

STATE COLLECTION AGENCY LICENSING  
BOARD

BEFORE THE COMMISSIONER OF  
FINANCIAL REGULATION

v.

OAH NO.: LABOR-MCA-74-23-29930

CFR No.: CFR-FY2022-0021

SMITH, COHEN, & ROSENBERG, LLC,  
D/B/A SCR SOLUTIONS

RESPONDENT

---

PROPOSED FINAL ORDER

The Proposed Decision ("Proposed Decision") of the Administrative Law Judge (the "ALJ"), issued on September 26, 2024, in the above captioned case, having been received, read and considered, it is, by the Commissioner of Financial Regulation (the "Commissioner") this 21st day of November, 2024 ORDERED,

A. That the Proposed Findings of Fact ("FF") listed on pages 4-6 of the Proposed Decision and enumerated as 1 through 12 be, and hereby are, ADOPTED, except that FF 6 be modified to read as follows:

6. The Respondent was not licensed as a collection agency by the Board and has never been licensed to collect debts in Maryland.

B. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the Proposed Decision indicates that evidence presented at the Hearing in this matter confirms the Board did not issue a collection agency license to the Respondent and the Respondent has never been licensed to collect debts in Maryland. FF 6, as written, stated the Office of Financial Regulation (“OFR”) has not licensed the Respondent to collect debts in Maryland. The Board is within the OFR and the Proposed Decision notes this fact. Because the Board issues collection agency licenses, the Commissioner has reworded FF 6 for clarity and to better match the evidence presented.

C. The Commissioner hereby adds an additional FF, enumerated as FF 13, which shall state in its entirety as follows:

13. No attorneys associated with Respondent are licensed to practice law in Maryland.

D. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the testimony presented by the OFR investigator in this matter confirmed that no attorney listed as associated with the Respondent is licensed to practice law in Maryland. As this finding supports a conclusion of law that the Respondent does not qualify for an exception to Maryland’s licensing requirements for a collection agency, the Commissioner desires to formalize that information into FF 13.

E. The Commissioner hereby adds an additional FF, enumerated as FF 14, which shall state in its entirety as follows:

14. After the Complainant’s mother (“Mother”) informed the Respondent that she was the Complainant’s mother and the Complainant was over the age of 18 years, the

Respondent continued to contact the Mother and to make statements affecting the Complainant's reputation.

F. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the ALJ heard testimony from the Mother fully confirming the information set forth in FF 14 added by the Commissioner. With limited exceptions not applicable here, Commercial Law Article, §14-202(5) Annotated Code of Maryland prohibits a collection agency from communicating with a non-debtor. The Commissioner adds FF 14 because the evidence presented concerning the Respondent's continued communication with the Mother demonstrates Respondent violated Commercial Law Article, §14-202(5) Annotated Code of Maryland.

G. The Commissioner hereby adds an additional FF, enumerated as FF 15, which shall state in its entirety as follows:

15. Respondent never alleged the Mother owed the alleged debt but threatened her with legal action to collect the alleged debt and threatened to report the alleged debt on the Mother's credit report.

H. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the ALJ heard testimony from Mother fully confirming the information set forth in FF 15 added by the Commissioner. Commercial Law Article, §14-202(8) Annotated Code of Maryland prohibits a collection agency from threatening to enforce a right with knowledge that the right does not exist. The Commissioner adds FF 15 because the

evidence presented in this case demonstrates Respondent violated Commercial Law Article, §14-202(8) Annotated Code of Maryland.

I. The Commissioner hereby adds two additional FF, enumerated as FF 16 and FF 17, which shall state in their entirety as follows:

16. The OAH sent notice to the Respondent of the hearing scheduled in this matter before the OAH on July 2, 2024, at 9:30 a.m. (“Hearing”) in accordance with Maryland law.

