

IN THE MATTER OF:
FINANCIAL FREEDOM
ASSOCIATES, LLC

and

TAMIEKA SHELISE GOODE,
RESPONDENTS

BEFORE THE COMMISSIONER OF
FINANCIAL REGULATION

OAH NO.: LABOR -CFR-76-20-14979

CFR NO.: FY2019-55

PROPOSED FINAL ORDER

The Proposed Decision ("Proposed Decision") of the Administrative Law Judge (the "ALJ"), issued on January 13, 2021 in the above captioned case, having been received, read and considered, it is, by the Commissioner of Financial Regulation (the "Commissioner") this of 11th day of March, 2021 ORDERED,

A. That the Proposed Findings of Fact ("FF") listed on pages 5-9 of the Proposed Decision be, and hereby are, ADOPTED;

B. That the Proposed Conclusions of Law ("COL") listed on pages 19-20 of the Proposed Decision be, and hereby are, ADOPTED, except that COL 2 is hereby AMENDED and RESTATED in its entirety to read as follows:

2. The Commissioner did not produce sufficient evidence to prove the Respondents violated section 14-1902(3) of the Commercial Law Article by assisting Maryland consumers to make a statement that is false or misleading to the person to whom the consumers applied for an extension of credit regarding the consumer's credit standing. Md. Code Ann., Com. Law §14-1902(3) (2013);

C. Pursuant to §10-220(d) of the State Gov. Art., Ann. Code of Md. the Commissioner finds that COL 2, as stated by the ALJ, required modification to clarify that the conclusion found the

Commissioner did not produce sufficient evidence to prove the Respondents violated §14-1902(3) of the Commercial Law Article as opposed to affirmatively finding the Respondents complied with §14-1902(3) of the Commercial Law Article;

D. The ALJ's recommendation for a cease and desist order be and hereby is ADOPTED;

E. Respondents shall immediately CEASE AND DESIST from operating a credit services business in the State of Maryland;

F. The ALJ's recommendation of the amount of the civil penalty or fine imposed on the Respondents and the analysis supporting such recommendation be and hereby is REJECTED and replaced as set forth below:

i. The amount of civil penalty shall be \$10,000.

ii. The analysis and facts supporting the \$10,000 civil penalty are as set forth in Section G hereof;

G. Pursuant to §10-220(d) of the State Gov. Art., Ann. Code of Md. the Commissioner has increased the amount of the fine recommended by the ALJ after having considered the analysis supporting that recommendation and the factors established by §2-115(c) of the Fin. Ins. Art., Ann. Code of Md. The findings made by the ALJ support a determination that the Respondents committed serious violations of Maryland law. Respondents established and operated a credit services business without the license required by Maryland law. Respondents' failure to obtain a required license significantly impairs the Commissioner's ability to exercise supervision and regulatory oversight over the Respondents' business as required by the General Assembly. Respondents' failure to list licensing information in their advertisements impairs the ability of consumers to know who regulates the Respondents' business and therefore where to file complaints. The Respondents' failure to post a bond impairs the rights of the Commissioner

and Maryland consumers as the General Assembly imposed a bond requirement to protect the Commissioner and Maryland consumers from harm caused by a licensee. Because these failures substantially impair the Commissioner's ability to protect Maryland consumers and expose Maryland consumers to greater risk, the Commissioner finds the Respondents committed serious violations of applicable law.

The ALJ noted the Commissioner presented no evidence that the Respondents were not acting in good faith on behalf of Maryland consumers. Section 2-115 (c) does not limit this analysis to good faith only on behalf of consumers and the record contains information from which a finding could be made the Respondents did not act in good faith. Notwithstanding, the Commissioner will not amend the ALJ's findings regarding the good faith of the Respondents but will rather consider relevant information in connection with §2-115(c) (6) discussed below.

The Commissioner agrees with the ALJs finding that the Commissioner presented no evidence of previous violations of by the Respondents.

Although the Respondents' failure to obtain the required license and bond could be deemed to have a deleterious effect on the credit services business, the Commissioner will not amend the ALJ's findings regarding the effects of the Respondents' conduct on the public and the credit services business. Rather, the Commissioner will consider relevant information in connection with §2-115(c) (6) discussed below.

The Commissioner agrees with the ALJs finding that the Commissioner presented no evidence of the Respondents' assets. However, the Commissioner notes that the Respondents' failure to obtain a license, failure to cooperate with the investigation and failure to attend the hearing deprived the Commissioner of the information needed to consider this factor.

