
In The
**Court of Appeals
of Maryland**

Petition Docket No. 299

September Term, 2017

LVNV FUNDING LLC,

Petitioner,

vs.

LARRY FINCH, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the Court of Special Appeals

**BRIEF OF AMICUS CURIAE RECEIVABLES
MANAGEMENT ASSOCIATION INTERNATIONAL, INC. IN
SUPPORT OF PETITION FOR WRIT OF CERTIORARI**

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The Receivables Management Association International, Inc., (hereinafter, “RMA”)¹ respectfully submits this amicus curiae brief in support of Petitioner.²

**STATEMENT OF IDENTITY, INTEREST IN CASE, AND
AUTHORITY TO FILE**

RMA is the nonprofit trade association that represents more than 550 companies that purchase or support the purchase of performing and non-performing receivables on the secondary market. Members of RMA must conform to its Code of Ethics which requires its members to adhere to the highest standards of professional conduct in the industry.

In 2013, RMA introduced the Receivables Management Certification Program (the “Program”). The Program promotes

¹ RMA International was known as DBA International prior to February of 2017.

² Pursuant to Md. Rule 8-511(b)(1)(C), RMA has obtained the consent of all parties to file the within brief. Counsel for respondents instructed RMA to insert the following language: ““All parties have provided their written consent to the filing of this amici-curiae brief without waiver of any statutory, rule, or common law rights to respond as necessary or appropriate.” Exhibit “A”. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amicus curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

uniform, consumer-oriented, best practice standards for the receivables management industry. The Program accomplishes this through the adoption of national standards for the receivables management industry, including debt buying companies, third party agencies, collection law firms, and brokers, to ensure that those who are certified are not only complying with, but exceeding, state and federal statutory requirements, responding to consumer complaints and inquiries, and adhering to industry best practices.

The Program requires all certified companies to undergo an independent third-party compliance audit to validate conformity with the Program's standards. This audit includes an onsite inspection to validate full integration of RMA's rigorous standards into each company's operations. Following a company's initial certification, review audits continue to be conducted every two to three years.

Program certification also requires RMA member companies to engage, at the minimum, a chief compliance officer, with a direct or indirect reporting line to the president, chief executive officer, board of directors, or general counsel of the company. The chief compliance officer must maintain individual certification through

the Program by completing 24 creditor hours of continuing education every two years.

RMA's Certification Program was recognized by a resolution of the Michigan State Senate as "exceed[ing] state and federal laws and regulations through a series of stringent requirements that stress responsible consumer protection through increased transparency and operational controls . . ." Michigan SR-33 (March 26, 2015).³

RMA is a leader in establishing just and equitable standards for the collection of consumer debt. The federal regulator of debt purchasers, the Consumer Financial Protection Bureau, has cited the standards of the RMA Certification Program as "best practices." Consumer Financial Protection Bureau, Small Business Review Panel For Debt Collector and Debt Buyer Rulemaking, Outline Of Proposals Under Consideration, July 28, 2016, p. 38 (publicly available at

³ publicly available at <http://www.legislature.mi.gov/documents/2015-2016/resolutionadopted/Senate/pdf/2015-SAR-0033.pdf>.

http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf).⁴

At the state level, in 2017 RMA has worked with legislators and regulators in Colorado, Maine, and Oregon in the enactment of enhanced laws and regulations for the collection of purchased consumer debts.

Just last year RMA engaged the Maryland Attorney General's office in moving forward SB 771/ HB 1491 which set enhanced standards for litigation of consumer debt. Exhibit "B". RMA supports efforts such as these that provide enhanced consumer protections and permit compliant participants, like Petitioner LVNV Funding LLC ("LVNV"), to conduct their business.

LVNV has been certified by the Program since 2014 under certification number C1410-1029. The debt buying companies certified by the Program hold approximately 80 percent of all purchased receivables in the country, by RMA's estimates.

RMA supports Petitioner's application for a writ of

⁴ "To establish a baseline for understanding the impacts of the proposals under consideration, this section describes the [CFPB's] understanding of practices of collectors that seek to comply with the FDCPA and follow industry best practices such as those outlined in DBA International's (DBA) certification program . . ."

certiorari. As discussed more fully below, the decision from the court below improperly imposes liability upon passive debt buying companies who relied upon the July 20, 2007 written opinion of the Commissioner of the Division of Financial Regulation (the “Commissioner’s Opinion”) in determining they need not be licensed under the Maryland Collection Agency Licensing Act (“MCALA”) beginning October 1, 2007. Md. Code Ann., Bus. Reg. §§ 7-101–502 (2017). Imposing liability upon companies like LVNV who followed the directive of the Commissioner’s Opinion causes significant harm to RMA’s members -- particularly because it was RMA who requested the Commissioner’s Opinion and understood that the opinion should be interpreted to exempt LVNV and similar RMA members from licensure.

QUESTIONS PRESENTED

RMA adopts the questions presented in the Petition for Writ of Certiorari (“Petition” or “Pet’n”). (Pet’n, p. 2.)

STATEMENT OF THE FACTS

RMA adopts the statement of facts sections in the Petition, Id., 3-4.

STATEMENT OF THE CASE

This dispute arises from a 2007 amendment to the MCALA

enacted under HB 1324 which would require certain purchasers of defaulted consumer debt to be licensed as collection agencies. RMA was an active participant in the enactment of HB 1324 and understood that HB 1324 did not require passive debt buying companies – those that purchased defaulted debt, but engage others to collect it – to be licensed. This reading is consistent with the state regulator’s written opinion which RMA was instrumental in obtaining. Because the decision of the court below imposed liability upon LVNV for not being licensed, Certiorari should be granted.

ARGUMENT

THE COMMISSIONER UNDERSTOOD HB 1324 WAS NOT INTENDED TO REQUIRE LICENSURE OF PASSIVE DEBT BUYERS AND IT IS UNJUST TO IMPOSE LIABILITY FOR ACCEPTING THE COMMISSIONER’S INTERPRETATION.

**A. The Commissioner, as the Author of HB 1324,
Understood it was Not Intended to Require Licensure
of Passive Debt Buying Companies**

In 2007, the Maryland Legislature took up consideration of HB 1324 which proposed to amend the MCALA to require entities which purchase defaulted consumer loans to be licensed as collection agencies.

