In The

Court of Appeals of Maryland

No. 46

September Term, 2018

LVNV FUNDING LLC,

Petitioner,

vs.

LARRY FINCH, *et al.*,

Respondents.

On Writ of Certiorari to the Court of Special Appeals

BRIEF OF AMICUS CURIAE RECEIVABLES MANAGEMENT ASSOCIATION INTERNATIONAL, INC. IN SUPPORT OF PETITIONER

MAURICE WUTSCHER LLP

STEPHEN H. SHERMAN
20 F Street, NW, 7th Floor
Washington, DC 20001
Tel: (888) 339-5282

MAURICE WUTSCHER LLP

DONALD S. MAURICE, JR.
THOMAS R. DOMINCZYK
5 WALTER E. FORAN BLVD.
FLEMINGTON, NJ 08822
TEL: (908) 237-4550

SHANNON P. MILLER
10 WEST FRONT ST.
MEDIA, PA 19063
Tel: (215) 789-7157

José Felipé Anderson
Professor of Law
1401 North Charles Street
Baltimore, Maryland 21201
Tel: (410) 837-4398

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The Receivables Management Association International, Inc., (hereinafter, "RMAI")[1] respectfully submits this amicus curiae brief in support of Petitioner.

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

RMAI was granted authority to file this brief by order of the Court entered in this matter on October 9, 2018. [2] (Am. App. 7)[3].

RMAI is the nonprofit trade association that represents more than 500 companies that purchase or support the purchase of performing and non-performing receivables on the secondary market. The existence of the secondary market is critical to the functioning of the primary market in which credit originators extend credit to consumers. An efficient secondary market lowers

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[1] RMAI was known as DBA International prior to February of 2017.

[2] 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.

[3] Citations to the Appendix filed with this brief are cited as "Am. App."

the cost of credit extended to consumers and increases the availability and diversity of such credit.

RMAI is an international leader in promoting strong and ethical business practices within the receivables management industry. RMAI requires all its member companies who are purchasing receivables on the secondary market to become certified through RMAI's Receivables Management Certification Program ("RMCP") as a requisite for membership (publicly available at https://rmassociation.org/certification/ and last accessed December 10, 2018).

The RMCP is a comprehensive and uniform source of industry standards that has been recognized by the collection industry's federal regulator, the Bureau of Consumer Financial Protection[4], 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,

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[4] The Bureau of Consumer Financial Protection was, until March of 2018, previously known as the Consumer Financial Protection Bureau.

2016, p. 38 (publicly available at http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf, last accessed December 10, 2018).[5]

In addition to requiring that certified companies comply with local, state and federal laws and regulations concerning collection activity, the RMCP goes above and beyond the requirements of local, state and federal laws and regulations by requiring its member companies to comply with additional requirements not addressed by existing laws and regulations.

The debt buying companies certified by the RMCP hold approximately 80 percent of all purchased receivables in the country, by RMAI's estimates.

RMCP-certified companies are subject to vigorous and recurring independent third-party audits to demonstrate to RMAI their compliance with the RMAI Certification Program. This audit

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[5] "To establish a baseline for understanding the impacts of the proposals under consideration, this section describes the [BCFP's] understanding or 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 . . ."

includes an onsite inspection of the certified companies to validate full integration of RMCP standards into the company's operations. Following a company's initial certification, review audits continue to be conducted every two to three years.

RMCP certification also requires RMAI 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 RMCP by completing 24 credit hours of continuing education every two years.

At the state level, since 2013, RMAI has worked with legislators and regulators in California, Connecticut, Colorado, Maine, Maryland, Minnesota, New York, Oregon, Washington and West Virginia in the enactment of enhanced laws and regulations for the collection of purchased consumer debts. RMAI'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).[6]

Just two years ago, RMAI engaged the Maryland Attorney General’s office in moving forward SB 771/ HB 1491 which set enhanced standards for the litigation of consumer debt in the State of Maryland. (Am. App. 11). RMAI supports efforts such as these that provide enhanced consumer protections and permit compliant participants, like Petitioner LVNV Funding, LLC (“LVNV”), to conduct their business in accordance therewith.

Here, in 2007, RMAI requested, and obtained from the Commissioner of the Division of Financial Regulation, an opinion (the “Commissioner’s Opinion”) that passive debt buying companies, such as LVNV, need not be licensed under the Maryland Collection Agency Licensing Act (“MCALA”) beginning October 1, 2007. Md. Code, Bus. Reg. §§ 7-101–502 (2017).

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[6] publicly available at http://www.legislature.mi.gov/documents/2015-2016/resolutionadopted/Senate/pdf/2015-SAR-0033.pdf (last accessed Dec. 10, 2018).

RMAI supports Petitioner's request for reversal of the Court of Special Appeals' ("CSA") decision. Imposing liability upon companies like LVNV who followed the directive of the Commissioner's Opinion causes significant harm to RMAI's members -- particularly because it was RMAI who requested the Commissioner's Opinion and understood that the opinion should be interpreted to exempt LVNV and similar RMAI members from licensure.

Moreover, RMAI believes that the decision of the CSA is fundamentally inconsistent with settled principles of Maryland law, will sow confusion in the commercial marketplace, and will decrease available credit opportunities while raising the costs of same for Maryland consumers.

QUESTIONS PRESENTED

RMAI adopts the questions presented in LVNV's Brief. ("Pet'n Brief"). *Pet'n Brief*, p. 5.

STATEMENT OF THE FACTS

RMAI adopts the statement of facts presented in LVNV's Brief. *Id.*, pp. 6-10.

STATEMENT OF THE CASE

This dispute arises from a 2007 amendment to the MCALA enacted under HB 1324 that would require certain purchasers of defaulted consumer debt to be licensed as collection agencies. RMAI 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. That understanding guided RMAI's participation in the discussion of HB 1324. This reading is consistent with the state regulator's written opinion, which RMAI was instrumental in obtaining. Because the decision of the court below imposed liability upon LVNV for not being licensed, it must be reversed.

