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STATE OF COLORADO
DEPARTMENT OF LAW

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Consumer Protection Section
Consumer Credit Unit

December 31, 2019

The Honorable Pete Lee (via email)
Chair, Senate Judiciary Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203.

The Honorable Mike Weissman (via email)
Chair, House Judiciary Committee
200 E. Colfax Ave.
Denver, CO 80203

RE: Bi-Annual Report on Colorado Fair Debt Collection Practices Act

Dear Senator Lee and Representative Weissman:

In accordance with Senate Bill 17-216, which amended § 5-16-117(5) of the Colorado Fair Debt Collection Practices Act (“CFDCPA”), I am pleased to submit the Administrator’s fourth bi-annual report accounting for the efficient discharge of all responsibilities assigned by law and the general administration of the collection agency licensing program within the Colorado Department of Law.¹

For the most part, this bi-annual report covers the period of July 1, 2019 through December 31, 2019. This report will follow the order set out in § 5-16-117(5).

Enforcement Actions

1. Lawsuits

- a. *Administrator v. Tormey Bewley Corp.*, Case No. 2019-cv-33428. On September 6, 2019, the Denver District Court entered a temporary restraining order and an order freezing assets against Tormey Bewley and Michael C. Tormey based on evidence of failure to remit funds to clients in violation of the CFDCPA, §§ 5-16-123(1)(c) and 5-16-

¹ Pursuant to § 24-1-136(9), C.R.S., this report shall be electronically filed with the Joint Legislative Library, for delivery and distribution to applicable legislators and legislative committees, and shall be made accessible to the public via the Department of Law website.

123(1)(d), C.R.S. On September 19, 2019, the court entered a stipulated preliminary injunction. The Administrator's claims include requests for injunctive relief, restitution, and civil penalties. No trial date has been set. On November 12, 2019, the parties filed a joint motion describing their cooperation in working to agree on a resolution of the case.

- b. *Colorado v. Castle Law Group, et al.*, Colorado Court of Appeals Case No. 2017CA923. This is an enforcement action against foreclosure law firm The Castle Law Group, LLC and related individuals and entities. The action, asserted by both the Administrator and the Colorado Attorney General, asserts claims under the CFDCPA and other Colorado laws. The CFDCPA claims allege that the defendants violated §§ 5-16-107(1)(b)(I) and 5-16-108(1)(a), C.R.S. when pursuing foreclosure actions against Colorado homeowners. After a three-week trial, the trial court entered an order in 2017 dismissing the Administrator's CFDCPA claims, in addition to rulings on other claims in the case. The plaintiffs and defendants both appealed. The Colorado Court of Appeals issued a ruling on April 4, 2019 that did not directly address the Administrator's CFDCPA claims. The plaintiffs filed a Petition for Writ of Certiorari on June 20, 2019. The Colorado Supreme Court has not ruled on the Petition. There is a separate appeal involving the trial court's attorney's fee decisions. The Colorado Court of Appeals issued an unpublished decision on September 5, 2019. The plaintiffs and defendant have both filed Petitions for Writ of Certiorari to the Colorado Supreme Court.

2. Administrative Enforcement

- a. Stipulations & Final Agency Orders, Assurance of Discontinuance²
 - i. Enhanced Recovery Company, LLC: \$1,500 following an examination that identified issues of not providing disclosures, not sending initial notices, early credit reporting, and inaccurate validation notices.
 - ii. Credit Bureau of Carbon County: \$1,000 for credit reporting on Medicaid debt.
 - iii. Constar Financial Services: \$18,000 for unlicensed activity because license expired for failure to notify the Administrator of change of address.
 - iv. Activate Financial: \$2,000 for repeat failure to notify the Administrator of change in collections manager.

² None of these enforcement actions were appealed or otherwise challenged.

- v. Contract Callers: \$16,000 for failure to reapply for license after change in ownership and unlicensed collection activity.
 - vi. Sortis Financial Inc.: \$500 for failure to notify of change of address and for unlicensed collection activity.
 - vii. UHG: \$1,500 for failure to disclose discipline on license application.
- b. License Denials
- i. Tormey Bewley: failure to remit payments to clients. For additional details, see 1.a above.
- c. License Revocations
- i. No licenses were revoked during this period.
- d. Letters of Admonition
- i. Concentrix Daksh Services Philippines Corp: Failure to notify the Administrator of a change in collections manager.
 - ii. First Financial Investment Fund VI, LLC: Failure to notify the Administrator of change in ownership, license automatically expired, but continued to purchase debt.
 - iii. Vance and Huffman, LLC: Failure to update collection letters to reflect current address of its local Colorado Office.

Complaints & Outcomes:

1. Since July 1, 2019, the Consumer Credit Unit has received 324 complaints.
 - a. Of the 324 complaints filed, 230 are against licensed collection agencies, 33 are against unlicensed collection agencies, 41 complaints are against attorneys,³ and 20 are against other entities such as creditors.
2. Outcomes
 - a. 42 complaints have been resolved.
 - b. 20 complaints against non-lawyer collection agencies have been referred to other agencies.
 - c. 142 complaints resulted in No Action, either because of a lack of jurisdiction, no allegation of a violation of the CFDCPA, or similar deficiencies.

³ All complaints against attorneys were referred to the Office of Attorney Regulation Counsel.

- d. 7 Cease & Desist notices have been issued to unlicensed agencies.
- e. The remaining complaints are still open and under investigation.

Other Actions:

1. 23 Advisory Letters were issued.

Statutory Changes to Collection Agency Licensing Program

1. *Fees, costs, and costs of collection – limitation:* The CFDCPA adds a limitation to fees, costs, and costs of collection for debt due to the state or any political subdivision of the state collected on by a private collection agency or privately retained attorney, except that the limitation does not apply if the state or political subdivision of the state has sold the debt to a third party. This section became effective July 1, 2019.

Significant Legal Filings—Amicus Brief

1. *None.*

Summary of New Regulations

1. *None.*

Legal Developments

1. *FDCPA Rulemaking:* On May 7, 2019, the Consumer Financial Protection Bureau issued a Notice of Proposal Rulemaking under the Federal Fair Debt Collection Practices Act. On September 18, 2019, Attorney General Weiser submitted a comment expressing concern that the CFPB's proposal fails to achieve balance between consumer protection and the collection of validly owed debt and, further, undermines the Fair Debt Collection Practices Act's stated purpose of "eliminat[ing] abusive debt collection practices by debt collectors". 15 U.S.C. § 1692(e). Also on September 18, 2019, Attorney General Weiser joined a comment signed by 28 State Attorneys General urging the CFPB to reconsider its proposed rule.

