STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: Clear Sky Financial, LLC, Respondent.	Case No. DM-23-0052 FINAL ORDER TO CEASE AND DESIST AND ORDER ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On February 27, 2023, the Director of the Oregon Department of Consumer and Business Services for the State of Oregon (the "Director"), through the Division of Financial Regulation (the "Division") and pursuant to Oregon Revised Statutes ("ORS") 697.602 through 697.842 and Oregon Administrative Rules ("OAR") 441-910-0000 through 441-910-0200 (collectively, the "Oregon Debt Management Service Provider Law"), properly served Respondent Clear Sky Financial, LLC ("Clear Sky" or the "company") an Order to Cease and Desist, Proposed Order Assessing Civil Penalties, and Notice of Right to a Hearing ("Notice Order") via regular and certified United States mail upon Clear Sky's attorney. A signed green card was returned from the certified mailing. The regular mailing was not returned.

The Notice Order offered Clear Sky an opportunity for a hearing, if requested in writing within 20 days of service. The Notice Order further informed Clear Sky that if a hearing was not conducted because Clear Sky did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file, which includes all materials Clear Sky submitted, would automatically become part of the contested case record to prove a *prima facie* case. Clear Sky has not made a written request for a contested hearing, and the time to do so has expired.

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

After considering the relevant portions of the Division's file in this matter, the Director finds that the record proves a *prima facie* case. Now, therefore, the Director makes the following Findings of Fact and Conclusions of Law and issues the following Orders.

FINDINGS OF FACT

The Director FINDS that:

1. Clear Sky is a Florida limited liability company. Its principal address is 5950 Hazeltine National Drive, Suite 250, Orlando, Florida 32822, and its mailing address is PO Box 585611, Orlando, Florida 32858.

2. Anthony Francisco ("Francisco") is Clear Sky's sole member.

3. Clear Sky has never registered with the Oregon Secretary of State to conduct business in Oregon, nor with the Director through the Division as a debt management service provider ("DMSP").

4. Clear Sky did not obtain a surety bond, which is required for registered DMSPs in Oregon.

5. Clear Sky's website is clearskyusa.com where it advertises "DEBT ELIMINATION" with services for credit counseling, debt consolidation, and debt reduction. Specifically for debt reduction and elimination, the website states: "We'll approach your creditors to ask for reductions in interest rates, finance charges, and other fees. This helps to reduce the amount you owe and lets you pay it off faster."

6. In February 2021, Clear Sky contacted Oregon consumer "JK" about getting rid of his credit card debt and offered to provide debt relief services.

7. On February 23, 2021, JK enrolled in Clear Sky's 18-month "Debt Relief Process and Educational Services" program ("Program"). The company charged JK $16,000 for the Program, which was processed on the credit cards that JK was requesting

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

assistance in resolving.

8. The Engagement Agreement that JK signed with Clear Sky includes a description of some of the services that the company would provide, which includes: "Administrative Dispute" letters to banks and debt collectors, debt verification and cease and desist letters to debt collectors, administrative settlement information, and one-on-one consultation appointments with Clear Sky representatives to address JK's progress and answer questions.

9. The Engagement Agreement states that, "The [company's] Debt Relief Process teaches individuals that an illusory, fraudulently-funded loan of credit is not a true loan of money and is therefore a VOID contract and/or loan agreement."

10. The Engagement Agreement also includes a limited power of attorney; wherein, JK authorized Clear Sky to communicate and negotiate with creditors, on his behalf, for debt settlement purposes.

11. Clear Sky did not provide a document that includes all of the disclosures set forth in ORS 697.707(2) to JK when the company offered to perform a debt management service and accepted a fee for the service.

12. JK understood that after completion of Clear Sky's 18-month Program, his credit card debt would be reduced or eliminated.

13. After enrolling in Clear Sky's Program, JK received notice that Citibank was suing him for the balance owed on his credit card, and his a court date was scheduled for February 2023. This is one of the debts that JK had enlisted Clear Sky to assist in resolving.

14. On October 11, 2022, the Division received a complaint that JK had filed against Clear Sky.

15. JK reported that he had excellent credit before he enrolled in Clear Sky's Program, and after that his credit was ruined.

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

16. Also on October 11, 2022, a Compliance Specialist from the Division sent a "pipeline" letter to Francisco of Clear Sky requesting a list of all the Oregon transactions that the company had worked on since January 1, 2020. The deadline to submit a response was November 1, 2022.

