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**STATE OF COLORADO
DEPARTMENT OF LAW**

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Consumer Protection Section
Consumer Credit Unit

July 1, 2019

Honorable Pete Lee, Chairman (via email)
Senate Judiciary Committee
200 E. Colfax, Room 346
Denver, CO 80203.

Honorable Mike Weissman, Chairman (via email)
House Judiciary Committee
200 E. Colfax, Room 307
Denver, CO 80203

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

Dear Senator Lee and Representative Weissman:

In accordance with SB 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 third 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.

For the most part, this bi-annual report covers the period of December 31, 2018 through July 1, 2019. This report will follow the order set out in§ 5-16-117(5).

Enforcement Actions

1. Lawsuits

- a. *Colorado v. Hopp*, Colorado Court of Appeals Case No. 2016CA1983. This is was enforcement action against foreclosure law firm The Hopp Law Firm, LLC and related individuals and entities. The action asserts claims under the CFDCPA and other Colorado laws, including that the defendants violated C.R.S. §§ 5-16-107(1)(b)(l) and 5-16-108(1)(a) of the CFDCPA when pursuing foreclosure actions against Colorado homeowners. The trial court entered a judgment in favor of

the Administrator on the CFDCPA claims and the Colorado Court of Appeals (2018COA69M) affirmed the judgment on May 17, 2018 (opinion modified and rehearing denied on November 1, 2018). The Court of Appeals Opinion addresses the statute of limitations applicable to the CFDCPA and the award of penalties under the CFDCPA. Hopp filed a Petition for a Writ of Certiorari on December 28, 2018, challenging, among other things, the statute of limitations under the CFDCPA. The Colorado Supreme Court denied the Petition for Writ of Certiorari on June 3, 2019.

- 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 C.R.S. §§ 5-16-107(1)(b)(I) and 5-16-108(1)(a) 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.

2. Administrative Enforcement

- a. Stipulations & Final Agency Orders, Assurance of Discontinuance¹
 - i. Law Office of Wyn Taylor-\$36,348 (violations related to collection of returned checks)
 - ii. Revive Debt Collection Corp.-\$20,000 (surety company accepted demand on bond after agency failed to remit payment)
 - m. Waypoint Resources-\$5,000 (credit reporting prior to sending a collection letter to consumers);
 - 1v. Wakefield and Associates-\$2,000 (collecting while account was under dispute, and collecting an amount not due);
 - v. Plaza Services-\$3,000 (failing to disclose legal actions taken against them by other jurisdictions);
- b. License Denials
 - i. No licenses were denied during this period.

¹ None of these enforcement actions were appealed or otherwise challenged.

c. License Revocations

- i. No licenses were revoked during this period.

Complaints & Outcomes:

1. Since January 1, 2018, the Consumer Credit Unit has received 304 complaints.
 - a. Of the 304 complaints filed, 202 are against licensed collection agencies, 50 are against unlicensed collection agencies, and 40 complaints are against attorneys.²
2. Outcomes
 - a. 40 complaints have been resolved.
 - b. 7 complaints against non-lawyer collection agencies have been referred to other agencies.
 - c. 150 complaints resulted in No Action, either because of a lack of jurisdiction, no allegation of a violation of the CFDCPA, or similar deficiencies.
 - d. 16 Cease & Desist notices have been issued to unlicensed agencies.
 - e. The remaining complaints are still open and under investigation.

Other Actions:

1. 7 Advisory Letters and 3 (disciplinary), Letters of Admonition were issued.

Statutory Changes to Collection Agency Licensing Program

1. *Debt Buyer Definition:* The CFDCPA adds a new definition of "debt buyer." This section became effective on January 1, 2018.
2. *Legal action requirements:* The CFDCPA created new requirements for legal actions filed by debt collectors or collection agencies on debts owned by debt buyers. This section became effective on January 1, 2018.
3. *Administrator duties:* The Administrator has additional duties, which include reporting requirements, attending meetings of industry groups and advocacy organization, and hosting meetings each year for consumer advocacy organizations and industry groups. The Administrator's duties became effective on January 1, 2018.
4. *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

² All complaints against attorneys were referred to the Office of Attorney Regulation Counsel.

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 becomes effective July 1, 2019.

Significant Legal Filings-Amicus Brief

1. *None.*

Summary of New Regulations

1. *None.*

Legal Developments

1. *None.*

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

While there have been no formal requests from the public to the Administrator to address specific issues under the CFDCPA, 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. Correction to December 31, 2018 Bi-Annual Report.** In his December 31, 2018 bi-annual report, the Interim Administrator stated the prior Administrator had been invited to a national conference of collection agencies or collection agency trade association. In the January 25, 2019 public meeting, the Interim Administrator was informed that the prior Administrator was invited to a local conference.
- 2. Meeting of relevant licensees, industry groups and associations, and other interested persons.** The Administrator convened this meeting, as required by§ 5-2-117(7), on July 30, 2018. The 30-day notice was provided directly (via email) to a list of licensees, industry groups and associations, and other interested parties compiled by the Administrator.
- 3. Meeting of licensees, consumer advocacy groups and associations, and other interested parties.** The Administrator convened this meeting, as required by§ 5-2-117(7), on January 25, 2019. The 30-day notice (via e-mail) was provided to all consumer advocacy groups and associations and other interested parties compiled by the Administrator. *See Attachment 1 (Transcript).*
- 4. Meeting of relevant licensees, industry groups and associations, and other interested persons.** This meeting is scheduled for July 29, 2019, at 10:00 AM at the Ralph L. Carr Colorado Judicial Center, 1300 Broadway, Denver CO 80203. The direct 30-day notice (via email) was provided to licensees, industry 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,

FOR THE ATTORNEY GENERAL

MARTHA FULFORD
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Cc: Members of the Senate Judiciary Committee (via email)
Members of House Judiciary Committee (via email)

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Kurt Morrison, Colorado Department of Law. Deputy Attorney General for
Intergovernmental Affairs (via email)

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ATTACHMENT 1
Transcript of January 25, 2019, Public Hearing

1 STATE OF COLORADO DEPARTMENT OF LAW
2 COLORADO FAIR DEBT COLLECTION PRACTICES ACT
3 UNIFORM CONSUMER CREDIT CODE

4 TRANSCRIPT OF PROCEEDINGS
5 January 25, 2019

6 Proceedings had on Friday, January 25,
7 2019, at the Ralph L. Carr Colorado Judicial Center,
8 1300 Broadway, Room 1E, Denver, Colorado 80203,
9 commencing at the hour of 10:06 a.m., before
10 Jan Zavislan, acting or interim administrator of the
11 Uniform Consumer Credit Code.

