

IN THE MATTER OF:

SHARPER FINANCIAL CONSULTING,
LLC, and

CHONIE SHARPER,

Respondents.

BEFORE THE MARYLAND

COMMISSIONER OF

FINANCIAL REGULATION

Case No.: CFR-FY2018-0022

SUMMARY ORDER TO CEASE AND DESIST

1. This matter arises from a complaint filed with the Office of the Commissioner of Financial Regulation (“OCFR”) in the Department of Labor, Licensing and Regulation by [REDACTED] (“Consumer A”) against Respondents Sharper Financial Consulting, LLC (“Sharper Financial”) and Chonie Sharper (“Sharper”) (collectively, “Respondents”).

2. Respondent Sharper Financial is a limited liability company organized in Georgia in July 2016, which operates from the principal business addresses of 2135 Black Pebble Circle, Gwinnett Buford, Georgia 30519 and 1075 Peachtree Street NE, Suite 3650, Atlanta, Georgia 30339. Sharper Financial is a credit services business, which, with respect to the extension of credit by others, is engaged in Maryland in selling, providing or performing, or representing that it can or will sell, provide or perform in return for the payment of money or other valuation consideration, services including: improving a consumer’s credit record, history or rating or establishing a new credit file or record; obtaining an extension of credit for a consumer; or providing advice or assistance to a consumer, with regard to the aforementioned activities. However, Sharper Financial is not registered with the Maryland State Department of Assessments & Taxation and is not licensed in Maryland as required by the Maryland Credit Services Businesses Act (“MCSBA”), Md. Code. Ann., Commercial Law (“CL”) § 14-1903(b).

3. Ms. Sharper is the owner, director, officer, manager, employee and/or agent of Sharper Financial, who directs or exercises control over the activities and finances of Sharper Financial, including its credit service business activities with Maryland consumers. Ms. Sharper does not, and has never, possessed a license under the MCSBA.

4. The OCFR investigated Consumer A’s complaint pursuant to the Commissioner of Financial Regulation’s (the “Commissioner”) authority governed by Md. Code Ann. Financial Institutions (“FI”) § 2-114(a)(1)(i) to conduct public or private investigations as the Commissioner considers necessary to determine whether a “person” (defined in FI § 1-101(t) to mean “an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation or other entity”) has violated a provision

of law, regulation, rule, or order over which the Commissioner has jurisdiction. The investigation revealed the following facts.

5. At Sharper Financial's direction, Consumer A completed an application for credit repair services. Consumer A submitted the application to Sharper Financial, however, Sharper Financial failed to provide Consumer A with all of the disclosures required under Maryland law. Specifically, the written contract Respondents provided to Consumer A did not comply with the requirements of the MCSBA by including an information statement as required by CL §§ 14-1904 and 14-1905. Moreover, the written contract did not include the notice of cancellation required by CL § 14-1906.

6. On November 9, 2016, Consumer A entered into an agreement with Sharper Financial, which required Consumer A to pay \$800 in fees to receive credit repair services. Consumer A made one payment of \$800 to Sharper Financial in exchange for which Respondents represented they would assist Consumer A in repairing his credit.

7. Respondents failed to perform the promised services.

8. On August 7, 2017, Consumer A requested in writing a refund of the \$800 in fees paid to Sharper Financial.

9. Respondents failed to cancel the transaction and refund the fees paid by Consumer A as requested.

10. Pursuant to FI § 2-115(a), "When the Commissioner determines 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, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person: (1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and (2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order."

11. Based on the OCFR's investigation, the Commissioner has determined that the Respondents are subject to and have violated the following laws, regulations, rules, or orders over which the Commissioner has jurisdiction, which provide:

Md. Code Ann. Commercial Law, Title 14
Subtitle 19. Maryland Credit Services Businesses Act.

§ 14-1901. Definitions.

* * *

(c) *Consumer*. — "Consumer" means any individual who is solicited to purchase or who

purchases for personal, family, or household purposes the services of a credit services business.

* * *

(e) *Credit services business.* – (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;

(ii) Obtaining an extension of credit for a consumer; or

(iii) Providing advice or assistance to a consumer with regard to either subparagraph (i) or (ii) of this paragraph.

* * *

§ 14-1902. Duties.

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;

* * *

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

(5) Engage, directly or indirectly, in any act, practice, or course of business which operates as a fraud or deception on any person in connection with the offer or sale of the services of a credit services business;

(6) Charge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer;

* * *

§ 14-1903. Application of subtitle; licenses.