RMA members include entities which purchase defaulted consumer loans and then collect those loans themselves. These “active” debt buying companies directly engage consumers in the collection process. But not all purchasers of defaulted consumer loans are alike and some outsource the collection of their purchased debt. These entities are referred to as “passive” debt purchasers.

As HB 1324 was making its way through the Maryland legislature, RMA sought to identify whether the proposed law would require its members who are passive debt purchasers to be licensed as collection agencies. During discussions between an RMA board member and the Commissioner of the Division of Financial Regulation (at the time, Charles W. Turnbaugh), RMA learned that HB 1324 was not intended to require licensure of passive debt buying companies. Exhibit “C”, Letter of Barbara A. Sinsely, General Counsel, RMA International, April 19, 2007 (“RMA Letter”). See also Exhibit “D” Transcript of Sworn Statement of Charles W. Turnbaugh, April 12, 2011 (“Transcript”), Exhibit “D”, p. 13, l. 11-21, p. 14, l. 1-14. Because of these discussions, RMA board

member Stuart Blatt withdrew his request to testify in opposition to HB 1324. *See* RMA Letter.

On April 19, 2007 RMA wrote the Commissioner requesting, in conformance with these discussions, his written opinion that HB 1324 did not require passive debt buying companies to obtain a license under the MCALA. *Id.*

HB 1324 was signed into law by the Governor on May 8, 2007 with a licensing effective date of October 1, 2007. On June 20, 2007 the Commissioner responded to RMA's request and issued a written opinion that

It is the position of the Commissioner that a debt buyer who purchases debt in default, but is not *directly* engaged in the collection of these purchased debts, is not required to obtain a collection agency license provided that all the collection activity performed on behalf of such debt buyer is done by a properly licensed collection agency in the State of Maryland.

Exhibit "E", Letter of Kelly Mack, Financial Examiner, June 20, 2007 ("Commissioner's Letter") (emphasis added).

That HB 1324 did not require licensing of entities that were not *directly* collecting defaulted debts owed to them was reiterated by the Commissioner a month later in Advisory Notice 07-06 which

stated that the new licensing “requirement applies to persons who are *directly* collecting claims that they own . . .” Office of the Commissioner of Financial Regulation, Advisory Notice 07-06, July 17, 2007 (emphasis added) (publicly available at <http://www.dllr.state.md.us/finance/advisories/advisory07-06.shtml>).

RMA members that were “passive” debt buying companies do not collect debt from consumers themselves and instead use Maryland licensed collection agencies or attorneys to do undertake such activity. See RMA Letter. Such passive debt purchasing entities took “no action to personally or through their employees to collect the debt,” but would instead “use licensed collection agencies' personnel” or “use law firms to file suit on their behalf,” were deemed to not be directly engaged in collecting debt and were not required to be licensed. Transcript, p. 16, l. 12-20.

Prior to the October 1, 2007 effective date, RMA then issued a press release advising that that Commissioner’s Opinion Letter exempted passive debt buying entities from the new licensing requirement. Exhibit “F”, RMA Press Release. RMA’s interpretation

is consistent with the Commissioner's Opinion Letter and Advisory Notice 07-06, July 17, 2007. Transcript, p. 15, l. 1-9.

**B. The Commissioner's Interpretation Changes in 2010
with Advisory Notice 05-10.**

By 2010, Charles W. Turnbaugh was no longer Commissioner of Financial Regulation. Transcript, p. 5, l. 4-10. On May 5, 2010 the then Commissioner of Financial Regulation issued Advisory Notice 05-10 which stated that an entity which purchases defaulted “consumer claims” and collects such claims through “civil litigation,” must be licensed “regardless of whether an attorney representing the [entity] in the litigation is a licensed collection agency.” Office of the Commissioner of Financial Regulation, Advisory Notice 05-10, May 5, 2010 (emphasis added) (publicly available at <http://www.dllr.state.md.us/finance/advisories/advisory5-10.shtml>). Although it would appear this notice conflicted with the opinion provided in the Commissioner's Letter of June 20, 2007 and Advisory Notice 07-06, Advisory Notice 05-10 states that this latest pronouncement “has been [the Commission's] consistent position.” Id.

C. The Commissioner's Advisory Notice 05-10 Is Not Consistent with His Prior Advisory Notice, the Commissioner's Opinion Letter or HB 1324.

RMA did not view Advisory Notice 05-10 as “consistent” with the position taken by former Commissioner Turnbaugh in his communications with RMA prior to HB 1324’s enactment. It is not consistent with Advisory Notice 07-06 or the Commissioner’s Opinion Letter of June 20, 2007, all of which support the conclusion that a passive debt purchaser, not directly engaged in debt collection activity with a consumer, is not required to be licensed. Advisory Notice 05-10 was a complete reversal of RMA’s understanding and what had been communicated to it from the Commissioner before, during and after the enactment of HB 1324.

Advisory Notice 05-10’s statement that its interpretation has “been its consistent position” is, in fact, “not an accurate statement.” Transcript, p. 17, l. 13-21; p. 18, l. 1-6. As former Commissioner Turnbaugh stated under oath in 2011, Advisory Notice 05-10 was “not my understanding” and HB 1324 was “never intended to prevent someone accessing the court system.” *Id.*, p.18, l. 12-14.

**D. RMA Members Should Not Punished for Activities
Consistent with the Commissioner's July 20, 2007
Opinion.**

RMA members expect that regulators are qualified to interpret laws they are tasked to execute. And when a regulator issues a written opinion concerning the application of such a law, RMA members cannot be faulted for abiding by the regulator's opinion.

Advisory Notice 05-10's change in this understanding is unfortunate, but it is not the Commissioner's "consistent position." And to suggest otherwise ignores the history of HB 1324 in which RMA was an active participant.

The decision of the court below imposes liability upon LVNV for the wrong reason. LVNV's decision to follow the opinion of the regulator tasked with enforcing the MCALA should not be the basis for its liability. It is a fundamental injustice that LVNV should be punished when it, RMA and its members were assured before, during and after enactment that passive entities were exempt from HB 1324.

CONCLUSION

The Court should grant certiorari and reverse the decision of the court below.

Dated: October 10, 2017

Respectfully submitted,



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⁵ Pursuant to Maryland Rule 1-313, I hereby certify that I am admitted to practice law in Maryland.

**CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH
RULE 8-112**

1. This brief contains 2084 words, consistent with the requirements stated in Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.



