

IN THE MATTER OF:

**JOHN C. HEATH, ATTORNEY AT LAW
LLC, a/k/a JOHN C. HEATH, ATTORNEY
AT LAW PLLC, d/b/a LEXINGTON LAW
FIRM;**

LEXINGTON LAW OF MARYLAND, LLC;

HOLCOMB & STRAILE, LLC;

JOHN C. HEATH;

and

CRAIG L. HOLCOMB,

Respondents .

BEFORE THE MARYLAND

COMMISSIONER OF

FINANCIAL REGULATION

CASE NUMBERS:

CFR-FY2010-048

CFR-FY2014-064

SETTLEMENT AGREEMENT AND CONSENT ORDER

This Settlement Agreement and Consent Order (the "Agreement") is entered into this 12th day of August, 2015, by and between the Maryland Office of the Commissioner of Financial Regulation (the "Agency") and John C. Heath, Attorney At Law LLC, a/k/a John C. Heath, Attorney at Law PLLC, d/b/a Lexington Law Firm; Lexington Law of Maryland, LLC; Holcomb & Straile, LLC; John C. Heath; and Craig L. Holcomb, (collectively, the "Respondents "). The Agency and Respondents ("the Parties") consent to the entry of this Agreement as a final order of the Commissioner of Financial Regulation (the Commissioner), by consent, and as a final resolution of this matter. This Agreement supersedes and fully replaces the Summary Order to Cease and Desist and Order to Produce issued by the Commissioner of Financial Regulation (the "Commissioner") to Respondents on December 18, 2014, in Case No. CFR-FY2010-048. (the "Summary Order"). All

paragraphs below are intended to be part of the contractual obligations of the Parties hereto, so far as they may be construed, and are not mere recitals to this Agreement.

Statutory Overview

1. Pursuant to the Maryland Credit Services Businesses Act (“MCSBA”), Md. Code Ann., Com. Law (“CL”), § 14-1901 *et seq.*, the Commissioner is responsible for licensing and regulating business entities and other persons who engage in credit services business activities in the State of Maryland (the “State”) or otherwise involving Maryland residents (or “consumers”).

2. Pursuant to CL § 14-1903(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.”

3. Pursuant to Md. Code Ann., Fin. Inst. (“FI”), § 11-302(b), “[u]nless the person is licensed by the Commissioner, a person may not: . . . (3) [e]ngage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article.”

4. The MCSBA defines “*credit services business*” at CL § 14-1901(e), which provides, in part, as follows:

(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...

5. CL § 14-1902 addresses activities prohibited under the MCSBA, stating, in part, as follows:

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 Institution Article.

(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.

6. CL § 14-1904(a) provides that, “[b]efore 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 [the MCSBA].”

7. CL § 14-1905 indicates specific terms which must be provided in the information statement, stating, in part, as follows:

(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.

8. CL § 14-1906 imposes various requirements for contracts between credit services businesses and consumers.

Factual Background

The Licensing Proceedings

9. John C. Heath, Attorney at Law LLC, a/k/a John C. Heath, Attorney at Law PLLC, d/b/a Lexington Law Firm is a Utah business entity located at 360 North Cutler Drive, North Salt Lake, Utah 84054 (the “North Salt Lake address”), and engages primarily in credit repair activities. It also uses the addresses of 10741 Weiss Drive, South Jordan, Utah 84095 (the “South Jordan address”) and previously used 3887 W. Dune Buggy Drive, South Jordan, Utah 84095 (the “prior South Jordan address”), and 634 S. 400 West, P.O. Box 1173, Salt Lake City, Utah 84110 (the “Salt Lake City address”). This entity will hereinafter be referred to as “JCH-Lexington.”

10. Holcomb & Straile, LLC (hereinafter, “H&S”) is a Maryland business entity organized under Maryland law on August 15, 2003. Its primary business address was originally 51 Monroe Street, Suite 1405, Rockville, Maryland 20850, and is currently 3409A Urbana Pike, Frederick, Maryland 21704.

11. Lexington Law of Maryland, LLC (hereinafter, “Lexington-MD”) is a Maryland business entity organized under Maryland law on June 25, 2007, and engages almost exclusively in credit repair activities. Its primary business address was originally 51 Monroe Street, Suite 1405, Rockville, Maryland 20850, and is currently 3409A Urbana Pike, Frederick, Maryland 21704.

12. John C. Heath is the owner, director, officer, manager, and/or member of

JCH-Lexington, and he is an owner, director, officer, manager, member, and/or agent of Lexington-MD. Craig L. Holcomb is an owner, director, officer, manager, and/or member of H&S and is the owner, director, officer, manager, and/or member of Lexington-MD.