Further, the decision below, by voiding LVNV's judgments and by fashioning a remedy not authorized by law, is contrary to well-settled Maryland law respecting the validity of enrolled judgments.

ARGUMENT

I. THE COMMISSIONER UNDERSTOOD HB 1324 WAS NOT INTENDED TO REQUIRE LICENSURE OF PASSIVE DEBT BUYING COMPANIES 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.

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

In 2007, the Maryland Legislature took up consideration of HB 1324, which proposed to amend the MCALA to require entities that own defaulted consumer loans to be licensed as collection agencies in order to collect on those loans. As HB 1324 was making its way through the Maryland legislature, RMAI sought to identify whether the proposed law would require its members who are passive debt

buying companies to be licensed as collection agencies. During discussions between an RMAI board member and the Commissioner of the Division of Financial Regulation within the Department of Labor, Licensing and Regulation (at the time, Charles W. Turnbaugh), RMAI learned that HB 1324 was not intended to require licensure of passive debt buying companies. Letter of Barbara A. Sinsley, General Counsel, RMAI International, April 19, 2007 ("RMAI Letter") (Am. App. 13). *See also* Transcript of Sworn Statement of Charles W. Turnbaugh, April 12, 2011 ("Transcript") (Am. App. 33:11-21, 34:1-14). Because of these discussions, RMAI board member Stuart Blatt withdrew his request to testify in opposition to HB 1324. (Am. App. 14).

On April 19, 2007, RMAI wrote the Commissioner requesting, in conformity with these discussions, his written opinion that HB 1324 did not require passive debt buying companies to obtain a license under the MCALA. (Am. App. 14).

A few days later 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 RMAI's request and issued a written opinion, stating

> 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.

Letter of Kelly Mack, Financial Examiner, June 20, 2007 ("Commissioner's Letter") (Am. App. 46).

That HB 1324 did not require licensing of entities that were not personally 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 (publicly available at http://www.dllr.state.md.us/finance/advisories/advisory07-06.shtml) (last accessed Dec. 10, 2018).

RMAI members that are "passive" debt buying companies do not collect debt from consumers themselves and instead use Maryland licensed collection agencies or attorneys to undertake such activities. *See* RMAI Letter (Am. App. 15). Such passive debt buying companies, that take "no action to personally or through their employees to collect the debt," but instead "use licensed collection agencies' personnel" or "law firms to file suit on their behalf," were deemed not to be engaged in collecting debt and were not required to be licensed. Transcript (Am. App. 36:12-20).

Prior to the October 1, 2007, effective date, RMAI then issued a press release advising its members that the Commissioner's Opinion Letter exempted passive debt buying companies from the new licensing requirement. (Am. App. 48). RMAI's interpretation is consistent with the Commissioner's Letter and Advisory Notice 07-06, July 17, 2007. *See also,* Transcript (Am. App. 34:21-35:1-9).

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

By 2010, Charles W. Turnbaugh was no longer Commissioner of the Division of Financial Regulation. Transcript (Am. App. 25:4-10). On May 5, 2010, the then Commissioner of the Division of Financial Regulation issued Advisory Notice 05-10, which stated that an entity that 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 (last accessed December 10, 2018, and publicly available at http://www.dllr.state.md.us/finance/advisories/advisory5-10.shtml). Although it would appear that 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.* Advisory Notice 05-10 nonetheless acknowledged the confusion, stating that unlicensed entities would not be subject to

an enforcement action by the state provided they became licensed within a prescribed safe harbor. *Id.*

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

RMAI did not view Advisory Notice 05-10 as "consistent" with the position taken by former Commissioner Turnbaugh in his communications with RMAI prior to HB 1324's enactment. It is not consistent with Advisory Notice 07-06 or the Commissioner's Letter of June 20, 2007, all of which support the conclusion that a passive debt buying company, not personally engaged in debt collection activity, like LVNV, is not required to be licensed. Advisory Notice 05-10 was a complete reversal of RMAI's understanding and of what had been communicated to it from the Office of the Commissioner before, during and after the enactment of HB 1324.

Advisory Notice 05-10's statement that the Office of the Commissioner's interpretation has "been its consistent position" is, in fact, "not an accurate statement." Transcript (Am. App. 37:13-21, 38:1-6). As former Commissioner Turnbaugh stated under oath

in 2011, the proscriptions of Advisory Notice 05-10 regarding the licensing requirements for "passive" debt buyers was "not [his] understanding" and HB 1324 was "never intended to prevent someone accessing the court system." *Id*, (Am. App. 38:12-14).

D. RMAI Members Should Not Be Punished for Activities Consistent with the Office of the Commissioner's June 20, 2007 Opinion.

RMAI 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, RMAI 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 Office of the Commissioner's "consistent position." Indeed, had it been as such, RMAI would not have withdrawn its request to testify in opposition to HB 1324. *See* RMAI Letter (Am. App. 14). Moreover, to suggest otherwise ignores the history of HB 1324 in which RMAI was an active participant. The legislative history of HB 1324 makes clear that the law was never intended to cover passive debt buying entities.

The decision of the court below improperly imposes liability upon LVNV. LVNV's conduct was consistent with the plain language and legislative history of MCALA and it should not be punished for following the opinion of the regulator tasked with enforcing the MCALA. Insofar as Advisory Notice 05-10 reflected a change in the agency's interpretation of MCALA, it could not have applied retroactively, and by that time LVNV was a licensed collection agency. *PHH Corp. v. Consumer Fin. Prot. Bureau*, 839 F.3d 1, 33 (D.C. Cir. 2016).

It is a fundamental injustice that LVNV should be punished when it, RMAI and its members were assured before, during and after enactment that passive debt buying entities were exempt from HB 1324.

II. THE COURT OF SPECIAL APPEALS ERRED WHEN IT VOIDED THE JUDGMENTS PURCHASED BY LVNV AND PROVIDED CLASS ACTION RELIEF BECAUSE SUCH HOLDING EXCEEDS THE SCOPE OF AUTHORITY GRANTED BY MARYLAND LAW TO DISTURB ENROLLED JUDGMENTS.