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EXHIBIT

A



Donald Maurice <dmaurice@kahrlwutscherllp.com>

RE: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

1 message

Ronald Canter <rcanter@roncanterllc.com>

Fri, Oct 6, 2017 at 2:21 PM

To: Donald Maurice <dmaurice@mauricewutscher.com>

Mr. Maurice

LVNV consents to the filing of your client's Amicus brief.

Ronald S. Canter, Esquire (MD, FL, PA, DC, VA)

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From: Donald Maurice [mailto:dmaurice@mauricewutscher.com]

Sent: Friday, October 06, 2017 2:18 PM

To: Ronald Canter

Subject: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

Dear Mr. Canter,

I am outside counsel to RMA International, the trade association of debt buying companies.

My client respectfully requests your consent to file in amicus in support of LVNV's petition for certification in the referenced matter. My client's brief is due Tuesday and your early response is appreciated.

Regards,

Donald S. Maurice | Member MA, NJ, NY & DC Bars

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Donald Maurice <dmaurice@kahrlwutscherllp.com>

RE: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

1 message

Phillip Robinson <phillip@marylandconsumer.com>

Sat, Oct 7, 2017 at 1:37 PM

To: Donald Maurice <dmaurice@mauricewutscher.com>

Cc: Daniel Geyser <daniel.geyser@strismaher.com>, Peter Stris <peter.stris@strismaher.com>, "Scott C. Borison, Esq" <borison@legglaw.com>, Phillip Robinson <phillipreaserobinson@gmail.com>

Don

You may report to the Court as follows, "All parties have provided their written consent to the filing of this amici-curiae brief without waiver of any statutory, rule, or common law rights to respond as necessary or appropriate."

Phillip

--

Phillip Robinson, Attorney Consumer Law Center LLC 8737 Colesville Road, Suite 308 Silver Spring, MD 20910 Phone (301) 448-1304 Email: phillip@marylandconsumer.com

From: Donald Maurice [mailto:dmaurice@mauricewutscher.com]

Sent: Friday, October 06, 2017 2:47 PM

To: Phillip Robinson <phillip@marylandconsumer.com>

Cc: Daniel Geyser <daniel.geyser@strismaher.com>; Peter Stris <peter.stris@strismaher.com>; Scott C. Borison, Esq <borison@legglaw.com>; Phillip Robinson <phillipreaserobinson@gmail.com>

Subject: Re: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

My client will discuss the industry's understanding of licensing of passive debt buying entities.

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On Fri, Oct 6, 2017 at 2:42 PM, Phillip Robinson <phillip@marylandconsumer.com> wrote:

Don,

Pursuant to Md. Rule 8-511 it would be helpful for us to understand what specific issues your client intends/anticipates raising so we can respond to your request. Thanks

Phillip

--

Phillip Robinson, Attorney Consumer Law Center LLC 8737 Colesville Road, Suite 308 Silver Spring, MD 20910
Phone (301) 448-1304 Email: phillip@marylandconsumer.com

From: Daniel Geyser [mailto:daniel.geyser@strismaher.com]
Sent: Friday, October 06, 2017 2:33 PM
To: Donald Maurice <dmaurice@mauricewutscher.com>
Cc: Peter Stris <peter.stris@strismaher.com>; (borison@legglaw.com) <borison@legglaw.com>; 'Phillip Robinson' <phillipreaserobinson@gmail.com>; Phillip Robinson <phillip@marylandconsumer.com>
Subject: RE: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

Dear Don:

As requested, I've copied Peter, Scott, and Phil on this e-mail, so they can see the original below.

All the very best,

Dan.

Daniel L. Geyser | [Stris & Maher LLP](#)

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From: Donald Maurice [mailto:dmaurice@mauricewutscher.com]
Sent: Friday, October 06, 2017 1:29 PM

To: Daniel Geyser <daniel.geyser@strismaher.com>

Subject: Fwd: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

I received bounce backs from Peter, Scott Borison and Phil Robinson.

Can you forward it along to them or provide correct emails?

Thanks,

Donald S. Maurice | Member MA, NJ, NY & DC Bars
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----- Forwarded message -----

From: **Donald Maurice** <dmaurice@mauricewutscher.com>

Date: Fri, Oct 6, 2017 at 2:14 PM

Subject: Request for Consent for Amicus in Support of LVNV - LVNV v. Finch (MD Ct of Appeals) Docket No. 299, Sept. 2017 Term

To: daniel.geyser@strismaher.com, peter.stris@strismaher.com, borjson@legglaw.com,
phillip@marylandconsumer.com, dbblawyer21701@aol.com

Cc: Shannon Miller <smiller@mauricewutscher.com>, Stephen Sherman <ssherman@mauricewutscher.com>

All,

I am outside counsel to RMA International, the trade association of debt buying companies.

My client respectfully requests your consent to file in amicus in support of LVNV's petition for certification in the referenced matter. My client's brief is due Tuesday and your early response is appreciated.

Regards,

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EXHIBIT B



SB 771/ HB 1491

Support

DBA International, the nonprofit trade association which represents more than 550 companies that purchase or support the purchase of receivables on the secondary market supports the passage of SB 771/HB 1491, as amended.

We wish to thank the Attorney General's Office and the bill sponsors for introducing a bill concerning the litigation of consumer debt. We wholeheartedly agree that consumers should be treated fairly and provided with accurate information detailing the consumer's contractual obligations during any litigation that results from a consumer's inability to make their required payments.

This bill would statutorily codify several provisions contained in the Maryland Rules of Procedure (MRP) which were adopted in 2011 after an exhaustive drafting and review process involving stakeholders from all impacted industries, consumer advocates, the Maryland Attorney General's Office, and the Maryland judiciary. While the MRP only applied to cases brought in the district court, this bill will have the added benefit of applying to all cases whether filed in the district court or circuit court.

Additionally, DBA International would like to highlight the inclusion of our suggested amendment that would prevent any payment made after the statute of limitations has expired from restarting the limitations period. We see this provision as a significant enhancement in consumer protection for Maryland residents and consistent with industry best practices.

Please do not hesitate to contact David Reid (DBA Director of Government Affairs & Policy) at (916) 482-2462 or dreid@dbainternational.org should you have any questions.

DBA International (DBA) is the nonprofit trade association that represents more than 550 companies that purchase performing and nonperforming receivables on the secondary market. DBA's [Receivables Management Certification Program](#) and its [Code of Ethics](#) set the "gold standard" within the receivables industry due to its rigorous uniform industry standards of best practice, which focus on the protection of the consumer.

