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Commissioner  
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8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
10 OF THE STATE OF CALIFORNIA

11	In the Matter of:	)	
12		)	
13	THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION,	)	DESIST AND REFRAIN ORDER AND ORDER ASSESSING PENALTIES
14	Complainant,	)	
15	v.	)	(Fin. Code, § 90015, subs. (b), (c) (d)(1))
16	BLACKWATER LEGAL GROUP,	)	
17	Respondent.	)	
18		)	
19		)	

20  
21 The Complainant, the Commissioner of Financial Protection and Innovation  
22 (Commissioner) of the Department of Financial Protection and Innovation (Department), is  
23 informed and believes, and based on such information and belief, finds as follows:

24 **I.**

25 **Introduction**

26 1. The Commissioner has jurisdiction over the licensing and regulation of persons  
27 engaged in the business of debt collection in California under the Debt Collection Licensing Act  
28 (DCLA) (Fin. Code §§ 100000-100025).

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2. The Commissioner has jurisdiction over the regulation of persons who engage, have engaged, and propose to engage in offering or providing a consumer financial product or service in California and affiliated service providers under the California Consumer Financial Protection Law (CCFPL) (Fin. Code, § 90000 et seq.). Collecting debt relating to a consumer financial product or service is conduct covered by the CCFPL. Cal. Fin. Code § 90005(k)(10). The CCFPL defines consumer financial product or service to include, among other things, “extending credit or servicing extensions of credit.” Cal. Fin. Code § 90005(k)(1).

3. At all relevant times, an entity holding itself out as “Blackwater Legal Group” (Blackwater Legal Group) contacted at least one California resident claiming to be a law firm attempting to collect a debt related to a payday loan on behalf of creditors. Blackwater Legal Group contacted the California resident via mail and by phone using telephone numbers including, but not limited to, 800-204-4179. Blackwater Legal Group also misrepresented holding web addresses including, but not limited to, blackwaterlg.com and blackwaterinfo.com, that redirected visitors to a website that makes no mention of Blackwater Legal Group. Blackwater Legal Group also misrepresented holding a physical address, which in truth belonged to other, unrelated businesses.

**II.**

**Factual Background**

4. Blackwater Legal Group routinely contacted at least one California consumer beginning at least as early as January 1, 2021, by sending mail containing unlawful and/or deceptive statements in an attempt to collect a consumer debt relating to a payday loan.

5. Blackwater Legal Group mailed at least one California consumer a “notification of lawsuit & civil complaint,” naming the California consumer as a “respondent.” In fact, this was a false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made, in violation of Civil Code 1788.13, subdivision (j) of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Civ. Code, § 1788 et seq.).

6. The aforementioned communication also falsely represented that a consumer debt has been, is about to be, or will be sold, assigned or referred to a debt collector for collection, when

1 in fact the underlying debt allegedly in default was paid in full over a decade prior, in violation of  
2 Civil Code section 1788.13, subdivision (k) of the Rosenthal Act.

3 7. Blackwater Legal Group made a false representation of the true nature of the business  
4 or services they rendered by asserting they were a law firm attempting to settle a purported debt on  
5 behalf of creditors, in violation of Civil Code section 1788.13, subdivision (i) of the Rosenthal Act.

6 8. Finally, Blackwater Legal Group also threatened that nonpayment of the consumer  
7 debt may result in the seizure, garnishment, attachment or sale of any property or the garnishment or  
8 attachment of wages of the debtor in violation of Civil Code section 1788.10, subdivision (e) of the  
9 Rosenthal Act.

10 9. The aforementioned misrepresentations, including but not limited to representing  
11 itself as a “legal group attempting to collect consumer debt,” were material and likely to mislead a  
12 consumer acting reasonably under the circumstances, constituting deceptive acts or practices, in  
13 violation of Financial Code section 90003, subdivision (a)(1).

14 Failure to Submit License Application in Violation of the DCLA

15 10. The DCLA, which became effective on January 1, 2021, requires persons engaged in  
16 the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant  
17 to California Financial Code section 100001(a).