Matters to be Addressed at the Request of the Regulated Community or the Public

The Administrator has received a request for rulemaking from Associated Collection Agencies of Colorado, Wyoming, and New Mexico. She will request input on rulemaking topics in her upcoming public meeting and future stakeholder meetings.

Licensees and other interested parties at prior public meetings raised the following issues:

1. Collection agencies that intentionally sue people that are covered by Medicaid;

2. Licensing of process servers;
3. Converting to licensing through the national multistate licensing system (NMLS);
4. Electronic communications with consumers/debtors;
5. Streamlining the application process, including upon the sale or transfer of a business;
6. Telephone verification of payment;
7. Define/clarify what the “meaningful involvement” of an attorney requires, especially in high volume businesses;
8. The complaint process, including streamlining, guidelines on an information resolution process, and making complaints public;
9. Enhanced communications with the Administrator, including the public meeting process;
10. Updating opinion letters; and
11. Consumer education and outreach.

Meetings

1. **Meetings of relevant licensees, industry groups and associations, and other interested persons.** The Administrator convened meetings, as required by § 5-2-117(7), on July 30, 2018 and on July 29, 2019. *See* Attachment 1 (Transcript). The 30-day notice for each meeting was provided directly (via email) to a list of licensees, industry groups and associations, and other interested parties compiled by the Administrator.
2. **Meetings of licensees, consumer advocacy groups and associations, and other interested parties.** The Administrator convened a meeting, as required by § 5-2-117(7), on January 25, 2018. A meeting is also scheduled for January 23, 2020 at 10:00 AM at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver CO 80203. The 30-day notice for each meeting was provided (via e-mail) to all consumer advocacy groups and associations and other interested parties compiled by the Administrator.

Please feel free to contact me if you would like further information.

Respectfully submitted,

MARTHA FULFORD
Administrator, CFDCPA
Martha.Fulford@coag.gov
720-508-6020

Cc: Senate Judiciary Committee members (via email)
House Judiciary Committee members (via email)
Joint Legislative Library (via email)
Kurt Morrison, Colorado Department of Law, Deputy Attorney General for
Intergovernmental Affairs (via email)

Attachment

ATTACHMENT 1
Transcript of July 29, 2019, Public Hearing

1 STATE OF COLORADO DEPARTMENT OF LAW

2 Colorado Fair Debt Collection Practices Act
3 Public Hearing

4 TRANSCRIPT OF PROCEEDINGS
5 July 29, 2019

6 Proceedings had on Monday, July 29, 2019, at
7 Ralph L. Carr Colorado Judicial Center, 1300 Broadway,
8 Room 1D, Denver, Colorado 80203, commencing at the
9 hour of 10:01 a.m., before MARTHA FULFORD,
10 Administrator; and Licensees, Industry Groups, Client
11 Groups, and Other Interested Parties.

12
13 SPEAKERS:

14 Tom Romola, Associated Collection Agencies
15 Alan Greenberg, Greenberg, Sada, and Moody;
16 ACA International
17 Makyla Moody, Greenberg, Sada, and Moody
18 Dave Cannella, Credit Service Company, Inc.
19 Dan Vedra, Attorney, Member of National Association of
20 Consumer Advocates
21 Paul Chessin, Former Assistant Senior AG
22 Patricia Miller, Compliance Specialist
23 Nick Brechun, Program Manager, DOL
24 Katie Granquist, Program Manager
25 Ross Towry, Investigator
Tony Cordova, Admin Assistant
Maria Cassas, Program Assistant
Beth Kaspar, Debt Management Program
Nikolai Frant, Assistant Attorney General,
Administrator's Attorneys
Phillip Sparr, Assistant Attorney General,
Counsel for the Administrator
Neal Monaghan, Chief Examiner
Mr. Luna, Financial Credit Examiner
Jodie Robertson, Financial Credit Examiner
Micah Marsh, Financial Credit Examiner

1 P R O C E E D I N G S

2 ADMINISTRATOR FULFORD: We'll get started.
3 Folks can trickle in. Can you all hear me? I'm hoping
4 to do this without a microphone.

5 Great. So this is the biannual CFDCPA
6 meeting, under 57 -- 516-117. So thank you all for
7 being here. I believe, if my count is right, this is
8 the second of the industry focus meetings.

9 And there was one -- the most recent held
10 previously in January was the consumer group one held.

11 This is an open public meeting. The goal is
12 to hear from you all, but I thought I would just kick
13 it off, since I am new, by just introducing myself
14 briefly.

15 So my name is Martha Fulford. I am the new
16 Administrator under the CFDCPA, as well as all of the
17 other programs under the CCU.

18 I started in my current position in late May,
19 so I'm still relatively new to the process and to all
20 of this. I did work for about five and a half years at
21 the CFPB before -- and then I had about a year at a
22 nonprofit before joining the Department of Law.

23 And I am a Denver native, so very happy to be
24 back here, especially missing out on the heat wave in
25 D.C.

1 So Jan, as I think many of you all know, led
2 the office for about a year before I came into the
3 position, and he conducted two of the meetings. And
4 I'm planning to follow his model.

5 So it is an open meeting. It is, you know,
6 focused on the industry and their representatives. But
7 I'm hoping that it will be a free-flowing exchange, and
8 anyone can speak who has information that would be
9 helpful to share.

10 And depending on how many people do want to
11 speak, we'll try to keep our comments short so that
12 everyone who does want to have a chance to join the
13 discussion can.

14 Most important, our kind court reporter is
15 here. When I was clerking, my judge used to say that
16 the court reporter had the hardest job in the building.
17 And so I'm trying to speak slowly. I hope that you all
18 will do the same.

19 If you can say your name and spell your name
20 the first time you're speaking, that's helpful to her.
21 And then, also, if you do end up speaking, if you don't
22 mind dropping off a business card with her, that just
23 makes life much easier.

24 There is a sign-up sheet at the door. There
25 is a cafe down the hall. I think those are -- that's

1 it for the opening remarks.