13. JCH-Lexington was licensed by the Commissioner as an installment lender beginning on February 13, 2006, which allowed it conduct a credit services business from a single Utah location only, first from its Salt Lake City address between 2006 and 2008, and then from its North Salt Lake address after February 2008.

14. In February 2012, JCH-Lexington submitted applications to the Agency for issuance of credit services business licenses, one for its North Salt Lake address, and the second for a location at 3409A Urbana Pike, Frederick, Maryland 21704. On November 12, 2013, the Agency denied the license applications. JCH-Lexington requested a hearing on the denial and the Agency delegated the matter to the Office of Administrative Hearings (“OAH”) for a hearing and issuance of findings of fact and a proposed decision. OAH held a hearing in the summer of 2014. The case number for this matter is CFR-FY2014-064.

15. H&S and Lexington-MD have never been licensed by the Commissioner to engage in credit repair activities, nor have they ever been licensed by the Commissioner in any other capacity.

16. In February 2012, Lexington-MD submitted an applications to the Agency for issuance of a credit services business license. On November 12, 2013, the Agency denied Lexington-MD’s credit services business license application. Lexington-MD requested a hearing on the denial of its license application as part of JCH-Lexington’s request for hearing and the Agency delegated the matter to OAH for a hearing and issuance

of findings of fact and a proposed decision, as part of Case No. CFR-FY2014-064.

17. On January 13, 2014, JCH-Lexington applied for a renewal of its installment lender license. The Agency denied the renewal application on April 11, 2014. The Agency referred the denial of JCH-Lexington's installment lender renewal application to OAH for a hearing and issuance of findings of fact and a proposed decision as part of the hearing on the license denials, Case No. CFR-FY2014-064.

18. As of April 11, 2014, and through the date of this Agreement, none of the Respondents has held a Maryland license allowing them to engage in the credit services business in Maryland.

19. On September 25, 2014, OAH issued a Proposed Decision to the Agency in Case No. CFR-FY2014-064, proposing that the Commissioner affirm the denial of the Respondents' credit services businesses license applications and the non-renewal of JCH-Lexington's installment loan license. On November 25, 2014, the Agency issued a Proposed Order in the case, adopting, with some modifications, the OAH Proposed Decision and affirming the denial of the credit services businesses license applications of JCH-Lexington and Lexington-MD and the non-renewal of JCH-Lexington's installment loan license.

20. JCH-Lexington and Lexington-MD filed exceptions to the Proposed Order. The Parties agreed to stay the hearing on Respondents' exceptions pending the completion and execution of this Agreement.

The Summary Order

21. On December 18, 2014, the Commissioner issued the Summary Order in

Case No. CFR-FY2010-048 to all of the Respondents.

22. In the Summary Order, the Commissioner had reasonable grounds to conclude that Respondents violated various provisions of the MCSBA, including but not limited to the following (the “Violations”):

- a. Respondents engaged in credit repair activities without all entities and individuals and all locations being properly licensed. This includes the time period between April 11, 2014, and the date of the execution of this Agreement, during which time none of the Respondents held a Maryland license. By entering into contracts with over 20,000 Maryland consumers using unlicensed locations and/or during times when Respondents were unlicensed, Respondents violated CL §§ 14-1902(1) and 14-1903(b), and FI §§ 11-204(a), 11-204(b)(1), 11-208(b), 11-302, and 11-303.
- b. By collecting money from Maryland consumers based on their credit repair contracts without holding the requisite licenses, Respondents violated CL § 14-1902(1) of the MCSBA.
- c. Respondents collected money, including up-front and/or set-up fees, as well as monthly payments, from all of their Maryland consumer customers prior to rendering “full and complete performance of the services” that Respondents were required to perform under their credit repair contracts, in violation of violated CL § 14-1902(6).
- d. Respondents violated the MCSBA by failing to provide the requisite information statements to Maryland consumers *before* entering into credit repair contracts with those consumers, in violation of CL § 14-1904(a). Further, those information statements that were subsequently provided failed to include all the required information set forth in CL § 14-1905(a): they failed to provide a complete and detailed description of the services to be performed by the Respondents for or on behalf of each consumer; and they failed to include the terms and conditions of payment under the credit services business contracts, including the total of all payments to be made by the consumer for the services. As such, Respondents violated CL §§ 14-1904(a) and 14-1905(a).
- e. Additionally, all of Respondents’ contracts with Maryland consumers failed to include requisite contract terms required pursuant to CL § 14-1906(a): the contracts failed to include a complete and detailed description of the services to be performed by the Respondents for or on behalf of each consumer; they failed to include the results to be achieved

by the credit services business for or on behalf of the consumer, including providing a list of the adverse information appearing on the consumer's credit report and any expected modifications and estimated modification dates pertaining to that adverse information; and they failed to include the terms and conditions of payment under the credit services business contracts, including the total of all payments to be made by the consumer for the services. As a result, Respondents violated CL § 14-1906(a) of the MCSBA.

