

MARYLAND COLLECTION AGENCY LICENSING BOARD

BOARD MEETING MINUTES

THURSDAY, NOVEMBER 17, 2016 – BALTIMORE, MARYLAND

The Collection Agency Licensing Board (the “Board”) Meeting was called to order by Chairman Gordon Cooley at 10:25 am at the Office of the Commissioner of Financial Regulation, Baltimore, Maryland. Members in attendance were Eric Friedman, Stephan Hannan, Susan Hayes, and Joanne Young as well as Administrative Officer Kelly Mack. Also present were Assistant Commissioner Jedd Bellman, Assistant Attorney General Kevin McGivern, Outreach Director & Financial Educator Janelle Lawrence and Director of Enforcement Randy Kiser. There was also a member of the public present, a Miles & Stockbridge law firm representative, Mr. Brian Moffet. On motion duly made, seconded and adopted, the Minutes and Executive Session Minutes of the September 22, 2016 meeting were approved as written.

Mr. Cooley introduced our newly appointed Outreach Director & Financial Educator, Ms. Janelle Lawrence who will be coordinating all website updates and outreach objectives for the Commissioner of Financial Regulation.

LICENSEE REPORT

Mr. Sempertegui delivered a report regarding the number of licensees and changes since the previous Board meeting. There are currently 1620 licensed collection agency licensees operating in Maryland, an increase of 16 since last period, and which total includes 453 branch offices and 79 new applications approved since November 9, 2016.

INFORMATION ITEMS:

Ms. Mack presented the FY 2017 complaint report for this quarter which reflected 79 complaints processed, 50 of those complaints are closed. Ms. Mack reported there was no change of control applicants to report for this quarter and it was decided that the change in control report will be part of the applications for approval process going forward.

Mr. Cooley briefed the Board on Senate Bill 771 which adds Subtitle 12 to the Courts and Judicial Proceedings Article prohibiting all creditors and debt collectors from filing a consumer debt collection action past the applicable statute of limitations. It also defines a “consumer debt collection action” and specifically defines “debt buyer” and several exclusions of what *does not* constitute a debt buyer. He further indicated that SB 771 also amends the statute of limitations to 3 years from the date of default status *in lieu of* the date of last activity on an account.

Ms. Mack reported on the topics of interest retrieved from the NACARA Conference she and Mr. Bellman attended in October, 2016 in Madison, Wisconsin. An informational package was provided to the members that included highlights of the annual presentations from the ACA, CFPB, FTC and the NMLS. Ms. Mack also offered copies of these presentations to the members as requested. It was further reported that Mr. Bellman was elected Vice President and Ms. Mack was elected Conference Committee Chairman for 2017.

Mr. Bellman provided an update on the CFPB issue brought to the board’s attention last meeting by Ms. Hayes. Mr. Bellman explained that he investigated the incident involving a financial coach participating

on a collection call with Alacrity Collections Corporation. The CFPB advised this practice is not one from an advocacy program, but derived from a coaching program and further indicated the coach should not be on the call as a representative, but only serve as a financial coach. If this action continues to become a practice the board may need to reach out to the industry and advise this practice is not welcomed although it is viewed as a new program trying to test limits of the law for advocating. It was further reported that these coaches are registered counselors, not licensed, but accredited by a national association in Wisconsin.

Ms. Lawrence reported on the analytics of the Financial Regulation website and explained that she is currently unable to separate exactly what percentage of users are visiting the designated collection agency page; however, she was able to view 707 hits as a baseline and 6% of page use is at 161 individuals inquiring. She further reported that a template will be created in the near future which will bring information updated and up to speed. There are website and procedures which require unit managers to keep information updated. Mr. Hannan inquired as to if there is an area to look up employees' names, titles and agency responsibilities and that the website should expand on this. Mr. Cooley explained that the website will continue to be a work in progress with all agencies within DLLR. Mr. Friedman commented on the information as reported on his website in Montgomery County. Ms. Lawrence has expertise with website design and content and continues to work with the Department webmaster.

ACTION ITEMS:

Mr. Kiser reported on enforcement activity conducted by the Office of the Commissioner of Financial Regulation on behalf of the Board since the previous meeting. He indicated there are currently 13 active cases, four open investigations, four cases referred to the AG's office and 5 pending cases awaiting final orders. It was also reported that newly appointed Litigation Attorney Sophie Alsike would be joining the legal team soon.

Mr. Bellman reported on multi-state collaboration and indicated that the request by the Board (on behalf of NACARA) with regard to the creation of a functional multi-state committee under the auspices of a nationwide protocol is still under review by CSBS.

Mr. Cooley reported on the "Industry Open Forum" with Collection Agency licensees held as part of the Governor's Regulatory Reform Commission process. He explained that generally industry wants to be able to engage the Office and voice opinions, specifically on licensing requirements for three areas, property managers, attorneys and repossession entities. The industry's position is that, in general, they don't mind being licensed and regulated as regulation helps maintain standards of conduct. The board questioned how many property managers are currently licensed. Mr. Sempertegui explained that our current system does not have the proper query capabilities to identify at this time. It was requested that a query be implemented to have the capability to separate and properly identify both property managers and repossession licensees. With regard to attorney licensing, currently, law firms are required to have a license if they have non-attorney employees engaging in the collection or adjustment of a debt.

Considerable discussion was held on the issue of whether and to what extent foreclosure proceedings and subsequent collection of deficiency judgments are or should be considered debt collection activities. Mr. Cooley mentioned the Daily Record reporting Attorney Grievance Commission Director recently

announced his retirement. Mr. Friedman indicated foreclosures run through the court system, Mr. Hannan stated that deficiency collection activity is currently widespread. Mr. Bellman provided information on Fannie Mae, Freddie Mac on how the secondary market is handling this issue. The CFPB is acting on this issue which is a complicated space.

Also discussed was the need to consider current technologies and communication preferences of the public including cell phone and e-mail communications. Ms. Young commented that US Mail is no longer the preferred form of communication for many people. Mr. Cooley commented that licensees expressed concerns about not knowing the current status of complaints registered against them and to which they have responded to our Office. Mr. Cooley advised that the Office's internal practices were reviewed and modified to provide notice to licensees when complaints are deemed resolved and files closed.

Mr. Cooley provided the Chairman's Statement pursuant to the Open Meetings Act in anticipation of convening the meeting's closed session. In doing so, he identified the following topics intended to be discussed in closed session: to consult with counsel, to obtain legal advice on a legal matter and to consult with staff, consultants or other individuals about pending or potential litigation. Specifically, he reported that the topics to be discussed included and were limited to: approval/denial of license, resolution ratifying recent licensing actions, licensing of student loan servicers as well as pre-charge committee and litigation updates. Mr. Cooley emphasized to the Board that before any additional topics may be discussed during closed session, these topics must be identified and made public in open session and the meeting must once again be closed via motion pursuant to the Open Meetings Act.

At this time, the Board Chairman made a motion to go into a closed session, which was seconded, voted upon and passed.

With no further business, the meeting was adjourned at approximately 2:30 pm.

Respectfully submitted,

Kelly Mack

Kelly Mack
Administrative Officer, MCALB