

MARYLAND COLLECTION AGENCY LICENSING BOARD

BOARD MEETING MINUTES

THURSDAY, NOVEMBER 12, 2015 – BALTIMORE, MARYLAND

The Collection Agency Licensing Board (the "Board") Meeting was called to order by Chairman Gordon Cooley at 10:40 am at Office of the Commissioner of Financial Regulation, Baltimore, Maryland. Members in attendance were Stephan Hannan, Susan Hayes, Joanne Young and Eric Friedman as well as Administrative Officer Kelly Mack and Administrator Michael Jackson. Also present were Board Counsel, Assistant Attorney General Kevin McGivern Assistant Commissioner Jedd Bellman and Litigation Attorney W. Thomas Lawrie. On motion duly made, seconded and adopted, the Minutes and Executive Session Minutes of the August 14, 2015 meeting were approved with one minor change.

LICENSEE REPORT

Mr. Jackson delivered a report regarding the number of licensees and changes since the previous Board meeting. There are currently 1631 collection agency licensees operating in Maryland, a decrease of 14 licenses since last period and, which includes 396 branch offices and 18 new applications approved since November, 2015.

INFORMATION ITEMS:

Ms. Mack reported there was one change of control application request processed since the previous Board meeting. The Board members did not raise any issues or concerns regarding any of the new control persons.

A long discussion ensued relating to the current renewals, specifically with relation to the issuance of surety bonds, continuation certificates and what is actually required by law in this process. Ms. Hayes raised some concern with relation to communications from the staff in this regard. When Maryland transitions to processing the collection agency licensing through the NMLS, this process will become more efficient with the functionality capability to upload documents for this purpose in lieu of mailing original bonds.

Mr. Bellman 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 ten active cases, two investigations, four

Governor's Regulatory Reform Commission

Comments relating to collection agencies to review with MCALB

We are a licensed debt collection agency as such. We have been advised that if we collect mortgage loans, we are also required to obtain a Mortgage Servicing License. We reviewed the application and none of the requested information pertains to a 3rd party debt collector. We work charged-off loans. Any short sales, loan mods or foreclosures are at the discretion and control of clients. Since we are already regulated under Collection Agency laws, we see no added value to Mortgage Servicing since it simply does not apply. It is an added tax and large expense that should not apply. We want this reviewed under principles of common sense.

Maryland Bar Association, 60 firms' members, collecting debts. One regulation he would like to discuss: DLLR licenses debt collectors. Attorneys that practice in this area of law required to have debt collection agency licenses. He feels this regulation is used as "gotcha". Attorney sues on behalf of a person owing a debt, first thing he does is to check to see if the attorney representing the debt collector is licensed (suit becomes about question of license, not the actual debt) 2-3 offices=2-3 licenses. He gave an example of attorney sued because of not having a P.O. Box. These businesses represent doctors and other businesses. This practice usurps authority of judiciary; these attorneys are already licensed by the Maryland Court of Appeals.

Growth of class action lawsuits against multiple Maryland businesses on the stance that they should possess a collection agency license. Businesses impacted are Home Owner Associations, property management companies, bail bonds company, auto finance.

MD/DC Creditors Bar is asking the MSBA to examine the question of whether the Collection Agency Licensing Act is an impermissible usurp. As is common in today's legal environment, our members firms employ lay persons that assist attorneys in their practices. Accordingly, our members appear to fall within the licensing requirements of the Maryland Collection Licensing Act because they employ a non-lawyer whose task is to "primarily make contact with the debtor to collect or adjust the debt." "See 7-102(b) (9) (ii), Business Regulation Article, Annotated Code of Maryland. However, none of our members, who are licensed Maryland attorneys and who regularly file legal proceedings on behalf of clients in Maryland courts, fall within the second prong of this definition, i.e. that they conduct their practice "through a procedure identified with the operation of a collection agency." tion of the Court's role over licensed attorneys.

cease and desist orders awaiting final approval and four of the cases have been referred to the Attorney General's Office accordingly.

Ms. Mack led a discussion and provided information retrieved from the recent 2015 Annual NACARA Conference. She explained that there are currently four states processing collection agency licenses through the NMLS and one state transitioning in 2016.