2 Just so we are all clear, and I think Jan and
3 Julie used to say this as well, this is just an open
4 meeting. I'm not providing any legal opinions.
5 Nothing should be construed here as legal advice, and
6 nothing that's said here should be construed as an
7 interpretation of the CFDCPA or the FDCPA.

8 So I think we proposed a pretty wide-ranging
9 agenda. I'm happy to hear on any of those topics or
10 other topics that you all are interested in weighing in
11 on. I think on the agenda were issues that we're
12 seeing in the market, rulemaking, and other topics.

13 So I'm going to sit down. I think the court
14 reporter will be able to hear me. If you would, either
15 stand up or come down to podium, whichever you prefer,
16 just so that she can hear you. And we'll get it
17 started. So thank you all for being here.

18 TOM ROMOLA: Thank you. I'll -- I can do
19 this from here. I just want to say, on behalf of
20 Associated Collection Agencies, and there's a number of
21 us in this room, welcome. I hope you have long term
22 here and you and I get along quite well. I'm sure we
23 will. But we're -- seriously, we welcome you and wish
24 you well.

25 ADMINISTRATOR FULFORD: Thank you very much.

1 Thank you for the warm welcome. I'm happy to be here.

2 And --

3 TOM ROMOLA: Tom Romola, R-o-m-o-l-a. I'm
4 sorry.

5 ALAN GREENBERG: I'm Alan Greenberg,
6 G-r-e-e-n-b-e-r-g. I'm here on behalf of ACA
7 International. I'm the Colorado state chair for that
8 organization, president of the Colorado Creditors Bar
9 Association and a lawyer, primarily practicing in the
10 collection field.

11 For CCBA and for ACA, our membership was,
12 generally speaking, with certain notable exceptions,
13 happy with or at least interested in the proposed rule
14 changes by CFPB.

15 Those have had a chance to circulate. Some
16 of our membership is concerned that some of these
17 helpful definitions and delineations that we expect to
18 get from CFDCPA, like what messages we can leave, how
19 to disclose interest accrual, et cetera, on the
20 G notice, those sorts of things.

21 We're looking for some very helpful
22 definition at the federal level. We're hoping if there
23 may be an effort at the state level, to have state
24 rules that substantially follow or track the CFPB rules
25 so that my clients won't get caught in any

1 inconsistencies.

2 ADMINISTRATOR FULFORD: So we, of course,
3 have reviewed the CFDCPA's proposed rule with care. It
4 is at this point just a proposed rule, and I think you
5 all know how long it took for them to get to a proposed
6 rule.

7 It's been, you know, from ANPR, Advanced
8 Notice of Proposed Rulemaking, many, many meetings with
9 both consumer groups and industry, SBREFA panel, which
10 is S-B-R-E-F-A, a small business review panel, and now
11 finally to a proposed rule.

12 So it is -- it has taken them a long time.
13 And they're not yet to the point where they have
14 officially made those interpretations.

15 So I think, before we're able to, you know,
16 fully act, either consistently or inconsistently with
17 these rules, we would need to see where they land.

18 Obviously, our statute in some ways is very
19 similar to the federal statute that they're
20 interpreting, and we're tracking that very closely. I
21 think that's probably the most I can say at this point,
22 since there isn't yet a final rule from the CFPB.

23 TOM ROMOLA: Is it your intention, then, not
24 to have a rulemaking hearing in the near future?

25 ADMINISTRATOR FULFORD: So I know that

1 there's a great deal of appetite for a rulemaking
2 hearing. I'd be very interested in hearing from you
3 all whether -- because the bureau is in the process of
4 issuing these interpretations -- whether it would be
5 preferable to wait and see where those land.

6 Particularly if you're looking for
7 consistency across state and federal law, we can't know
8 where they're going to land until they issue a final
9 rule.

10 But there are other areas within just the
11 Colorado law that I know there's appetite for
12 rulemaking on. And it's certainly something that we're
13 interested in doing.

14 We are working on a rulemaking. We have a
15 new authority to set up a -- student loan servicing
16 programs. So we're working on a rulemaking for that.
17 Other than that, it has been a very long time since
18 this office did a rulemaking, so we would be very
19 interested.

20 And part of this conversation, I'm hoping,
21 will be an opportunity for you all to tell us what our
22 topics would be that would be particularly helpful
23 to -- to put on a rulemaking agenda, and then this
24 would not be -- we would then want to consult with you
25 and consumer groups more.

1 This would be the beginning of that
2 conversation, I think, not the end, once we got started
3 in the rulemaking process. So if there are specific
4 topics, that would be particularly helpful.

5 TOM ROMOLA: We have -- we've drafted some
6 proposed rules in the past. I'd be happy to share
7 those with you. I'm sure -- I shared them before, but
8 I'm sure they were lost. So I'll send those to you
9 soon.

10 ADMINISTRATOR FULFORD: That would be
11 helpful. I hope they aren't lost. But I am certainly
12 going through all the files in my office. It would be
13 really helpful to send those back around again.

14 TOM ROMOLA: I'll email those to you.

15 ADMINISTRATOR FULFORD: Thank you.

16 DAVE CANNELLA: Hi. Dave Cannella,
17 C-a-n-n-e-l-l-a, owner of Credit Service Company in
18 Colorado Springs, a third-party debt collection agency.

19 ADMINISTRATOR FULFORD: Can you hear him?

20 THE REPORTER: I'm having a little trouble
21 hearing, so could you please speak up.

22 DAVE CANNELLA: You bet. The industry has
23 taken some different postures to influence rules with
24 the State. We had an advisory board for a number of
25 years, which recently exchanged for this process, where

1 we're having meetings twice a year, once with the
2 consumers' group and once with the industry side.

3 I think, statutorily, technically, this is
4 the last meeting of the -- of the scenario. There
5 might be a consumer group meeting left.

6 Do you have any intentions on carrying on the
7 meetings, or how will you coordinate with the industry
8 and consumer groups going forward?

9 ADMINISTRATOR FULFORD: Thank you. That's a
10 great question. To be honest, since we have a full
11 year before that would be active, I haven't come to any
12 firm conclusions.

13 I'd be very interested in your feedback as to
14 whether or not this is a helpful process, if there are
15 other ways that would be more effective for me to hear
16 from you all.