EXHIBIT C

RECEIVED
STATE OF MARYLAND

APR 25 2007

COMMISSIONER OF
FINANCIAL REGULATION



April 19, 2007

Charles Turnbaugh, Commissioner
Division of Financial Regulation
Maryland Department of Labor, Licensing and Regulation
500 N. Calvert Street
Baltimore, Md. 21202

Re: HB 1324

Dear Mr. Turnbaugh:

I am writing to you to follow the conversation you had with Stuart R. Blatt, Esq. of Margolis, Pritzker, Epstein & Blatt, P.A. in Annapolis at the time of the Hearing before the House on HB 1324. Mr. Blatt is also the President of the Maryland/District of Columbia Creditors Bar Association and had submitted written testimony on HB 1324. As you may recall, Mr. Blatt discussed with you and Michael Jackson Director of Regulatory Policy, the issue of what constitutes "collection activity" specifically, the issue of the absence of collection activity by an investor. You agreed that licensing would not be a requirement for an investor (this will be referred to below as a "passive debt buyer"). Accordingly, Mr. Blatt withdrew his request to testify before the Committee after your joint discussion and after your willingness to offer an opinion letter. ?

Mr. Blatt is on the Board of DBA International and he asked me to author this letter to you.

As General Counsel of DBA International, I would like to discuss with you the exclusion for licensing of what is commonly referred to as "passive debt buyers" or those who do not engage in collection activity in the State of Maryland.

DBA International is the largest trade association representing the debt buying industry with over 650 member firms with thousands of employees nationwide. As you may be aware, debt buying has emerged as a common place practice over that last two decades as the major credit institutions routinely sell their defaulted debts. In fact, there are currently, four publicly traded debt buying companies in the United States. Many

debt buyers collect on their own debt via traditional means of letters and calls and are therefore subject to the Fair Debt Collection Practices Act 15 USC 1692 et seq. and other state laws on how debt collection must be conducted. It is a highly regulated industry which strives at all times to be compliant with the applicable federal and state laws.

However, many parties buying debt in the United States do not actually collect on the debts themselves but may be an investor in a portfolio of debt or an owner of debt that "outsources" all collections to licensed collection agencies in your state or attorneys in your state. Therefore, no communication is made with the consumer by the "passive" debt buyer and the passive debt buyers are not engaging in or attempting to collect on consumer debt via any means of interstate commerce themselves.

I have been advised that you have considered issuing an opinion letter that can be utilized by passive debt buyers much like was issued by the State of Massachusetts. I attach for reference the letter issued by the Deputy Commissioner of Banks of the State of Massachusetts Selected Opinion 06-060 and which has been posted on the state website at www.mass.gov under the Division of Banks, "For Government" tab on debt collections. In brief, their letter states;

Following the issuance of the June 16, 2006 Industry Letter, the Division received several inquiries as to whether a debt buyer that engages only in the practice of purchasing delinquent consumer debts for investment purposes without undertaking any activities to directly collect on the debt would be considered a debt collector under the Debt Collection Law. This type of debt buyer is typically referred to as a "passive" investor or "passive" debt buyer. It is a common practice for the passive debt buyer to retain a licensed debt collector to directly engage in the collection of its purchased debts.

The Division seeks to ensure that collection activities involving Massachusetts consumers are conducted in

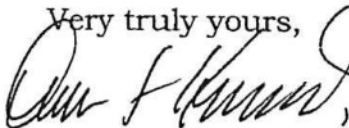
accordance with the Debt Collection Law and remain subject to appropriate regulatory oversight. It is the position of the Division that a debt buyer who purchases debt in default but is not directly engaged in the collection of these purchased debts is not required to obtain a debt collector license


provided that all collection activity performed on behalf of such debt buyer is done by a properly licensed debt collector in the Commonwealth or an attorney-at-law licensed to practice law in the Commonwealth. See Opinion 006059.

We respectfully request a similar opinion letter that can be issued to DBA International and applicable to all passive debt buyers, members or not, that excludes the passive debt buyer for licensing. We would be happy to work with you on language and we would be interested in meeting with you to answer any questions that you might have about the debt buying industry. We can share with you cooperative initiatives and educational programming available to our members and resources that debt buyers provide for consumers.

We appreciate your time and attention to this very important matter and look forward to discussing an opinion letter exempting passive debt buyers from licensing in the very near future.

Very truly yours,

, Executive Director

 Barbara A. Sinsley
General Counsel
DBA International

CC: Michael Jackson, Director of Regulatory Policy



The Commonwealth of Massachusetts

Case 1:10-cv-00484-BPG Document 16-11 Filed 03/30/10 Page 5 of 7

Office of the Commissioner of Banks

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Boston, Massachusetts 02110

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GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEVEN L. ANTONAKES
COMMISSIONER OF BANKS

October 13, 2006

JANICE S. TATARKA
DIRECTOR
OFFICE OF CONSUMER AFFAIRS AND
BUSINESS REGULATION

The Division is issuing the following opinion pertaining to the licensing of debt buyers as debt collectors in the Commonwealth in response to several recent inquiries.

The Division licenses and examines entities engaged in the collection of debts in the Commonwealth. It is the Division's position that entities purchasing debt in default at the time of purchase, commonly referred to as "debt buyers", must be licensed as debt collectors. This position is set forth in an Industry Letter issued by the Division dated June 16, 2006. Accordingly, debt buyers, as referred to in the June 16, 2006 Industry Letter, are subject to the Commonwealth's debt collection laws, General Laws chapter 93, sections 24-28, inclusive and the Division's regulation, 209 CMR 18.00 *et seq* (collectively the "Debt Collection Law").

Following the issuance of the June 16, 2006 Industry Letter, the Division received several inquiries as to whether a debt buyer that engages only in the practice of purchasing delinquent consumer debts for investment purposes without undertaking any activities to directly collect on the debt would be considered a debt collector under the Debt Collection Law. This type of debt buyer is typically referred to as a "passive" investor or "passive" debt buyer. It is a common practice for the passive debt buyer to retain a licensed debt collector to directly engage in the collection of its purchased debts.

