

BEFORE THE ADMINISTRATOR
COLORADO DEBT-MANAGEMENT SERVICES ACT

STIPULATION AND FINAL AGENCY ORDER

In the Matter of:

Touchstone Partners, Inc.

Respondent.

This Stipulation and Final Agency Order ("Order") is entered into by Touchstone Partners, Inc. ("Respondent"), and the Administrator of the Colorado Debt Management Services Act, C.R.S. § 5-19-201 *et seq.* ("DMSA") (collectively, "Parties") to resolve all the issues arising from Respondent's violation(s) described herein.

SECTION I

Findings of Facts and Conclusions of Law

1. The Administrator is authorized to enforce the DMSA. C.R.S. § 5-19-232. Among other things, she is authorized to conduct examinations of registered debt-management providers, enforce compliance of the DMSA and its rules, and conduct investigations of possible violations of them. C.R.S. §§ 5-19-232 and 5-19-233.

2. Respondent is a Florida corporation located at 2500 Quantum Lakes Drive, Suite 101, Boynton Beach, Florida 33426, and is registered as a debt-management provider in Colorado, holding registration number DMG-2000033. Respondent has provided and continues to provide debt-management services to residents of Colorado.

3. On March 2, 2021, the Administrator initiated an examination of Respondent to determine compliance with the Colorado DMSA. On August 31, 2021, the Administrator issued a compliance examination report to Respondent identifying certain statutory violations and directing Respondent to take corrective action.

4. As relevant here, the Administrator cited Respondent for entering into agreements with consumers for debt-management services that are not dated and

signed by Respondent, in violation of C.R.S. § 5-19-219(a)(2) (providing that an “agreement shall ... [b]e dated and signed by the provider and the individual”).

5. Respondent performed a self-audit of its records to determine the number of unsigned agreements and as best as can be determined, identified that in 100% of cases, Respondent did not sign the agreements for debt-management services in violation of C.R.S. § 5-19-219(a)(2).

6. As of March 31, 2022, Respondent added signature and date fields to its agreements.

7. Respondent charged and received fees for debt management services it provided to its Colorado clients. The DMSA prohibits charging for debt-management services until the provider and individual have signed an agreement that complies with § 5-19-219 C.R.S. See § 5-19-223(b) C.R.S.

8. Under C.R.S. § 5-19-233(a)(2), the Administrator may order a “provider or person that has caused a violation” to correct the violation by paying restitution.

9. In addition, under C.R.S. § 5-19-233(a)(3), the Administrator may impose on a “provider or person that has caused the violation” a civil penalty up to and including \$10,000 for each violation.

10. Finally, the Administrator may recover reasonable costs for enforcing the DMSA, including attorneys’ fees based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

SECTION II Order

In full settlement of the issues raised in this matter, and to avoid further legal proceedings, the parties agree as follows:

12. Respondent, and its officers, directors, agents, servants, employees, managers, members, and any and all other persons, corporations, associations, or other entities acting by, through, on behalf of, or in active concert or participation with Respondent, shall not engage in, now or in the future, any conduct described herein that violates the DMSA.

13. Respondent agrees that an order shall be entered against it in the total amount of \$110,152. This amount relates to fees collected from 71 consumers.

14. This amount along with any interest thereon, is payable, in trust, to the Attorney General to be used in the Attorney General's sole discretion for attorneys' fees and costs, consumer restitution, and for consumer or creditor educational purposes, consumer credit or consumer protection enforcement efforts, or public welfare purposes.

15. Respondent shall pay these refunds, pro rata, based on the amounts of restitution owed to the consumers directly to the effected consumers on behalf of the Attorney General. Respondent shall commence these payments on January 1, 2024 and complete them by August 31, 2024. Respondent will refund consumers in the full amount due hereunder but may make the refunds on a rolling basis over this period.

16. For each Colorado consumer identified in paragraph 13, Respondent will provide to the Administrator within thirty (30) business days of the Effective Date a list in native Microsoft Excel format identifying (i) the name, last known address, and last known contact information (e-mail address and phone number if available) for each consumer, and (ii) the amount of the refund.

