

State Collection Agency Licensing Board

Open Session Minutes

<u>2.10.2020</u>	10:33 a.m.	Maryland Dept. of Labor Alacrity Collections Corporation 175 Admiral Cochrane Drive Annapolis, MD 21401
Meeting called to order at 10:33 am by	Antonio P. Salazar, Chairman (attended in person)	
Administrator	Devki Dave (attended in person)	
Attendees	<p>Members: Eric Friedman, Steve Hannan, Susan Hayes, and Joanne Young (attended in person)</p> <p>Counsel: Sandra Small, Esq. joined via conference call.</p> <p>Staff: Jedd Bellman, Sean McEvoy, Joe Cunningham, Clifford Charland, Dana Allen, and Arlene Williams joined via conference call.</p>	
Acknowledgements	<p>Mr. Salazar acknowledged the meeting notice was published in the Maryland Register on January 31, 2020, and on the Board's website on January 14, 2020, and the Agenda was posted on the Dept. of Labor/Board's website on February 4, 2020. Mr. Salazar corrected the Agenda to delete the Chairman's Statement (7) because there would be no closed session.</p>	
Approval of Minutes		
Mr. Salazar		
Discussion	<p>After reviewing the minutes of the January 13, 2020 meeting, on a Hayes/Hannan motion, which was unanimously approved, the Board approved the minutes.</p>	
Recognition of Public Comments		
Mr. Salazar		
Discussion	<p>No members of the public were present.</p>	

1. Non-Depository Licensing Unit Report

Ms. Williams	
Discussion	<p>Ms. Williams presented the Non-Depository Licensing Unit Report in the absence of Ms. Yates. Ms. Williams advised the Board that each entity's application and supporting materials for licensure had been reviewed and found to have satisfied the licensing qualifications. Ms. Williams proceeded to recommend that the Board issue collection agency licenses to the following entities: Professional Community Management Inc., Sprint Spectrum, LP, Michael Hoffman Companies LLC, Constar Internationally, Dividend Solar Finance LLC, Divided Solar Finance LLC (branch), Spring Oaks Capital, LLC, Upgrade, NC, Zen Resolve LLC (branch), Credit Adjustments Inc. (branch), Constar Internationally (branch).</p> <p>On a Young/Hayes motion, which was unanimously approved, the Board voted to issue licenses to all recommended applicants.</p> <p>Ms. Williams also informed the Board that there were four change in control requests: National Credit Audit Corporation, Second Round Limited Partnership, Second Round Sub, LLC and ALW Sourcing, LLC.</p>

2. Consumer Services Unit Report

Mr. McEvoy	
Discussion	<p>Mr. McEvoy presented the Consumer Services Unit Complaint Report in Ms. Mack's absence. Mr. McEvoy advised that the Unit had received 77 complaints during the fiscal year-to-date, 24 of which are open and 72 of which are closed. Mr. McEvoy clarified for the Board that of the some of the 24 open and 72 closed are holdovers from 2019 fiscal year. Mr. McEvoy further compared complaints by fiscal year, noting a declining trend from 2013 through 2019 from 615, 504, 375, 261, 205 and 181, respectively, but an increase to 102 for fiscal year 2020. Mr. Friedman notified the Board that his Office had received reports about auto repair shops collecting money from consumers by leasing (instead of selling) auto repair parts and asked whether the Commissioner's Office had received any complaints on this topic. Mr. Bellman stated the Office had not and he asked Mr. Friedman to send him information on this topic; adding that he would discuss it with the OAG.</p>

3. Enforcement Unit Report

Ms. Allen	
Discussion	<p>Ms. Allen reported that there are 8 collection agency cases in an investigation status and no collection agency case is in pre-charge status. She further noted the increase from 3 at this point last year. Ms. Allen advised the Board of a slowdown in investigations by the Enforcement Unit as a result of one attorney's resignation and another attorney's medical leave.</p>

4. Maryland Consumer Financial Protection Commission 2019 report

Mr. Salazar	
Discussion	<p>Mr. Salazar advised that in 2019 the Omnibus Consumer Protection Act bill that included mobile home provisions and money transmitter provisions. That bill did not pass in Maryland general assembly so the Department of Labor recommended introduction of the mobile homes and money transmitter portions of the Omnibus bill during the 2020 legislative session and they are pending in this Session.</p>

5. Legislation

Mr.McEvoy

Discussion

Mr.McEvoy noted that the Department of Labor’s legislation policy had been sent to Board members as a reminder, and briefly reviewed the policy, including the requirement for advance notice of any planned testimony in a Board member’s personal capacity.