The Division seeks to ensure that collection activities involving Massachusetts consumers are conducted in accordance with the Debt Collection Law and remain subject to appropriate regulatory oversight. It is the position of the Division that a debt buyer who purchases debt in default but is not directly engaged in the collection of these purchased debts is not required to obtain a debt collector license provided that all collection activity performed on behalf of such debt buyer is done by a properly licensed debt collector in the Commonwealth or an attorney-at-law licensed to practice law in the Commonwealth. *See* Opinion O06059.

This opinion is effective as of October 2, 2006.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
And General Counsel

O06060

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Industry Letter Concerning the Massachusetts Debt Collection Statutes, and its Applicability to Debt Buyers, So Called

By the [Division of Banks](#)

June 16, 2006

TO ALL INTERESTED PARTIES CONCERNING THE MASSACHUSETTS DEBT COLLECTION STATUTES, GENERAL LAWS CHAPTER 93 SECTIONS 24 TO 28 INCLUSIVE AND ITS APPLICABILITY TO DEBT BUYERS, SO CALLED.

The Division of Banks ("Division") has issued this industry letter to clarify its position on whether a person collecting subsequently acquired or assigned debt is required to be licensed as a debt collector. Such a person is often referred to as a 'debt buyer'. The question is raised due to substantial revisions to General Laws chapter 93 sections 24 to 28, inclusive (the "Debt Collection Law"). After the statutory changes the Division completely rewrote the Debt Collection Law's implementing regulations, 209 CMR 18.00 et seq. (the "Regulations"). The amendments to the Debt Collection Law were based upon a Legislative recommendation filed by the Division.

The amended Debt Collection Law was modeled after the federal Fair Debt Collection Practices Act ("FDCPA"). The Federal Trade Commission is the federal agency charged with enforcement of the FDCPA. The definitions of "debt" and "debt collector" are in all significant respects the same in each of the respective cited laws and are key to the question presented. The Regulations provide no additional guidance as they track the statutory definitions. The Division also reviewed the treatment of this issue under the FDCPA to determine if any additional clarification could be obtained.

Specifically, the question at issue pertains to a person purchasing debt from another which is in default at the time of purchase or acquisition. Under the prior law, the Division's well established position reflected in enforcement as well as opinions was that licensing was not required for a person who collected its own debt whether or not such debt was in default at the time of purchase or acquisition. Accordingly, such a person did not need to obtain a debt collection license from the Division. However, the owner of debt collecting in its own name was required to comply with the appropriate regulations of the Commonwealth's Attorney General.

As noted above, certain definitions in statute are significant to the determination of the issue. Section 24 of the Debt Collection Law defines "debt" as:

"any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not the obligation has been reduced to judgment."

Additionally, section 24 of the Debt Collection Law provides, in pertinent part, that a "debt collector" means

"any person who uses an instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of a debt, or who regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted to be owed or due another..."

A number of exemptions to the definition of "debt collector" exist. The exemption set out in clause (f) sub-clause (iii) provides that the term "debt collector" does not include a person collecting or attempting to collect a debt owed or due or asserted to be owed or due another to the extent the activity "concerns a debt which was not in default at the time it was obtained by the person." The corollary to the quoted language would mean that a person would be deemed a "debt collector" and licensing would be required if the person was collecting a debt which was purchased while in default.

Federal courts have concluded that a person purchasing a debt after default and whose principal activity was the collection of debt was a debt collector within the purview of the FDCPA. See, for example, *Kimber v. Federal Financial Corp.*, 668 F.

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Supp. 1480 which concluded that the defendant corporation, even though it was collecting debts for itself, was a debt collector within the meaning of the FDCPA "because the corporation regularly collects debts and debt collection is its principal purpose, and because the debts the corporation collects were already in default when they were assigned to the corporation and thus the corporation falls within the assignee exception to the definition of creditor." See also *Little v. World Financial Network, Inc.* Civil Action No. N-89-346 (D. Conn. July 15, 1990).

Similarly, federal courts analyzing the FDCPA have also dismissed arguments that collections must be for "another" or that a debt buyer is included within the definition of a "creditor" and therefore as a "creditor" would not be covered by the FDCPA. As noted in the *Kimber* case discussed above, a creditor does not include a person who received an assignment or transfer of a debt in default. The Division for the reasons stated above will follow these federal case precedents.

In summary, the Commonwealth's Debt Collection Law models the FDCPA. Federal courts have ruled that a 'debt buyer' is subject to the FDCPA. The Federal Trade Commission has successfully taken action against 'debt buyers' through its enforcement authority under the FDCPA. Based upon the use of the same language in the Commonwealth's Debt Collection Law and the FDCPA, it is the position of the Division that the Division should follow the interpretations of the FDCPA decided by federal courts and implemented as well as enforced by the Federal Trade Commission. Accordingly, a 'debt buyer' who otherwise meets the definition of a "debt collector", would be subject to the Commonwealth's Debt Collection Law and would now be required to obtain a license from the Division in order to collect debt from a consumer in Massachusetts arising out of a transaction primarily involving personal, family or household purposes.

The Division's application for a debt collector license and all related documents can be found on the Division's website at www.mass.gov/dob/ under Industry Services.

Sincerely,

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

EXHIBIT D

 ORIGINAL

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

TIMMY STONE, et al.

Plaintiffs

vs.

Case No. 1:2010cv00484

WAYRIC SERVICES, INC.

Defendant

_____/

The Sworn Statement of CHARLES W. TURNBAUGH
was held on Tuesday, April 12, 2011, commencing at 4:30
p.m., at the Law Offices of Thomas & Libowitz, P.A.,
100 Light Street, Suite 1100, Baltimore, Maryland
21202, before R. Dwayne Harrison, Notary Public.

REPORTED BY: R. Dwayne Harrison

1 APPEARANCES:

2

3 ON BEHALF OF THE DEFENDANT:

4 MARGARET L. ARGENT, ESQUIRE

5 Thomas & Libowitz, P.A.

6 100 Light Street, Suite 1100

7 Baltimore, Maryland 21202

8 Telephone: 410-752-2468

9 Facsimile: 410-752-0979

10 Email: margent@tandllaw.com

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3 April 12, 2011

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1 PROCEEDINGS

2 Whereupon,

3 CHARLES W. TURNBAUGH,

4 called as a witness, having been first duly sworn to
5 tell the truth, the whole truth, and nothing but the
6 truth, was examined and testified as follows:

7 (Turnbaugh Exhibit 1 was marked for
8 purposes of identification.)

