

1 STATE OF COLORADO DEPARTMENT OF LAW

2 CFDCPA Consumer Group
Public Hearing

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4 TRANSCRIPT OF PROCEEDINGS
July 30, 2018

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6 Proceedings had on Monday, July 30, 2018, at
7 Ralph L. Carr Colorado Judicial Center, 1300 Broadway,
8 Room 1D, Denver, Colorado 80203, commencing at the
9 hour of 1:31 p.m., before JAN MICHAEL ZAVISLAN, Interim
10 Administrator; and Invited Members of the Public.

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| <p>1</p> <p>2 EXHIBIT INDEX</p> <p>3 FOR IDENTIFICATION REFERENCE</p> <p>4 Exhibit 1 Letter From Encore Capital 63</p> <p>5 Group, July 30, 2018</p> <p>6</p> <p>7 SPEAKERS:</p> <p>8 Holly Shilliday</p> <p>9 Sonia Gibson, Encore</p> <p>10 Darin Turco</p> <p>11 Tom Romola, Associated Collection Agencies</p> <p>12 Michael Deeds, Law firm of Linebarger Goggan Blair</p> <p>13 & Sampson, LLP</p> <p>14 Don Schaefer</p> <p>15 Dave Cannella, Credit Service Company</p> <p>16 of Colorado Springs</p> <p>17 Rhonda Denmy, Collection Center</p> <p>18 Frank Woodhouse, Alpha Recovery Corp</p> <p>19 Makyla Moody, Greenberg and Sada</p> <p>20 Julia German, Linebarger Law Firm</p> <p>21 Michael Landis, Colorado Public Center Research Group</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 So, first, introductions. I should have</p> <p>2 started with this. My name is Jan Zavislan. I've been</p> <p>3 in the office for 30 years, but not in this role. I am</p> <p>4 currently the interim administrator. I replaced Julie</p> <p>5 Meade, who left several months ago.</p> <p>6 I've been in this position now for about</p> <p>7 three months. And purely on an interim basis. We're</p> <p>8 actively looking to replace Julie on a full-time basis.</p> <p>9 It will not be me. I did not apply. Even</p> <p>10 though I like the work of this particular unit, I am --</p> <p>11 after managing this office for 26 years, I like not</p> <p>12 having to supervise people.</p> <p>13 But it's been an interesting, obviously,</p> <p>14 three months. I had filled this role as interim</p> <p>15 administrator one time before, for those of you who</p> <p>16 have been around a while, and some of you have.</p> <p>17 Cora left the office after about 26 years as</p> <p>18 administrator back in 2009 or '10. No, 2010 or 2011.</p> <p>19 And there was an interim period of about four or five</p> <p>20 months before Julie was hired that I acted as interim.</p> <p>21 So I'm not totally naive on the work either</p> <p>22 of the collection agency side of the Consumer Credit</p> <p>23 Unit or the consumer lending side of the unit.</p> <p>24 But I have some other staff with me today</p> <p>25 that will hopefully, if questions come up of a</p> |
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| <p>1 PROCEEDINGS</p> <p>2 JAN ZAVISLAN: So thank you, everybody, for</p> <p>3 coming. This is the first annual meeting of collection</p> <p>4 agencies, attorneys representing them, debt buyers, and</p> <p>5 other interested parties as mandated by House Bill</p> <p>6 17-216, which repealed, as you recall, the Collection</p> <p>7 Agency Board and placed on the administrator an</p> <p>8 obligation to have biannual meetings, one in January</p> <p>9 with the consumer groups, and one in July with the</p> <p>10 industry groups and just other interested parties.</p> <p>11 These are open. These are public meetings.</p> <p>12 A notice went out via direct email to our entire list</p> <p>13 of licensees and our entire list of other interested</p> <p>14 parties more than 30 days ago.</p> <p>15 I hope that's how all you learned about this.</p> <p>16 And the goal today, after introductions, the goal is a</p> <p>17 listening conference. All right? I am not going to</p> <p>18 expound on the law, not going to expound on what the</p> <p>19 office is currently doing, other than in response to</p> <p>20 questions.</p> <p>21 What I really want to do is hear from the</p> <p>22 members of the industry and other interested parties</p> <p>23 about issues that they think are critical issues that</p> <p>24 they would like to see the administrator address in the</p> <p>25 future via rulemaking, legislative or otherwise.</p> | <p>1 nonlegal, opinion nature, I can rely on them as well to</p> <p>2 try to answer any questions.</p> <p>3 Just a matter of housekeeping, restrooms are</p> <p>4 out this door. The closest one is to your left about</p> <p>5 100 feet down the hallway on your right as you're</p> <p>6 walking towards what's the courthouse side of this</p> <p>7 building.</p> <p>8 There's a cafeteria across the hall, in case</p> <p>9 anybody literally has to get their Starbucks fix before</p> <p>10 the end of this meeting. My goal is to have this</p> <p>11 meeting go an hour and a half.</p> <p>12 That means, if you want to come up and ask</p> <p>13 questions or make comments, that you need to limit --</p> <p>14 depending on how many people are interested -- to try</p> <p>15 to limit your comments, if you could, to about five</p> <p>16 minutes.</p> <p>17 And that will allow us, then, to have some</p> <p>18 interchange as appropriate. But mostly, just to make</p> <p>19 sure that we have enough time for everybody who wants</p> <p>20 to make a public statement on the record -- and we have</p> <p>21 a court reporter with us who's going to prepare a</p> <p>22 transcript of today's proceedings, just like we did</p> <p>23 back in January -- so we have enough time to get all</p> <p>24 that done. All right?</p> <p>25 So, before we take public comments, anybody</p> |

