
*
IN THE MATTER OF: *
*
ROCKY MOUNTAIN CAPITAL *
MANAGEMENT LLC *
NMLS # 1747384 *
*
(“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 Part XII of Chapter 669, Sections 36a-800 to 36a-814, inclusive, of the Connecticut General Statutes, “Consumer Collection Agencies”, and the regulations promulgated thereunder, Sections 36a-809-6 to 36a-809-17, inclusive, of the Regulations of Connecticut State Agencies and Part III of Chapter 668, Sections 36a-555 to 36a-573, inclusive, of the Connecticut General Statutes, “Small Loan Lending and Related Activities” and the regulations promulgated thereunder, Sections 36a-570-1 to 36a-570-17, inclusive, of the Regulations of Connecticut State Agencies;

WHEREAS, pursuant to the authority granted by Section 36a-17 of the Connecticut General Statutes, the Commissioner, through the Consumer Credit Division of the Department of Banking, has investigated the activities of Respondent to determine if it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes or Regulations of Connecticut State Agencies within the jurisdiction of the Commissioner;

WHEREAS, as a result of such investigation, on August 15, 2023, the 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 (collectively “Order and Notice”) against Respondent, which Order and Notice is incorporated herein by reference;

WHEREAS, on August 16, 2023, the Order and Notice was caused to be mailed by certified mail, return receipt requested, to Respondent (Certified Mail Nos. 9589071052700567268735 and 9589071052700567268728);

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 allegations would be deemed admitted, the Order to Make Restitution shall remain in effect and become permanent, and the Commissioner would issue an order that Respondent cease and desist from violating Sections 36a-556(a) and 36a-801(a) 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) 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 acting within this state as a consumer collection agency without a consumer collection agency license constitutes violations of Section 36a-801(a) of the Connecticut General Statutes in effect at such time. Such violations form the basis to issue an order to cease and desist pursuant to Sections 36a-804(b) and 36a-52(a) of the Connecticut General Statutes, and to impose a civil penalty pursuant to Sections 36a-804(b) and 36a-50(a) of the Connecticut General Statutes;

WHEREAS, the Commissioner also alleged in the Order and Notice, with respect to the activity described therein, that Respondent's engaging in small loan activity constitutes violation of Section 36a-556(a) of the Connecticut General Statutes in effect at such time. Such violation forms the basis to issue an order to cease and desist pursuant to Sections 36a-570(b) and 36a-52(a) of the Connecticut General Statutes, and to impose a civil penalty pursuant to Sections 36a-570(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 thirty (30) days from the date of the Order to Make Restitution becomes permanent, that Respondent reimburse all fees and expenses plus interest paid by an identified Connecticut borrower and any other Connecticut borrower in connection with the collection on a small loan made by an unlicensed person in violation of Section 36a-556(a) of the Connecticut General Statutes, plus interest at the legal rate set forth in Section 37-1 of the Connecticut General Statutes since November 1, 2017, and provide to the Director of the Consumer Credit Division evidence of such refunds;

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 . . . , 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 . . . , 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 8 through 14, 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 paragraphs 15 and 16 of 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 forms the basis to issue an order to cease and desist pursuant to Sections 36a-804(b), 36a-570(b) and 36a-52(a) of the Connecticut General Statutes and to impose a civil penalty upon Respondent pursuant to Sections 36a-804(b), 36a-570(b) and 36a-50(a) of the Connecticut General Statutes.

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-804(b), 36a-570(b), 36a-52(a), 36a-50(a) and 36a-50(c) of the Connecticut General Statutes, that:

1. **ROCKY MOUNTAIN CAPITAL MANAGEMENT LLC CEASE AND DESIST** from violating Sections 36a-801(a) and 36a-556(a) of the Connecticut General Statutes;
2. A **CIVIL PENALTY** of One Hundred Thousand Dollars (\$100,000) be imposed upon **ROCKY MOUNTAIN CAPITAL MANAGEMENT LLC** to be remitted to the Department of Banking by electronic funds transfer, cashier’s check, certified check or money order, made payable to “Treasurer, State of Connecticut”, no later than forty-five (45) days from the date this Order is mailed;

3. The **ORDER TO MAKE RESTITUTION** issued on August 15, 2023, remains in effect and became permanent against ROCKY MOUNTAIN CAPITAL MANAGEMENT LLC on September 7, 2023; and
4. This Order shall become effective when mailed.

Dated at Hartford, Connecticut,
this 27th day of November 2023.

/s/ _____
Jorge L. Perez
Banking Commissioner

This Order was sent by certified mail,
return receipt requested, to
Respondent on November 29, 2023.

ROCKY MOUNTAIN CAPITAL MANAGEMENT LLC
Attention: David Dwyer, President
3829 Forest Parkway, Ste 200
North Tonawanda, NY 14120
Certified Mail No. 70142120000037011870

ROCKY MOUNTAIN CAPITAL MANAGEMENT LLC
Attention: Katelyn Stumpf, Compliance Officer
3829 Forest Parkway, Ste 200
North Tonawanda, NY 14120
Certified Mail No. 70142120000037011863