9 EXAMINATION BY MS. ARGENT:

10 Q Mr. Turnbaugh, I'm going to show you first
11 your resume, Exhibit 1. Can you tell me whether or not
12 this is a current and up-to-date resume for your
13 professional history?

14 A It's current and up-to-date until
15 approximately the summer of 2008.

16 Q And what additional items should be
17 included to make it current?

18 A After the summer of 2008, I maintained my
19 own law and financial consulting practice for a period
20 of time and then joined an investment banking firm in
21 New York as a managing director responsible for helping

1 develop a bank recapitalization effort and I left that
2 firm the 1st of September 2010 and now continue to be a
3 financial consultant and practice a little law.

4 Q The resume indicates that you served as
5 Commissioner of Financial Regulation for the State of
6 Maryland from 2003 to 2007.

7 Could you tell me when in 2007 your
8 position as commissioner ended?

9 A Approximately August 1st. It was from
10 approximately August 1st, 2003 to August 1st, 2007.

11 Q Can you tell me what your experience in the
12 consumer credit industry, as part of your experience in
13 the financial services industry, was prior to your
14 becoming Commissioner of Financial Regulation in
15 Maryland?

16 A I spent approximately 30 years as counsel
17 for government affairs representative for consumer
18 finance companies and federal savings banks and
19 commercial banks with an emphasis on the consumer side,
20 whether it be consumer credit, mortgages or credit
21 cards, et cetera.

1 So my life for about 30 years had been
2 largely oriented toward the delivery of consumer credit
3 in the United States.

4 Q Are you familiar with the secondary market
5 for the purchase of defaulted debt in the context of
6 consumer credit?

7 A I am familiar with it. I know it exists.
8 I know it's very large and it plays an important role
9 in maintaining effective delivery of consumer credit to
10 the consumers.

11 Q And at that time that you were Commissioner
12 of Financial Regulation of Maryland, were you -- did
13 you have the same degree of familiarity that you've
14 just described with it?

15 A I probably was more familiar with it then
16 than I am now.

17 Q Okay. Can you discuss a little bit, if
18 you're familiar with -- and, again, I guess I want to
19 focus on what you knew as of the time you were
20 Commissioner of Financial Regulation, not any knowledge
21 you may have gained since then -- what you knew about

1 credit card loss rates in the context of the consumer
2 credit industry?

3 A I worked a long time ago for a firm. I
4 founded a credit card operation, a Visa/MasterCard
5 issuer and then, after I left Citibank, I worked within
6 the credit card industry for a major issuer for
7 approximately five years and it's there that I became
8 most aware that the credit card industry, in general,
9 spent little time in collecting its own debt.
10 Essentially, if a credit card went delinquent for 60 or
11 90 days, they stopped the collection effort and then
12 sold it into the secondary market.

13 Q And was the -- when you were Commissioner
14 of Financial Regulation, did you have an opinion about
15 whether or not it was important that that secondary
16 market for consumer debt including credit card debt
17 exist?

18 A Yes, I felt that it was positive for the
19 consumer that delinquent debt be able to be traded.
20 Credit is made available by banks and other lenders
21 when they know they can make a profit and if they could

1 not sell the debt when they decided it wasn't
2 worthwhile to collect it in-house, then that caused
3 their loss ratios to go up and for them to be more
4 restrictive in their credit standards.

5 Q I want to ask you now, Mr. Turnbaugh, about
6 the 2007 amendment to the Maryland Collection Agency
7 Licensing Act. I'm going show you and have the court
8 reporter mark a copy of House Bill 1324.

9 (Turnbaugh Exhibit 2 was marked for
10 purposes of identification.)

11 I'm showing you Exhibit 2 which is House
12 Bill 1324. I wanted to ask you specifically some
13 questions about how a particular section of this
14 amended statute came about.

15 First of all, you were commissioner of
16 financial regulation at the time that this bill was
17 proposed; is that correct?

18 A That's correct.

19 Q And where did the bill originate?

20 A The idea for the bill originated within the
21 staff of the consumer -- the commissioner's office that

1 supported the State Collection Agency Licensing Board
2 and enforced the Maryland collection statute.

3 Q And can you tell me a little bit more about
4 what the issue or issues that engendered this, the
5 concept for the amendment?

6 A Maryland law controlled the conduct of
7 collection agencies that were collecting debt for
8 others. In other words, it limited what the person
9 could say, prevented threatening actions, limited the
10 times, I believe, when the telephone calls could be
11 made and basically tried to prevent abusive practices
12 within the collection of consumer credit and -- what
13 was the rest of your question?

14 Q My question was to give a little bit more
15 detail about how this particular house bill was
16 amended. And, specifically, I'm talking about the
17 provision of the amended act that appears on page 2 --
18 which appears in the middle of the page at Roman
19 numeral II adding the terms "collecting a consumer
20 claim the person owns if the claim was in default when
21 the person acquired it."

1 A Okay. The staff began to be concerned that
2 some of the collection agencies that may have had a
3 tendency to abuse consumers began to claim that they
4 owned the debt that they were collecting and,
5 therefore, didn't have to comply with the Maryland
6 statute and didn't have to be licensed under the
7 Maryland statute.

8 So the staff and I and the licensing board
9 came to believe that this was a giant loophole and that
10 it was very important for the people that were
11 collecting -- i.e. making the calls, writing the
12 letters and having -- and interacting with the
13 consumer, to be controlled by the Maryland law and be
14 licensed and having to give a bond, et cetera.

15 Q You said that these companies -- I think
16 you used the word abuse -- were starting to claim that
17 they "owned the debt."

18 Can you describe, if you know, what the
19 methods of those particular companies were or the basis
20 for their claiming that they owned debt that they had
21 previously just been collecting for others?

1 A They would either purchase it in the
2 secondary market or, frequently, where they had a
3 client that they were collecting under a contract with
4 a client to be compensated as a percentage -- with a
5 percentage of what they recovered.

6 They would modify the contractual
7 relationship, not change the economic terms, but
8 basically claim that they had title to the debt instead
9 of merely being an agent for the hospital or doctor's
10 office or whoever was trying to get their money back.

11 MS. ARGENT: Mark this as 3, please.

12 (Turnbaugh Exhibit 3 was marked for
13 purposes of identification.)

14 BY MS. ARGENT:

15 Q Mr. Turnbaugh, I'm going to hand you
16 Exhibit 3 and ask you if you recognize that.

17 A Yes, I do.

18 Q And what is that?

19 A This is a copy of the written statement
20 that I made in support of House Bill 1324 before the
21 committee of the Maryland legislature that was

1 considering adoption of the legislation.