17. The OAH timely convened the Hearing on July 2, 2024, at 9:30 a.m., at which time the Respondent failed to appear.

J. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the Proposed Decision indicates that evidence presented at the Hearing in this matter confirms: the OAH sent Respondent notice of the Hearing scheduled in this matter before the OAH for July 2, 2024, at 9:30 a.m. in accordance with Maryland law; the Office of Administrative Hearings timely convened the Hearing; and the Respondent did not appear for the Hearing. The Commissioner desires to formalize that information into FF 16 and 17.

K. That the Proposed Conclusions of Law (“CL”) found on Page 12 of the Proposed Decision be, and hereby are, ADOPTED, but are rephrased and expanded as CL 1, CL 2, CL 3 and CL 4, which shall state in their entireties as follows:

1        Respondent solicited and collected a consumer claim on behalf of another in Maryland and therefore is a “collection agency” within the meaning of Business Regulation Article §7-101(c), Annotated Code of Maryland.

2        Under Business Regulation Article §7-301, Annotated Code of Maryland, a collection agency operating in Maryland must have a license issued by the Board unless exempt or otherwise excepted from licensure under Title 7, Business Regulation Article, Annotated Code of Maryland.

3        Respondent is not exempt from licensure under Title 7, Business Regulation Article, Annotated Code of Maryland.

4        Respondent violated Title 7, Business Regulation Article, Annotated Code of Maryland, by engaging in business as a collection agency in Maryland without being licensed by the Board to do so, or being exempt from licensure under Title 7, Business Regulation Article, Annotated Code of Maryland.

L.        That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the evidence presented in this matter and findings and conclusions set forth in the ALJ’s stated FF and CL contain and confirm the CL rephrased by the Commissioner as CL 1, CL 2, CL 3, and CL 4. The Commissioner has rephrased the ALJ’s CL as CL 1, CL 2, CL 3, and CL 4 for clarity and ease of reference.

M.        The Commissioner hereby adds an additional CL, enumerated as CL 5, which shall state in its entirety as follows:

5. Respondent violated Commercial Law Article, §14-202(5) Annotated Code of Maryland by communicating information affecting the Complainant's reputation to the Mother after the Mother provided Respondent information confirming Mother did not have a legitimate business need for the information.

N. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the Statement of Charges issued by the Board and the OFR to the Respondent ("Statement of Charges) charged the Respondent with a violation of Commercial Law Article, §14-202(5) Annotated Code of Maryland. Specifically, the Mother testified that she informed the Respondent that she was the Complainant's mother and that the Complainant was over the age of 18. Notwithstanding, Respondent continued to communicate with the Mother alleging the Complainant owed the alleged debt. The Commissioner concludes that testimony and evidence presented in this matter satisfies the Board's burden of proof that Respondent violated Commercial Law Article, §14-202(5) Annotated Code of Maryland by communicating information affecting the Complainant's reputation after learning of the Mother's relationship to the Complainant and that the Complainant was not a minor.

O. The Commissioner hereby adds an additional CL, enumerated as CL 6, which shall state in its entirety as follows:

6. Respondent violated Commercial Law Article, §14-202(6) Annotated Code of Maryland by continuing to communicate with the Mother concerning the alleged debt in an effort to abuse or harass the Complainant.

P. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the Statement of Charges charged the Respondent with a violation of Commercial Law Article, §14-202(6) Annotated Code of Maryland. The Commissioner concludes that testimony and evidence presented in this matter satisfies the Board's burden of proof that Respondent violated Commercial Law Article, §14-202(6) Annotated Code of Maryland. Specifically, the Respondent continued to communicate with the Mother in violation of Commercial Law Article, §14-202(5) Annotated Code of Maryland after learning of the Mother's relationship to Complainant and that the Complainant was not a minor. Because the Respondent lacked a valid reason to continue to communicate with the Mother, the Commissioner concludes the Respondent continued these communications in an effort to abuse or harass the Complainant.

