 a.m.

If a hearing is requested, it will be held in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, Executive Order 7B, Section 1, as amended, renewed or superseded, and the Remote Hearing Guidelines, available on the Department's website at <https://portal.ct.gov/dob>, 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 period prescribed or fails to appear at any such hearing, the allegation herein will be deemed admitted. Accordingly, the Order to Make Restitution shall remain in effect and become permanent against Respondent, and the Commissioner will issue an order that Respondent cease and desist from violating Section 36a-671(b) 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 be imposed upon Respondent.

So ordered at Hartford, Connecticut,
this 8th day of January 2021.

/s/

Jorge L. Perez
Banking Commissioner

CERTIFICATION

I hereby certify that on this 8th day of January 2021, I caused to be mailed by certified mail, return receipt requested, the foregoing 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 to Jonathan Michael Kelley d/b/a Advocate Processing Services, 22102 Bianco, Laguna Hills, California 92653, Certified Mail No. 7020 2450 0000 7026 7134.

/s/
Carmen M. Calderon, Secretary 2