2 Q And I'd like you to look at the middle of
3 the three large photographs in which the word loophole
4 appears in quotes.

5 Is this the same concept that you were just
6 discussing a minute ago with me?

7 A Yes, it is and the staff that was enforcing
8 the collection statutes in Maryland and I and the board
9 all felt that it was very important for the people that
10 interacted with the consumer be subject to the Maryland
11 law and be licensed.

12 Q And when you say interacted, what do you
13 mean?

14 A Communicating through letters, telephone,
15 or knocking on the door and speaking with the customer
16 face-to-face. In other words, the purpose of the
17 statute was to prevent abusive practices in regard to
18 the collection of consumer debt.

19 Generally, those abusive practices are part
20 of communication with a customer, writing to them,
21 talking to them on the telephone, repeatedly calling

1 them or knocking on the door and trying to talk to them
2 in person.

3 (Turnbaugh Exhibit 4 was marked for
4 purposes of identification.)

5 BY MS. ARGENT:

6 Q I'm going to show you Exhibit 4,
7 Mr. Turnbaugh, a letter signed by Kelly Mack on June
8 20, 2007.

9 Are you familiar with the letter?

10 A Yes, I am.

11 Q And is it correct that you were the
12 Commissioner of Financial Regulation for the State of
13 Maryland as of June 20, 2007?

14 A Yes, I was.

15 Q And as commissioner, you also served as
16 chairman of the Collection Agency Licensing Board
17 throughout your term as commissioner?

18 A Yes, I did.

19 Q Can you tell me how this letter came to be
20 generated, if you know?

21 A At the -- I think it was the hearing on the

1 house side of the bill, a person in the industry came
2 forward and claimed that the legislation was inartfully
3 drafted and that it would require every owner whether
4 they were engaged in the collection activities that
5 required communication with the owner --

6 Q Communication with the owner of?

7 A With the debtor.

8 Q Okay.

9 A Whether or not they were engaged in those
10 activities and I assured him that that was not the
11 intent of the legislation and that, if he wanted
12 written confirmation to that effect, we would be glad
13 to give it to him.

14 Q You attended that hearing that you made
15 reference to?

16 A Yes, I attended that hearing and personally
17 testified and presented this written testimony as well.

18 Q That was when you presented testimony in
19 Exhibit 3?

20 A That's correct.

21 Q Can you tell me what, if any, involvement

1 you had with the preparation or drafting of the
2 June 20, 2007 Kelly Mack letter, Exhibit 4?

3 A Kelly Mack drafted the letter and submitted
4 it to me for review and approval.

5 Q And did you, in fact, review and approve
6 Exhibit 4?

7 A I reviewed and approved it and I believe
8 made some edits to it before she signed it and before I
9 approved it.

10 Q Was there an attorney on staff at the
11 commission of -- the Financial Regulation Department
12 when you were there?

13 A We had assigned to us, at the time, two
14 members of the Attorney General's Office to support us
15 in our legal needs.

16 Q Do you know whether any of attorneys on the
17 staff had any -- let me rephrase the question.

18 Do you know whether either of the attorneys
19 on the staff reviewed Exhibit 4, June 20 letter?

20 A The attorney that supported the state
21 Collection Agency Licensing Board was named Tom

1 Gounaris, G-O-U-N-A-R-I-S. He was aware of this issue.
2 Indeed, I believe he was with me at the legislature
3 when I submitted the testimony. He drafted the
4 legislation and he was certainly aware of this issue.

5 I do not recall whether he saw this letter
6 before it went out or not. But, to the best of my
7 knowledge, nothing in that letter that I approved was
8 in any way contrary to his opinion.

9 Q Okay. Can you tell me what the term
10 "passive debt buyers" meant as it's used in Ms. Mack's
11 letter?

12 A Passive debt buyer as it's used in
13 Ms. Mack's letter indicates someone who would simply
14 put up the money, acquire the debt, but take no action
15 personally or through their employees to collect the
16 debt. They would use licensed collection agencies'
17 personnel to make the call, send the letters, try to
18 reach the people at home or they would use law firms to
19 file suit on their behalf so that the owner of the debt
20 was not actively engaged in contacting the consumer.
21 It was the contacting of the consumer and preventing

1 abusive practices in that instance, that was what the
2 legislation and the debt collection practices act was
3 supposed to address.

4 (Turnbaugh Exhibit 5 was marked for
5 purposes of identification.)

6 BY MR. ARGENT:

7 Q I'm going to show you Exhibit 5 which is a
8 May 5, 2010 Advisory Notice from the Commissioner of
9 Financial Regulation and ask you to look at the
10 paragraph under the caption that says licensing
11 required. Specifically, I'll read allowed the sentence
12 that I'm going to ask you about.

13 The statement is: "The board wishes to
14 clarify that it has been its consistent position that a
15 consumer debt purchaser that collects consumer claims
16 through civil litigation is a "collection agency" under
17 Maryland law and required to be licensed as such
18 regardless of whether an attorney representing the
19 consumer debt purchaser in the litigation is a licensed
20 collection agency."

21 Mr. Turnbaugh, do you have an opinion, one

1 way or the other, about whether or not it has been --
2 that that is an accurate statement?

3 A I don't believe that is an accurate
4 statement. It certainly wasn't my understanding during
5 the four years that I was the chair of the State
6 Collection Agency Licensing Board.

7 Q And as a result of House Bill 1324, which I
8 showed you as Exhibit 2, I believe, is it your
9 understanding that that amendment, that 2007 amendment
10 created the situation which is described under the
11 licensing required section here?

12 A That is not my understanding. This
13 proposed bill was never intended to prevent someone
14 accessing the court system. I never felt that it was
15 in my authority as commissioner or within the State
16 Collection Agency Licensing Board to prevent someone
17 from going into the court system.

18 Our goal was to try to preserve proper
19 non-abusive treatment of consumers during the
20 collection process. It was not to prevent someone from
21 filing suit in the courts to collect debt.

1 Q And when you say prevent from filing suit,
2 do you also mean that to include from being licensed in
3 order to file suit?

4 A That's correct. Our focus was on the
5 treatment of consumer, not preventing litigation.

6 Q I'm going to show you one last exhibit as
7 Exhibit 6.

8 (Turnbaugh Exhibit 6 was marked for
9 purposes of identification.)