17. The refunds will be accompanied by a letter of explanation with language approved by the Administrator. Respondent will submit a draft letter of explanation to the Administrator within five (5) days of the date this stipulation is executed for the Administrator's approval.

18. Respondents may issue refunds to consumers for whom they have bank account information by electronically transmitted means. For all other consumers who cannot receive their refund in this manner, Respondent may issue refunds by check.

19. On or before September 30, 2024, Respondent shall provide the Administrator with evidence of refunds, including the names and addresses of consumers sent refunds, copies of the front of its refund checks, a sample copy of the cover letter accompanying refund checks, the total dollar amount of all refunds, and the number of refunds provided.

20. On or before October 31, 2024, if Respondent sent any refunds by check, Respondent shall provide the Administrator with copies of the backs of the refund checks showing their endorsement and deposit by consumers, or copies of its bank statements showing that the checks have cleared its account.

21. If Respondent is unable to locate a Colorado consumer to whom a refund check is issued on or before October 31, 2024, Respondent shall cancel the check and issue a check payable to the Colorado Attorney General in an equal amount. At this time, Respondent shall also update the list referenced in paragraph 16 and identify which of the refunds remain unclaimed.

22. All payments due the Administrator hereunder shall be deemed paid upon the Administrator's receipt of the payment. Respondent may pay by ACH transfer or check. Respondent shall endeavor to make payment one time. The Administrator will provide ACH transfer instructions upon request. A check shall be made payable to the "Colorado Department of Law." The check should be mailed to: "Administrator, UCCC, attn: Miriam Burnett/Kevin Burns, 1300 Broadway, 7th Floor, Denver, Colorado 80203."

SECTION III
(Stipulation and Release)

23. Respondents agree and stipulate to this Order and all terms contained herein.

24. It is the intent and purpose of this Order to resolve fully the particular issues, allegations, or charges raised by the Administrator's investigation of Respondent's activities as set forth above, and only those issues. Further, the omission from this Stipulation of other acts, conduct, or practices which might constitute violations of the Act shall not be deemed or construed to be approval by the Administrator of such acts, conduct, or practices.

25. Respondent acknowledges it has a right to request an evidentiary hearing in this matter, present evidence, examine witnesses, and appeal from any adverse action and waives those rights.

26. This Order represents the entire Order between the parties and is binding upon all the all officers, directors, employees, shareholders, managers, members, principals, affiliates, heirs, agents, trade names, and successors of the Respondent.

27. This Order shall be disclosed in any application to the Administrator and in response to any question regarding state disciplinary or administrative action.

28. Colorado law governs this Order. Any claims or causes of action arising out of or based upon this Order shall be commenced before the Colorado Office of

Administrative Courts or in Denver District Court for the State of Colorado, as appropriate. Respondent hereby consents to the jurisdiction, venue and process of the Colorado Office of Administrative Courts and the Denver District Court. In the event of any action or proceeding alleging or asserting a violation of or failure to comply with this Order, this Order shall be admissible in full and shall be evidence that prior to this Order, Respondent engaged in the acts and practices described herein.

29. This Order shall be effective on the date it is signed by the Administrator.

EXECUTED AND SO ORDERED by the Administrator this ___1st___ day of ___November_____, 2023.

Martha H. Fulford

Martha Fulford
Administrator
Colorado Debt-Management
Services Act

AGREED TO AND STIPULATED BY:

TOUCHSTONE PARTNERS, INC.

BY: *J. S. Smberg* _____

PRINT NAME: JONATHAN S. SMBERG

Date: 10/31/23

APPROVED AS TO FORM:

COUNSEL FOR COMPANY

BY: *Robby H. Birnbaum* _____

ROBBY H. BIRNBAUM
Greenspoon Marder, LLP (only
admitted in FL and WI).
100 West Cypress Creek Road, Ste 700
Fort Lauderdale, FL 33309

Date: 10/31/2023

ADMINISTRATOR,
COLORADO DEBT-MANAGEMENT
SERVICES ACT

BY: Kevin J. Burns
KEVIN J. BURNS
Senior Assistant Attorney General

Consumer Protection Section
Consumer Credit Enforcement Unit
Ralph L. Carr Colorado Judicial Ctr.
1300 Broadway, 6th Floor
Denver, CO 80203

Date: 11/1/23