(a) *In general.* – Notwithstanding any election of law or designation of situs in any contract, this subtitle applies to any contract for credit services if:

(1) The credit services business offers or agrees to sell, provide, or perform any services to a resident of this State;

(2) A resident of this State accepts or makes the offer in this State to purchase the services of the credit services business; or

(3) The credit services business makes any verbal or written solicitation or communication that originates either inside or outside of this State but is received in the State by a resident of this State.

(b) *Licenses – Required.* – 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.

§ 14-1903.1. Advertisements of credit services business.

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.

§ 14-1904. Information statement.

(a) *Duty to Provide.* – Before either the execution of a contract or agreement between a consumer and a credit services business or the receipt by the credit services business of any money or other valuable consideration, the credit services business shall provide the consumer with a written information statement containing all of the information required under § 14-1905 of this subtitle.

(b) *Filing.* – The credit services business shall maintain on file for a period of 2 years from the date of the consumer’s acknowledgment a copy of the information statement signed by the consumer acknowledging receipt of the information statement.

§ 14-1905. Information to be included in information statement.

(a) *In general.* — The information statement required under § 14-1904 of this subtitle shall include:

* * *

(5) A complete and detailed description of the services to be performed by the credit services business for or on behalf of the consumer, and the total amount the consumer will have to pay for the services;

* * *

(b) *Additional requirements of licenses.* – A credit services business required to obtain a license pursuant to § 14-1902 of this subtitle shall include in the information statement required under § 14-1904 of this subtitle:

(1) A statement of the consumer’s right to file a complaint pursuant to § 14-1911 of this subtitle;

(2) The address of the Commissioner where such complaints should be filed; and

(3) A statement that a bond exists and the consumer’s right to proceed against the bond under the circumstances and in the manner set forth in § 14-1910 of this subtitle.

§ 14-1906. Contract with consumer.

(a) *Requirements.* – Every contract between a consumer and a credit services business for purchase of the services of the credit services business shall be in writing, dated, signed by the consumer, and shall include:

(1) A conspicuous statement in size equal to at least 10-point bold type, in immediate proximity to the space reserved for the signature of the consumer as follows:

"You, the buyer, may cancel this contract at any time prior to midnight of the third business day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right.";

(2) The terms and conditions of payment, including the total of all payments to be made by the consumer, whether to the credit services business or to some other person;

(3) A complete and detailed description of the services to be performed and the results to be achieved by the credit services business for or on behalf of the consumer, including all guarantees and all promises of full or partial refunds and a list of the adverse information appearing on the consumer's credit report that the credit services business expects to have modified and the estimated date by which each modification will occur; and

(4) The principal business address of the credit services business and the name and address of its agent in this State authorized to receive service of process.

(b) *Notice of cancellation form.* – The contract shall be accompanied by a form completed in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract and easily detachable, and which shall contain in at least 10-point bold type the following statement:

"NOTICE OF CANCELLATION

You may cancel this contract, without any penalty or obligation, at any time prior to midnight of the third business day after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within 10 days following receipt by the seller of your cancellation notice.

To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to

.....

(Name of seller)

At

(Address of seller)

.....

(Place of business)

Not later than midnight.....

(Date)

I hereby cancel this transaction.

.....
(Date)

.....
(Buyer's signature)"

(c) *Copies of completed contract and other documents to be given to consumer.* – A copy of the completed contract and all other documents the credit services business requires the consumer to sign shall be given by the credit services business to the consumer at the time they are signed.

§ 14-1907. Violations; void contracts; waivers; burden of proof.

(a) *Breach of contract.* — Any breach by a credit services business of a contract under this subtitle, or of any obligation arising under it, shall constitute a violation of this subtitle.

(b) *Void contracts.* — Any contract for services from a credit services business that does not comply with the applicable provisions of this subtitle shall be void and unenforceable as contrary to the public policy of this State.

(c) *Waivers.* — (1) Any waiver by a consumer of any of the provisions of this subtitle shall be deemed void and unenforceable by a credit services business as contrary to the public policy of this State; and

(2) Any attempt by a credit services business to have a consumer waive rights given by this subtitle shall constitute a violation of this subtitle.

(d) *Burden of Proof.* — In any proceeding involving this subtitle, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

§ 14-1908. Surety bonds - Requirement.

A credit services business is required to obtain a surety bond pursuant to Title 11, Subtitle 3 of the Financial Institutions Article.