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1 please, we have a sign-up sheet so that we have a 2 formal record of everybody that was in attendance. And 3 I would ask that you all do that. 4 If you want to make a public statement -- 5 unfortunately this room isn't miked for a handheld 6 wireless. So that the court reporter, who's going to 7 take a transcript of this, can hear you, if you would 8 please come forward to near the front of the room, 9 please state your name and spell your name for her, and 10 then try to speak up as loud as you can so that 11 everybody can hear. Now, I'm also happy to simply 12 relinquish the podium and have you come here if you'd 13 rather to make whatever comments or public statements 14 that you'd like to make, so we'll need your name and 15 the spelling of your name. And then try to hold your 16 comments, please, to about five minutes, okay? It 17 looks like we have about 65 people, I think. The room 18 is set up for 70, almost 80. So give an opportunity 19 for everybody to make a public statement. We certainly 20 will -- I can follow up with you, we can have follow-up 21 questions, we can have follow-up dialogue. 22 But as I said, my goal is to have as 23 open, as public a hearing as we possibly can, and that 24 includes any members of the collection industry or 25 their attorneys who want to make a statement today are	6	1 MR. ZAVISLAN: So what are we hearing? 2 What's going on out there from those who are 3 representing debtors or who represent consumer advocacy 4 or other groups that you would like to have a 5 conversation about today? This is way too quiet a 6 crowd. Everything's perfect. 7 Yes, ma'am. 8 MS. EVANS: I might need the mike because 9 my voice doesn't carry. I am not an attorney. My name 10 is Eileen Evans, E-I-L-E-E-N E-V-A-N-S. I'm 11 representing myself against Collection Center in an 12 active case, so I'm researching case studies at the 13 library. 14 I have two questions, and they relate to 15 helping debtors like myself address abuses by 16 collection agencies. 17 How do you research an instance where a 18 wage was garnished without an agreement on file? So I 19 don't know if it's all in the Fair Debt Collection 20 Agency Act (sic) or other laws, but that's one case 21 that happened to me. And I had a falsified stipulation 22 agreement filed with the Court, so in essence, how do 23 you look up issues like that in a database or maybe the 24 consumer protection committee with the Bar Association? 25 So I was wondering, is there a group of people that	8
1 more than welcome to do so as well. My view is public 2 means public. 3 So with that, let's get started. And is 4 anybody willing to step up and be the first to address 5 the group? Tom, why am I not surprised? 6 MR. ROMOLA: What a surprise, huh? What 7 a surprise. Tom Romola, R-O-M-O-L-A. I'm the 8 legislative chairman for the Associated Collection 9 Agencies. 10 On page 5 of your report to the 11 legislature, one more error that you tried to fix at 12 the last meeting that we need to correct again. On 13 line 1, No. 1, Julie was invited to a local conference, 14 not the national -- 15 MR. ZAVISLAN: Okay. I misunderstood you 16 then. I tried to make that correction because of our 17 conversation at the last time, so ... 18 MR. ROMOLA: And it's nitpicky, but it 19 might come into play down the road, so ... 20 MR. ZAVISLAN: Okay. Perfect. 21 MR. ROMOLA: That's all I have for right 22 now. 23 MR. ZAVISLAN: Thank you. And by the 24 way, the Romola rule is you get to talk once. 25 UNIDENTIFIED SPEAKER: I second.	7	1 have filed these cases? I'm open to any ideas. Thank 2 you. 3 It seems to be in favor of the collection 4 agencies, and very difficult for the claimant to make 5 their case, that's my point. 6 MR. ZAVISLAN: So unfortunately I can't 7 give you legal advice. I can tell you a couple of 8 resources that you might consider. One is the Colorado 9 Law Library, which is in this building. If you go past 10 the elevator banks and keep walking to the other 11 atrium, the courthouse side, is the Colorado state law 12 library. And they have a staff of librarians who are 13 there to assist on all variety of legal research or 14 legal-type questions. So that's one. 15 And I always mention the Colorado Legal 16 Services Corporation. That's somewhat income based, so 17 I don't know what your situation is. But they have a 18 staff of attorneys throughout the state of Colorado 19 that work on legal issues for their clients, including 20 on debt collection matters. So those are the two 21 resources that come to mind. 22 Anybody have any other ideas where we 23 might send Eileen? Yes, ma'am. 24 MS. TAYLOR-HUNT: Hi, Eileen. My name is 25 T.A. Taylor-Hunt. I'm the state chair for the National	9