The Commissioner disagrees with the ALJ's finding that the Commissioner presented no evidence of additional factors warranting a substantial penalty. The ALJ's findings of fact include: (i) Respondent Goode contacted the Commissioner's Office following receipt of the Commissioner's subpoena and was informed of the licensing requirement and the investigation; (ii) the Respondent Goode agreed to meet with the Commissioner's investigator on August 5, 2019, but failed to appear at this meeting; (iii) all efforts by the Commissioner to obtain Respondents' business records and to schedule investigatory interviews with Respondent Goode or anyone affiliated with Respondent Financial Freedom failed; (iv) Respondent Financial Freedom continued to maintain a website advertising its services after learning of the Commissioner's investigation and filing Articles of Cancellation with SDAT; and (v) Respondents failed to appear for the hearing conducted by the ALJ despite having received adequate notice. These findings are relevant factors for determining the amount of the penalty.

In the one interaction Respondent Goode had with the Commissioner's Office, Respondent Goode acknowledged receipt of the Commissioner's subpoena and stated she did not know Respondents' business required a license. Regardless of her past knowledge, as a result of that interaction, Respondent Goode knew of the licensing requirement and of the ongoing investigation. Despite this knowledge, Respondents chose not to cooperate with the investigation. This failure deprived the Commissioner of an ability to determine the full scope of the Respondents' activities, including an analysis of whether those activities had a deleterious effect on consumers or the credit services business and whether Respondents harmed any Maryland consumers. This failure of cooperation prevented the Commissioner from identifying any Maryland consumers who might be entitled to restitution for Respondents' actions. Through this failure of cooperation, the Respondents declined the opportunity to present favorable factors for

the Commissioner's consideration. Finally, this lack of cooperation prevented the Commissioner from confirming that Respondents stopped offering credit services to Maryland consumers. Just as the Commissioner may consider a respondent's cooperation as a factor justifying a lower penalty, the Commissioner may consider a respondent's failure to cooperate as a factor justifying a higher penalty. The Commissioner chooses to consider the Respondents' complete failure to cooperate with the investigation as a factor justifying a decision not to reduce the penalty but rather have the penalty reflect the seriousness of the conclusions of law found by the ALJ. The Commissioner notes that, although imposing a penalty higher than that recommended by the ALJ, the penalty imposed herein is significantly less than the maximum amount allowed by applicable law and what the Commissioner suggested at the hearing.

The penalty in this case is calculated as follows:

- \$6,000 for the initial violation of operating a credit services business without a license.
- \$4,000 for all subsequent violations which include receiving money or other valuable consideration from Maryland consumers without being licensed as a credit services business by the Commissioner; making false and misleading statements in the offer or sale of the services of a credit services business; failing to conspicuously state a license number issued by the Commissioner in Respondents' advertising; and conducting a credit services business without a surety bond;

H. The Respondents shall pay a civil penalty of \$10,000;

I. Respondents shall pay the Commissioner the penalty imposed herein, by cashier's check or certified check made payable to the "Commissioner of Financial Regulation," the amount of \$10,000, within twenty (20) days from the date of this Proposed Final Order;

J. Respondents shall send all correspondence, notices, civil penalties, and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 N. Calvert Street, Suite 402, Baltimore, MD 21202, Attention: Proceedings Administrator; and

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

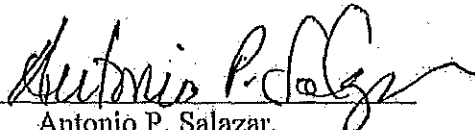
Pursuant to COMAR 09.01.03.09, Respondents have the right to file exceptions to the Proposed Final Order and present arguments to the Commissioner. Respondents have twenty (20) days from the postmark date of this Proposed Final Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). Unless 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 Gov. Art., Ann. Code of Md. §10-222.

Respondents 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

March 11, 2021

By: 
Antonio P. Salazar,
Commissioner of Financial
Regulation

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION

v.

FINANCIAL FREEDOM

ASSOCIATES, LLC

and

TAMIEKA SHELISE GOODE,

RESPONDENTS

* BEFORE MICHAEL R. OSBORN,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH NO.: LABOR-CFR-76-20-14979
* CFR NO.: FY2019-55

* * * * *

PROPOSED DECISION¹

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
PROPOSED CONCLUSIONS OF LAW
RECOMMENDED ORDER

STATEMENT OF THE CASE

On July 1, 2020, the Commissioner of Financial Regulation (Commissioner) issued a Charge Letter against Financial Freedom Associates, LLC (Respondent Financial Freedom) and Tamiaka Shelise Goode (Respondent Goode), (or collectively, the Respondents), alleging that they engaged in a credit services business in Maryland without having the requisite license or surety bond. The Charge Letter advised the Respondents of the Commissioner's authority to issue a Cease and Desist Order and advised the Respondents of the potential sanctions, including financial penalties, that the Commissioner may impose for the alleged violations. The Charge

¹ By letter of July 1, 2020, the Commissioner delegated authority to the OAH to issue proposed findings of fact, proposed conclusions of law, and a recommended order.

Letter also advised the Respondents that a hearing on the Charge Letter and proposed sanctions would be conducted by the Office of Administrative Hearings (OAH) and advised the Respondents that failure to appear at the hearing may result in imposition of sanctions.