§ 14-1909. Surety bonds - Issuance.

The surety bond shall be issued by a surety company authorized to do business in this State.

§ 14-1912. Failure to comply with requirements.

(a) *Willful noncompliance.* — Any credit services business which willfully fails to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure;

(2) A monetary award equal to 3 times the total amount collected from the consumer, as ordered by the Commissioner;

(3) Such amount of punitive damages as the court may allow; and

(4) In the case of any successful action to enforce any liability under this section, costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Negligent noncompliance.* — Any credit services business which is negligent in failing to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure; and

(2) In the case of any successful action to enforce any liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

Md. Code Ann., Financial Institutions Article, Title 11
Subtitle 2. Consumer Loans – Licensing Provisions.

§ 11-203.1. Licensing requirements and process.

(a) *In general.* – Unless a person is licensed by the Commissioner, the person may not:

* * *

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

Md. Code Ann., Financial Institutions Article, Title 11
Subtitle 3. Installment Loans – Licensing Provisions.

§ 11-302. License Required.

* * *

(b) *License required.* – 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.

§ 11-303. Application of Maryland Consumer Loan Law – Licensing Provisions.

A license under this subtitle shall be applied for and issued in accordance with, and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law – Licensing Provisions.

NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to FI § 2-115(a), the Respondents are hereby given notice that they are entitled to a hearing before the Commissioner to determine whether this Summary Order to Cease and Desist should be vacated, modified, or entered as a final order of the Commissioner; and this Summary Order to Cease and Desist will be entered as a final order of the Commissioner if a hearing is not requested within 15 days of the receipt of this Summary Order to Cease and Desist.

Pursuant to Md. Code Ann., State Government Article (“SG”) §§ 10-206.1(a) and (b) and Code of Maryland Regulations (COMAR) 09.01.02.08, the Respondents are hereby given notice that: an agency may not grant the right to practice law to an individual who is not authorized to practice law in Maryland; interfere with the right of a lawyer who is authorized to practice law in Maryland to practice before an agency or the Office of Administrative Hearings; or prevent any party from being advised or represented at the party’s own expense by an attorney or, if permitted by law, other representative. Further, an individual party may request a hearing and appear at a hearing in person or through an attorney authorized to practice law in Maryland, however, a business entity may only request a hearing and appear at a hearing through an attorney authorized to practice law in Maryland.

The Respondents are hereby given notice that any requests for a hearing in this matter must conform to the requirements stated above, must be in writing, must be signed by the party and/or the attorney representing the party requesting the hearing, and must be submitted to the following address within 15 days of the date of the receipt of this Summary Order to Cease and Desist: **Carmen Flowers, Administrator, Office of the Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202.**

ORDER TO CEASE AND DESIST

Having determined that that the Respondents have engaged in acts or practices constituting violations of a law, regulation, rule, or order over which the Commissioner has jurisdiction and that immediate action against the Respondents is in the public interest, it is this 31 day of January, 2019, by the Maryland Commissioner of Financial Regulation:

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from engaging in any and all activities which constitute a credit services business or in any other way acting as a credit services business in the State of Maryland either by acting directly, or by acting indirectly through other individuals or business entities; and it is

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from violating the aforementioned statutory provisions of Maryland law and to take affirmative action to correct the violations described herein; and it is further

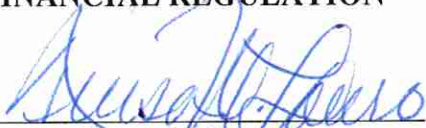
ORDERED that should the Respondents fail to request a hearing within 15 days of the receipt of this Summary Order to Cease and Desist, this Summary Order to Cease and Desist shall become a Final Order of the Commissioner and the Commissioner may impose civil penalties and/or take any other action against Respondents as authorized by FI §§ 2-115(b), 11-517(c), and 11-523(b); and it is further

ORDERED that all provisions of this Summary Order to Cease and Desist, including all Orders and Notices set forth herein, also apply to all unnamed owners, partners, members, officers, principals, directors, managers, employees, and agents of all Respondents' business entities named above; and it is further

ORDERED that the officers and/or managers for all Respondents' business entities named above shall provide a copy of this Summary Order to Cease and Desist to all unnamed owners, partners, members, officers, principals, directors, managers, and agents of those of the Respondents' business entities.

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

1/31/19
Date


By: Teresa M. Louro
Deputy Commissioner