1 Association of Consumer Advocates. If you want to 2 connect with me when this is over, we can point you to 3 some potential resources. 4 MS. EVANS: Okay. 5 MR. ZAVISLAN: Thank you, T.A. Yes. 6 MS. STURGES: I'm with the State Court 7 Administrator's office. Judicial has self-help 8 centers. And there are folks in the self-help centers 9 located in the courthouses called Sherlocks. And they 10 can assist -- they can't give legal advice; however, 11 they can help you identify potential forms that might 12 be relevant to your situation. And you can take 13 advantage of that. 14 And if you want to look at the state 15 court judicial website in your particular district 16 where your case is pending, there should be information 17 there. 18 MR. ZAVISLAN: Could I have you state 19 your name? 20 MS. STURGES: Sure. It's Sharon Sturges. 21 I'm actually the director of the Office of Dispute 22 Resolution, not in the trial courts; but certainly 23 we -- we offer mediation services as well. So if you 24 want to come up to me at any point in the meeting, we 25 can step outside and I can direct you to how to get a	10 1 with an astounding amount of information that's been 2 submitted by the various collection agencies that 3 utilize NMLS for various other states; Idaho, 4 Massachusetts, Indiana are just a few. 5 But it also allows, for those of us who 6 have to have licenses all across the nation that use 7 NMLS, to get on once a year, and the licenses all 8 expire December 31st, and it tightens up the windows 9 and allows me, for instance, to get 84 licenses in a 10 period of two months, and that includes branches and 11 main state licenses as well. 12 But what it also does, it allows to not 13 talk to staff with Massachusetts, Indiana, Idaho, it 14 allows them to refocus. And if their goal is to help 15 consumers, it removes the function and gives you more 16 time to focus in on the consumers as opposed to having 17 to go through what can be some fairly redundant 18 functions involved in getting an entity licensed or 19 renewed. 20 One other issue I'd like to bring up is, 21 we don't have a lot of complaints filed against us. 22 One reason we do -- and I'm sure everyone in here 23 prefers not to have complaints filed and have to 24 respond -- is we have implemented a program that if a 25 debtor calls and if they're heated or if they're hot,	12
1 referral to mediation as well. 2 MR. ZAVISLAN: So, Sharon, it's Sturges? 3 MS. STURGES: Sturges, yes. I will sign 4 in. 5 MR. ZAVISLAN: Okay. Sturges? 6 MS. STURGES: Just one S at the end. 7 MR. ZAVISLAN: One S. Thank you. So, 8 Eileen, I hope that's helpful. 9 MS. EVANS: Thank you. 10 MR. ZAVISLAN: Next? Who else has an 11 issue they'd like to talk about, an issue they'd like 12 to identify; thoughts or ideas about where the rules 13 are inadequate and need to be updated, need to be 14 amended or changed? Come on up. 15 MR. DEEDS: My name is Michael Deeds, 16 D-E-E-D-S. I'm a partner with Linebarger Goggan Blair 17 & Sampson. I was here in July, and I had requested 18 that the Department of Law consider transitioning over 19 to the National Multistate Licensing Service (sic). 20 And I'm here to re-urge that request. 21 Many of the functions that your office 22 performs can be done in this as, if not a more swift 23 and efficient fashion through NMLS. It doesn't detract 24 or diminish the critical nature of your office; but 25 what it does, number one, it provides you, as a group,	11 1 and it's not just because they owe a debt and they want 2 to deny it, they're immediately routed to our 3 collection department manager, of which we have 12 4 nationwide, and we try to resolve it so that we don't 5 have to go through the process, for instance, of coming 6 here, filing a formal response. 7 But there are interim steps -- and I was 8 hoping perhaps that Colorado might consider issuing 9 something that gives a collection agency some 10 guidelines by which you might accept some informal 11 resolution process. And it doesn't have to be anything 12 that is mandatory, but it would be helpful to know what 13 some of the regulatory agencies perceive to be, where 14 are you getting your highest rate of complaints? 15 We see a lot of addresses that are 16 incorrect or phone numbers that we dial and they're 17 incorrect. We have very few where it's abuse of 18 collection techniques. I think that's few and far 19 between in the industry these days. We're very 20 sensitive to what you guys are trying to do. Thank you 21 very much. 22 MR. ZAVISLAN: Thank you, Mike. 23 So I can tell you, after the July meeting 24 I had staff start looking at NMLS. I had a staff 25 member actually attend a national conference in which	13

1 there was a presentation on NMLS, so it is something 2 that we're aware of. It would require, my 3 understanding, is legislative change. And so with a 4 brand-new set of people upstairs, the attorney general 5 and his legislative director, et cetera, it wasn't 6 possible to do anything this year. We haven't decided 7 whether we want to go that route or not even, but we 8 are definitely looking at it and following up. 9 Anybody else? Yes, T.A. 10 MS. TAYLOR-HUNT: Maybe the meeting 11 before last we were talking about some problems 12 consumers were encountering with process servers. 13 MR. ZAVISLAN: Yes. 14 MS. TAYLOR-HUNT: And we were raising the 15 issue of whether any thought has been given to trying 16 to license process servers. 17 UNIDENTIFIED SPEAKER: We can't hear her. 18 MR. ZAVISLAN: I'll repeat the question. 19 The question was: At the meeting a year ago there was 20 a discussion about process servers and problems with 21 process service. And T.A.'s question was whether or 22 not there's any thought given to licensing of process 23 servers, right? Do I have that correct? So the quick 24 answer is, as far as I know -- I thought that there was 25 a sunrise application several years ago .	14 1 You know, if enough -- if there's enough of an interest 2 and there's enough of a need, that would be the process 3 that we'd do. It wouldn't be something that our 4 office, or that me, as the interim administrator, would 5 be able to do. And we can't do it by rule, obviously. 6 Yeah, Tom. 7 MR. ROMOLA: Jan, can you hear me alright 8 if I don't come up? 9 MR. ZAVISLAN: I can hear you, yes. 10 MR. ROMOLA: The legislature introduced a 11 bill similar to that, I believe it was three years ago, 12 two years ago maybe. They were wise enough to 13 determine that that was going to jack up the prices of 14 process servers, which would harm consumers, so they 15 voted it down in first committee, if I recall. 16 MR. ZAVISLAN: All right. What I was 17 thinking was remembering from two or three years ago 18 was exactly that. I knew that there was some movement 19 or push towards that. 20 Now, we've had conversations with some 21 debt collectors and law firms doing debt collection 22 about complaints that we receive about process service. 23 So it's something that we are aware of, it's something 24 that we have worked with other collection agencies and 25 worked with law firms doing collections work on making
15 1 Now, for those of you who don't know, 2 state law requires, in most instances where there is a 3 proposal to license or otherwise regulate a previously 4 unlicensed, unregulated profession, that they initiate 5 what's called a sunrise application with the Department 6 of Regulatory Agencies. And they do an analysis and 7 they take a look at risk versus benefits, cost versus 8 benefits as to whether or not a bill should be 9 introduced in the legislature to, in this instance, 10 say, license process servers. 11 I thought that there had been -- and 12 maybe it's farther back than two or three years ago, 13 but I do recall seeing a sunrise report that DORA 14 recommended that they not be licensed; that they hadn't 15 been shown or there wasn't enough of a need. But 16 that's certainly one process. 17 And if you're interested in that, I would 18 encourage that you communicate with your local state 19 representative or state senator, although that's not 20 required. Citizens and other groups are fully entitled 21 to make an application with DORA for a sunrise review 22 and report. And if you just go to their website, and I 23 can't remember what -- it's in their policy -- I don't 24 remember exactly what it's called, there's information 25 on how you make an application for a sunrise review.	15 1 sure that they're reporting to us when they have a 2 belief that a process server that they have been using 3 isn't adequately affecting service. 4 Other questions or comments? Yes. 5 MR. VEDRA: Hi. My name is Dan Vedra. 6 I'm an attorney in private practice. And I represent 7 individuals like Ms. Evans, who are typically the 8 defendants in collection lawsuits. 9 And I have two questions and sort of two 10 comments and requests. One would be, what, if any, 11 outreach does the administrator and the regulators do 12 with consumer advocacy groups that deal with 13 representing individuals like Ms. Evans? 14 Two would be, what precisely is on the 15 rulemaking agenda, if there is any agenda? And is 16 there the possibility that the administrator would set 17 a deadline for a request for rulemaking so that rather 18 than sharing ideas for rulemaking in sort of an open 19 forum where we're sharing sort of anecdotal 20 information, and we can gather up information that we 21 feel is important and necessary and should be 22 considered in making a rule and making a formal 23 rulemaking request? 24 My first ask would be, in terms of 25 complaints that are received by the administrator, one