On August 14, 2020, the OAH issued a Notice of Hearing to the Respondents advising them that a hearing would be conducted on the Charge Letter on October 20, 2020 at the OAH in Hunt Valley, Maryland. The OAH mailed the Notice of Hearing by both certified mail and regular mail to the Respondent Financial Freedom's business address, to the address of Kevin Pitts, the resident agent reflected on Respondent Financial Freedom's Articles of Organization on file with the State Department of Assessments and Taxation (SDAT), to Shawana Lee, an updated resident agent on file with the SDAT, and to Respondent Goode's address listed on Respondent Financial Freedom's Articles of Organization. Mr. Pitts received the certified mail as did Ms. Lee. The United States Postal Services (USPS) returned the certified mail notices sent to Respondent Goode and to Respondent Financial Freedom's business address, noting they were unclaimed. The Notice of Hearing mailed to the Respondents and to the resident agents by regular mail were not returned to the OAH by the USPS. Thus, I conclude the Respondents were notified of the location, date and time of the hearing.²

On October 20, 2020, I convened a hearing at the OAH in Hunt Valley, Maryland. Md. Code Ann., Fin. Inst. § 2-115(a) (2020).³ Sophie Asike, Assistant Attorney General, represented the Commissioner. The Respondents did not appear, nor did anyone claiming to represent them.

² The OAH Rules of Procedure, at Code of Maryland Regulations (COMAR) 28.02.01.15C, Method of Giving Notice, provides: (1) Except as otherwise required by law, a notice issued by the Office shall be sent to the parties by United States mail, by personal delivery, or by courier delivery at their addresses on record with the Office. (2) If notice is given by United States mail, the notice is effective at the end of the 5th day after its deposit in the mail. (3) Proof that notice has been given may be made by the dated file copy in the case file. Here, the OAH file contains the dated file copy of the Notice of Hearing reflecting it was mailed to the Respondents by United States mail.

³ Unless otherwise noted, all references to the Financial Institutions Article are to the 2020 Replacement Volume.

Procedure in this case is governed by the provisions of the Administrative Procedure Act, the hearing regulations of the Department of Labor, and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 09.01.03; and COMAR 28.02.01.

ISSUES⁴

1. Did the Respondents violate section 14-1902(1) of the Commercial Law Article by receiving money or other valuable considerations from Maryland consumers without being licensed as a credit services business by the Commissioner?
2. Did the Respondents violate section 14-1902(3) of the Commercial Law Article by assisting or advising Maryland consumers to make a statement that is false or misleading regarding the consumer's credit standing to a person to whom the consumers applied for an extension of credit?
3. Did the Respondents violate section 14-1902(4) of the Commercial Law Article by making false or misleading representations in the offer or sale of the services of a credit services business?
4. Did the Respondents violate section 14-1903 of the Commercial Law Article, and/or sections 11-203.1 and 11-302(b) of the Financial Institutions Article by engaging in a credit services business without being licensed to do so by the Commissioner?
5. Did the Respondents violate section 14-1903.1 of the Commercial Law Article by failing to conspicuously state a license number issued by the Commissioner in their advertising, or, if qualified, failing to conspicuously state a licensing exemption in their advertising?

⁴ The Issues are as reflected in the "Charges Against the Respondents" Counts 1 through 6, of the Charge Letter, converted from declarative form, "the Respondents violated" to inquisitive form "did the Respondents violate?"

6. Did the Respondents violate section 14-1908 of the Commercial Law Article by conducting a credit services business without a surety bond?
7. If the Respondents violated any of sections 14-1902(1), 14-1902(3), 14-1902(4), 14-1903, 14-1903.1, or 14-1908 of the Commercial Law Article, or violated sections 11-203.1 or 11-302(b) of the Financial Institutions Article, what sanction is appropriate?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following numbered exhibits offered by the Commissioner:

1. Notice of Hearing, August 14, 2020
2. Charge Letter, July 1, 2020
3. Financial Freedom Associates, LLC Business Entity Search, undated, and Articles of Organization, October 5, 2017
4. Financial Freedom Associates, LLC Website, printed October 9, 2019
5. Financial Freedom Associates Credit 101 Course on Eventbrite (website), printed October 9, 2019
6. Consumer Services Case Report, May 14, 2019
7. Report of Investigation, August 6, 2019

The Respondents did not appear, and therefore, offered no exhibits.

Testimony

The Commissioner presented the following witness: Zenaida Velez-Dorsey, Investigator.

The Respondents did not appear, and therefore, did not present any witnesses.