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| <p style="text-align: right;">6</p> <p>1 have any questions, procedural or otherwise? 2 (No response.) 3 JAN ZAVISLAN: Good. I hope this means we're 4 done. No? So, with that, and then, I'm going to have 5 you all come up here because this is the only live mic. 6 It makes it easier for our court reporter to be able to 7 hear you clearly. 8 I only ask that you try to talk slowly, give 9 your name, spell your name, and give the company or 10 association that you are here on behalf of today so 11 that we have as complete a record as possible. 12 So, with that, who would like to start us 13 off? Come on up. I'm just going to join you out here 14 and take some notes. 15 DARIN TURCO: Thank you. Darin Turco, 16 T-u-r-c-o. I'm here to represent the RMA and United. 17 JAN ZAVISLAN: Okay. No comment? 18 DARIN TURCO: No comment. 19 JAN ZAVISLAN: You don't need to come up and 20 just introduce yourselves. Sorry. There's a signup 21 sheet that's going around. Before you leave, make sure 22 you put your name, your company -- and I don't know if 23 we ask for contact information, but just make sure you 24 fill out the attendance list that's going around so 25 that we have a complete record. All right?</p> | <p style="text-align: right;">8</p> <p>1 we're going to have to drop the case. 2 The collection agency in that instance loses 3 \$100, \$150 in court costs. The reason people on 4 Medicaid get sued, frankly, is because they failed to 5 communicate with the original medical provider; they 6 failed to communicate with the collection agency; 7 collection agency made cases that have no option but to 8 file a suit. 9 There's no way we intentionally file lawsuits 10 against collection agencies. And I'll ask the 11 question. Does anybody in this room do that? No. So 12 it's ridiculous. So please stop that notion. 13 It does not happen. Do people get sued on 14 Medicaid? Yes, but it's because they failed to 15 communicate. 16 Second issue that came up at that meeting was 17 the licensing of process servers. If you want to 18 license a process server, that's fine, but what's going 19 to happen is the fees that the process servers charge 20 us, and you, are going to go up. It's that simple. 21 So if you want, you can sue more people, but 22 if you want the consumer to pay more for a process 23 server fee that has a license, it won't affect us, but 24 it's going to be passed on to the consumer. 25 This bill came up in the legislature, I</p> |
| <p style="text-align: right;">7</p> <p>1 Anybody want to come up and make a comment? 2 Yeah, Tom. 3 TOM ROMOLA: Can we offer rebuttal from the 4 last meeting, from the last consumer meeting? 5 JAN ZAVISLAN: You can make whatever public 6 comments, Tom, you want to make. 7 TOM ROMOLA: Okay. My name is Tom Romola, 8 R-o-m-o-l-a. I'm the legislative chairman for 9 Associated Collection Agencies in Colorado, Wyoming, 10 and New Mexico. 11 And we have a number of items we want to talk 12 about. But first, I want to offer some rebuttal to 13 some of the comments that were made during the January 14 meeting. 15 We were not allowed to speak. Only the 16 consumer advocates were allowed to speak. And that's 17 fine. But there's a couple of things I want to clear 18 up. 19 One of the notions that came out of that 20 meeting is that collection agencies intentionally sue 21 people that are on Medicaid. That is so far out of 22 line, it's incredible. 23 Why would a collection agency file suit 24 against someone on Medicaid when, sooner or later, 25 they're going to find out that they have Medicaid, and</p> | <p style="text-align: right;">9</p> <p>1 believe, two years ago or three. The legislature, in 2 their wisdom, saw through this and saw that the people 3 behind this bill were the large process server 4 companies in the country who wanted to drive the little 5 guy out of business. 6 So that was -- the legislature saw through 7 that and defeated that bill. So it's not wise. It's 8 not helping consumers to do that. But if you want. 9 One of the things, Jan, in your report, on 10 page 6, I believe, if you have that in front of you, 11 Number 2, it says that we did not invite your office to 12 our annual conference. That's not true. We did. 13 I have emails I can show you that. I've 14 personally talked to Julie Meade on more than one 15 occasion about coming to the convention. 16 We talked about having a panel, and we talked 17 about what we were going to discuss at the convention. 18 So would you please amend that portion of your report 19 to the legislature to say that? 20 JAN ZAVISLAN: Yes. I'm sorry. I was 21 writing. Listen, there's a lot that gets dropped in a 22 transition. Not by way of excuse or explanation. But 23 in the records that I was able to locate, I saw 24 nothing. But I absolutely believe you telling me that 25 you guys invited them.</p> |