1 thing I think has been tremendously successful with the 2 CFPV is that there is an available database online 3 where you can look up all manner of complaints that are 4 made to the CFPV. It's something that's very 5 efficient, it's very robust, and it helps you to 6 identify issues that are coming up frequently as 7 against particular bad actors. 8 And so as an advocate for consumers, it's 9 helpful for me to be able to look at the issue I'm 10 dealing with and determine whether this is a one-off 11 problem that may be the result of a mistake, or whether 12 this a systematic problem that comes up over and over 13 again. And I think everybody has been very happy with 14 that database that has had access to it because it 15 provides so much information. 16 The last -- and I think that there's 17 probably a lot of common ground in this room about 18 this, is as a consumer lawyer, we encounter a lot of 19 just straight-up scams. There's so much information 20 out there that people can get and use in a bad way. 21 And the thing that I see most frequently is information 22 taken in bulk from bankruptcy files. And they'll take 23 bulk information from bankruptcy files, find people 24 that had old Payday loans, for example, and use the 25 information from the bankruptcy file to use that to	18	1 for whatever reason. I think it's partly because of 2 its heavy regulatory versus enforcement roles. But I'd 3 certainly support doing a great deal more, and will 4 have conversations with the new attorney general and 5 whomever he appoints as a permanent administrator, to 6 do exactly that. Not only just to consumer advocacy 7 groups, but I think in industry as well. And I know 8 Tom would love to have us at every one of their 9 meetings locally to do that exact kind of outreach. 10 In regard to rulemaking, I mean, while 11 we're accumulating a lot of different ideas primarily 12 out of last January and this July's meetings, we don't 13 have a formal rulemaking agenda set. 14 What I would propose to the new attorney 15 general and to the new administrator is that in advance 16 of formal rulemaking under the Administrative Procedure 17 Act, that we actually issue a request essentially for 18 proposals or requests for information to allow both the 19 industry and other interested parties, whether they be 20 lawyers or consumer advocacy groups, to suggest areas 21 in which they think that we ought to at least consider 22 adopting a rule. That would help us then in 23 establishing a formal rulemaking agenda, which would 24 then go out as part of a notice of proposed rulemaking 25 and a public hearing on those rules, rather than get	20
1 call and harass people and convince them to try to pay 2 something that they don't actually pay (sic). This 3 isn't good for anyone except for the scam artist. And 4 most of these people are out of state and probably part 5 of criminal organizations. 6 It makes collection agencies' work more 7 difficult because these things exist. It makes my work 8 more difficult because there's nothing I can do to stop 9 somebody who's a criminal actor and is doing this to a 10 lot of people. And suing them for a thousand bucks in 11 federal court or state court under the FDCPA isn't 12 really of tremendous value if there's no possibility of 13 collection; and in reality, that person should just be 14 in jail somewhere. So those would be my two questions 15 and two asks. 16 MR. ZAVISLAN: Thanks, Dan. So a couple 17 of things. What I've been proposing -- so I've spent 18 30 years in consumer protection in this office. And 19 I've noticed that while we do a tremendous amount of 20 education and outreach on the consumer fraud side, we 21 have a stopfraudcolorado.gov website, we speak all 22 around the state and partner with other groups and 23 organizations who do that. 24 I think historically there has not been 25 nearly enough education and outreach out of the UCCC	19	1 all the way to a rulemaking hearing and then start 2 hearing all these ideas that we haven't really had an 3 opportunity to digest and submit -- and get out to all 4 of you for public comment. So that's certainly how I 5 plan to proceed with our new attorney general and with 6 the new administrator, whenever she or he is appointed. 7 You know, the complaint database is an 8 interesting one. We've taken the position, as an 9 office, for all 30 years that I've been here, is that 10 we guard pretty carefully consumer complaint and 11 consumer complaint information. The idea that -- we've 12 actually been sued by the news media for refusing to 13 turn over consumer complaints; unsuccessfully. 14 There is some value, though, I 15 think in -- so I've spent a fair amount of time in the 16 C of PV (phonetic) database as well, and it's all 17 deidentifying, right? You can't tell -- I think they 18 even -- I don't even think they include full zip codes 19 in that database. And so I understand that there is 20 value to that. It would be really more of a cost issue 21 for us. 22 We're in the process right now of redoing 23 our entire database, both licensing and complaints, 24 because we're dealing with pretty antiquated 25 technologies. I certainly think that there may be some	21