18 11. The Commissioner has not issued a license to Blackwater Legal Group, authorizing  
19 it to engage in the business of debt collection under the DCLA. Furthermore, Blackwater Legal  
20 Group has not applied for a license under the DCLA. Blackwater Legal Group is not exempt from  
21 the licensing requirements of California Financial Code section 100001.

22 12. In or around August 2022, Blackwater Legal Group engaged in the business of debt  
23 collection in this state by attempting to collect a debt from at least one California consumer, in  
24 violation of California Financial Code section 100001(a), and engaged in additional unlawful  
25 and/or deceptive acts or practices, as described in paragraphs 5 through 8 above.

26 **III.**

27 Applicable Laws

28 13. Financial Code section 100001(a) of the DCLA provides that “[n]o person shall

1 engage in the business of debt collection in this state without first obtaining a license.”

2 14. Financial Code section 100002(h) defines “debt” as “money, property, or their  
3 equivalent that is due or owing or alleged to be due or owing from a natural person to another  
4 person.”

5 15. Financial Code section 100002(f) provides:

6 “Consumer debt” or “consumer credit” as means money, property, or their  
7 equivalent, due or owing, or alleged to be due or owing, from a natural person by  
8 reason of a consumer credit transaction. The term “consumer debt” includes a  
9 mortgage debt. The term “consumer debt” includes “charged-off consumer debt” as  
10 defined in Section 1788.50 of the Civil Code.

11 16. Financial Code section 100002(i), defines “debt collection” as “any act or practice in  
12 connection with the collection of consumer debt.”

13 17. Financial Code section 100002(j) provides:

14 “Debt collector” means any person who, in the ordinary course of  
15 business, regularly, on the person’s own behalf or on behalf of others,  
16 engages in debt collection. The term includes any person who composes  
17 and sells, or offers to compose and sell, forms, letters and other collection  
18 media used or intended to be used for debt collection. The term “debt  
19 collector” includes “debt buyer” as defined in Section 1788.50 of the Civil  
20 Code.

21 18. Financial Code section 90005 provides in relevant part:

22 (d) “Consumer financial law” means a federal or California law that  
23 directly and specifically regulates the manner, content, or terms and  
24 conditions of any financial transaction, or any account, product, or service  
25 related thereto, with respect to a consumer . . .

26 (e) “Consumer financial product or service” means either of the following:  
27 (1) A financial product or service that is delivered, offered, or provided for  
28 use by consumers primarily for personal, family, or household purposes . . .

(f) “Covered person” means, to the extent not preempted by federal law,  
any of the following: (1) Any person that engages in offering or providing  
a consumer financial product or service to a resident of this state . . .

(k) “Financial product or service” means . . . (1) extending credit and  
servicing extensions of credit. . . (10) *Collecting debt* related to any  
consumer financial product or service . . . (emphasis added.)

19. Financial Code section 90003(a) provides in relevant part:

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(a) It is unlawful for a covered person or service provider, as defined in subdivision (f) of Section 90005, to do any of the following:

(1) Engage, have engaged, or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to consumer financial products or services.

(2) Offer or provide to a consumer any financial product or service not in conformity with any consumer financial law or otherwise commit any act or omission in violation of a consumer financial law . . . .

20. The following laws are consumer financial laws within the meaning of Financial Code section 90003, subdivision (a)(2):

21. Civil Code section 1788.10 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by means of the following conduct: . . . (e) The threat to any person that nonpayment of the consumer debt may result in the . . . the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of the debtor, unless such action is in fact contemplated by the debt collector and permitted by the law. . . .

22. Civil Code section 1788.13 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: . . . (i) The false representation of the true nature of the business or services being rendered by the debt collector; (j) The false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made; (k) The false representation that a consumer debt has been, is about to be, or will be sold, assigned, or referred to a debt collector for collection. . . .

23. Financial Code section 90015, subdivision (d), provides:

(1) If, in the opinion of the department, any person engages, has engaged, or proposes to engage in any activity prohibited by Section 90003 or 90004, the department may issue an order directing the person to desist and refrain from engaging in the activity, act, practice, or course of business.