17 If we are in the context of a rulemaking, we
18 would definitely want to be conducting stakeholder
19 meetings, which is what we've done with the student
20 loan servicer process so far. And then, of course,
21 under the APA, there would be a formal rulemaking
22 hearing.

23 But in my experience, at the federal level,
24 that's relatively late in the game. So hearing from
25 you all early is particularly helpful in the rulemaking

1 context. But I know there was some dissatisfaction
2 with how the board's worked. But maybe there are other
3 ways.

4 I'm open to ideas on the best ways for us to
5 be hearing from everyone. I think it's helpful to have
6 a public process, so that, you know, I'm hearing from
7 many voices. But if there -- if you will all have
8 constructive ideas on how to do that, that would be
9 great.

10 TOM ROMOLA: Martha, the -- this particular
11 forum comes up for sunset on follow-up question in
12 January, our next legislative session.

13 Do you know if DORA intends on doing a
14 research paper, or is this just going to go to the
15 legislature? Do you have any idea? No one seems to
16 know.

17 ADMINISTRATOR FULFORD: So I know -- Jan, I
18 think, in the last meeting, or perhaps it was the -- a
19 year ago, didn't think that it would go to DORA. And I
20 don't have any updated information on that.

21 But I think that this -- this section,
22 this -- the parts of 5-117 -- 516-117, my understanding
23 is they just repeal. And I don't know further -- I
24 don't have any updates on DORA or from the legislative
25 process on that.

1 TOM ROMOLA: Do you know if you'll get any?
2 (Conferring.) It just -- oh. This is our lobbyist.
3 So she's smarter than I am.

4 DAN VEDRA: Hi. My name is Dan Vedra. I'm
5 an attorney in private practice and a member of the
6 National Association of Consumer Advocates. So I
7 typically work on the consumer side of things.

8 THE REPORTER: Spell your name, please.

9 ADMINISTRATOR FULFORD: And slow down.

10 DAN VEDRA: Dan Vedra, V-e-d-r-a. Dan. And
11 I'd really appreciate it and enjoy these meetings. I
12 think they do suffer, though, from a lack of focus.

13 And part of that, I think, starts -- not
14 assessing blame, but starts from the administrative
15 side. It would be helpful to have a thorough agenda
16 that really also informs us of what's going on, in
17 addition to soliciting the information from us that,
18 sort of, comes out here.

19 And in the past two meetings, there's been
20 some really good ideas that have been shared. But, to
21 be honest, I don't know what happens with that
22 information afterwards or, sort of, what the feedback
23 is on it.

24 And I'll just give you an example. We talked
25 last time, and I talked to some people that I know that

1 were on the opposite side of me about the types of
2 information that could be put onto the Administrator's
3 website, onto the Attorney General's website, something
4 that would be helpful for my folks, for consumers,
5 something that would be helpful, I think, for the
6 industry side and the collection side of things, which
7 would be to provide more information about what it
8 means to assign a debt, right?

9 It's a question that I'm sure everyone in
10 this room gets very frequently from consumers, which
11 is, "Well, don't you owe this debt? Didn't you pay
12 pennies on the dollar? Why can't you just settle it
13 for a few more pennies on the dollar?"

14 And I find that's a question that needs to
15 get answered all the time. And having information and
16 resources on the Attorney General's website might be
17 something that would help that.

18 So that was just one thing that I think came
19 up in the meeting. I don't know whether everyone would
20 buy in on it, but it would certainly be something that
21 would be interesting to see what the Administrator
22 thought of it after the fact, to see if it's something
23 that they considered or whether it was something that
24 just -- you know, it was a stupid idea, that while I
25 was talking, that there was empty air that -- that we

1 talked about.

2 So having the agenda would be, I think,
3 really important, and then having some sort of
4 follow-up to go along with it.

5 As far as the -- the rulemaking that's gone
6 on with the Consumer Protection Bureau, I think it
7 would be, from my point of view, and from the
8 constituents that I represent, it would be very
9 disappointing if we were really to just use the CFDCPA
10 rulemaking as the floor and not tailor our rules to
11 something that's more specific to Colorado consumers,
12 to issues that people in Colorado are addressing or
13 dealing with on a day-to-day basis.

14 And I think one aspect of that rule that was
15 extraordinarily disappointing, really, is the
16 robocalling rule.

17 THE REPORTER: What rule? Could you say that
18 again.

19 DAN VEDRA: Robocalling. So it would -- it
20 would be, I think, a disappointment and a disservice to
21 Colorado if we just simply followed what they did, when
22 the mandate for the Fair Debt Collection Practices Act
23 of Colorado is to be at least as strict as, if not
24 stricter, than what's in the federal rule.

25 The last thing -- and, you know, in terms of

1 actual issues I think that people are facing, and I
2 think this is something that goes for everyone in this
3 room, and not just from me, from my perspective is, we
4 just see a lot of scams of fake debt collectors.

5 You know, I'll give you an example. I had a
6 client about two months ago call me up and say, "Hey, I
7 got this settlement offer. They wanted to settle my
8 debt for 20 -- 20 percent of what I owed on it, so I
9 think I'm going to take it."

10 And I said, "Well, who is 'they'?" They
11 said, "Oh, well, these guys out in Nevada." I said,
12 "Well, that's not who owns your debt. There's a
13 judgment against you. You don't owe those people
14 money. Don't pay them."

15 They paid them, like, 24 hours later because
16 it's so enticing. And these things come up all the
17 time, these -- all the time.

18 The way I see it, most frequently is somebody
19 who has filed bankruptcy in the last five years. It's
20 not too hard to go out into PACER, get bulk records on
21 bankruptcies, find people that have discharged payday
22 loans, find their phone number, call them up, harass
23 them into paying something, which harms my people
24 directly, and, I think, harms the industry indirectly
25 because they're all competing for scammed dollars.

1 And criminals should probably get paid less.
2 But they're, you know, jumping in by breaking the law.
3 And one important aspect of the FDCPA is the legitimate
4 debt collectors who follow the rules shouldn't be
5 disadvantaged to the ones that are, you know, acting
6 illegally.

7 And so that's one thing that I've just seen
8 for a long time. It's something that I can do
9 absolutely nothing about as consumer attorneys. I
10 don't have the time or resources to look into a scam,
11 where I'm never going to be able to collect money from
12 somebody in, you know, some other part of world that's
13 just doing this illegally.