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. On October 5, 2017, Respondent Financial Freedom filed Articles of Organization with the SDAT. In its Articles of Organization, Respondent Financial Freedom described itself as a limited liability company, the purpose of which was to provide assistance to consumers to improve their FICO scores and to make it easier and possible to purchase a home or vehicle. The Articles of Organization stated that Respondent Financial Freedom's business address was 10 W. Eager Street, Suite 315, Baltimore, Maryland 21201, and that Kevin Pitts of 2705 Mount Holly Street, Baltimore, Maryland 21216 was its resident agent. The Articles of Organization bears a signature of Kevin Pitts as resident agent. Respondent Goode signed the Articles of Organization as the filing party, with a return address of 2105 N. Pulaski Street, Baltimore, Maryland 21217.

2. On June 21, 2017, Maryland resident [REDACTED], purportedly residing at [REDACTED] [REDACTED], (Respondent Financial Freedom's business address), wrote a letter to Credit Collection Service, P.O. Box 607, Norwood, MA 02062 (CCS), a debt collection and consumer reporting agency, which she described as a "formal complaint." Therein, [REDACTED] complained that CCS was reporting inaccurate and incomplete credit information about her, and that as far as [REDACTED] knew, CCS had no connection to Comcast Cable. The letter included references to the Fair Credit Reporting Act, Section 609(a)(1)(a), and reminded CCS of its obligations under federal law. [REDACTED] letter demanded CCS delete all references to her account.

3. [REDACTED] June 21, 2017 letter to CCS was drafted by and mailed by the Respondents, and the Respondents charged [REDACTED] a fee for this service.

4. On June 13, 2017, [REDACTED] personally wrote a letter to CCS requesting it provide information to her relating to information CCS may have provided to consumer credit reporting agencies.

5. On July 24, 2018, [REDACTED], purportedly residing at 10 W. Eager Street, Suite 315, Baltimore, Maryland, 21201, (Respondent Financial Freedom's business address), wrote a letter to CCS, which she described as a "formal complaint." Therein, [REDACTED] complained that CCS was reporting inaccurate and incomplete credit information about her [REDACTED] referenced account [REDACTED]. The letter included references to the Fair Credit Reporting Act, Section 609(a)(1)(a), and reminded CCS of its obligations under federal law. [REDACTED] letter demanded CCS delete all references to her account.

6. [REDACTED] July 24, 2018 letter was drafted by and mailed by the Respondents, and the Respondents charged her a fee for this service.

7. On December 20, 2018, CCS received another letter from [REDACTED], dated October 30, 2018, demanding information, reminding CCS of its obligations under federal law, and citing Black's Law Dictionary. This letter was drafted and mailed by the Respondents, and the Respondents charged [REDACTED] a fee for this letter.

8. During the dates July 20, 2017 through February 3, 2019, Respondent Financial Freedom drafted and mailed at least four letters relating to Maryland residents to the Better Business Bureau and to the Consumer Financial Protection Bureau, each letter complaining about the credit collection and credit reporting practices of CCS. Each of the letters had a common theme - that the debtors had requested CCS provide a copy of the contract or agreement between the debtor and creditor evidencing the debt CCS sought to collect and that CCS had been unresponsive to that request. Each of the letters were drafted with the name of person complaining, but with Respondent Financial Freedom's business address as the address from

which the letters were sent. Each of the letters requested that if a contract or agreement between the debtor and creditor could not be produced that credit information be deleted from CCS files and from the files of three consumer credit reporting bureaus. The Respondents charged the Maryland residents a fee for these letters.

9. On May 14, 2019, [REDACTED], Chief Compliance Officer, CCS, complained to the Commissioner that the Respondents were engaged in a credit services business without a license [REDACTED] also complained that the Respondents were making false and misleading statements regarding credit accounts that were not actually in dispute, although CCS conceded it had no direct evidence of this contention. CCS complained that the Respondents made false and misleading statements to CCS, to the BBB and to the CFPB by composing letters for signature by debtors with the Respondents' address as the return address of the letters.

10. CCS complained in its May 14, 2019 complaint that the Respondents were among those whose practice is to inundate CCS or other data furnishers with disputes in hopes that the furnisher will delete the account from the consumers' credit reports.

11. On July 24, 2019, Commissioner's Investigator Velez-Dorey called Kevin Pitts, who disclaimed knowledge he was named as resident agent and disclaimed any relationship with Respondent Financial Freedom. Within ten minutes of Ms. Velez-Dorsey's conversation with Mr. Pitts, Respondent Goode called her to inquire about the purpose for a subpoena she had received from the Commissioner. Respondent Goode said she had no idea a license was required to engage in a credit services business and agreed to meet with Ms. Velez-Dorsey on August 5, 2019. Respondent Goode did not attend the meeting.

12. On August 28, 2019 Respondent Financial Freedom filed Articles of Cancellation with the SDAT.

13. Respondent Financial Freedom maintained a website. On October 9, 2019, the website described services provided by Respondent Financial Freedom including bankruptcy; credit repair; credit building; budget planning; financial planning; and life insurance. The website included several first-name-only "testimonials" relating to the quality of credit repair services provided by Respondent Financial Freedom, some attesting to the quality of services provided specifically by Respondent Goode. The website also included articles about how to understand credit scores, how to qualify for a home loan, and included credit repair classes that those interested could register to attend, for a fee. The website offered "unbeatable prices" for its services.