Q. The Commissioner hereby adds an additional CL, enumerated as CL 7, which shall state in its entirety as follows:

7. Respondent violated Commercial Law Article, §14-202(8) Annotated Code of Maryland by threatening to take legal action against the Mother on the alleged debt and by threatening to report the alleged debt on the Mother's credit report.

R. That pursuant to State Government Article, §10-220(d) Annotated Code of Maryland, the Commissioner finds that the Statement of Charges charged the Respondent with a violation of Commercial Law Article, §14-202(8) Annotated Code of Maryland. The Commissioner concludes that testimony and evidence presented in this matter satisfies the Board's burden of proof that Respondent violated Commercial Law Article, §14-202(8) Annotated Code of Maryland. Specifically, the Respondent never alleged the Mother owed the alleged debt but threatened to take legal action against the Mother on the alleged debt and to report the alleged debt

on the Mother's credit report. The FF show the Mother requested the Respondent to validate the debt. If the Respondent believed the Mother had any obligation to pay the alleged debt, the Respondent failed to provide this information to the Mother. As a result, the Respondent made threats against the Mother knowing the Respondent lacked the legal ability to take the threatened actions. Additionally, the Respondent lacked a collection agency license and therefore lacked the ability to take any action on the alleged debt. Based on these factors, the Commissioner concludes Respondent threatened action the Respondent knew it had no right to take.

S. The ALJ's recommendation for a cease-and-desist order against Respondent be and hereby is ADOPTED.

T. Respondent shall immediately CEASE AND DESIST from operating as a collection agency within the meaning of Business Regulation Article §7-101(c), Annotated Code of Maryland.

U. The ALJ declined to recommend a monetary penalty as requested by the Board under Business Regulation Article, §7-205 Annotated Code of Maryland. The ALJ examined §7-205 and determined a monetary penalty under that section required the Respondent to have violated an Order issued by the Board. Because the ALJ concluded the evidence failed to show Respondent violated any order issued by the Board, the ALJ declined to award any penalty. The ALJ did not make a formal FF or CL with respect to the decision not to recommend a penalty.

The Commissioner does not oppose the ALJ's decision not to recommend a penalty under Business Regulation Article, §7-205 Annotated Code of Maryland under the facts specific to this matter and the evidence presented. The Commissioner does not conclude, however, that a penalty could not have been sought in this matter. As noted by the ALJ in footnote 1 of the Proposed



Decision, the Board is a unit within the OFR (Business Regulation Article, §7-201 Annotated Code of Maryland). The OFR has authority under Financial Institutions Article, §2-115 Annotated Code of Maryland, to impose financial penalties for violations of any law, regulation, or rule over which the Commissioner has authority. The Commissioner has authority over collection agencies and could have potentially sought a financial penalty under Financial Institutions Article, §2-115 Annotated Code of Maryland, based on the information found by the ALJ in FF 1-12. Because the Statement of Charges served on Respondent in this matter did not cite Financial Institutions Article, §2-115 Annotated Code of Maryland as a basis for any monetary penalty sought in this matter, the Commissioner declines to consider whether a monetary penalty under Financial Institutions Article, §2-115 Annotated Code of Maryland would be appropriate in this matter. Therefore, the Commissioner will not impose a financial penalty.

V. The records and publications of the Commissioner reflect the Proposed Final Order.

Pursuant to COMAR 09.01.03.09, Respondent has the right to file exceptions to the Proposed Final Order and present arguments to the Commissioner. Respondent has twenty (20) days from the postmark date of this Proposed Final Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). Unless written exceptions are filed within the twenty

(20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner and subject to judicial review pursuant to State Government Article, §10-222 Annotated Code of Maryland.

Respondent may have the right to file a petition for judicial review; however, the filing of a petition for judicial review does not automatically stay the enforcement of this order.

Date:

MARYLAND COMMISSIONER OF  
FINANCIAL REGULATION

November 21, 2024

By: *Antonio P. Salazar*

Antonio P. Salazar,  
Commissioner of Financial  
Regulation