The CSA's decision is error as a matter of law for other reasons. The CSA permitted error on top of error when it affirmed the trial court's decision to disturb final enrolled judgments. There is nothing in the legislative scheme of the Maryland collection statutes permitting the judicial overreach of the CSA's ruling below, which crafted a remedy that runs contrary to statute, settled law, and public policy.

Fashioning the remedy of declaring judgments void and subject to collateral attack based solely on a licensing violation was a failure to exercise appropriate judicial restraint. A court abuses its discretion when it acts "without reference to any guiding rules or principles." *Donati v. State*, 215 Md. App. 686, 709 (2014) (quoting *King v. State*, 407 Md. 682, 697 (2009)).

Here, the CSA's decision in *Finch v. LVNV Funding LLC*, 212 Md. App. 748 (2013) ("*Finch I*") and *LVNV Funding LLC v. Finch*, No.

1075, Sept. Term 2016, 2017 WL 6388959, at *4 n.5 (Md. App. Dec. 14, 2017) ("*Finch II*") was based on judicial rule-making untethered to the actual constraints of Maryland law. Indeed, the CSA noted that its "'drastic remedy' of deeming a judgment void if it was obtained by an unlicensed collection agency is warranted in light of the legislation aimed at preventing such practices." *Id.* Yet, the legislation at issue – the MCALA - in fact includes its own remedial framework for licensing violations and does not include finding a judgment void.

As Justice Cardozo reminds us, "[t]he rule that fits a case may be supplied by the constitution or a statute. If that is so, the judge looks no farther. . . . [A] statute, if consistent with the constitution overrides the law of judges." Benjamin N. Cardozo, THE NATURE OF THE JUDICIAL PROCESS p. 14 (1921). In this case, the CSA, in affirming the broad ruling of the trial court voiding adjudicated enrolled judgments as a policy-based remedy, went far beyond this judicial power:

> The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant, roaming at will in

> pursuit of his own idea of beauty and goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system…

Id. at 179.

To permit the judgment of the CSA to stand would be both legally inappropriate and poor public policy, undermining well-settled Maryland jurisprudence regarding the finality of enrolled judgments. If permitted to stand, that court's ruling will create instability in the financial marketplace for those doing business in this State.

A. The Court of Special Appeals' Ruling Disrupts Settled Rules of Judgment Finality.

The sanctity of a final enrolled judgment cannot reasonably be questioned in Maryland. Maryland statutes, rules, and case precedent give the highest level of protection to such judgments and insulate them from unlimited and unfettered review. Where, as here, the courts that issued the judgments in question had fundamental jurisdiction, the judgments are enrolled, and the time

for appeal has long-since passed, there are only limited circumstances in which a court may revise a final judgment.[7] Such judgments can only be attacked if they are the result of fraud, mistake or irregularity and, even then, they may only be attacked in the court that issued the judgment and not through a class action in a different proceeding in a different court. *See Kent Island v. DiNapoli*, 430 Md. 348, 366-67 (2013) ("[A] circuit court may revise or modify only those final judgments entered by that circuit court."). Such circumscribed exceptions demonstrate the Maryland legislature's preference for, and interest in, preserving judgment finality.

A court's revisory power over its judgments is governed, generally, by Section 6-408 of the Courts and Judicial Proceedings Article of the Maryland Code (the "CJP") and Maryland Rules 2-535 and 3-535. CJP § 6-408 provides that

> [f]or a period of 30 days after the entry of a judgment, or thereafter pursuant to motion

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[7] It is without question that the judgments at issue here were enrolled and final. These judgments were well beyond the discretionary time period for reconsideration.

> filed within that period, the court has revisory power and control over the judgment. After the expiration of that period the court has revisory power and control over the judgment only in case of fraud, mistake, irregularity, or failure of an employee of the court or of the clerk's office to perform a duty required by statute or rule.

CJP § 6-408; *see also* Maryland Rule 2-535; Maryland Rule 3-535. During the initial 30-day time period, the judgment is "unenrolled" and the court's discretion to revise is broad. *Dixon v. Ford Motor Co.,* 433 Md. 137, 157 (2013); *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (quoting *Thacker v. Hale*, 146 Md. App. 203, 217 (2002)). However, "after a judgment has become enrolled . . . a court has no authority to revise that judgment unless it determines, in response to a motion under Rule 2-535(b), that the judgment was entered as a result of fraud, mistake, or irregularity." *Thacker v. Hale,* 146 Md. App. at 216-17; MD Rule 2-535(b) (a circuit court may "exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity"); MD Rule 3-535(b) (a district court may "exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity"); *see also Office of People's Counsel*

v. Advance Mobilehome Corp., 75 Md. App. 39, 44 (1988) ("Although a trial judge has wide discretion to revise judgments if a motion is filed within 30 days from judgment, that discretion is sharply curtailed once the 30 day period has expired without a motion to revise.").

CJP § 6-408, which is given effect through Maryland Rules 2-535 in the Circuit Court and 3-535 in the District Court, encompass a circuit court's general revisory power over all judgments and these powers may only be expanded or modified by statute. *See Shapiro v. Shapiro*, 346 Md. 648, 666 (1997) ("*Unless a statute otherwise provided*, that aspect of the [enrolled judgment] was subject to modification only for fraud, mistake, or irregularity.") (emphasis added). "This dictate embraces all the power the courts of this State have to revise and control enrolled judgments and decrees." *Platt v. Platt*, 302 Md. 9, 13 (1984) (internal citation and quotations omitted). As this Court has explained, Maryland cases "have rigorously emphasized the finality of judgment" and "narrowly defined and strictly applied the terms fraud, mistake, irregularity, and clerical error." *Andresen v. Andresen,* 317 Md. 380, 387-88

(1989). At every step, the Court takes a narrow view to emphasize the importance of the finality of judgments. For example, fraud means extrinsic fraud, not intrinsic fraud. "Put simply, fraud is extrinsic when it actually prevents an adversarial trial but it is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, that truth was distorted by the complained of fraud." *Manigan v. Burson*, 160 Md. App. 114, 121 (2004) (internal quotations omitted). Thus, even in the case of admitted perjury, the public policy underlying finality of judgments prevents vacatur of the judgment. *Schwartz v. Merchants Mortg. Co.*, 272 Md. 305, 308-309 (1974) (explaining that even in the face of forged documents or perjured testimony, "once parties have had the opportunity to present before a court a matter for investigation and determination, and once the decision has been rendered and the litigants, if they so choose, have exhausted every means of reviewing it, the public policy of this State demands that there be an end to that litigation").

