
*
IN THE MATTER OF: *
*
JONATHAN MICHAEL KELLEY *
d/b/a ADVOCATE PROCESSING *
SERVICES *

(“Respondent”) *
*

ORDER TO CEASE AND DESIST

AND

ORDER IMPOSING CIVIL PENALTY

I. PRELIMINARY STATEMENT

WHEREAS, 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”;

WHEREAS, the Commissioner, through the Consumer Credit Division (“Division”) of the Department of Banking, conducted an investigation of the activities of Respondent, pursuant to the authority granted by Section 36a-17 of the Connecticut General Statutes, to determine if he had violated, was violating or was about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner;

WHEREAS, as a result of such investigation, on January 8, 2021, the Commissioner issued an Order to Make Restitution (“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 (collectively “Order and Notice”) against Respondent, which Order and Notice is incorporated herein by reference;

WHEREAS, on January 8, 2021 and February 19, 2021, the Order and Notice was caused to be mailed by certified mail, return receipt requested, to Respondent (Certified Mail Nos. 70202450000070267134 and 70192970000078913029, respectively);

WHEREAS, the Order and Notice provided Respondent with the opportunity for a hearing, and stated that if a hearing was not requested by Respondent within 14 days of its receipt or if Respondent failed to appear at any such hearing, the allegation would be deemed admitted, the Order to Make Restitution shall remain in effect and become permanent against Respondent, and the Commissioner would 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;

WHEREAS, the Order and Notice issued against Respondent was deemed received by the person on the earlier of the date of actual receipt, or seven days after mailing or sending, pursuant to Sections 36a-52(a), 36a-50(a)(1) and 36a-50(c) of the Connecticut General Statutes;

WHEREAS, Respondent failed to request a hearing within the prescribed time period;

WHEREAS, the Commissioner alleged in the Order and Notice, with respect to the activity described therein, that Respondent's engaging or offering to engage in debt negotiation in this state without obtaining the required license 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 Section 36a-671a(b) and 36a-52(a) of the Connecticut General Statutes, to issue an order to make restitution pursuant to Sections 36a-671a(b) and 36a-50(c) of the Connecticut General Statutes, and to impose a civil penalty pursuant to Section 36a-671a(b) and 36a-50(a) of the Connecticut General Statutes;

WHEREAS, also in the Order and Notice, the Commissioner ordered, pursuant to Section 36a-50(c) of the Connecticut General Statutes, that not later than 30 days from the date the Order to Make Restitution becomes permanent, Respondent shall repay \$17,984 plus interest to an identified Connecticut debtor 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, and provide evidence of such repayments to the Director of the Division;

WHEREAS, Section 36a-52(a) of the Connecticut General Statutes provides, in pertinent part, that “[i]f 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”;

WHEREAS, Section 36a-50(a)(2) of the Connecticut General Statutes provides, in pertinent part, that “[i]f 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”;

WHEREAS, Section 36a-50(a)(3) of the Connecticut General Statutes provides that “[e]ach action undertaken by the commissioner under this subsection shall be in accordance with the provisions of chapter 54”;

AND WHEREAS, Section 36a-1-31(a) of the Regulations of Connecticut State Agencies provides, in pertinent part, that “[w]hen a party fails to request a hearing within the time specified in the notice, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, 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”.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commissioner finds that the matters asserted, as set forth in paragraphs 7 through 17, inclusive, of Section II of the Order and Notice, shall constitute findings of fact within the meaning of Section 4-180(c) of the Connecticut General Statutes, and that the conclusions, as set forth in Section III of the Order and Notice, shall constitute conclusions of law within the meaning of Section 4-180(c) of the Connecticut General Statutes and Section 36a-1-52 of the Regulations of Connecticut State Agencies.

2. The Commissioner finds that Respondent has engaged in acts or conduct which, pursuant to Sections 36a-671a(b) and 36a-52(a) of the Connecticut General Statutes, forms the basis to issue an order to cease and desist against Respondent, and, pursuant to Sections 36a-671a(b) and 36a-50(a) of the Connecticut General Statutes, forms the basis to impose a civil penalty upon Respondent.

3. The Commissioner finds that the Order and Notice was given in compliance with Sections 36a-52(a), 36a-50(a), 36a-50(c) and 4-177 of the Connecticut General Statutes.

III. ORDER

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

1. Jonathan Michael Kelley d/b/a Advocate Processing Services **CEASE AND DESIST** from violating Section 36a-671(b) of the Connecticut General Statutes;
2. A **CIVIL PENALTY** of One Hundred Thousand Dollars (\$100,000) be imposed upon Jonathan Michael Kelley d/b/a Advocate Processing Services, to be remitted to the Department of Banking by wire transfer, cashier's check, certified check or money order, made payable to "Treasurer, State of Connecticut", no later than thirty (30) days from the date this Order is mailed;
3. The **ORDER TO MAKE RESTITUTION** issued on January 8, 2021, remains in effect and became permanent against Jonathan Michael Kelley d/b/a Advocate Processing Services on March 12, 2021; and
4. This Order shall become effective when mailed.

Dated at Hartford, Connecticut,
this 23rd day of April 2021.

/s/
Jorge L. Perez
Banking Commissioner

This Order was sent by certified mail,
return receipt requested, to
Respondent on April 24, 2021.

Jonathan Michael Kelley
d/b/a Advocate Processing Services
22102 Bianco
Laguna Hills, CA 92653

Certified Mail No. 7020 2450 0000 7026 7479