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| <p style="text-align: right;">10</p> <p>1 TOM ROMOLA: You know I'm a swell guy. You 2 know that.</p> <p>3 JAN ZAVISLAN: I definitely do.</p> <p>4 TOM ROMOLA: We do -- we would like to have a 5 rulemaking hearing. I don't want to dominate this 6 meeting today. But we would like to have a rule-making 7 hearing.</p> <p>8 Jan, I was working with Julie and another 9 attorney in your office -- I'm sorry I don't remember 10 her name -- about addressing the (inaudible) law issue.</p> <p>11 JAN ZAVISLAN: Repeat that.</p> <p>12 TOM ROMOLA: It was the Lexington Law issue. 13 Are you familiar with that?</p> <p>14 JAN ZAVISLAN: Yes.</p> <p>15 TOM ROMOLA: Some in this room are. I was 16 cooperating with both of those folks. I haven't heard 17 anything else, so I don't know what happened. I was 18 also working with Julie on amending the Credit Repair 19 Statute to stop some of this nonsense that's going on, 20 and, of course, that fell through the cracks as well.</p> <p>21 Any questions? You guys are easy. Thank 22 you.</p> <p>23 JAN ZAVISLAN: Thank you, Tom. Anybody else? 24 I really am very interested, both for myself and for 25 the next full-time administrator, to hear where you</p> | <p style="text-align: right;">12</p> <p>1 about process servers.</p> <p>2 And we have implemented strict policies with 3 how we monitor or audit them regularly. We have a 4 detailed code of conduct that they must comply with. 5 And we have policies and procedures to ensure that 6 they're following all laws and regulations, as well as 7 conforming to any requirements, including any of those 8 set up by their particular trade associations.</p> <p>9 With regard to the bill that was passed last 10 year, Senate Bill 216, which amended the California 11 Consumer Fair Debt Collection Practices Act, Encore 12 worked closely with the Attorney General's office, the 13 consumer groups and advocates, other stakeholders, and 14 the associations nationally.</p> <p>15 And we're pleased to say that Colorado now 16 has some of the strictest requirements of the industry 17 and has brought the industry to a standard that many 18 other states do not have. And we're actually very 19 proud to say that.</p> <p>20 I think that it's better for consumers and 21 it's better to the industry to have this new set of 22 policies, including very detailed, strict data and 23 documentation requirements of debt purchasers who 24 litigate accounts in the state.</p> <p>25 And I think Colorado is truly forward-looking</p> |
| <p style="text-align: right;">11</p> <p>1 think there are issues that may be addressed or 2 questions that you may have, whether I can answer them 3 today or not. Yes.</p> <p>4 SONIA GIBSON: Good afternoon. I'm Sonia 5 Gibson, G-i-b-s-o-n. I'm here representing Encore 6 Capital Group, which is a large, publicly-traded debt 7 purchaser and has subsidiaries that are licensed debt 8 collectors in the state of Colorado.</p> <p>9 By way of background, Encore is a publicly- 10 traded company that's been doing business for over 11 60 years. We are purchasing primarily charged-off 12 credit card receivables, and we offer deep discounts, 13 affordable payments, (inaudible) consumers and help 14 them regain their financial footing and get back on 15 their feet.</p> <p>16 Just last year, we forgave about \$3.8 million 17 of consumer debt in the state of Colorado. We offer a 18 consumer-centric approach in how we treat our 19 consumers. We (inaudible) from active-duty service 20 members. We have deep hardship policies.</p> <p>21 And we offer consumers steep discounts and do 22 not charge any interest, as well as any fees. I want 23 to, also, in comments about the process servers, I just 24 want to reiterate that, I think, anecdotally, some of 25 the stories that I've been told are from decades ago</p> | <p style="text-align: right;">13</p> <p>1 in implementing these changes. And I think that the 2 effective date being just January 1, 2018, we really 3 should see these new rules play out before implementing 4 more strict requirements that I think the consumer 5 advocates in their January meeting were asking for.</p> <p>6 We fully support creating strict 7 requirements, and I think the industry agrees with me 8 that we want to make sure that everyone is acting 9 according to law.</p> <p>10 And we look forward to working together with 11 the Attorney General's office on any future potential 12 rulemaking. Thank you for your time.</p> <p>13 JAN ZAVISLAN: Somebody else? Perfect.</p> <p>14 HOLLY SHILLIDAY: Good afternoon. Holly 15 Shilliday of Craig and (inaudible). I represent 16 lenders and services who do real property court.</p> <p>17 THE REPORTER: Speak into the microphone, 18 please.</p> <p>19 HOLLY SHILLIDAY: Is that better?</p> <p>20 SPEAKER: I didn't catch your name.</p> <p>21 HOLLY SHILLIDAY: Holly Shilliday. 22 S-h-i-l-l-i-d-a-y. I represent lenders and servicers 23 in collection -- in connection with judicial 24 foreclosures.</p> <p>25 And I guess my question is, I've analyzed</p> |