Reliance on "irregularity" to vacate a judgment is likewise circumscribed. "Irregularity" means "a failure to follow required

process or procedure." *Early v. Early*, 338 Md. 639, 652 (1995). "Irregularities warranting the exercise of revisory powers most often involve a judgment that resulted from a failure of process or procedure by the clerk of a court, including, for example, failures to send notice of a default judgment, to send notice of an order dismissing an action, to mail a notice to the proper address, and to provide for required publication." *Thacker*, 146 Md. App. at 219-20; *see also Short v. Short*, 136 Md. App. 570, 580 (2001) ("For a purely clerical omission, the proper method of seeking redress is a motion pursuant to Rule 2-535(d) addressed to the court's revisory power.")

Finally, "mistake" is limited to instances in which the court lacked jurisdiction. "It is well settled that 'mistake,' as used in Rule 2-535(b), is limited to a jurisdictional error, such as where the Court lacks the power to enter the judgment. . . . The typical kind of mistake occurs when a judgment has been entered in the absence of valid service of process; hence, the court never obtains personal jurisdiction over a party." *Claibourne v. Willis*, 347 Md. 684, 692 (1997) (internal citations omitted).

Where a court had power to enter the judgment, and there has been no extrinsic fraud or procedural irregularity, an enrolled judgment cannot be attacked in *any* court. And even where a party alleges one of these three limited exceptions to the rule of judgment finality, "the burden of proof establishing fraud, mistake, or irregularity to reopen an enrolled judgment . . . is clear and convincing evidence." *Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008). The moving party must also show that it is "acting in good faith, with ordinary diligence, and that it has a meritorious defense or cause of action." *Office of People's Counsel*, 75 Md. App. at 44. As these narrow exceptions illustrate, "[t]he purpose of limiting a trial court's discretion to revise enrolled judgments is to "promote finality of judgment and to insure that litigation comes to an end." *Id.* (*citing Haskell v. Carey*, 294 Md. 550, 558 (1982)).

In certain circumstances, the general rules found in Maryland Rules 2-535 and 3-535 are even further circumscribed to protect judgment finality. Maryland Rules 2-535 and 3-535 provide broad revisory power to the court within the first 30 days of entry of the judgment, but, for example, under Rules 2-611 and 3-611, the

circuit court and district court, respectively, may open, modify or vacate a confessed judgment within 30 days of its entry only where the defendant has raised a defense to the claim and "the court finds that there is a substantial and sufficient basis for an actual controversy as to the merits of the action. And, under Maryland Rule 2-613, "a default judgment entered in compliance with this Rule is not subject to the revisory power under Rule 2-535(a) except as to the relief granted." All of the rules discussed above, and the careful interpretation of them by the courts, demonstrate the preeminence of judgment finality in Maryland.

The doctrine of res judicata similarly supports the time-honored principle that courts need to reach final resolution of disputed matters. *See generally Phillips v. State*, 451 Md. 180, 196 (2017) (explaining the "doctrine of res judicata is that a judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action, and is conclusive, not only as to all matters that have been decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit."); *Mackall v. Zayre Corp.*, 293 Md. 221, 228 (1982)

(stating that "if a proceeding between parties involves the same cause of action as a previous proceeding between the same parties, the principle of res judicata applies and all matters actually litigated or that could have been litigated are conclusive in the subsequent proceeding"). The doctrine "avoids the expense and vexation attending multiple lawsuits, conserves the judicial resources, and fosters reliance on judicial action by minimizing the possibilities of inconsistent decisions." *Murray Int'l Freight Corp. v. Graham*, 315 Md. 543, 547 (1989) (quoting *Montana v. United States*, 440 U.S. 147, 153–54 (1979)).

The examples above identify the limited exceptions, that are specifically set forth by statute and rule, under which a final judgment can be directly attacked, as well as the clear understanding of the legislature and courts that judgment finality is a fundamental doctrine of the judicial process.

In the instant case, it is important to underscore that the judgments at issue are not fraudulent or otherwise improperly obtained. It is uncontested that the debts in question constitute unpaid defaulted loans. And the debtors in this case did not raise a

defense in the collection actions, which were otherwise properly constituted, that the plaintiff in the case (LVNV) was barred from recovering the money owed to it because it lacked a collection agency license. Parties should not be allowed to remain silent, and subsequently rely on an administrative statute as a backdoor to void judgments previously entered against them, but rather be required to fully assert their available rights or defenses in relation to an action brought against their interests. The validity of enrolled judgments, such as those at issue here, create expectations in those who rely on their finality; it provides certainty to judgment creditors of the outcome of future actions in Maryland state courts. But this point extends beyond the case at issue: a final judgment rendered by a court with proper jurisdiction must be upheld and honored as final by subsequent courts after the time for appeal or revision has passed.[8] If it is not, no litigant would have peace of

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[8] Furthermore, the preclusive effect of a judgment rendered in state court should be valid enough to be relied on by those who might purchase such a debt from an owner, even if they are from a different state than where the debt is to be collected. *See e.g. Laurel Sand & Gravel, Inc. v. Wilson*, 519 F.3d 156, 162 (4th Cir. 2008).

mind that a matter was resolved and that the decision by one court could not be subsequently undermined by another.