Discussion relating to the CFPB coordinated examinations was a huge topic relating to their primary focus which places emphasis on four main factors – potential for harm, size/volume, fair lending track record and market intelligence. It was reported that there are currently 200 agencies on radar and currently being coordinated with the states. A new form designed and approved by the CSBS was shared and reviewed for state coordinated examinations which outlines very specifically detailed guidelines for this process. It was reported that pursuant to ACA International there is currently 3.3 trillion in consumer debt creating a huge impact for Maryland. She also shared industry perspectives and reported a dramatic increase in BBB data as more complaints are being filed to the CFPB, specifically 163,000 complaints were filed of which 90% were responded to and 82% were resolved to the consumer's satisfaction. The FTC's Debt Collectors "Hall of Shame" was distributed and reviewed which lists the banned debt collectors as a result of unlicensed collection activity, violations, enforcement actions and final orders revoking licensure.

Ms. Mack also shared another industry perspective relating to what constitutes "a proper validation" of a claim as she quoted an industry attorney's presentation about providing a validation as a "one time" requirement which was cause for a lengthy discussion among the Board members. Board Counsel McGivern will be researching this information and providing a legal Opinion clarifying this issue which may also be considered for publication to DLLR's website for consumers; logistics of "credit repair" organizations will also be a part of this clarification process. It was reported that Credit Karma does not update properly and is viewed as a problematic credit reporting source according to industry members, Ms. Young and Ms. Hayes. Mr. Jackson will be confirming whether or not this credit reporting agency is properly registered and report at our next scheduled meeting. Mr. Hannan raised concerns with requirement of disclosure and the possible need for definitional changes to statute.

Mr. Bellman briefly discussed his participation in the general session/training segment at the NACARA conference where he presented in a dual capacity with CSBS Supervision and discussed the multistate coordinated examinations agreement which aligns CSBS and a resolution framework to create a centralized environment point with state regulatory agencies.

Mr. Bellman provided an update on the OCFR's participation in the coordinated federal and state Operation Collection Protection, which is being led by the FTC. This topic was broached at our last meeting with the goal of obtaining guidance from the Board on

whether it would like to participate in the pending coordinated sweep set for release in late October early November. The Board unanimously approved the Board's and OCFR's participation in Operation Collection Protection and authorized OCFR staff to release case information to that end. As a result, he reported that these coordinated efforts are scheduled based on trends and problems on the radar and that, Maryland should design a strict framework for a coordinated model. The Board agrees with this coordinated movement.

Mr. Hannan shared his perspective on the coordinated efforts and is in favor of empowering state regulators with federal counterparts to encompass a centralized point which will flow information together through the FTC, CFPB and state government. He believes enforcement has different internal/political battles and the FTC needs to fine tune their mission as there is always going to be several jurisdictions having authority but with coordination with main players.

Chairman Cooley led discussion on the review of comments received by the Governor's Regulatory Reform Commission relating to collection agencies. The topics of the comments related to the requirement of a mortgage servicing license when collecting mortgage loans, the requirement of licensure for law firm collection agencies pursuant to 7-102(b) (9) (ii) wherein firms having non-attorney employees collecting or engaging in the adjustment of a debt must license the firm, home owner associations, property management companies, bail bonds and auto finance companies and the growth of class action lawsuits against these type of businesses. Mr. Cooley explained that sharing resources and working together results in a higher coordinated level of being successful in properly regulating the financial industry. He reported that every state uses NMLS for Mortgage Lenders and Mortgage Originators which is 39 of the 50 states and this continues to be a work in process.

Chairman Cooley further briefed the board about transitioning to NMLS and believes it is a cost issue with many of the states. Approximately 60-80% of our licensees license across the board and it appears the impact for each state is a minimum \$120 cost to process on the NMLS. Mr. Cooley continued this discussion by asking the industry members for feedback on transitioning the licensing process to NMLS for which they responded favorably. It was decided that Ms. Young and Ms. Hayes will research with the industry and Mr. Cooley will communicate with the ACA about their position on this issue and report at our next scheduled meeting.

There was considerable discussion relating to the mortgage lender license law (MLL) and it's need for clarification in the realm of collection of mortgage loans, interest, whether or not the collector is a debt buyer or third party collector, is the debt a short sale, modification or foreclosure—all these aspects of collection are now common place but when the law was written, it was not – what are we protecting against? Board needs to look closely at the "mortgage servicing" definition to ascertain necessary changes/clarifications. The issue of HOA management companies was discussed based on a considerable increases in homeowner association complaints their need for licensure.

Mr. Friedman reiterated that 40% of the Montgomery County population lives in homeowner association-based communities and complaints are widespread in this area as well.

Thereafter the Board voted to go into closed session to discuss pending litigation.

After the closed session ended, the Board discussed scheduling its next meeting in Annapolis, Maryland in February, 2016, date to be coordinated and announced based on availability.

With no further business, the meeting was adjourned at approximately 1:30 pm.

Respectfully submitted,

Kelly Mack

Kelly Mack
Administrative Officer, MCALB