

State Collection Agency Licensing Board Open Session Minutes

<u>9.12.2019</u>	10:30 a.m.	Maryland Dept. of Labor 500 N. Calvert Street, 2 nd Floor Conference Room
Meeting called to order at 10:30 a.m. by	Antonio P. Salazar, Chairman	
Administrator	Devki Dave	
Attendees	<p>Members: Eric Friedman, Steve Hannan, Susan Hayes, and Joanne Young.</p> <p>Counsel: Sandra Small, Esq.</p> <p>Staff: Dana Allen, Cliff Charland, Arlene William, and Kelly Mack.</p>	
Acknowledgements	<p>Mr. Salazar acknowledged the General Notice of the Board Meeting in the Maryland Register posted on August 30, 2019, the Notice of the Meeting posted on Board's website on July 30, 2019, and the Notice of Agenda posted on DLLR/Board's website on September 6, 2019.</p>	
Approval of Minutes of May 6, 2019 and August 23,2019		
Mr. Salazar		
Discussion	<p>After reviewing the minutes of the May 6, 2019 meeting, on a Hayes/Hannan motion, which was unanimously approved, the Board approved the minutes. After reviewing the minutes of August 23, 2019 meeting, on a Hannan/Young motion, which was unanimously approved, the Board approved the minutes.</p>	
Recognition of Public Comments		
Mr. Salazar		
Discussion	No members of the public were present.	

1. Licensing Approval Process

Mr. Salazar

Discussion

Mr. Salazar introduced Mr. Cunningham as the new Director of Legislative Response and Special Projects. Mr. Salazar explained that Mr. Cunningham is an attorney who previously clerked with a judge and is originally from Pennsylvania. Mr. Salazar further explained that Mr. Cunningham will be working on special projects and will manage the Commissioner's legislative function, including preparation of reports for the Maryland General Assembly.

Mr. Salazar informed the Board that going forward it was his intention to schedule monthly meetings of the Board so that the Board could approve licenses in the first instance. Mr. Salazar mentioned that the need to change the current process of approving licenses was identified by counsel based on a recent opinion by the Open Meeting Compliance Board ("OMCB"), and discussed with counsel and staff. He said that with monthly Board meetings, the Board would be approve licenses versus the current ratification of votes by email, noting that pursuant to the OMCB, successive email communications constitute a meeting, shortly after the staff makes recommendations for approval or denial. Mr. Salazar indicated that counsel advised (based on an OMCB opinion) against continuing the current practice of approving minutes at the quarterly meeting, as quarterly too long a time. Mr. Salazar advised that, going forward, the Board will have monthly conference call meetings (every month other than February, May, September, and November) to approve minutes and make licensing decisions. Mr. Salazar invited the members to attend in person should they so choose. He asked, notwithstanding that option, that Board members commit to attending at least quarterly meetings in person. Mr. Salazar also cautioned the Board about e-mail use and informed the Board that e-mails, if among all members or a quorum of members, could be deemed to constitute a meeting and so they should be avoided. Mr. Salazar informed the Board that if there was to be communications between the Board members as a group, they should be saved for formal meetings, or information given to the Ms. Dave for distribution and discussion during a meeting. After discussion among the Board members, Mr. Salazar stated that monthly meetings will be held on 2nd Monday of every month at 2 p.m., and meetings that fall on Monday holidays will be scheduled for the next day. According to that schedule, the next meeting will be on Tuesday, October 15th, 2019 at 2:00 p.m. Ms. Dave will send all meeting invitations emails to Board members and will update the Board's public meeting notice on the Financial Regulation webpage.

2. Non-Depository Licensing Unit Report

Ms. Williams

Discussion

Ms. Williams presented the Non-Depository Licensing Unit's Report for Ms. Yates. Ms. Williams presented the Collection Agency License Approval Report from August 27, 2019, which included all of the applicants that Ms. Yates recommended for approval and the Board approved since the May meeting. 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 further reviewed two change in control requests that the Board had approved. On a Hannah/Hayes motion, which was unanimously approved, the Board ratified its prior approval and issuance of all initial and renewal collection agency licenses since May 6, 2019. On a Hayes/Hannah motion, which was unanimously approved, the Board ratified its prior approval and issuance of change in control requests for Pendrick Capital Partners II, LLC and Affiliate Asset Solutions LLC.

Ms. Williams advised the Board that after review and research of Anthony DiDonato's renewal application, Mr. DiDonato did not make a misrepresentation on the renewal application. Ms. Williams thus recommended approval of Mr. DiDonato's collection agency license. On a Hayes/Young motion, which was unanimously approved, the Board approved the renewal application and issuing a renewal license to Mr. DiDonato. Ms. Hayes noted that the Board likely would have reason to discuss Mr. DiDonato in the future.

3. Consumer Services Unit Report

Ms. Mack

Discussion

Ms. Mack presented the Consumer Services Unit's Complaint Report. She advised that the Unit had received 30 total complaints fiscal year-to-date, 21 of which are open and 9 of which are closed. Ms. Mack also compared complaints by fiscal year, noting a declining trend for fiscal years 2013 through 2019 at 615, 504, 375, 261, 205, 181, and 197 respectively. Mr. Hannan asked Ms. Mack about the increase. She advised that complaints in general were trending upward. Mr. Salazar informed the Board that recent outreach events that the Commissioner is holding throughout Maryland may be a cause of the increase due to greater awareness by consumers and advocacy groups of Financial Regulation's mission and its consumer services and enforcement units.