III. THE JUDICIAL CREATION OF AN ADDITIONAL REMEDY FOR VIOLATION OF MCALA IS INCONSISTENT WITH MARYLAND'S STATUTORY SCHEME.

In *Finch I*, the CSA "explained that the MCALA licensure requirement in B.R. § 7-301(a) is intended to 'eliminate a perceived harm' and imposes penalties for unlicensed collection agencies," yet in both *Finch I* and *Finch II*, the CSA did not confine its holding to the specific penalties prescribed in MCALA. *Finch II*, 2017 WL 6388959, at *8 (citing *Finch I*, 212 Md. App at 762-63). The CSA has essentially created a rule under which a licensing violation renders an otherwise valid judgment void and gives rise to grounds for a collateral attack on a final judgment, contrary to the plain text of the statute, legislative intent, and Maryland case law.

"The cardinal rule of statutory construction is to ascertain and effectuate the intent of the General Assembly." *Fangman v. Genuine Title, LLC*, 447 Md. 681, 691 (2016) (quoting *Montgomery Cnty. v. Phillips*, 445 Md. 55, 62–63 (2015)). "[W]hen legislation expressly

provides a remedy or remedies, courts should not expand the coverage of the statute to subsume other remedies." *Walton v. Mariner Health of Md., Inc.*, 391 Md. 643, 669 (2006) (internal quotations omitted); *see also Baker v. Montgomery Cty.*, 427 Md. 691, 713 (2012) ("[W]here a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.") (quoting *Transamerica Mortg. Advisors, Inc. v. Lewis*, 444 U.S. 11, 19 (1979)). Beginning with the plain text of the statute, there is no ambiguity or doubt that the Maryland legislature did not intend to create an additional exception to judgment finality and allow parties to void judgments on valid debt by virtue of a licensing violation under MCALA.

First, when the Generally Assembly enacted the collection agency licensing statute, the legislature simultaneously created the Collection Agency Licensing Board (the "Board") for the purpose of "licensing collection agencies and enforcing the Maryland Consumer Debt Collection Act ["MCDCA"]." *Blackstone v. Sharma*, 461 Md. 87, 94, 120 (2018). The contemporaneous creation of an agency tasked with enforcing the statute suggests that the legislature intended

this agency to enforce the statutes at issue, rather than for courts to craft new and additional remedies beyond those enacted by the legislature.

Second, the enforcement mechanism and remedies provided under the statute effectuate the legislative intent behind the statute – to protect consumers and enforce the licensing requirements. MCALA contains criminal sanctions and empowers the Board to take adjudicative, remedial and punitive actions against those who violate MCALA or the MCDCA, including holding hearings, mediating disputes between consumers and collection agencies, and ordering restitution, among other sanctions. Md. Code, Bus. Reg. § 7-205; *see, e.g., In the Matter of Heinz Rockwell Dunn*, CFR-FY-2013-025 (ordering restitution for judgments obtained when Respondents were unlicensed)(publicly available at https://www.dllr.state.md.us/finance/consumers/pdf/heinzrockwellc&d.pdf and last accessed December 12, 2018). Assuming the MCALA is applicable to servicers and debt owners, § 7-205, itself provides the remedies that the legislature felt appropriate and the

court should not declare its own remedy, including declaring the judgments at issue void for statutory violations.

Indeed, in an action before the Board, LVNV was sanctioned by the Board pursuant to the Board's powers under MCALA. *In the Matter of LVNV Funding, et al.,* Case No. DFR-FY2012-012. The Board's actions were contemplated by the legislature, the CSA's decision was not. The inclusion of thorough and effective regulatory enforcement measures further supports the conclusion that the legislature intended the remedies to be limited to those under the statutes and to be administered by the relevant agency, not courts acting beyond their mandate.

Third, Maryland law includes licensing and regulatory requirements for dozens of professions, businesses, and activities. It is logical that Maryland would want the regulation of professional organizations operating within the State to fall under its purview so that it can monitor and regulate those subject to licensing in order to protect consumers. But private litigation and attacks on final enrolled judgments is undesirable and unnecessary. Under the rule set out by the CSA, any individual or class could attempt to bring a

lawsuit for a violation of a licensing requirement or bootstrap such a technical violation into a larger claim, circumventing the State's authority to determine the appropriate penalties, upsetting final judgments, and indefinitely prolonging litigation. While the legislature provides a host of protective remedies under the consumer protection legislation at issue, the rule set out by the CSA is neither contemplated nor authorized. Such a rule contravenes settled law, cannons of statutory interpretation, and legislative intent; this error should be corrected by this Court.

IV. THE COURT OF SPECIAL APPEALS' RULING RAISES SIGNIFICANT FEDERAL CONSTITUTIONAL CONCERNS.

As interpreted by the courts below, MCALA also would run afoul of several Federal Constitutional provisions, including the Privileges and Immunities Clause, the Due Process Clause, and the Dormant Commerce Clause, because it impedes the right of access to the courts by requiring licensure as a predicate to such access.

Here, LVNV, a special purpose entity with no offices or employees and that engages in no active collections on its own, would have to obtain a license in order to appear in court to enforce

a debt it is legitimately owed. Conditioning LVNV's ability to enforce contracts and access the courts on its licensure has no rational basis.

"A substantive right of access to the courts has long been recognized [as] one of the fundamental rights protected by the constitution." *See Jackson v. Procunier*, 789 F.2d 307, 310 (5th Cir. 1986) (internal quotations omitted). Thus, the Supreme Court of the United States has held for over a century that a state may not unreasonably burden access to the courts and that if a state opens its courts to residents of its own state it must to the same extent open its courts to residents of other states. Justice Bushrod Washington famously and long ago declared that the right "to institute and maintain actions of any kind in the courts of the state" was among "those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by citizens of the several states . . ., from the time of their becoming free, independent and sovereign." *Corfield v. Coryell*, 6 F. Cas. 546, 551-52 (C.C.E.D. Pa. 1823). Under the constitutional design, "the

enjoyment of [this privilege and immunity] by the citizens of each state, in every other state, was manifestly calculated (to use the expression of the corresponding provision in the old articles of confederation) the better to secure and perpetuate mutual friendship and intercourse among the people of the different states of the Union." *Id.* at 552.