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| <p style="text-align: right;">14</p> <p>1 Senate 216 and kind of came to my own conclusion, but I 2 was wondering what you all believe is allowed with 3 respect to foreclosures and the application to 216. 4 I do believe that debt buyer, by definition, 5 a lot of my clients, we include as debt buyers. Then 6 there are other provisions in 516103(B) that would 7 exempt servicers and lenders who are foreclosing. 8 So the question then becomes is, is that an 9 exemption for everything, or does the law still apply 10 with respect to nonjudicial foreclosure? I guess the 11 question is, is that a collection of debt? 12 JAN ZAVISLAN: So my understanding -- can you 13 hear me okay from here? 14 THE REPORTER: I can. 15 JAN ZAVISLAN: So the collection on mortgage 16 debt that is attained while -- actually, after default, 17 I don't believe it applies. I'm going to turn to you 18 on this. It is not exempt from some of the provisions 19 of the Fair Debt Collection Practices Act. 20 But 216 did not change that law, did not 21 change where the FDCPA applies to the collection of 22 mortgage loans acquired after default. 23 HOLLY SHILLIDAY: Okay. Well, that's going 24 up to the U.S. Supreme Court because the Tenth Circuit 25 right now says that foreclosure activity is not debt</p> | <p style="text-align: right;">16</p> <p>1 just want to make sure I'm not giving, especially as 2 the interim administrator, a legal opinion. 3 I can tell you that the -- we have viewed the 4 law historically as from the original notice to the 5 homeowner that they are going to be in foreclosure, up 6 through the foreclosure sale and the collection of any 7 deficiency, that the Fair Debt Act applies to that 8 conduct. 9 216 didn't change that law, didn't change how 10 we think the Colorado Supreme Court has interpreted 11 foreclosures as the collection of a debt. 12 HOLLY SHILLIDAY: Okay. Thank you. 13 JAN ZAVISLAN: Thank you. I don't know if 14 that helped or hindered. It's a funny game I have to 15 play to make sure that I'm not binding this office or 16 the permanent administrator. 17 So, you know, I apologize if I can't give as 18 clear an answer as maybe you wanted, but in that 19 instance, I think the correct answer is that 216 just 20 didn't change the law with regard to collection of -- 21 through foreclosure of mortgage debt. 22 Other comments? Other issues? Yes. 23 MICHAEL DEEDS: My name is Michael Deeds. 24 I'm a capital partner with the law firm of (inaudible.) 25 THE REPORTER: Say that again.</p> |
| <p style="text-align: right;">15</p> <p>1 collection. But then that's a separate statute from 2 the state statute. 3 JAN ZAVISLAN: And the Colorado Supreme Court 4 has, years ago, already determined that collection of a 5 foreclosure action is the collection of debt that 6 requires foreclosure attorneys to comply. 7 Now, they may not be licensed, but the 8 foreclosure notices that I have seen that have come 9 from law firms have always contained the appropriate -- 10 as well they should -- the ones I've seen have always 11 contained the appropriate, "This is an attempt to 12 collect a debt notice as required by the FDCPA." 13 So my view is that 216 did not change the law 14 in Colorado with respect to collection on foreclosure 15 through foreclosure on mortgage loans. 16 HOLLY SHILLIDAY: Okay. And then, if the 17 first -- if the party that foreclosed then went to file 18 a separate lawsuit to collect a deficiency, I mean, I 19 think that that probably is when for sure this kicks 20 in. 21 As far as the requirements of the -- 22 attaching the copy of the notice, the debt, all the 23 stuff that's required, I'm just wondering what your 24 opinion is on that. 25 JAN ZAVISLAN: Well, again, I don't know. I</p> | <p style="text-align: right;">17</p> <p>1 JAN ZAVISLAN: Spell your last name. 2 MICHAEL DEEDS: Good deeds and bad deeds. 3 D-e-e-d-s. Just one comment. I respectfully suggest 4 that the Department of Law consider utilizing the 5 national multistate licensing system for issuing and 6 renewing collection licenses. 7 It does not diminish or impact the ability of 8 the Department of Law to interpret, demand, request, or 9 expand the bases by which you grant collection 10 licenses, but what it does do is assist the industry 11 with the annual licensing process. 12 It coordinates the renewal dates. It 13 coordinates the basis of the information. Colorado may 14 require a bit more information than the State of Idaho, 15 but if it does, the State of Idaho and every other 16 state in that entity would benefit from access to that 17 information, as would Colorado. 18 There is a portion within the NMLS database, 19 for instance, where I update on a weekly basis all 20 litigation that is pending with the law firm, not that 21 it is consumer-oriented or not. 22 But it allows the licensing entity a great 23 deal more access to other information, which you may or 24 may not wish to make access to. But when I have to 25 stutter-step my way on an annual basis through the</p> |