14 The last thing, it would just be more
15 communication I think from the Administrator and better
16 communication. In the past, it's been difficult to
17 find out even when these meetings are.

18 Our side of the aisle is a little bit less
19 organized than the other side, than the industry side.
20 And so we've really found out about these meetings,
21 sort of, through secondhand emails, "Oh, here, are you
22 going to this?"

23 It would nice if there were a platform where
24 everyone gets communicated to at the same time, and
25 that was consistent, and if there was more notice and

1 information about how to get that information.

2 ADMINISTRATOR FULFORD: So maybe I'll take
3 the last one first. Thank you so much, Dan. So we are
4 always trying to make sure that we have updated
5 interested parties lists. And signing up on this --
6 this sign-in sheet is part of how we do that.

7 But if there were people who we are missing,
8 we'd be delighted to add people to those lists. So
9 please do let us know if you're receiving those
10 notices, and we will do our best to keep those updated
11 and to try to share around what we can.

12 So I know that Jan -- and I'm now going back
13 in reverse order -- I know that Jan in the most recent
14 meeting did put out a call. I think he gave out his
15 email address to folks if they were interested in
16 putting together some consumer education materials,
17 particularly, I think, focused on debt assignments, but
18 maybe even more broadly.

19 I don't think that he heard from anyone. But
20 I can confirm that if that's incorrect. But I'd be
21 happy to put out the same kind of call. We'd be happy
22 to work on education materials.

23 It's something I worked on a lot when I was
24 at the CFPB, and I think we have a new director of --
25 I'm going to forget his title -- outreach, community

1 outreach and community engagement, Matt Baca, who, I
2 think, is also a terrific resource for these kinds of
3 outreach and engagement opportunities.

4 So it's certainly something that I'm
5 interested in doing more of and would really love to
6 work with the folks in this room and others, to the
7 extent that they're interested in doing that.

8 So if you do want to follow up with us about
9 that, we'd be grateful, and we'd be interested in
10 working on that together.

11 And on the debt scams, I think this was also
12 a topic that Jan covered. We do see it as well.
13 It's -- it's hard for us to address within our current
14 resources, but it is something that we do our best to.

15 And to the extent that there are partnerships
16 or that there are things that you all are seeing -- and
17 I mean that broadly, from industry or from the consumer
18 groups, if you're seeing things, if you're seeing
19 patterns, if you're seeing things that we should know
20 about, that would be very helpful.

21 We certainly send out cease-and-desist
22 letters when we can. But it's hard to get a whole lot
23 back. And often, we can't even serve the mail on those
24 folks. It gets returned.

25 So we'd love to do more. And we would

1 appreciate feedback on what you all are seeing as well.

2 DAVE CANNELLA: On the scam topic, Dave
3 Cannella. I guess there's a big difference between,
4 say, unlicensed activity versus a scam that's posing as
5 a debt collector or as a sheriff or whatever, right?

6 Does -- does the scam activity actually fall
7 under your area, to be -- I don't know how to ask this
8 question. Is this under the department's area to move
9 on those types of activities, or are there other
10 resources at the State that may be deployed to move on
11 the scam folks?

12 ADMINISTRATOR FULFORD: Yeah. So, obviously,
13 it would depend on the facts. To the extent that
14 someone is, you know, attempting to collect debts, we'd
15 certainly want to take a very close look at that.

16 I would hope that there are also other
17 resources in the State to look at that as well. And
18 certainly, there may be federal resources as well. So
19 I don't know that I can answer your question because I
20 think it does depend on the individual facts and
21 circumstances that we're presented with.

22 But it's -- certainly, I take your point that
23 there's unlicensed activity from someone who is a debt
24 collector but who just may not have complied with --

25 DAVE CANNELLA: Makes it easier for you to

1 perform your functions, versus a scam that's out there
2 hiding and makes it hard for any of us to know where
3 that activity's originating.

4 ADMINISTRATOR FULFORD: Right. Right. And,
5 you know, sometimes we're looking up an address, and
6 it's an empty lot, or it's a -- not a real address, or
7 it doesn't have the -- all of the pertinent details
8 that we would need to even locate where they're
9 purporting to be; that's, as you said, a different
10 category than someone who, you know, just happens to
11 not have a license, although that is something that is
12 also very serious that we would take very seriously as
13 well.

14 DAVE CANNELLA: All right. I would say, not
15 just as an industry, but speaking for myself in the
16 business, I think we would -- we are definitely harmed,
17 as is the consumer.

18 One of those practical things that's very
19 difficult at times for us to verify is that we're
20 speaking to the right person so that we don't divulge
21 third-party information because of the scam news that
22 our consumers are hearing. And I get it. I understand
23 it.

24 If you don't know who you're speaking with,
25 you don't want to talk about personal things like that.

1 So I would be open to doing whatever we could to
2 support or participate in the scam side of getting
3 those folks under control with that, you know, with
4 whatever it takes.

5 We just don't know a lot of times from our
6 position what the best approach to eliminating this
7 activity is.

8 ADMINISTRATOR FULFORD: And there may not be
9 any one single approach. It may be, you know --
10 require both education and enforcement and trying to
11 look at the full scope of tools that we have available
12 and that, you know, may be reaching out to others as
13 well.

14 DAVE CANNELLA: I might say, just to add, I
15 mean, the advisory board, I know that it had some pros
16 and cons. I spent six years on it. One of the -- one
17 of the pros I would recommend is, it did get a small
18 group together of industry and consumer advocates, and
19 we were able to have, I thought, very productive
20 conversations and learn the harms to both sides.

21 And -- but then it didn't always net in an
22 action, but it did net in some understanding of the
23 issues in a small group.

24 ADMINISTRATOR FULFORD: Thank you. That's
25 helpful.

1 DAN VEDRA: And I would just second that. I
2 think that having the smaller group in a less formal
3 setting, followed by this larger formal setting would
4 be immensely helpful, as it's something that could
5 occur prior to this meeting, each -- it's -- you know,
6 when it occurs, that might help to, you know, set an
7 agenda or provide more information to everybody else
8 who's going to come.