23. In the Summary Order, the Commissioner ordered Respondents, *inter alia*, to cease and desist from engaging in credit repair and other credit services and to cease violating Maryland law.

24. Respondents requested a hearing on the Summary Order. By agreement of the Parties, the Commissioner has not delegated the case to OAH for a hearing, pending the completion and execution of this Agreement.

New License Applications

25. On or about October 31, 2014 and April 21, 2015, JCH-Lexington (for Registration #28-71, #28-75, #28-76, #28-77), and Lexington-MD (for Registration #28-74) (the "Applicants") filed new applications for Credit Services Business licenses with the Agency (the "New License Applications"). By agreement of the Parties, the Agency has not previously made a final ruling on the New License Applications, pending review of the applications and their supporting materials, and the completion and execution of this Agreement.

Terms of Agreement

26. By entering into this Agreement, the Parties agree to resolve all outstanding issues, including all issues relating to the Commissioner's allegations of prior violations of Maryland law by the Respondents.

27. Respondents wish to resolve this matter without the need for an administrative hearing and to avoid the costs associated with such proceedings and any potential appeals, and therefore agree to resolve the above-captioned case fully, finally, and completely without an administrative hearing. Furthermore, Respondents accept without condition, and fully agree to abide by, each and every term and obligation set forth in this Agreement.

28. The Commissioner desires to ensure that Respondents will comply with all applicable statutes, regulations, and others laws governing Maryland credit services businesses activities, and further wishes to avoid the costs to the taxpayers of an administrative hearing and any potential appeals.

29. In full settlement and satisfaction of the Violations set forth in the Summary Order, simultaneously with the execution of this Agreement, Respondents shall pay the Commissioner a civil monetary penalty in the amount of three hundred thousand dollars and no cents (\$300,000.00) by cashier's check or money order made payable to the Commissioner of Financial Regulation (the "Civil Monetary Penalty").

30. The Parties agree that all license applications submitted by the Respondents to the Agency from February 2012 through January 2014 are hereby withdrawn by the Respondents, and that all administrative proceedings related to these license applications under CFR-FY2014-064 are hereby canceled.

31. Simultaneously with the execution of this Agreement, the Agency shall fully and expeditiously consider the New License Applications submitted by the Applicants.

32. This Agreement fully resolves all issues relating addressed herein, including

Respondents' denied license applications, Respondents' Violations, and the Summary Order. The Parties agree:

a. Upon payment of the Civil Monetary Penalty, the restrictions and cease and desist orders set forth in the Summary Order are hereby subsumed into this Agreement.

b. Respondents waive all claims and defenses of any nature they may have against the Agency and the Commissioner, including all employees, agents and attorneys of the Agency. In addition, and without limiting the foregoing, Respondents also hereby dismiss and waive their request for exceptions filed as to the November 24, 2014, Proposed Order in Case No. CFR-FY2014-064 and their dispute of and request for hearing as to the Summary Order in Case No. CFR-FY2010-048.

33. Respondents agree to comply fully with Maryland law, including but not limited to the MCSBA and the terms and requirements of any licenses issued to Respondents, including to the Applicants in response to the New License Applications.

34. Respondents agree to cooperate fully with the Commissioner in any related enforcement actions against any person not a party to this Agreement, should the Commissioner engage in any such action.

35. Respondents acknowledge that they have voluntarily entered into this Agreement with full knowledge of their right to a hearing pursuant to FI § 2-115(a) and pursuant to the Maryland Administrative Procedures Act – Contested Cases, Md. Code Ann., State Gov't. ("SG"), § 10-201 *et seq.*, and that Respondents hereby waive their right to a hearing. Respondents further acknowledge that they have had an opportunity to consult

with independent legal counsel in connection with their waiver of rights and with the negotiation and execution of this Agreement, and that Respondents have in fact consulted with independent legal counsel.

36. The Parties hereto acknowledge and agree that this Agreement shall be binding upon the Parties and enforceable in a court of competent jurisdiction by the Commissioner and by the Respondents, shall be admissible in court, if relevant, and shall be binding upon and inure to any of the Respondents' present and future owners, principals, directors, officers, members, partners, managers, agents, successors, and assigns.

37. The Parties hereto acknowledge that this Agreement does not in any way relate to, impact, or otherwise effect the legal rights of, or preclude the Commissioner from bringing or continuing actions against, persons not Parties to this Agreement. Further, this Agreement is by and between the Commissioner and the Respondents and, except as otherwise provided, shall not inure to the benefit of any person not a party to this Agreement.