Ms. Mack also reported that the NACARA annual meeting would be held the next week. She explained that the meeting's focus would be on technology and cybersecurity. Mr. Salazar asked if the Board had any topics or thoughts for regulators to discuss. None were offered. Mr. Salazar then offered to the Board the opportunity to attend a NACARA meeting in the future, and asked the Board members to let him know if they have interest.

4. Enforcement Unit Report

Ms. Allen

Discussion

Ms. Allen reported that there were 5 enforcement cases in an active investigation status.

Mr. Salazar mention that since there were no Enforcement cases in a pre-charge status there would be no closed session. Ms. Hayes noted a 10% increase in enforcement cases. Ms. Allen advised that not all complaints are referred to the Enforcement Unit. During her tenure, there have only been 3-5 cases referred. Ms. Hayes added that it would be interesting to know about complaints that are not valid.

5. CFPB Debt Collection Process Proposed Rules

Mr. Salazar	
Discussion	<p>Mr. Salazar reminded the Board members that they had been sent an e-mail about the CFPB proposed Debt Collection Process rules prior to the board meeting. Mr. Salazar added that NCARA and CSBS have drafted comments to the proposed rules, the CSBS draft comment letter is available for review, and mentioned that it is unclear currently how the CFPB will apply call limits, i.e., per debt or per consumer. Ms. Hayes advised that the ACA will be communicating its position to the CFPB, and that collection agencies would need time to adapt the systems and processes. Mr. Charland noted that other federal regulations have included future effective dates based on the need for adaptation. Mr. Friedman advised that the Maryland Civil Rights Coalition would be submitting comments. Mr. Salazar mentioned that new CFPB Debt Collection Process Rules would need to be reviewed by consumers and industry and that it is likely that the rules will not be final for at least a year. During Board discussion, Mr. Salazar clarified that CFPB Director Kraninger's term is 6 years.</p>

6. Follow-up LVNV Funding, LLC v. Finch

Mr. Salazar	
Discussion	<p>Mr. Salazar mentioned that Mr. Bellman and Ms. Yates were attending MTRA conference in Pittsburgh. Mr. Salazar mentioned that Mr. Bellman advised that there were no updates in <u>LVNV Funding, LLC v. Finch</u> case. Mr. Salazar mentioned that the Midland settlement decision was supported by the reasoning and decision in the <u>Finch</u> case.</p>

7. Office of the Commissioner of Financial Regulation updates

Mr. Salazar	
Discussion	<p>Mr. Salazar informed the Board that a new Assistant Commissioner for corporate activities will be joining on September 25th, 2019.</p> <p>Mr. Salazar advised the Board that Commissioner’s Office will be moving to a new location next year. Mr. Salazar mentioned that the State’s Department of General Services is in the RFP process for the new location. Mr. Salazar mentioned that a move likely will take place in the Spring of 2020, but in any case prior to the end of June, 2020.</p> <p>Mr. Salazar advised the Board that the Commissioner’s mortgage regulations were published and are effective October 4, 2019.</p>

8. Judicial award of collection costs for Condominium and HOA fees by collection agency

Mr. Salazar	
Discussion	<p>Mr. Salazar mentioned that he had received a call and e-mail from a Maryland collection agency regarding the difficulties the agency was having, particularly in the courts in Montgomery and Prince Georges Counties, in recovering collection costs for condominium and HOA fees. Mr. Salazar said that the caller wanted the Board or the Commissioner to issue guidance to support the proposition that the services performed by companies such as his constitute collection costs. A discussion ensued and Ms. Hayes and other Board members noted that the Board is consumer protection focused and that the governing statute does not contain any language about a collection agency’s fees. Mr. Salazar pointed out that the Board does not have regulatory authority to address the issue either. The Board’s consensus was that it was not in a position to address the matter, but Mr. Salazar respond by pointing out that BR 7-305 states “license authorizes the licensee to do business as a collection agency.”</p>

9. Student loan services licensing and Other Items

Mr. Salazar

Discussion	<p>Ms. Mack informed the Board that there has been an increase in consumer complaints related to student loan servicers. Mr. Salazar mentioned that the Ombudsman and CSU handle the complaints. Mr. Salazar mentioned that there are approximately 90 student loan servicers registered in Maryland. He noted that there continue to be outstanding licensing cases in Connecticut and District of Columbia, and New York (which requires licenses only for state (not federal) loans). He noted that Maryland will continue to accept collection agency licensing applications from servicers but will await the outcome of cases and clarification of the law before taking any further steps.</p> <p>Mr. Friedman mentioned that his agency is experiencing issues involving auto repair shops that are financing repairs through 3rd parties, and he will follow up with his staff to obtain more information. Mr. Hannan brought up the issue of tribal lending.</p> <p>Mr. Salazar asked the Board to consider future collection trends, in relation to the Board’s purpose and existence. Mr. Hannan stated that the Board would still be relevant. Further, he added that parents who have taken out Plus loans for their children’s education are experiencing collection that is eliminating transfer of wealth between generations, more people are looking at ways to touch money as it moves, and the IRS stating that cyber cash is taxable.</p>
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Adjournment	On a Hannan/Young motion, which was unanimously approved, the meeting adjourned at 11:45 a.m.
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