14. The website of Respondent Financial Freedom did not include a credit services business license number issued by the Commissioner or contain any reference to an exemption granted by the Commissioner from the licensing requirement.

15. All efforts by the Commissioner to obtain the Respondents' business records and to schedule investigatory interviews with Respondent Goode or anyone affiliated with Respondent Financial Freedom failed.

16. On October 15, 2020, the SDAT website reflected that Respondent Financial Freedom was "dissolved," and its business status was "not in good standing." Respondent Financial Freedom fell into a "not in good standing" status with the SDAT in 2018 and did not file annual reports with SDAT for 2018 or 2019.

17. At some time prior to October 15, 2020, Respondent Financial Freedom revised its SDAT profile to substitute Tawana Lee, of 2100 N. Pulaski Street, Baltimore, Maryland 21217 as its resident agent.

18. The Respondents were never licensed by the Commissioner as a credit services business.

19. The Respondents did not obtain a surety bond.

DISCUSSION

The Maryland Credit Services Businesses Act

Maryland law places various restrictions on those who purport to assist consumers in obtaining credit and purport to assist consumers with improving or repairing their credit. These restrictions include licensing, bonding and disclosure requirements.

Title 14, Subtitle 19 of the Commercial Law Article of the Annotated Code of Maryland is the Maryland Credit Services Businesses Act (MCSBA). Md. Code Ann, Com. Law. §§ 14-1901 through 14-1916 (2013 & Supp. 2020).

The MCSBA defines a credit services business as follows:

(e)(1) "Credit services business" means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

(i) Improving a consumer's credit record, history, or rating or establishing a new credit file or record, or providing advice or assistance to a consumer with regard to improving the consumer's credit record, history, or rating or establishing a new credit file or record; or

(ii) Obtaining an extension of credit for a consumer, or providing advice or assistance to a consumer with regard to obtaining an extension of credit for the consumer.

Md. Code Ann., Com. Law § 14-1901(e)(1)(i),(ii) (Supp. 2020).

A person is defined as follows:

(g) "Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, statutory trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, and any other legal or commercial entity.

Md. Code Ann., Com. Law § 14-1901(g) (Supp. 2020).

Here, the Respondent Financial Freedom, in "person" form, and Respondent Goode, engaged in a credit services business by providing advice or assistance to Maryland consumers with regard to improving the consumers' credit record, history, or rating, and did so for money.

Regulation of Credit Services Businesses

The MCSBA applies to any contract with a Maryland resident involving credit services. Md. Code Ann., Com. Law. § 14-1901(e)(3). The provisions of the MCSBA are primarily enforced by the Commissioner, who may issue cease and desist orders and initiate administrative enforcement proceedings. Md. Code Ann., Com. Law §§ 14-1911-1913 (2013). The Commissioner also has the authority, under the general enforcement authority of the Commissioner's Office, to issue a cease and desist order, suspend or revoke a license, and impose a civil penalty of up to \$10,000.00 for a first violation and up to \$25,000.00 for each subsequent violation. Md. Code Ann., Fin. Inst. § 2-115(b).

Consumer Reporting Agency

Under the Commercial Law Article,

“Consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports.

Md. Code Ann., Com. Law § 14-1201(f)(1) (2013).

Here, CCS is a consumer reporting agency.

Licensing Requirement

Title 11, Subtitles 2 and 3 of the Financial Institutions Article of the Annotated Code of Maryland requires those who engage in credit services business to be licensed by the Commissioner. Title 11, Subtitle 2 provides:

(a) Unless a person is licensed by the Commissioner, the person may not:

(2) In any way use any advantage provided by the Maryland Consumer Loan Law.

Md. Code Ann, Fin. Inst. § 11-203.1(b) (2020).

Title 11, Subtitle 3 also provides:

(b) Unless the person is licensed by the Commissioner, a person may not:

(3) Engage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article.

Md. Code Ann., Fin. Inst. § 11-302(b) (2020).

Section 14-1903 of the Commercial Law Article also requires credit services businesses to be licensed by the Commissioner. In relevant part section 14-1903 provides:

(b) A credit services business is required to be licensed under this subtitle and is subject to the licensing, investigatory, enforcement, and penalty provisions of this subtitle and Title 11, Subtitle 3 of the Financial Institutions Article.

(c) A license required by this subtitle shall be issued by the Commissioner.

(d) A person not included within the definition of a credit services business as provided in § 14-1901(e)(3) of this subtitle is exempt from licensure requirements under this subtitle.⁵

Md. Code Ann., Com. Law § 14-1903(b) through (d) (2013).