<p>1 value, as we work through that new database process, of 2 having some public-facing information either in an 3 aggregated, but certainly in a deidentified way to 4 accomplish some of that. So I will make sure to raise 5 that to the powers here as well.</p> <p>6 You know, Dan, we're seeing the exact 7 same kind of scams, phantom debt, collection of illegal 8 debt. We usually proceed this way: When we get a 9 complaint, sometimes all we have is a phone number. 10 It's either a capture on a caller ID, which, as most of 11 you know, can be spoofed very easily. To the extent 12 that they're legitimate phone numbers, we send 13 subpoenas out to sometimes three or four or five phone 14 companies, because there's a lot of reselling, 15 especially of long distance phone numbers, to see if we 16 can identify an actual address at the -- that attaches 17 to that phone number. And in most cases there is no 18 actual address. It turns out to be a PO box, it turns 19 out to be a vacant lot, or it turns out to be a 20 completely unassigned phone number.</p> <p>21 Where we do find an address and the 22 address is continental United States, we will send 23 cease and desist letters out. I have to be honest with 24 you, most of them come back not accepted, undelivered. 25 Even if we send them certified mail, we get them back</p>	<p>22</p>	<p>1 Mr. Baker (phonetic) is aware, I'm sure, 2 that making these complaint databases public is 3 problematic despite the absence of a federal parallel 4 to our beloved C.R.S. 5-16-128, which would criminalize 5 violations of the Colorado Fair Debt Collections Act.</p> <p>6 To my amazement, none of my clients has 7 ever instructed me to seek a waiver of criminal 8 prosecution in exchange for a full cooperative response 9 to an inquiry from the administrator. I'm not sure 10 that that attitude won't change when this database 11 becomes available to the public.</p> <p>12 MR. ZAVISLAN: Thank you. Any other 13 comments? Anybody else have an issue they'd like to 14 address or at least make public at today's meeting? 15 Yes, T.A.?</p> <p>16 MS. TAYLOR-HUNT: One of the areas that 17 we're finding more difficulty with is ambulance 18 overbilling or really rapid debt collection. So far 19 there's only been a few debt collectors who are being 20 overly aggressive with medical debt, but there are 21 supposed to be more stop points before you go to that 22 level. And I'm just wondering if you all are hearing 23 more medical debt complaints, particularly as it 24 relates to ambulance.</p> <p>25 MR. ZAVISLAN: So I have to -- so that's</p>
	<p>23</p>	<p>1 as unaccepted or undelivered. So it's a challenge. 2 My office overall, we enforce the 3 Colorado No-Call List Act, same exact issue there. 4 Really, really difficult to find where these companies 5 are. We know that for a while a lot of the phantom 6 debt collection phone calls were emanating out of 7 India. We know they also come out of Eastern European 8 and South American or Central American countries as 9 well. So it's a huge challenge for a pretty small 10 staff given all of the responsibilities that we have to 11 try to track these guys down. It's an area where at 12 least on -- I think we've even done consumer education, 13 consumer alerts about phantom debt.</p> <p>14 We had one where they were actually 15 spoofing the attorney general as the caller; we did an 16 advisory about that. So, you know, it's another area 17 that I would put down in the category of, we can do a 18 much better job of getting information and education 19 out even if we're not able to identify and enforce 20 against some of these companies. So, thank you. Other 21 comments. BBB? No, go ahead.</p> <p>22 MR. GREENBERG: I'm Alan Greenberg, 23 Greenberg & Sada; president of the Colorado Creditors 24 Bar Association, and I serve on ACA's legislative 25 council.</p>