17. On October 17, 2022, JK began receiving emails from Jonathan Rufus of Clear Sky regarding a possible settlement. However, in order to reach a settlement, JK was required to withdraw his complaint filed with the Division against Clear Sky.

18. On October 19, 2022, JK sent the Division a copy of the Hold Harmless Agreement that he signed with Clear Sky to settle his account with Citibank and conclude Clear Sky's services. Per the Hold Harmless Agreement, Clear Sky paid a portion of the settlement amount JK owed to Citibank, and JK paid the remaining balance.

19. JK then withdrew his complaint filed with the Division against Clear Sky.

20. On November 1, 2022, Francisco responded to the Division by email and stated that Clear Sky was in the process of retaining counsel to assist in applying for licensing in Oregon as a DMSP. Francisco expected to file an application in the near future.

21. Francisco further stated that the company had discontinued solicitation and other business activity in Oregon, which would continue unless or until the company obtained a license.

22. Francisco did not include a list of Clear Sky's Oregon transactions that the Division had requested.

23. On November 3, November 15, and November 17, 2022, the Division attempted to follow up with Francisco, via phone messages and emails, to request an update on the outstanding pipeline request. No response was received.

24. On November 17, 2022, the Division received notice that Clear Sky had retained an attorney to respond to the request. Accordingly, the Division provided the

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

original request, the applicable provisions of the Oregon Debt Management Service Provider Law, and a DMSP application to Clear Sky's attorney. The deadline to respond was extended to December 12, 2022.

25. On December 14, 2022, the Division extended the deadline further until January 3, 2023.

26. On January 6, 2023, the Division issued a subpoena to Clear Sky, through its attorney, again requesting a list of all Oregon transactions the company had worked on since January 1, 2020, along with some identifying information for the consumers. The deadline for a response was January 30, 2023.

27. Since no response was received, on February 1, 2023, the Division sent a follow-up email stating that if the Division did not receive a response to the subpoena by February 3, 2023, the matter would be referred for enforcement action, and a civil penalty could be assessed.

28. To date, the Division has not received a response to the subpoena or a DMSP application from Clear Sky.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

29. By offering or providing debt relief services, specifically related to debt reduction, elimination, and settlement to JK for a fee, Clear Sky performed a "debt management service," as defined in ORS 697.602(2)(d).

30. By offering and performing debt management services in Oregon without being registered with the Director as a DMSP, Clear Sky violated ORS 697.612(1)(a).

31. By providing advice, assistance, instruction, or instructional material concerning a debt management service to JK for a fee without being registered with the Director as a DMSP, Clear Sky violated ORS 697.612(1)(b)(E).

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

32. By charging JK an initial fee of more than $50 ($16,000), Clear Sky violated ORS 697.692(1)(a).

33. By offering to perform a debt management service for JK without obtaining a surety bond, Clear Sky violated ORS 697.642.

34. By offering to perform a debt management service and accepting a fee for the service from JK before providing all of the required disclosures, JK violated ORS 697.707(1).

ORDERS

Now therefore, the Director issues the following ORDERS:

35. As authorized by ORS 697.825(1)(a), the Director ORDERS Clear Sky to CEASE AND DESIST from violating 697.612(1)(a), ORS 697.612(1)(b)(E), ORS 697.692(1)(a), ORS 697.642, and ORS 697.707(1).

36. The Director, pursuant to ORS 697.832(1), may assess civil penalties of up to $5,000 per violation of the Oregon Debt Management Service Provider Law. Pursuant to this provision, the Director hereby ORDERS Clear Sky to pay CIVIL PENALTIES totaling $20,000, allocated as follows:

A. $5,000 for unregistered DMSP activity in violation of ORS 697.612(1)(a), ORS 697.612(1)(b)(E);

B. $5,000 for charging excessive initial fees in violation of ORS 697.692(1)(a);

C. $5,000 for offering a debt management service without having a surety bond in violation of ORS 697.642; and

D. $5,000 for offering a debt management service and accepting a fee for the service before providing all of the necessary disclosures in violation of ORS 697.707(1).

/ / /

/ / /

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

37. This is a "Final Order" under ORS 183.310(6)(b). Subject to this provision, the entry of this Order does not limit further remedies that may be available to the Director under Oregon law.

SO ORDERED this 21st day of March, 2024.

ANDREW R. STOLFI, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

NOTICE OF RIGHT TO JUDICIAL APPEAL

Except as provided in ORS 697.825(2)(e), you may be entitled to judicial review of this Order under ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date this Order is served.

[The remainder of this page is intentionally left blank.]

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387