The Supreme Court held, as long ago as 1907, that, "[t]he right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each state to the citizens of all other states to the precise extent that it is allowed to its own citizens." *Chambers v. Balt. & O. R. Co.,* 207 U.S. 142, 154, 28 S. Ct. 34, 52 L.Ed. 143 (1907).

Maryland corporate law, like the laws of other States, excepts from the definition of "doing business" – which would require a license – the bringing and defending of lawsuits. Md. Code, Corp. & Ass'ns §§ 4A-1009(a)(1); 7-103. However, here, the CSA has crafted a rule under which access to the courts is, in essence, "doing

business" and requires a license. This interpretation is contrary to the plain intent of the Maryland legislature and fundamental prohibitions against limiting access to courts. The CSA's decision requiring LVNV to be licensed before an action was brought in its name by a licensed collection attorney would render Maryland an outlier with great destruction to the general right of access to Maryland courts. There is no doubt that LVNV was owed money by Respondents and that it had a legal claim to the return of that money. (E278 (19:5-20:8), E280 (19:11-20:9), E266 (15:6-18:1), E267 (19:16-20:8)). Maryland law permits a general action to enforce a contract to collect a debt. That action could have been brought by any Maryland resident owed money by an individual debtor. Yet, under the CSA's decision, that right – available in general under Maryland law – was not available to LVNV simply because of its identity. It was not a Maryland licensed entity, whereas others who were licensed could have suits brought on their behalf. In effect, the CSA has held that the Maryland General Assembly closed the doors to its courtrooms to an entire class of claimants, defined not by the strength of their claim or the validity

of the debt they were owed, but by whether they were licensed in Maryland or not. That is the exact kind of discrimination and burden on access to the courts that the Privileges and Immunities Clause, the Dormant Commerce Clause, and the Due Process Clause forbid.

CONCLUSION

The Court should reverse the decision of the court below.

Respectfully submitted,

José Felipé Anderson[9]
Professor of Law
Counsel for Amicus
1401 North Charles Street
Baltimore, Maryland 21201
Tel: (410) 837-4398

MAURICE WUTSCHER LLP

Stephen H. Sherman, Of Counsel[10]
Maurice Wutscher LLP
20 F Street, NW, 7th Floor
Washington, DC 20001
Tel: (888) 339-5282
Fax: (866) 581-9302
Direct Dial: (202) 255-2984
E-mail: ssherman@mauricewutscher.com

---

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

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

Donald S. Maurice, Jr.[11]
Thomas R. Dominczyk[12]
Maurice Wutscher LLP
5 Walter E. Foran Blvd., Ste 2007
Flemington, NJ 08822
Tel: (908) 237-4550
Fax: (908) 237-4551
E-mail: dmaurice@mauricewutscher.com
tdominczyk@mauricewutscher.com

Shannon P. Miller[13]
10 W. Front St.
Media, PA 19063
Tel: (215) 789-7157
Fax: (908) 237-4551
E-mail: smiller@mauricewutscher.com

Dated: December 13, 2018

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[11] *Pro hac vice* admission pending.

[12] *Pro hac vice* admission pending.

[13] *Pro hac vice* admission pending.

TEXT OF CITED CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES

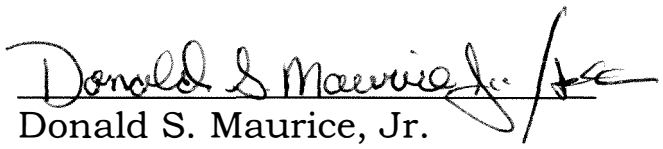
Pursuant to Rule 8-504(a)(8), the text of all pertinent constitutional provisions, statutes, ordinances, rules, and regulations cited in the Table of Authorities and not included in the Petitioner's brief are attached.

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains 6,306 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112. It is printed using a 14 point Bookman Old font.

December 13, 2018



Donald S. Maurice, Jr.

APPENDIX

APPENDIX TABLE OF CONTENTS

Md. CORPORATIONS AND ASSOCIATIONS Code Ann. § 4A-1009

Current through all chapters from the 2018 Regular Session

Annotated Code of Maryland > CORPORATIONS AND ASSOCIATIONS > TITLE 4A. LIMITED LIABILITY COMPANY ACT > SUBTITLE 10. FOREIGN LIMITED LIABILITY COMPANIES

§ 4A-1009. Doing business

(a) Activities not considered doing business. --In addition to any other activities which may not constitute doing business in this State, for the purposes of this title, the following activities of a foreign limited liability company do not constitute doing business in this State:

(1) Maintaining, defending, or settling an action, suit, claim, dispute, or administrative or arbitration proceeding;

(2) Holding meetings of its members or agents or carrying on other activities that concern its internal affairs;

(3) Maintaining bank accounts;

(4) Conducting an isolated transaction not in the course of a number of similar transactions;

(5) Foreclosing mortgages and deeds of trust on property in this State;

(6) As a result of default under a mortgage or deed of trust, acquiring title to property in this State by foreclosure, deed in lieu of foreclosure, or otherwise;

(7) Holding, protecting, renting, maintaining, and operating property in this State so acquired; or

(8) Selling or transferring title to property in this State so acquired to any person, including the Federal Housing Administration or the Veterans Administration.

(b) Activities considered doing business. --In addition to any other activities which may constitute doing business in this State, for the purposes of this title any foreign limited liability company which owns income producing real or tangible personal property in this State, other than property exempted by subsection (a) of this section, shall be considered to be doing business in this State.

History

1992, ch. 536.