38. The Parties hereto agree that any notices hereunder shall be effectively "delivered" when sent via overnight delivery or certified mail as follows:

a. To the Commissioner:

Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202-3651
Attn: Jedd Bellman, Assistant Commissioner

Copy to:

W. Thomas Lawrie, Assistant Attorney General
Office of the Attorney General
Department of Labor, Licensing, and Regulation
500 North Calvert Street, Suite 406

Baltimore, Maryland 21202-3651

b. To Respondents:

John C. Heath, Attorney at Law, PLLC
d/b/a Lexington Law Firm
360 North Cutler Drive
North Salt Lake, UT 84054
Attn: John C. Heath

Holcomb and Straile, LLC
3409A Urbana Pike
Frederick, Maryland 21704
Attn: Craig L. Holcomb

Lexington Law of Maryland, LLC
3409A Urbana Pike
Frederick, Maryland 21704
Attn: Craig L. Holcomb

Copy to:

Timothy A. Hodge
Miles & Stockbridge P.C.
100 Light Street
Baltimore, Maryland 21202

Justin C. Eller
Miles & Stockbridge P.C.
100 Light Street
Baltimore, Maryland 21202

NOW, THEREFORE, it is, by the Maryland Commissioner of Financial Regulation and with the consent of Respondents, hereby

ORDERED that Respondents shall adhere to all terms of this Agreement, the violation of which shall constitute a violation of a Final Order of the Commissioner; it is further

ORDERED that Respondents shall conduct business in full compliance with all statutes, regulations, and other laws governing credit services businesses activities, and shall

continue to act in full compliance at all future times; and it is further

ORDERED that, in the event Respondents violate any provision of this Agreement, or otherwise engage in the activities which formed the basis for the Violations described above, the Commissioner may, at the Commissioner's discretion, take any enforcement actions available under FI § 2-115 or under the Maryland Credit Services Businesses Act, as well as take any other enforcement actions as permitted by, and in accordance with, applicable State law; and that such enforcement actions could include an order to cease and desist, civil money penalties of up to \$5,000 for each violation of the law (or such other amount as may hereinafter be allowed under the law), an order to provide restitution of money or property to any aggrieved persons, and/or referral for possible criminal prosecution; and it is further

ORDERED that this matter shall be resolved in accordance with the terms of this Agreement and that the same shall be reflected among the records of the Office of the Commissioner of Financial Regulation; and it is further

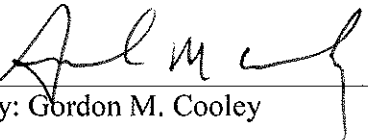
ORDERED that this Agreement fully supersedes the Summary Order; and it is further

ORDERED that this document shall constitute a Final Order of the Maryland Commissioner of Financial Regulation, and that the Commissioner may consider this Agreement and the facts set forth herein in connection with, and in deciding, any action or proceeding before the Commissioner; and that this Agreement may, if relevant, be admitted into evidence in any matter before the Commissioner.


It is so **ORDERED**.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

MARYLAND COMMISSIONER OF FINANCIAL REGULATION


By: Gordon M. Cooley
Acting Commissioner of Financial Regulation

JOHN C. HEATH, ATTORNEY AT LAW LLC, a/k/a JOHN C. HEATH, ATTORNEY AT LAW PLLC, d/b/a LEXINGTON LAW FIRM,


By: John C. Heath
Its: member / Directing Attorney

LEXINGTON LAW OF MARYLAND, LLC

By: _____
Its: _____

HOLCOMB & STRAILE, LLC

By: _____
Its: _____

JOHN C. HEATH


Individually

CRAIG L. HOLCOMB

Individually

It is so **ORDERED**.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

MARYLAND COMMISSIONER OF FINANCIAL REGULATION

By: Gordon M. Cooley
Acting Commissioner of Financial Regulation

JOHN C. HEATH, ATTORNEY AT LAW LLC, a/k/a JOHN C. HEATH, ATTORNEY AT LAW PLLC, d/b/a LEXINGTON LAW FIRM,

By: _____
Its: _____

LEXINGTON LAW OF MARYLAND, LLC

Craig L. Holt

By: *Craig L. Holt*
Its: *Managing Member*

HOLCOMB & STRAILE, LLC

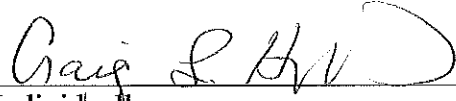
Craig L. Holt

By: *Craig L. Holt*
Its: *Managing Member*

JOHN C. HEATH

Individually

CRAIG L. HOLCOMB



Individually