⁵ Section 14-1901(e) of the Commercial Law Article describes exemptions from the definition of a credit services business, as follows:

(3) "Credit services business" does not include:

(i) Any person authorized to make loans or extensions of credit under the laws of this State or the United States who is actively engaged in the business of making loans or other extensions of credit to residents of this State;

(ii) Any bank, trust company, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any credit union organized and chartered under the laws of this State or the United States;

(iii) Any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(iv) Any person licensed as a real estate broker, an associate real estate broker, or a real estate salesperson by this State where the person is acting within the course and scope of that license;

(v) Any person licensed as a mortgage lender by this State;

(vi) An individual admitted to the Bar of the Court of Appeals of Maryland when the individual renders services within the course and scope of practice by the individual as a lawyer and does not engage in the credit services business on a regular and continuing basis;

(vii) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of that regulation;

(viii) Any consumer reporting agency as defined in the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681-1681t) or in § 14-1201(f) of this title;

(ix) An individual licensed by the Maryland Board of Public Accountancy when the individual renders services within the course and scope of practice by the individual as a certified public accountant and does not engage in the credit services business on a regular and continuing basis; or

(x) Beginning July 1, 2013, a mortgage assistance relief service provider regulated under Title 7, Subtitle 5 of the Real Property Article.

Md. Code Ann., Com. Law § 14-1901(e)(3)(i) through (ix) (2013).

Here, the Respondents, as a credit services business, were required to have a license to engage in a credit services business for compensation. They did not.

License Number Required in Advertisements

Under the MCSBA, those engaged in a credit services business must state the license number issued by the Commissioner in their advertising. The MCSBA provides:

A person who advertises a service described in § 14-1901(e)(1) of this subtitle, whether or not a credit services business, shall clearly and conspicuously state in each advertisement the number of:

- (1) The license issued under § 14-1903 of this subtitle; or
- (2) If not required to be licensed, the exemption provided by the Commissioner.

Md Code Ann., Com. Law § 14-1903.1 (2013).

Here, the Respondents were required to conspicuously state in their advertisements the number of the license issued by the Commissioner or the basis for their qualification for an exemption from the licensing requirement. They did not.

Surety Bond

A credit services business is required to obtain a surety bond pursuant to Title 11, Subtitle 3 of the Financial Institutions Article. Md. Code Ann, Com. Law § 14-1908 (2013).

Here, the Respondents had no surety bond.

Prohibited Acts

In relevant part, the MCSBA provides:

A credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not:

- (1) Receive any money or other valuable consideration from the consumer, unless the credit services business has secured from the Commissioner a license under Title 11, Subtitle 3 of the Financial Institutions Article;
- (3) Make, or assist or advise any consumer to make, any statement or other representation that is false or misleading, or which by the exercise of reasonable

care should be known to be false or misleading, to a consumer reporting agency, government agency, or person to whom the consumer applies or intends to apply for an extension of credit, regarding a consumer's creditworthiness, credit standing, credit capacity, or true identity;

(4) Make or use any false or misleading representations in the offer or sale of the services of a credit services business.

Md. Code Ann., Com. Law § 14-1902(1), (3) and (4). (2013).

An "extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. Md. Code Ann., Com. Law § 14-1901(f) (2013).

The Charges

The Commissioner charged the Respondents in Count 1 of the Charge Letter with accepting money from Maryland consumers to engage in unlicensed credit services business. The Respondents did so. Thus, they violated section 14-1902(1) (Count 1, receiving money from Maryland consumers to engage in a credit services business without a license).

The Commissioner charged the Respondents in Count 2 of the Charge Letter with assisting or advising Maryland consumers to make a statement that is false or misleading to persons to whom the consumers applied for an extension of credit. The Commissioner presented no evidence of false or misleading statements made by the Respondents on behalf of Maryland consumers in conjunction with an application for extension of credit. Thus, the Respondents are not in violation of section 14-1902(3) of the Commercial Law Article. (Count 2, misleading statements to a person to whom a consumer has applied for an extension of credit).

The Commissioner charged the Respondents in Count 3 of the Charge Letter with making or using false or misleading representations in the offer or sale of credit services business services. The Commissioner offered the Respondents' website as evidence. I find nothing directly misleading on the website. However, the website is misleading by omission. First, the website makes no reference to whether Respondents' are licensed by the Commissioner or

exempt from licensing. Second, the website does not mention that as of 2018, when it failed to file a financial statement with the SDAT, Respondent Financial Freedom was no longer a business in good standing with the SDAT. Third, the website makes no reference in October 2019 that Respondent Financial Freedom had, on August 28, 2019, filed an Articles of Cancellation with the SDAT. Thus, the Respondents are in violation of section 14-1902(4) of the Commercial Law Article (Count 3, false or misleading representations in the offer or sale of credit services business services).