Annotated Code of Maryland

End of Document

Md. CORPORATIONS AND ASSOCIATIONS Code Ann. § 7-103

Current through all chapters from the 2018 Regular Session

Annotated Code of Maryland > CORPORATIONS AND ASSOCIATIONS > TITLE 7. FOREIGN CORPORATIONS > SUBTITLE 1. REGISTRATION OF NAME; DOING BUSINESSIN STATE

§ 7-103. Activities not considered intrastate business

In addition to any other activities which may not constitute doing intrastate business in this State, for the purposes of this article, the following activities of a foreign corporation do not constitute doing intrastate business in this State:

(1) Maintaining, defending, or settling an action, suit, claim, dispute, or administrative or arbitration proceeding;

(2) Holding meetings of its directors or stockholders or carrying on other activities which concern its internal affairs;

(3) Maintaining bank accounts;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities;

(5) Appointing and maintaining trustees or depositaries with respect to its securities;

(6) Transacting business exclusively in interstate or foreign commerce; and

(7) Conducting an isolated transaction not in the course of a number of similar transactions.

History

An. Code 1957, art. 23, § 88; 1975, ch. 311, § 2.

End of Document

Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 6-408

Current through all chapters from the 2018 Regular Session

Annotated Code of Maryland > COURTS AND JUDICIAL PROCEEDINGS > TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE > SUBTITLE 4. PRACTICE IN GENERAL

§ 6-408. Revisory power of court over judgment

For a period of 30 days after the entry of a judgment, or thereafter pursuant to motion filed within that period, the court has revisory power and control over the judgment. After the expiration of that period the court has revisory power and control over the judgment only in case of fraud, mistake, irregularity, or failure of an employee of the court or of the clerk's office to perform a duty required by statute or rule.

History

1977, ch. 271.

End of Document

Rule 2-613. Default judgment

(a) Parties to whom applicable. In this Rule, the term "plaintiff" includes counter-plaintiffs, cross-plaintiffs, and third-party plaintiffs, and the term "defendant" includes counter-defendants, cross-defendants, and third-party defendants.

(b) Order of default. If the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default. The request shall state the last known address of the defendant.

(c) Notice. Promptly upon entry of an order of default, the clerk shall issue a notice informing the defendant that the order of default has been entered and that the defendant may move to vacate the order within 30 days after its entry. The notice shall be mailed to the defendant at the address stated in the request and to the defendant's attorney of record, if any. The court may provide for additional notice to the defendant.

(d) Motion by defendant. The defendant may move to vacate the order of default within 30 days after its entry. The motion shall state the reasons for the failure to plead and the legal and factual basis for the defense to the claim.

(e) Disposition of motion. If the court finds that there is a substantial and sufficient basis for an actual controversy as to the merits of the action and that it is equitable to excuse the failure to plead, the court shall vacate the order.

(f) Entry of judgment. If a motion was not filed under section (d) of this Rule or was filed and denied, the court, upon request, may enter a judgment by default that includes a determination as to the liability and all relief sought, if it is satisfied (1) that it has jurisdiction to enter the judgment and (2) that the notice required by section (c) of this Rule was mailed. If, in order to enable the court to enter judgment, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any matter, the court, may rely on affidavits, conduct hearings, or order references as appropriate, and, if requested, shall preserve to the plaintiff the right to trial by jury.

Cross references. -- For the requirement that a request for entry of judgment under section (f) of this Rule be served on the defendant, see Rule 1-321 (c)(2).

(g) Finality. A default judgment entered in compliance with this Rule is not subject to the revisory power under Rule 2-535 (a) except as to the relief granted.

History

(Amended Nov. 20, 1984, effective Jan. 1, 1985; Apr. 7, 1986, effective July 1, 1986; Nov. 22, 1989, effective Jan. 1, 1990; Dec. 10, 1996, effective July 1, 1997; Nov. 12, 2003, effective Jan. 1, 2004; June 16, 2009, effective June 17, 2009; December 7, 2015, effective January 1, 2016.)

Source. --

This Rule is derived as follows:

Section (a) is new.

Section (b) is new.

Section (c) is new.

Section (d) is new.

Section (e) is new.

Section (f) is new. The second sentence is derived from the last sentence of the 1937 version of *Fed. R. Civ. P. 55 (b)(2)*.

Section (g) is new.

End of Document

EXHIBIT
A

LVNV FUNDING LLC	*	**IN THE**
	*	**COURT OF APPEALS**
	*	**OF MARYLAND**
v.		
	*	**Petition Docket No. 299 September Term, 2017**
	*	
		(No. 1075, Sept. Term, 2016
LARRY FINCH, ET AL.	*	**Court of Special Appeals)**

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, the cross-petition, the Brief of *Amicus Curiae* Receivables Management Association International, Inc. in support of Petition for Writ of Certiorari, the Respondents' Objection and Motion to Strike Petitioner's Reply in Support of Petition for Writ of Certiorari, the Motion to Supplement the Respondents' Cross Petition for Certiorari and the answers filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition and the cross-petition be, and they are hereby, granted, and a writ of certiorari to the Court of Special Appeals shall issue; and it is further

ORDERED, that Receivables Management Association International, Inc. may file an *amicus curiae* brief which shall be filed on or before the same date the brief of the respondent is due; and it is further

ORDERED, that said case shall be transferred to the regular docket as No. 46, September Term, 2018; and it is further

ORDERED, that counsel shall file briefs and printed record extract in accordance with Md. Rules 8-501 and 8-502, petitioner's brief and record extract to be filed on or before November 13, 2018; respondent/cross petitioners' brief(s) to be filed on or before December 13, 2018; cross-respondent's brief to be filed on or before January 11, 2019; cross-petitioners' reply brief(s), if any, to be filed on or before January 28, 2019; and it is further

ORDERED, that this case shall be set for argument during the February session of Court.

/s/ Mary Ellen Barbera
Chief Judge

LVNV FUNDING LLC	*	**IN THE**
	*	**COURT OF APPEALS**
	*	**OF MARYLAND**
v.		
	*	**Petition Docket No. 299 September Term, 2017**
	*	
		(No. 1075, Sept. Term, 2016
LARRY FINCH, ET AL.	*	**Court of Special Appeals)**

WRIT OF CERTIORARI

STATE OF MARYLAND, to wit:

TO THE HONORABLE THE JUDGES OF THE
COURT OF SPECIAL APPEALS OF MARYLAND:

WHEREAS, LVNV FUNDING, LLC v. LARRY FINCH, et al., No. 1075, September Term, 2016 was pending before your Court and the Court of Appeals is willing that the record and proceedings therein be certified to it.