9 ADMINISTRATOR FULFORD: How many people were
10 on the board when we had them? And was it --

11 TOM ROMOLA: Five. Three -- three collection
12 agency members and two consumers.

13 ADMINISTRATOR FULFORD: Okay. Thank you.

14 DAVE CANNELLA: I think adding some creditors
15 to that group might make the group more rounded, I
16 guess. More broad to cover the topics.

17 TOM ROMOLA: But you're aware that was
18 strictly an advisory board. It was a type-two advisory
19 board.

20 PAUL CHESSIN: Yes, my name is Paul Chessin,
21 former assistant senior AG here in this office. I did
22 work with the advisory board for many, many years, and
23 I would -- I agree. I think it was a good thing. Just
24 echo that comment. And for Mr. Romola's benefit, we
25 also had pastries and food.

1 TOM ROMOLA: Not when I was there. They
2 didn't get them till I left.

3 ADMINISTRATOR FULFORD: Well, thank you.
4 Both of those are very helpful pieces of information to
5 know. Thank you.

6 ALAN GREENBERG: Again, I'm Alan Greenberg.
7 And to echo what Dan and Paul both said, one of the
8 nice things about having an advisory board when it was
9 up was we had an opportunity to learn the position the
10 Administrator was taking with regard to interpretation
11 of the statute.

12 Since the board has gone away, we've found
13 ourselves having to defend collection agencies and
14 attorneys and others from interpretations of the
15 statute which we didn't necessarily think were
16 foreseeable, or, having been foreseeable, at least
17 didn't know that the Administrator had taken a
18 particular position.

19 Sorry I can't be more concrete. One of the
20 them had to do with the number of transactions
21 necessary for a collection agency owner to be subject
22 to the new notice provision and the relicensing
23 provision.

24 Another one had to do with the licensure of
25 folks convicted for these enumerated felonies, what

1 happened when an employee was already employed at the
2 time of such a conviction. We had to go back and
3 scrutinize the language and learn the interpretation
4 kind of the hard way.

5 We would very much prefer knowing what
6 trouble others have gotten into, without naming names,
7 in a way that helps us to disseminate to our clients
8 what the likely interpretations of the statute are from
9 the Administrator. It's less than a rulemaking, but
10 it's more than nothing.

11 ADMINISTRATOR FULFORD: Yeah. It's -- so I
12 draw on my experience working at the CFPB. And it's
13 certainly a call that we heard frequently there. And I
14 understand why that's true and understand why that
15 would -- would also be true here.

16 I -- is -- was the typical practice -- are
17 you looking for, like, advisory letters, or . . .

18 ALAN GREENBERG: I wouldn't mind -- if we
19 can't have a meeting like this or some other informal
20 forum to discuss matters involving disciplinary
21 interpretation, I wouldn't mind a newsletter. It would
22 get read.

23 DAN VEDRA: I would also like to know what
24 Alan's competitors have gotten in trouble for. And not
25 to be tongue-in-cheek about it, but, you know, the CFPB

1 was really effective at putting out information about
2 what people are complaining about and what the
3 resolution of those things were.

4 I think that's very useful. It's helpful,
5 from my perspective, to know whether the case I'm
6 dealing with is a one-off case, or is this something
7 that's systematic with a particular collector, or is
8 this something that is systematic across all
9 collectors.

10 I know Alan and I probably disagree on that
11 aspect of it. But, you know, as long as the consumer's
12 personal information is not made known, and -- you
13 know, it would be useful to know what people are
14 complaining about, I think, from consumers all over.
15 And apparently Alan too, but . . .

16 ADMINISTRATOR FULFORD: So you're addressing
17 in particular the bureau's complaint database, which
18 they do release, you know, a great deal of information
19 and even release complaint narratives when the consumer
20 consents.

21 They also do supervisory highlights. And
22 what I was hearing from Alan was maybe a little bit
23 more something like a supervisory highlights, rather
24 than a complaints. I just want to be sure I understand
25 what -- what you were . . .

1 ALAN GREENBERG: I'd like to learn from the
2 other guys' mistakes as much as possible. Supervisory
3 highlights or some other back channel about the
4 Administrator's interpretations and those sanctions
5 that are attendant would be very helpful to us.

6 ADMINISTRATOR FULFORD: So I know -- so the
7 bureau works very hard on the supervisory highlights
8 and also works very hard to make sure that they are
9 DA-identified.

10 We do publish our annual report that does
11 talk in a fairly high level of detail about some of the
12 discipline that has been published. It's something we
13 can look at further.

14 I think it's important to be -- you know, to
15 be sure that if we are going to put information out
16 that it would be disseminated to everyone. And so I'd
17 want to think carefully about how we did that.

18 But I do understand that, if we're going to
19 take an interpretation, that it would be helpful for
20 other folks to know that that is the interpretation
21 that we're taking. So we'll take that back and try to
22 think about that further.

23 ALAN GREENBERG: Thank you. I don't think
24 we've had an advisory opinion since something like '05.

25 ADMINISTRATOR FULFORD: I think that's -- I

1 couldn't tell you the exact year, but it's certainly
2 been quite a while.

3 ALAN GREENBERG: I'm not necessarily asking
4 for that, but something even less formal. But I think
5 you're on track. Thank you.

6 TOM ROMOLA: Lori used to send out letters
7 of -- what were they called, Alan? Advisory letters?
8 Letters of interpretation.

9 ALAN GREENBERG: She would publish her
10 advisory opinions. And those are mostly -- those are
11 still accessible to us. The two -- her two successors
12 have not published advisory opinions.

13 TOM ROMOLA: No.

14 DAVE CANNELLA: I think the practical aspect
15 of that is clarity. As an operator, one of the things
16 we look for is clear rules. It's not about agreeing or
17 disagreeing with the rule. It's about understanding
18 the rules so that we can clearly abide by the rule.

19 ADMINISTRATOR FULFORD: That's helpful.
20 Thank you.

21 MAKYLA MOODY: Makyla Moody M-a-k-y-l-a
22 M-o-o-d-y. I'm with Greenberg, Sada, and Moody. I am
23 partners with Alan Greenberg over there.

24 I would like to shift gears to the
25 Administrator's report. And I have some questions

1 about the Administrator's report. I believe there
2 might be a typo, and I just want some clarification.
3 On page 3 of the report, it references the number of
4 complaints since January 1st, 2018, as being 304
5 complaints.

6 I'm assuming, since the period that was
7 described at the beginning of the letter is for '19, is
8 that a typo in the year?