	<p>26</p> <p>1 We have issues that we see on medical 2 debt in a -- in an estranged family relationship, 3 divorce, separation, where a child incurs medical debt, 4 and one parent or the other is contacted by a 5 collection agency, and they say, I never authorized 6 services on behalf of this child; she's got full 7 custody, he's got full custody, whatever it may be. I 8 think Colorado law is against them in that situation, 9 it makes both parents responsible for those debts.</p> <p>10 But again, these issues just come up as 11 they come up, and we try to figure out the best way to 12 try to deal with them. And maybe not successfully in 13 every instance, but I'll tell you, we're not seeing 14 that huge -- this issue came up this summer, when we 15 met with the collection agency groups, about waiting 16 until the insurance claims are fully adjusted and paid 17 before debt is subsequently sent out for collection. 18 And that's something that I think we can look at both 19 legislatively and potentially through rulemaking to 20 see about that.</p> <p>21 Because we do have complaints from time 22 to time about somebody who's being contacted by a debt 23 collection company or an individual or a lawyer, and 24 they're still in negotiations with their medical 25 healthcare provider -- or insurance company about why</p>
	<p>27</p> <p>1 did you not cover this, why did you not cover that, 2 et cetera, et cetera.</p> <p>3 So I think there's something to be looked 4 at there that would achieve a nice, fair balance 5 between creditors, debt collectors, but also between 6 medical patients who are in negotiations with their 7 insurance companies.</p> <p>8 Other comments, questions, statements?</p> <p>9 Tom S.</p> <p>10 MR. ROMOLA: I have a question if you're 11 ready.</p> <p>12 MR. ZAVISLAN: Sure.</p> <p>13 MR. ROMOLA: First of all, I want to 14 thank you for the way you're handling these meetings. 15 You were put in a pretty tough position, and you're 16 doing an excellent job. And I think everyone in this 17 room probably appreciates it, so thank you. You can 18 clap if you want.</p> <p>19 As you know, the -- this portion of the 20 sunset comes up again next year, a year from now. Is 21 it your understanding that DORA will do a complete 22 research again this summer to determine the validity of 23 this format and how this continues; do you know?</p> <p>24 MR. ZAVISLAN: You know, I don't think 25 they will. I don't think it's scheduled that way</p> <p>28</p> <p>1 because the repeal is in statute. Now, if they want to 2 extend it, then they would probably do a review and a 3 recommendation and a -- it's not really a term, but a 4 mini sunset. I mean, nobody from -- and believe me, 5 DORA policy reaches out to me all the time on a whole 6 variety of issues as they're building these reports, 7 and nobody's reached out to us, that I know of, on this 8 yet. And it would be about now that they would be 9 doing it, right, because it would have to be in the 10 October 2019 sunset report for the 2020 legislature.</p> <p>11 MR. ROMOLA: You don't think they'll 12 issue a report to --</p> <p>13 MR. ZAVISLAN: I don't know. I just 14 don't know the answer. All I know is they have not 15 reached out to us about it, and they almost always do.</p> <p>16 MR. ROMOLA: Second question, if you 17 don't mind, I'll put you on the spot. How do you think 18 this format's working yourself? And I know you're -- 19 again, you were put in a tough spot, and I appreciate 20 that, but how do you think it's working?</p> <p>21 MR. ZAVISLAN: So I have to tell you, my 22 personal opinion only, and not that of the attorney 23 general, is that I'm not sure that having two meetings 24 makes a lot of sense, two separate groups; which is why 25 in July and this time around I expanded the</p> <p>29</p> <p>1 notification and the opportunity to speak. I think 2 maybe -- I don't have a problem with twice a year, but 3 the fact that we bifurcate it in the way that we have 4 through legislation, I'm not sure it makes that much 5 sense.</p> <p>6 We had a good discussion in July with 7 both sides of the aisle, right; we have good 8 representation here and discussion here today with both 9 sides. Unless you're telling me whether it's consumer 10 advocates' lawyers or collection agencies' lawyers, 11 that you somehow feel constrained about what you're 12 willing to say. You know, those are just my thoughts, 13 Tom.</p> <p>14 You know, I don't think that this is a 15 bad idea at all. I do think it connects the regulator 16 more with her constituents, both the licensed and 17 debtors and debtor counsel. So I don't have any 18 problem with this process personally, I just wonder 19 whether it makes sense to, if we're going to do this 20 twice a year, why not bring everybody together for both 21 meetings instead of having one that's supposed to be 22 this and one that's supposed to be that; but that would 23 require legislation.</p> <p>24 MR. ROMOLA: Yeah, but I believe in the 25 July meeting you made it pretty clear that anyone could</p>

1 talk. 2 MR. ZAVISLAN: Absolutely. 3 MR. ROMOLA: I don't think there was 4 any -- like, the first meeting that Julie did in 5 January, that was not effective, but the one you did 6 was fine. 7 MR. ZAVISLAN: Yeah, I think that -- 8 again, I've been around for so many years now, I just 9 think public hearing means public. And whether you're 10 in the industry or whether you're Eileen who has 11 questions and issues and concerns and wants an 12 opportunity to address the administrator, I think they 13 should have an opportunity to do that. 14 MR. ROMOLA: You're from way back, and I 15 know you're familiar with the old collection agency 16 board. 17 MR. ZAVISLAN: Yes. 18 MR. ROMOLA: Do you think that was more 19 effective than these meetings, having a board that -- 20 regularly? 21 MR. ZAVISLAN: Yeah. Given what I saw, 22 the lack of any substantial attendance at board 23 meetings, I think this is better. 24 MR. ROMOLA: Appreciate it. Thank you. 25 MR. ZAVISLAN: Yes. Any questions? Yes,	30	1 bill next legislative session to extend it. What I 2 don't know, Dan, is whether that necessarily implicates 3 DORA. I just don't know how that works. 4 MR. VEDRA: And as an administrator, is 5 there any obligation for you to provide input on that? 6 Because my opinion is that I think that these meetings 7 are effective. I think that the format in having them 8 divided up into groups is not effective. I felt that 9 the first meeting that we had with Ms. Meade was -- you 10 know, I didn't think it was fair that the other side 11 didn't have an opportunity to speak, and I appreciated 12 that that was welcome at the last meeting. And that 13 makes sense because dialogue, I think, leads to 14 results. And so, you know, to have more of an 15 opportunity to come together and discuss these issues 16 on more than just a semiannual basis I think would give 17 a little bit more heft behind the ideas and gain some 18 momentum into things that would need to be done, 19 preferred to be done. 20 And then I think that another way to 21 improve this process, you know, I come here to listen 22 as well as to speak. And I know I can probably be 23 criticized for speaking too much, but it would be nice 24 to hear -- have more of an agenda about sort of the 25 year to come, about topics that the administrator is	32
1 T.A. 2 MS. TAYLOR-HUNT: I want to second that 3 on the collection agency board. I was on that board 4 for two terms, and I think the thing that was most 5 lacking was any feedback or input from the public. 6 MR. ZAVISLAN: Okay. Yeah, I think 7 that's -- certainly the times that I attended, there 8 was -- I mean, we didn't even necessarily have board 9 members always there, but certainly industry, and never 10 the public. There would be seven people in the entire 11 room, and four of them worked for us, so ... 12 Any other questions or comments before we 13 call this meeting to a halt? 14 Yeah, Dan. 15 MR. VEDRA: Yes, I had a question about 16 the sunset. So the provision of the act that calls for 17 these meetings is set to sunset unless renewed? 18 MR. ZAVISLAN: Yes. 19 MR. VEDRA: And so it's up to DORA then 20 to determine whether they believe it's effective or 21 whether -- I'm sorry, I just am misunderstanding that. 22 MR. ZAVISLAN: No, you didn't 23 misunderstand because I don't know formally whether it 24 even requires DORA at this point. I think it will 25 repeal by statute unless DORA or a legislator files a	31	1 concerned with, that the administrator's seeing come up 2 in the regular affairs so that people that are 3 interested in those topics can then prepare in advance 4 and say, Here's what you're concerned about, and here's 5 how we view the issue so that it's more -- so not only 6 that all the constituents are involved, but also that 7 the administrator is setting an agenda for what you're 8 seeing as well because you have a different 9 perspective. 10 MR. ZAVISLAN: Yeah, I think that's 11 really fair. I hadn't really thought about that. The 12 agendas are, as you've seen, very bare bones. It was 13 my understanding -- I was not involved in the 14 legislative process that led to the repeal of the board 15 in the creation of these, so I don't have that 16 background. I basically looked back and saw what Julie 17 had done for the January meeting that year. 18 But there is some sense for that. And 19 certainly staff brings issues to me all the time that 20 could very well be, you know, informally, as long as we 21 make it clear that this isn't to substitute for 22 rulemaking or any other kind of formal process, but do 23 exactly what you're suggesting might make a great deal 24 of sense. 25 And if I'm still here, I will do that for	33