The Commissioner charged the Respondents in Count 4 of the Charge Letter with engaging in the credit services business without a license. The Respondents did so. Thus, they are in violation of section 14-1903(b) of the Commercial Law Article, and sections 11-203.1 and 11-302(b) of the Financial Institutions Article (Count 4, engaging in the business of a credit services business without a license and without being exempt from the licensing requirement).

The Commissioner charged the Respondents in Count 5 of the Charge Letter with failure to conspicuously state the license number issued by the Commissioner in their advertising, or to state any exemption from licensing. The Respondents failed to conspicuously state their license number because they did not have a license. No evidence was presented that the Respondents were exempt from the licensing requirement.⁶ Thus, the Respondents violated section 14-1903.1 of the Commercial Law Article (Count 5, failure to conspicuously state a license number or exemption in advertising).

The Commissioner charged the Respondents in Count 6 of the Charge Letter with failure to obtain a surety bond. The Respondents failed to do so. Thus, they are in

⁶ Under section 14-1907 of the Commercial Law Article "In any proceeding involving this subtitle, the burden of proving an exemption or an exception from a definition is upon the person claiming it." Md. Code Ann., Com. Law § 14-1907(d) (2013). The Respondents did not appear at the hearing and thus provided no proof they qualified for an exemption from the licensing requirement.

violation of section 14-1908 of the Commercial Law Article (Count 6, failure to obtain a surety bond).

Potential Sanctions

The Commissioner has the authority under the Financial Institutions Article to impose Financial and other sanctions against the Respondents, as follows:

(b) When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

- (1) Issue a final cease and desist order against the person;
- (2) Suspend or revoke the license of the person;
- (3) Issue a penalty order against the person imposing a civil penalty not exceeding:
 - (i) \$10,000 for a first violation; and
 - (ii) \$25,000 for each subsequent violation; or
- (4) Take any combination of the actions specified in this subsection.

(c) In determining the amount of financial penalty to be imposed under subsection (b) of this section, the Commissioner shall consider the following factors:

- (1) The seriousness of the violation;
- (2) The good faith of the violator;
- (3) The violator's history of previous violations;
- (4) The deleterious effect of the violation on the public and the industry involved;
- (5) The assets of the violator; and
- (6) Any other factors relevant to the determination of the financial penalty.

Md. Code Ann., Fin. Inst. § 2-115 (2020).

Similarly, section 14-1911 of the Commercial Law Article provides, in relevant part:

(d) The Commissioner may:

(6) Issue cease and desist orders, after finding a pattern and practice of violation of this subtitle.

(f)(1) If, after the hearing, the Commissioner finds that the credit services business, or the salesperson, agent, representative, or independent contractor acting on behalf of the credit services business, has engaged or is engaging in any act or practice prohibited by this subtitle, the Commissioner shall order the credit

services business or the person or both to cease and desist from the act or practice and may order that restitution be paid to an aggrieved consumer.

Md. Code Ann., Com. Law § 14-1911(d)(6) and (f)(1) (2013).

Appropriate Sanction

The Respondents filed Articles of Organization in 2017 in which it described its business as to provide assistance to consumers to improve their FICO scores and to make it easier and possible to purchase a home or vehicle. The Respondents were never licensed by the Commissioner as a credit services business and never obtained a surety bond.

The Respondents drafted and mailed letters to CCS signed by aggrieved consumers but bearing the Respondents' return address. The Respondents drafted and mailed letters to the BBB and to the CFPB complaining about CCS, signed by aggrieved consumers. While the Respondents never acknowledged to CCS, to the BBB, or to the CFPB that they represented aggrieved consumers, the Respondents assisted aggrieved consumers to draft these letters. The letters had Respondent Financial Freedom's business address as the address from which the letters were sent, and the letters were almost identical in language and tone. The Respondents maintained a website advertising a variety of credit-related services and offering classes on how to understand credit and credit ratings. On their website, the Respondents did not include a credit services business license number issued by the Commissioner.

When Respondent Goode spoke to Investigator Velez-Dorsey in August 2019, Respondent Goode told Ms. Velez-Dorsey she did not know a license was required to engage in a credit services business. Later the same month Respondent Financial Freedom filed Articles of Cancellation with the SDAT. However, in October 2019, Respondent Financial Freedom's website was still active and advertising its services to Maryland consumers. The Commissioner presented

no evidence, however, that the Respondents committed any additional violations after the filing of the Articles of Cancellation other than the continued presence of the website.

The Commissioner suggests a total fine of \$25,000.00 is appropriate. The Commissioner suggests this fine is warranted by:

- \$1,000.00 for each of six consumers from whom the Respondents received money to provide credit services business without a license;
- \$1,000.00 for each misrepresentation made on behalf of consumers who had applied for extensions of credit. However, I conclude no such misrepresentations were made;
- \$1,000.00 for each of six consumers for whom the Respondents failed to include a license number or exemption in its advertising;
- \$1,000.00 for each of six consumers for failing to obtain a license from the Commissioner; and,
- a \$1,000.00 general fine.