YOU ARE HEREBY COMMANDED TO HAVE THE RECORD TRANSMITTED TO THE COURT OF APPEALS OF MARYLAND ON OR BEFORE October 23, 2018, together with this writ, for the said Court to proceed thereon as justice may require.

WITNESS the Chief Judge of the Court of Appeals of Maryland this 9th day of October, 2018.

/s/ Suzanne C. Johnson

Acting Clerk
Court of Appeals of Maryland

EXHIBIT
B

DBA INTERNATIONAL
SETTING THE STANDARD FOR RECEIVABLES MANAGEMENT

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.*

3/23/16

EXHIBIT C

DBA INTERNATIONAL

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

10440 Pioneer Boulevard • Suite 2 • Santa Fe Springs, CA • 90670-3742
Ofc: 562-903-7222 Fax: 562-903-7277 Website: www.DBAInternational.org
A Non-Profit Organization since 1998

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

for Barbara A. Sinsley
General Counsel
DBA International

CC: Michael Jackson, Director of Regulatory Policy

The Commonwealth of Massachusetts
Office of the Commissioner of Banks
One South Station
Boston, Massachusetts 02110

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEVEN L. ANTONAKES
COMMISSIONER OF BANKS

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

October 13, 2006

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

P:\Legal\2006\O06060.doc

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.

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 In 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

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

APPEARANCES:

ON BEHALF OF THE DEFENDANT:
MARGARET L. ARGENT, ESQUIRE
Thomas & Libowitz, P.A.
100 Light Street, Suite 1100
Baltimore, Maryland 21202
Telephone: 410-752-2468
Facsimile: 410-752-0979
Email: margent@tandllaw.com

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Sworn Statement of CHARLES W. TURNBAUGH

April 12, 2011

PROCEEDINGS

Whereupon,

CHARLES W. TURNBAUGH,

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

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

EXAMINATION BY MS. ARGENT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A That's correct.

Q And where did the bill originate?

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

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

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

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

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

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

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

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

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

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

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

MS. ARGENT: Mark this as 3, please.

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

BY MS. ARGENT:

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

A Yes, I do.

Q And what is that?

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

considering adoption of the legislation.

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

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

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

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

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

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

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

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

BY MS. ARGENT:

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

Are you familiar with the letter?

A Yes, I am.

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

A Yes, I was.

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

A Yes, I did.

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

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

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

Q Communication with the owner of?

A With the debtor.

Q Okay.

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

Q You attended that hearing that you made reference to?

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

Q That was when you presented testimony in Exhibit 3?

A That's correct.

Q Can you tell me what, if any, involvement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BY MR. ARGENT:

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

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

Mr. Turnbaugh, do you have an opinion, one

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

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

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

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

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

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

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

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

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

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

A Yes, I'm familiar with it.

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

A Yes, I was.

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

was to be?

A Yes, it was.

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

A Yes, it does.

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

THE WITNESS: My pleasure.

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

State of Maryland

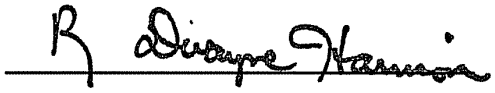
County of Baltimore, to wit:

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

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

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

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



R. DWAYNE HARRISON

Notary Public

My Commission Expires:

September 15th, 2013

EXHIBIT
E

DLLR
STATE OF MARYLAND
DEPARTMENT OF LABOR, LICENSING AND REGULATION

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

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, that 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

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 **H**ouse **B**ill **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 defauld whe 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.,
No. 46, September Term 2018

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:

13th Day of December, 2018, I served the within **BRIEF OF AMICUS CURIAE RECEIVABLES MANAGEMENT ASSOCIATION INTERNATIONAL, INC. IN SUPPORT OF PETITIONER** upon:

Thomas J. Moloney
Lewis J. Liman
CLEARY GOTTLIEB STEEN & HAMILTON LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2000
tmoloney@cgsh.com
lliman@cgsh.com

Nowell D. Bamberger
CLEARY GOTTLIEB STEEN & HAMILTON LLP
2000 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 974-1500
nbamberger@cgsh.com

Douglas F. Gansler
BUCKLEY SANDLER LLP
1250 24th Street, NW, Suite 700
Washington, DC 20037
(202) 349-8000
dgansler@buckleysandler.com

Frederick S. Levin
BUCKLEY SANDLER LLP
100 Wilshire Boulevard
Santa Monica, CA 90401
(310) 424-3900
flevin@buckleysandler.com

Ronald S. Canter
THE LAW OFFICE OF RONALD S. CANTER, LLC
200 A Monroe Street, Suite 104
Rockville, MD 20850
(301) 424-7490
rcanter@roncanterllc.com

Daniel L. Geyser
THREE ENERGY SQUARE
6688 N. Central Expy.
Suite 1650
Dallas, TX 75206
(213) 995-6811
daniel.geyser@strismaher.com

Peter K. Stris
725 S. Figueroa Stree
Suite 1830
Los Angeles, CA 90017
(213) 995-6801
peter.stris@strismaher.com

borjson@legglaw.com
Phillip Robinson, Esq.
Consumer Law Center, LLC
8797 Colesville Road, Suite 307
Silver Spring, MD 20910
phillip@marylandconsumer.com

Scott C. Borison, Esq.
LEGG LAW FIRM, LLC
1900 S. Norfolk Road, Sinte 350
San Mateo, CA 94403

Douglas B. Bowman, Esq.
PO Box 503
Middletown, MD 21769
dbblawyer21701@aol.com

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, 20 copies of the document have been sent to the Court on the same date as above via hand delivery.

December 12, 2018

John C. Kruesi, Jr.
Counsel Press