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<p>1 July. I will make sure that whomever replaces me as a 2 permanent administrator has that idea in mind as well. 3 MS. MOODY: Good morning. Makyla Moody, 4 M-A-K-Y-L-A, last name, M-O-O-D-Y. I'm an attorney 5 here with Greenberg & Sada. I do a lot of creditor 6 rights litigation and et cetera.</p> <p>7 In the summer's meeting I had addressed 8 about the advisory opinions that were released by the 9 administrator, and that nothing has been updated on the 10 administrator's website. I noticed in your report this 11 time there was an indication the administrator had 12 released a number of opinion letters, but those have 13 not been added to the website. Is there any intention 14 to do that?</p> <p>15 MR. ZAVISLAN: So I'm not sure where you 16 get the information. I issued a letter opinion (sic) 17 in December that was on credit, on lending, but I don't 18 think we have issued a formal letter opinion on any 19 CFDCPA-related issues in my eight months here.</p> <p>20 Certainly we've had a lot of 21 correspondence, we've had informal correspondence, but 22 I don't think anything that would be -- unless I've 23 just missed it, Makyla, and I'm sorry if I have, but 24 I'm not aware of it.</p> <p>25 MS. MOODY: If I may, it says -- I guess</p>	<p>1 distinction. If it's an enforcement letter, I don't 2 think that the person they give it to, who's being 3 enforced, wants that published. But if it's a, Hey, we 4 wonder if we're doing this wrong ...</p> <p>5 MR. ZAVISLAN: Yeah, I'm going to follow 6 up, Makyla and Dan, on that very specific thing because 7 I'm not sure what exactly those are -- well, not so 8 much what they are, what our history has been about 9 updating those on our website. I don't think 10 historically we had that right.</p> <p>11 MS. MOODY: And to be clear, I'm not 12 advocating that we publish the disciplinary actions, it 13 was the advisory position.</p> <p>14 MR. ZAVISLAN: Right. And I think 15 that -- we may call them that, but I don't know that 16 they are advisory in the sense of giving an 17 interpretation of the statute, right, but we'll take a 18 look at it definitely.</p> <p>19 MR. SHOOP: My name is Mike Shoop, 20 S-H-O-O-P. And I think what -- I think what you may be 21 thinking of is, there used to be an advisory opinion 22 issued on occasion by the administrator about a certain 23 rule or about a certain piece of legislation, and those 24 advisory opinions were public and sent to everybody.</p> <p>25 Advisory letters regarding disciplinary actions have</p>
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<p>1 computer. I kid you not at all. Okay. Thank you. I 2 will definitely add that to an agenda as well.</p> <p>3 MR. VEDRA: There's one from about 2005 4 that's wrong.</p> <p>5 MR. ZAVISLAN: Well, Daniel --</p> <p>6 UNIDENTIFIED SPEAKER: Yeah, but that was 7 the 2000s, so ...</p> <p>8 MR. ZAVISLAN: I can give you the three 9 months where I was previously the acting administrator, 10 and I can talk about the last eight months where I've 11 been the acting administrator, and I can guarantee you, 12 nothing wrong here.</p> <p>13 Any last comments, questions, concerns? 14 Yes, Eileen.</p> <p>15 MS. EVANS: Hi. I'm a financial analyst. 16 And just as a comparison with law and finance, the City 17 of Boulder has its comprehensive annual financial 18 report, which only accountants and finance people can 19 understand; then they have a simplified version for 20 people called the Pather (phonetic). And I'm wondering 21 if you could take this law and put it in a simplified 22 version for people to understand.</p> <p>23 Because I still don't understand how a 24 debt collector attaches itself to a debt and what's 25 required at that first step. Because I had -- I had my</p>	<p>1 you guys would hand out to ... 2 MR. ZAVISLAN: I think those have long 3 gone the way of the dust. It's probably worth looking 4 at that again and reviving something like that. I'm 5 just trying to think of a way rather than our office 6 saying, Well, here's what we think the FDCPA means -- 7 Dan.</p> <p>8 MR. VEDRA: So I agree that that's 9 information that's necessary. And I think that it 10 would be helpful on all ends, because I imagine your 11 staff received lots of phone calls, I assume the 12 collection agencies received lots of phone calls, and I 13 received lots of phone calls that say, Why do they want 14 so much money from me, they bought this for pennies on 15 the dollar?</p> <p>16 And there's a multitude of different ways 17 that debts are bought and sold and how ownership 18 changes or how rights change. And you can't capture 19 them all, but there's, like, three or four different 20 ones that come up most of the time. And so having that 21 information on the attorney general's website or on the 22 Stop Fraud Colorado website that would be much better 23 than people Googling it, finding these just bizarre 24 briefs that end up getting filed in court cases that 25 are 150 pages long; and they're talking about, you</p>
<p>1 wage garnished before they had ever communicated 2 anything with me. So I'm looking for the very basics 3 of how this law works and where the abuses happen. The 4 same thing happens with the SEC governing -- or 5 overseeing financial advisors.</p> <p>6 So having a list of -- in plain English 7 where the abuses are or where they might occur, what is 8 required would be helpful for nonattorneys.</p> <p>9 MR. ZAVISLAN: Go ahead, T.A.</p> <p>10 MS. TAYLOR-HUNT: We can help with that.</p> <p>11 MS. EVANS: Okay.</p> <p>12 MR. ZAVISLAN: So let me just put out as 13 a thought, again, probably not for me, but for whomever 14 is permanent. And this would, I think, in total 15 fairness, would be a collaborative type of effort 16 between consumer advocacy groups, debt collections, and 17 my office. If we were to put out that kind of a -- you 18 know, the laymen's view of the FDCPA, right, what it 19 means, what it says in a collaborative way; nonbinding, 20 right, not as in a formal opinion, what do those in the 21 room think about that kind of a collaborative approach 22 that would be educational and hope fully help consumers 23 who are on their own trying to sort through this? Tom.</p> <p>24 MR. ROMOLA: Years ago, and I assume 25 they're still around, there used to be booklets that</p>	<p>1 know, Supreme Court decisions from, like, the 18th 2 Century that make no sense, that would be very helpful, 3 I think, to everyone, and I think that there's probably 4 consensus on that here. I think it would be a great 5 idea.</p> <p>6 MR. ZAVISLAN: So let me just make this 7 offer: I'm going to give you my email address, which 8 is jan.zavislan@coag.gov. Now, this is not an 9 invitation for you to email me about every single 10 possible thing.</p> <p>11 What I'm looking for is if you are 12 interested down the road in participating in a group 13 discussion and/or drafting of such a thing, maybe it's 14 updating the brochures, maybe it's providing some 15 better guidance, I can't think of a better public 16 service that we could offer in conjunction with our 17 constituencies, both the regulated side and the 18 consumer side, on something that actually would be 19 meaningful out there as a -- informal maybe, but as a 20 public document.</p> <p>21 So, please, only if you are interested in 22 participating in that kind of a process. And I can't 23 guarantee it's going to happen, but it's certainly a 24 conversation that I'll have with Phil Weiser and with 25 the new administrator, as I think it would be</p>