9 ADMINISTRATOR FULFORD: Yes. Thank you for
10 that. Yes, we were trying to cover the period the past
11 six months, basically. So, yes. Thank you. Apologize
12 for that.

13 MAKYLA MOODY: Just -- I appreciate the
14 clarification because that leads into my next question
15 that I have, is that the previous two Administrator
16 reports provided to the General Assembly a statistic
17 about the number of complaints.

18 And I don't know that you're going to be able
19 to reconcile this difference, given that you didn't
20 start until after what I'm about to say happened.

21 In March of this year, the Attorney General
22 issued a press release during the Consumer Protection
23 Week, in which he references a statistic for 2018 that
24 differs from the statistic that the Administrator's
25 office put forth to the General Assembly for the same

1 time period.

2 In his press release, he indicates that there
3 were 811 collection agency complaints. If you look and
4 reconcile the two previous Administrator Reports
5 covering the same time period, that -- there were only
6 648.

7 And so we're trying to understand and
8 reconcile, A, the difference in that number, where it
9 came from -- again, you may not be able to do that, but
10 going forward, if there are any mechanisms or
11 procedures in place from the Administrator's office
12 that you're going to implement so those statistics
13 are -- there's continuity.

14 ADMINISTRATOR FULFORD: Yeah. As you have
15 probably intuited, I can't answer that question at this
16 point, but I will certainly look into it. We are --
17 you know, we certainly do our best to try to make sure
18 that our data is as up-to-date as possible and to make
19 sure that everyone in this building is operating on the
20 same kind of accurate data.

21 So all I can say is we'll certainly look into
22 that and try to figure out, you know, if there was
23 confusion about time periods, or if it just got -- was
24 a result of confusion. So thank you for bringing that
25 to my attention.

1 MAKYLA MOODY: And, if I may, one other
2 matter that I have a concern about is, in the
3 Administrator's Reports previously, there's talk about
4 the number of complaints that are filed, the number
5 that are resolved. But there's no, in the preceding
6 reports, indication of the carryover.

7 And if you look at the previous reports,
8 there's approximately a hundred matters that are
9 outstanding at the time the Administrator releases the
10 report, and there's no description to the General
11 Assembly what's happening with those complaints.

12 And from a practitioner's standpoint, I know
13 the amount of time that the agencies have to respond to
14 a consumer complaint has dwindled. We used to have
15 21 days. Most consistently now, it seems to be about
16 14 days, although I've had clients who've had instances
17 where they've been given less than a week or a week to
18 respond to those.

19 And we're still seeing a consistent carryover
20 on that, and we're not getting any information as to
21 how those complaints are being handled in addition to
22 the new ones that are coming in. And if that's
23 something that could possibly be addressed in future
24 reports.

25 ADMINISTRATOR FULFORD: I'm not sure whether

1 that can be addressed in future reports. It's
2 certainly something that we are working hard to resolve
3 complaints in a timely fashion, and it's certainly a
4 priority for me.

5 We want to be careful about what data is
6 released. But I think, really, you're talking about
7 two separate issues, right? How long we take to
8 respond to complaints, and then how long you all have
9 to respond to complaints.

10 And those are -- you know, would be captured
11 separately. We do want to make sure that -- that you
12 all are responding to complaints in a timely fashion,
13 So I'm looking over to my folks to make sure that I'm
14 saying the right thing, but I think 14 days is --

15 PATRICIA MILLER: Yes.

16 ADMINISTRATOR FULFORD: -- is what we --

17 MAKYLA MOODY: It's been more consistent in
18 the last probably six months or so. But we went
19 through a phase at the end of last year where,
20 depending on who was sending the information to the
21 agency, time periods were different. But that seems to
22 have reconciled itself within your office.

23 ADMINISTRATOR FULFORD: Okay. Well, it
24 sounds like 14 days is generally our policy.

25 PATRICIA MILLER: Yes.

1 ADMINISTRATOR FULFORD: And we have, I
2 think -- she's here, so -- I won't make you stand up,
3 but we do have -- and I think just over a year is how
4 long we've had a complaints specialist, who is working
5 hard to -- I mean, she's doing -- across all of our
6 programs to have consistency in making sure that we're
7 getting responses, sending out those responses, working
8 with consumers directly.

9 And so it's certainly -- you know, I've only
10 been on the job for two months, so I couldn't say what
11 was happening six months or eight months or ten months
12 ago. But my understanding is, as we've set up
13 policies, and that we are working for consistency
14 across the board.

15 TOM ROMOLA: Martha, if -- your staff changed
16 recently or over the past year or so, would you mind
17 having them stand up and introduce themselves? I think
18 I know some of them but not all of them.

19 ADMINISTRATOR FULFORD: Sorry, guys. No good
20 deed.

21 PATRICIA MILLER: Hello. I'm Patricia
22 Miller. I'm the compliance specialist. I'll be here
23 for you when there are complaints.

24 ADMINISTRATOR FULFORD: Sorry. We're going
25 to have to make sure that our court reporter can hear

1 you all. So let's start with Patricia Miller, and then
2 we'll go down the line, starting -- so do Trish, and
3 then we'll go down the line.

4 PATRICIA MILLER: Okay. Patricia Miller.
5 I'm the compliance specialist.

6 THE REPORTER: Is it compliance or
7 complaints?

8 PATRICIA MILLER: Compliance.

9 NICK BRECHUN: Morning. My name is Nick
10 Brechun, B-r-e-c-h-u-n. I've been with the DOL since
11 July of 2017. And I'm program manager overseeing the
12 licensing and regulation of the collection agencies,
13 debt settlement companies. And I work with Ross and
14 Patricia.

15 KATIE GRANQUIST: Katie Granquist,
16 G-r-a-n-q-u-i-s-t. Program manager.

17 ROSS TOWRY: I'm Ross Towry, T-o-w-r-y. I am
18 an investigator.

19 TONY CORDOVA: I'm Tony Cordova, and I'm the
20 admin assistant.

21 MARIA CASSAS: I'm Maria Casas, and I am the
22 program assistant.

23 BETH KASPAR: Okay. I'm Beth Kaspar, last
24 name spelled K-a-s-p-a-r. I actually work with the
25 debt management program.