The Commissioner also suggests a cease and desist order is appropriate.

In making a recommendation as to the appropriate sanction I have considered that none of Respondents' Maryland consumers complained to the Commissioner. I have also considered the penalty factors as found in section 2-115 of the Financial Institutions Article.

First, the Commissioner presented no evidence of the seriousness of the violations, and no evidence that any Maryland consumer was harmed.

Second, the Commissioner presented no evidence that the Respondents were not acting in good faith on behalf of Maryland consumers. CCS complained that the Respondents represented that the debt CCS sought to collect or report was invalid, but CCS conceded it had no proof the invalid debt claims were false. The CCS complaint was that the Respondents were engaged in a method commonly used by credit services businesses to harass CCS into deleting debtors' accounts.

Third, no history of previous violations was presented.

Fourth, no evidence was presented that the credit services business industry in Maryland suffered any deleterious effect or that the industry's esteem in the public eye was negatively affected.

Fifth, no evidence of the assets of the Respondent was presented. No evidence was presented that the Respondents took financial advantage of Maryland consumers, charged money for services never delivered, or otherwise enjoyed unmerited financial gains.

Sixth, the Commissioner presented no evidence of additional factors to suggest a substantial financial penalty is warranted.

Under section 14-1911(d)(6) of the Commercial Law Article, the Commissioner may issue cease and desist orders to violators after finding a pattern and practice of violation of the MCBSA. Under section 14-1911(f)(1) of the Commercial Law Article if, after a hearing, the Commissioner finds that the credit services business has engaged in any prohibited act or practice, the Commissioner shall order the credit services business or the person or both to cease and desist from the act or practice and may order that restitution be paid to an aggrieved consumer.

The Commissioner produced no evidence of the dollar amount that any Maryland consumer paid the Respondents for their services. And it produced no evidence of any aggrieved Maryland consumers. Thus, restitution is inappropriate.

After weighing all factors, I conclude a cease and desist order is appropriate, in conjunction with a fine of \$1,000.00. The gravamen of the violations is that the Respondents did not obtain a license from the Commissioner to engage in a credit services business, and that they drafted and mailed a few letters to assist Maryland consumers with obtaining information as to the accuracy of credit information being reported by CCS. The Commissioner presented no evidence any Maryland resident was harmed – that is, that Maryland consumers paid for services

never received or that the price of those services greatly outweighed the benefit. The Commissioner presented no evidence that the reputation of the credit services industry was harmed, or that the Respondents had previous violations or defied the authority of the Commissioner. When the Respondents became aware they were being investigated, they filed Articles of Cancellation with the SDAT. No evidence of any violation after cancellation was presented other than the continued presence of Respondent Financial Freedom's website.

The \$25,000.00 financial penalty suggested by the Commissioner is unwarranted under the circumstances.

PROPOSED CONCLUSIONS OF LAW

1. The Respondents violated section 14-1902(1) of the Commercial Law Article by receiving money or other valuable considerations from Maryland consumers without being licensed as a credit services business by the Commissioner. Md. Code Ann., Com. Law § 14-1902(1) (2013).
2. The Respondents did not violate section 14-1902(3) of the Commercial Law Article by assisting or advising Maryland consumers to make a statement that is false or misleading to the person to whom the consumers applied for an extension of credit regarding the consumer's credit standing. Md. Code Ann., Com. Law § 14-1902(3) (2013).
3. The Respondents violated section 14-1902(4) of the Commercial Law Article by making false or misleading representations in the offer or sale of the services of a credit services business. Md. Code Ann., Com. Law § 14-1902(4) (2013).
4. The Respondents violated section 14-1903 of the Commercial Law Article and sections 11-203.1 and 11-302(b) of the Financial Institutions Article by engaging in a credit services business without being licensed to do so by the Commissioner. Md. Code Ann., Com. Law § 14-1903 (2013), Md. Code Ann., Fin. Inst. §§ 11-203.1(b) and 11-302(b) (2020).

5. The Respondents violated section 14-1903.1 of the Commercial Law Article by failing to conspicuously state a license number issued by the Commissioner in their advertising. Md. Code Ann., Com. Law § 14-1903.1 (2013).

6. The Respondents violated section 14-1908 of the Commercial Law Article by conducting a credit services business without a surety bond. Md. Code Ann., Com. Law § 14-1908 (2013).

RECOMMENDED ORDER

I **RECOMMEND** that the Commissioner:

ORDER that the Respondents shall immediately **CEASE AND DESIST** from engaging in any credit services business activities.

ORDER the Respondents to pay a fine of \$1,000.00, and,

ORDER that the records and publications of the Commissioner reflect this decision.

January 13, 2021
Date Decision Issued

Michael R. Osborn

Michael R. Osborn
Administrative Law Judge

MRO/kdp
#189024