10 This is going back, again, three years now
11 to July 17 of 2007. I ask you to review that and make
12 sure you're familiar with it.

13 A Yes, I'm familiar with it.

14 Q And as of July 17, 2007, you were still the
15 Commissioner of Financial Regulation for Maryland and
16 also the chairman of the Collection Agency Licensing
17 Board, correct?

18 A Yes, I was.

19 Q Was it your intention that this advisory
20 notice would be consistent with the Kelly Mack letter
21 and what you've described the purpose of that letter

1 was to be?

2 A Yes, it was.

3 Q And the reference to loophole in the third
4 paragraph, again, does that relate to the loophole that
5 you mentioned previously?

6 A Yes, it does.

7 MS. ARGENT: Mr. Turnbaugh, thank you. I
8 have no more questions for you. Thank you very much.

9 THE WITNESS: My pleasure.

10 (Sworn Statement concluded at 4:55 p.m.)

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1 State of Maryland

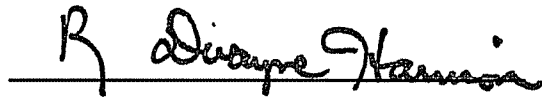
2 County of Baltimore, to wit:

3 I, R. DWAYNE HARRISON, a Notary Public of
4 the State of Maryland, City of Baltimore, do hereby
5 certify that the within-named witness personally
6 appeared before me at the time and place herein set
7 out, and after having been duly sworn by me, according
8 to law, was examined by counsel.

9 I further certify that the Sworn Statement
10 was recorded stenographically by me and this transcript
11 is a true record of the proceedings.

12 I further certify that I am not of counsel
13 to any of the parties, nor in any way interested in the
14 outcome of this action.

15 As witness my hand and notarial seal this
16 10th day of May, 2011.

17 

18 R. DWAYNE HARRISON

19 Notary Public

20 My Commission Expires:

21 September 15th, 2013

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EXHIBIT E



Case 1:09-cv-03238-CCB Document 19-4 Filed 03/01/10
Active vs. Passive Licensing - MD

MARTIN O'MALLEY, Governor
ANTHONY G. BROWN, Lt. Governor
THOMAS E. PEREZ, Secretary

STATE OF MARYLAND

DEPARTMENT OF LABOR, LICENSING AND REGULATION

Maryland Collection Agency Licensing Board
Charles W. Turnbaugh, Chairman

DLLR Home Page • <http://www.dllr.state.md.us>
DLLR E-mail • dllr@dllr.state.md.us

June 20, 2007

Stuart R. Blatt, Esquire
Margolis, Ritzler, Epstein & Blatt, P.A.
West Corporate Center
110 West Road, Suite 222
Towson, Maryland 21204

Dear Mr. Blatt:

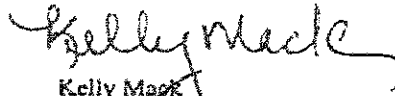
RE: HB 1324 - "Passive Debt Buyers"

Thank you for your facsimile communication dated June 13, 2007 following up to a letter addressed to Commissioner Charles Turnbaugh from DBA International relating to the exclusion for licensing of what is commonly referred to as "passive debt buyers" or those who do not engage in collection activity in the State of Maryland. Commissioner Turnbaugh received your letter and asked that I respond on his behalf.

This communication will respond to your request for confirmation from the Commissioner that since it is common practice for the "passive debt buyer" to retain a licensed debt collector to directly engage in the collection of its purchased debts, it is the position of the Commissioner that a debt buyer who purchases debt in default, but is not directly engaged in the collection of these purchased debts, is not required to obtain a collection agency license provided that all collection activity performed on behalf of such debt buyer is done by a properly licensed collection agency in the State of Maryland.

Again, thank you for your letter to Commissioner Turnbaugh and if I can be of any further assistance on this or any other matter, please feel free to contact me directly at (410)230-6079.

Sincerely,


Kelly Mack
Financial Examiner Lead
Regulatory Policy Unit

cc: Charles Turnbaugh
Michael Jackson

N CALVERT STREET • SUITE 402
BALTIMORE, MD 21202-3651



410-230-
TTY USERS, CALL VIA THE MA

Keeping Maryland Working and Safe

EXHIBIT F

PRESS RELEASE

DBA International secures Maryland licensing exemption for passive debt buyers.

DBA International is pleased to announce that through its direct efforts with the State of Maryland Department of Labor, Licensing and Regulation (DLLR), Maryland Commissioner Charles Turnbaugh has issued an exemption from the collection agency licensing requirement for passive debt buyers.

Maryland's governor signed **House Bill 1324** into law on May 8, 2007, which added debt buyers to the definition of a "collection agency." Thereafter, as a direct result of DBA International lobbying efforts, an interpretation was obtained that exempts passive debt buyers from the October 1, 2007 effective date for licensing.

HB 1324 defines a "collection agency" as a "person engaging directly or indirectly in the business of collecting a consumer claim the person owns, if the claim was in default when the person acquired it".

Kelly Mack, the Financial Examiner Lead of the Regulatory Policy Unit stated:

"It is the position of the Commissioner that a debt buyer who purchases debt, is not required to obtain a collection agency license provided that all collection activity performed on behalf of such debt buyers is done by a properly licensed collection agency in the State of Maryland."

Those *active* debt buyers without a license after the bill goes into effect will be allowed to continue to operate if their license application is approved within 30 days. The projected cost of a license would be a \$400 fee and a \$5,000 surety bond.

Court of Special Appeals
LVNV Funding LLC v. Larry Finch, et al.,
Petition Docket No. 299, September Term 2017

CERTIFICATE OF SERVICE

I, John C. Kruesi, Jr., being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

Counsel Press was retained by MAURICE WUTSCHER LLP, Attorneys for Appellants, to print this document. I am an employee of Counsel Press.

On the **10th Day of October, 2016**, I served the within **BRIEF OF AMICUS CURIAE RECEIVABLES MANAGEMENT ASSOCIATION INTERNATIONAL, INC. IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI** upon:

Please See Attached Service List

via Express Mail, by causing 2 true copies of each, enclosed in a properly addressed wrapper, to be deposited in an official depository of the U.S. Postal Service.

Unless otherwise noted, 8 copies of the document have been sent to the Court on the same date as above via hand delivery.

October 10, 2017

John C. Kruesi, Jr.
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