1 NIKOLAI FRANT: I'm Nikolai Frant, assistant
2 attorney general and one of the Administrator's
3 attorneys.

4 PHILLIP SPARR: I'm Phillip Sparr, S-p-a-r-r,
5 and I'm an assistant attorney general and counsel for
6 the Administrator.

7 NEAL MONAGHAN: Neal Monaghan, N-e-a-l
8 M-o-n-a-g-h-a-n. I'm the chief examiner on the lending
9 side of the E-triple-C.

10 MR. LUNA: (Inaudible) Luna, financial credit
11 examiner on the E-Triple-C side.

12 JODIE ROBERTSON: Jodie Robertson,
13 R-o-b-e-r-t-s-o-n, and I'm financial credit examiner as
14 well.

15 MICAH MARSH: Micah Marsh, M-i-c-a-h
16 M-a-r-s-h. Financial credit examiner with the Consumer
17 Credit Group.

18 ADMINISTRATOR FULFORD: We are working hard
19 to integrate our teams and to make sure -- as you all
20 know, consumer finance doesn't -- it's not really
21 siloed. So that's why we have a lot of our folks here
22 today.

23 But thank you all for being here, and thank
24 you for introducing yourselves. So if anyone wants to
25 introduce themselves to anyone, you probably have heard

1 from Patricia, but you may have heard from others as
2 well. Nice to put a name with a face.

3 We haven't heard a lot from this side of the
4 room. I want to offer the opportunity if you all want
5 to jump in, or we can keep going with this side of the
6 room.

7 TOM ROMOLA: I have another question.

8 ADMINISTRATOR FULFORD: Sure. We can go back
9 and forth. Sure.

10 TOM ROMOLA: I know you're new. You're still
11 getting acclimated to this job. But is there anything
12 on your immediate to-do list that you have in mind?

13 ADMINISTRATOR FULFORD: I'm not sure what you
14 mean specifically, Tom. I mean, there's lots of things
15 on my to-do list. Are you . . .

16 TOM ROMOLA: Well, share those with -- what's
17 your -- what's on your to-do list?

18 ADMINISTRATOR FULFORD: Well, I mean, I think
19 we're trying to get -- finish up renewals. So that's,
20 obviously, a big priority of ours. If there are -- you
21 know, if there's feedback on our work so far, that
22 would be helpful for me to hear. I think we're always
23 trying to improve our systems.

24 And Jan may have mentioned it, or maybe Julie
25 mentioned it in the first meeting transcript. But we

1 are working on our technology to try to improve that so
2 that, you know, we have better ability to do our jobs.
3 So that's certainly something that's high on my agenda.

4 MAKYLA MOODY: From a complaint perspective,
5 is there anything the industry can do, other than
6 timely respond to your request for response, to
7 facilitate faster resolution time period for you?

8 ADMINISTRATOR FULFORD: It is really
9 fact-dependent. And so I don't think that I could say
10 with specificity there's any one particular thing. You
11 know, each complaint is its story.

12 We do very much appreciate the timely
13 responses, and I think that's a high priority. But
14 I'll look to Trish to see if there's anything else she
15 would add.

16 PATRICIA MILLER: Patricia Miller. The one
17 thing I'll say is, some of the collection notes that
18 come across are very cryptic and difficult to read.
19 And you probably know which collection -- you know if
20 your collection notes really are hard to read.

21 If you could sometimes give us a key, if you
22 will, just describing, you know, when this code shows
23 up, this is the letter that we send out, that would be
24 helpful to help me get through those a lot quicker.

25 TOM ROMOLA: We're too easy on you.

1 ADMINISTRATOR FULFORD: Well, you may have
2 known Jan for longer.

3 Last call.

4 ALAN GREENBERG: Again, Alan Greenberg. It's
5 kind of a tender subject that I'm -- see if I can
6 pussyfoot around it.

7 DAN VEDRA: That's a legal term.

8 ALAN GREENBERG: There was -- as you know,
9 the Administrator had some unfortunate results with
10 regard to litigation in the last few years. I was told
11 that it was likely that there would be a structural
12 change, either in answering or in oversight, that would
13 tend to make a recurrence somewhat less likely.

14 Do you have any comment on whether -- and I
15 know that most of the changes would have happened
16 during Jan's administration and that you get to see the
17 product ex post facto.

18 But, well, question one, will the
19 Administrator still be primarily charged with decisions
20 about litigation, or will that happen at one level
21 down? And secondly, what steps have been taken to
22 prevent the kind of expensive recurrence of some
23 unfortunate outcomes we've had in the last few years?

24 ADMINISTRATOR FULFORD: So I'm not sure this
25 is directly responsive to your question. But I think

1 Nikolai sold himself a little bit short when he
2 introduced himself. So in terms of structural changes,
3 that we have had a structural change, and I believe
4 it -- isn't it in the past year?

5 And so Nikolai is a First Assistant Attorney
6 General for what we have called our Consumer Credit
7 Enforcement Unit. And so Nikolai are really -- and I
8 are really partners. And Nikolai supervises the other
9 two attorneys and the paralegal who work in the
10 consumer credit area, but as a separate and partnered
11 unit with the Consumer Credit Unit.

12 So I wouldn't want to, by any means, imply
13 that change was as a result of any of the other topics
14 that you're addressing, but it is -- I think it's
15 worked out well. I obviously don't have anything to
16 compare it to, but I think we're pleased with having
17 that structure and that setup.

18 ALAN GREENBERG: Thank you.

19 ADMINISTRATOR FULFORD: Well, great. Unless
20 there's anyone else who wants to jump in, I will just
21 thank you all very much for coming, and, you know,
22 please consider, you know, following up on any of the
23 topics that we discussed. Thank you.

24 (The proceedings were concluded at 10:53 a.m.
25 on Monday, July 29, 2019.)

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REPORTER'S CERTIFICATE

I, Wendy McCaffrey, Registered Professional Reporter and Notary Public in and for the State of Colorado, do hereby certify that said proceedings were taken in shorthand by me at the time and place hereinabove set forth and were thereafter reduced to typewritten form under my supervision, as per the foregoing transcript; that the same is a complete, true, and correct transcription of my shorthand notes then and there taken.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the event of the within action.

My commission expires January 31, 2020; and I have hereunto set my hand this August 11, 2019.

Wendy McCaffrey
Registered Professional Court Reporter
and
Notary Public