Mr. McEvoy discussed six bills that might be of interest to the Board: SB155-Consumer Protection-Mobile Home Purchasers (Departmental bill); HB-855- Money Transmissions (Departmental bill); SB262-Maryland Collection Agency Licensing Act-Definitions and Legislative Intent; SB411-Business Regulations-Pawnbrokers-Interest Rate on Pawn Transactions; SB913-Commercial Law-Merchant Cash Advance-Prohibition; and SB957-Maryland Online Consumer Protection Act.

Mr. McEvoy advised that SB-155 establishes a duty of good faith and fair dealing for mobile home retailers to ensure that Maryland’s consumers are protected from unfair and deceptive practices, and it requires retail sellers to provide certain disclosures and prevents steering by retail sellers.

Mr. McEvoy reported that HB-855 updates Maryland’s money transmission law by specifically including crypto currency and prepaid cards in the definition of money transmission and by requiring licensees to file their reports through NMLS.

Mr.McEvoy reported that SB262 (OAG bill) is in response to the Sharma Court of Appeals decision, and it amends the definition of consumer claim under the Maryland Collection Agency Licensing Act to include secondary market trusts.

Mr. McEvoy reported that SB411 prohibits pawnbrokers from charging interest on so-called “pawn loan transactions “, as well as establishes maximum interest rates that pawnbrokers may charge for certain of those so-called “pawn loan transactions”.

Mr. McEvoy reported that SB913 defines “Merchant Cash Advance Transaction” as an arrangement between a buyer and a seller in which the buyer agrees to purchase an agreed-upon percentage of future credit/debit card receivables due the seller for a predetermined price. Mr. Salazar and Mr. Bellman added their concern that part of the predetermined price is applied to credit advanced (for purchases of equipment, etc.) by the buyer to the seller. Ms. Small asked if this was a form of factoring. Mr. Bellman responded yes, but that classic factoring typically involves large commercial transactions while the focus of this bill is on small business.

Mr. McEvoy reported that SB957 is a comprehensive bill dealing with privacy of personal/sensitive consumer data or information.

Mr. Hannon asked if the definition of mobile home in SB 155 includes tiny homes, similar to real property law. Mr. McEvoy noted that the bill does not expressly reference tiny homes. Mr. Salazar added that the bill applies to traditional mobile homes, and that he believed the definition of dwelling in existing law was broad enough to cover tiny homes. Mr. Hannan commented about loans secured by a mobile homes and their relationship to real property. Mr. Salazar asked Mr. Friedman to follow up whether Montgomery County's laws covered tiny homes.

Mr. Salazar advised the Board that he would be distributing a recent Court of Appeals decision that addresses the licensing of a lawyer as a collection agency. He noted that the Court treated the exception for lawyers narrowly, i.e., not entitled to the exception if the lawyer was performing the same functions that a non-lawyer can do, and added that professional services applies to vicarious liability, which could result in a client being liable for the lawyer's actions. Mr. Bellman stated that it was something for the Board to consider, i.e., the risk associated with smaller shops who fully rely on attorneys (blind acceptance of the attorney's work), and whether or not the attorneys are being properly supervised. Ms. Hayes brought up an issue in Southern Maryland in which an attorney had not reported all payments received, and noted the importance of sharing this with the industry.

Adjournment

Mr. Salazar announced that the next meeting would be by conference call on March 9, 2020.

On a Hayes/Hannan motion, which was unanimously approved, the meeting adjourned at 11:12 a.m.