<p>1 potentially a very positive step.</p> <p>2 MS. STURGES: Again, from the judicial</p> <p>3 perspective, there's a move to move towards plain</p> <p>4 language in our forms; and so I will definitely</p> <p>5 volunteer one of my colleagues who's working very</p> <p>6 closely with that. And consistent with that, also</p> <p>7 visually moving away from texts and being much more</p> <p>8 visual, like, almost doing a Candyland game type of</p> <p>9 visual for the public. So those efforts are efforts</p> <p>10 that judicial is looking at very hard because of the</p> <p>11 way people process information now.</p> <p>12 MR. ZAVISLAN: So I was, Sharon, a Chutes</p> <p>13 and Ladders guy instead of Candyland guy, so ...</p> <p>14 All right. So we will -- I think if I</p> <p>15 did -- we'll see what kind of interest we get. You</p> <p>16 know, there's things that we're going to have to think</p> <p>17 through a little bit, right. I mean, number one, you</p> <p>18 know, physician, you know, do no harm. We can't</p> <p>19 mislead further. We can't create confusion where there</p> <p>20 really shouldn't be confusion. We can't suggest that</p> <p>21 if we do the four or five things that Dan was talking</p> <p>22 about, that somehow that impliedly excludes others.</p> <p>23 So I think it's worth having at least</p> <p>24 some discussions about what that might look like, what</p> <p>25 that might include for everybody's benefit. But I'd</p>	<p>42</p> <p>1 CERTIFICATE</p> <p>2 STATE OF COLORADO)</p> <p>3 COUNTY OF DENVER) ss.</p> <p>4 I, Teresa Hart, a Registered Professional</p> <p>5 Reporter and Notary Public for the State of Colorado,</p> <p>6 do hereby certify that the above-entitled hearing was</p> <p>7 taken in shorthand by me at the time and place</p> <p>8 hereinabove set forth and were thereafter reduced to</p> <p>9 typewritten form by computer-aided transcription; that</p> <p>10 the foregoing is a true transcript of the questions</p> <p>11 asked, testimony given, and proceedings had; that I am</p> <p>12 not attorney, nor counsel, nor in any way connected</p> <p>13 with any attorney or counsel for any of the parties to</p> <p>14 said action or otherwise interested in its event.</p> <p>15 IN WITNESS WHEREOF, I have hereunto affixed my</p> <p>16 hand and notarial seal this 4th day of February, 2019.</p> <p>17 My commission expires: January 19, 2020.</p> <p>18</p> <p>19</p> <hr/> <p>20 TERESA HART</p> <p>21 Registered Professional Reporter</p> <p>22 and Notary Public</p> <p>23 CALDERWOOD-MACKELPRANG, INC.</p> <p>24</p> <p>25</p>
<p>43</p> <p>1 like to do it -- my personal view, I'd like to do it</p> <p>2 and get industry buy-in for that kind of an outreach</p> <p>3 effort as well as the debtor side as well.</p> <p>4 Okay. Yeah, Thomas.</p> <p>5 MR. RUMOLA: One last question. Any</p> <p>6 update on that Lexington law issue?</p> <p>7 MR. ZAVISLAN: Nope.</p> <p>8 MR. RUMOLA: Is that the best answer you</p> <p>9 can give me?</p> <p>10 MR. ZAVISLAN: It's the only one I can</p> <p>11 give. We can talk offline, but I'm not going to be</p> <p>12 able to tell you much more than that at this point.</p> <p>13 MR. RUMOLA: All right. Thank you.</p> <p>14 MR. ZAVISLAN: Yes. It's not closed, it</p> <p>15 you had that fear.</p> <p>16 Any last questions, comments, statements?</p> <p>17 All right, seeing none, thank you all very much for</p> <p>18 coming over.</p> <p>19 (The proceedings were concluded at</p> <p>20 11:03 a.m., on Friday, January 25, 2019.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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