(2) If that person fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the commissioner.

24. Financial Code section 90015, subdivision (c) provides, “[a]fter notice and an

1 opportunity to be heard, the commissioner may, by order, assess penalties.”

2 25. Financial Code section 90012, subdivision (c) provides, in relevant part:

3 In any civil or administrative action brought pursuant to this division, the  
4 following penalties shall apply:

5 (1) Any person that violates, through any act or omission, any provision of  
6 this division shall forfeit and pay a penalty pursuant to this subdivision.

7 (A) The penalty amounts are as follows:

8 (i) For any violation of this division, rule or final order, or condition  
9 imposed in writing by the department, a penalty may not exceed the  
10 greater of either five thousand dollars (\$5,000) for each day during which  
11 the violation or failure to pay continues, or two thousand five hundred  
12 dollars (\$2,500) for each act or omission in violation . . . .

11 **IV.**

12 **Desist and Refrain Order**

13 26. Based on the foregoing findings, the Commissioner is of the opinion that Blackwater  
14 Legal Group is a covered person or service provider that engaged in unlawful acts or practices, in  
15 violation of Financial Code section 90003, subdivision (a)(1), and offered or provided to a  
16 consumer any financial product or service not in conformity with any consumer financial law or  
17 otherwise committed any act or omission in violation of a consumer financial law, in violation of  
18 Financial Code section 90003, subdivision (a)(2), including but not limited to the following:

- 19 a. Financial Code section 100001, subdivision (a);
- 20 b. Civil Code section 1788.10, subdivision (e) of the Rosenthal Act;
- 21 c. Civil Code section 1788.13, subdivisions (i), (j), and (k) of the Rosenthal Act;

22 27. Pursuant to Financial Code section 90015, subdivision (d)(1), Blackwater Legal  
23 Group and its managers, officers, directors, agents, or employees, are hereby ordered to desist and  
24 refrain from engaging in, or proposing to engage in, unlawful acts or practices in collecting or  
25 attempting to collect any consumer debt in violation of Financial Code section 90003, subdivision  
26 (a)(1), or offer or provide to a consumer any financial product or service not in conformity with any  
27 consumer financial laws, including but not limited to the following:

- 28 a. Financial Code section 100001, subdivision (a);

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- b. Civil Code section 1788.10, subdivision (e) of the Rosenthal Act;
- c. Civil Code section 1788.13, subdivisions (i), (j), and (k) of the Rosenthal Act;

28. Furthermore, based on the foregoing findings, the Commissioner is of the opinion that Blackwater Legal Group is a covered person or service provider that engaged in deceptive acts or practices with respect to consumer financial products or services in violation of Financial Code section 90003, subdivision (a)(1).

29. Pursuant to Financial Code section 90015, subdivision (d)(1), Blackwater Legal Group and its managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in, or proposing to engage in, deceptive acts or practices in collecting or attempting to collect any consumer debt in violation of Financial Code section 90003, subdivision (a)(1).

30. This Desist and Refrain Order is necessary, in the public interest and consistent with the purposes, policies, and provisions of the CCFPL. This Desist and Refrain Order shall remain in full force and effect until further order of the Commissioner.

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V.

**Order Assessing Penalties – CCFPL (Fin. Code, § 90015, subd. (c))**

31. Pursuant to Financial Code section 90015, subdivision (c) and section 90012, subdivision (c), and after due consideration of possible mitigating factors and other appropriateness considerations listed in section 90012, subdivision (c)(1)(B), Blackwater Legal Group is hereby ordered to pay the Commissioner a penalty of \$12,500.00 within 30 days of the date of this order. This penalty shall be made payable in the form of an Automated Clearing House deposit or cashier’s check made payable to the Department of Financial Protection and Innovation. The cashier’s check shall be mailed to the attention of “Accounting – Litigation” at Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834-2036. Notice of such payment shall be concurrently sent to Galen Yun via e-mail at Galen.Yun@dfpi.ca.gov.

Dated: March 2, 2023  
Sacramento, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division