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| <p style="text-align: right;">18</p> <p>1 licensing process, continuous updating at various 2 things and times, based upon the presence or the 3 dismissal of litigation, it is great -- a great easier 4 process to simply go to NMLS, upload the data, get 5 immediate alerts from all of the states, which are a 6 portion of that database, and they instantly have 7 access to what I uploaded. 8 Now, I currently use NMLS for 84 licenses in 9 11 states and an associated number of branch offices 10 throughout the United States. I also do it on an 11 individual basis nationwide with a number of states 12 such as Colorado. 13 And I don't mind doing it. But there seems 14 to be a consensus, and I've spoken to regulators with 15 Massachusetts, Connecticut, Rhode Island, Indiana, and 16 they all find that makes their jobs easier, and it does 17 not diminish their impact on the issuance of the 18 licenses, but it certainly provides a great deal more 19 uniformity, and for everyone that has to see the 20 licensing, it certainly provides a central database in 21 which I can feed the data or remove it and it becomes 22 inapplicable to the process. Thank you. 23 JAN ZAVISLAN: Question, Michael. Before you 24 go, couple of questions. I'm not familiar -- are you 25 referring to the National Mortgage Lender, the Mortgage</p> | <p style="text-align: right;">20</p> <p>1 licenses. And, really, the only thing that changes is 2 the renewal. All licenses at NMLS expire on 3 December 31st, and they're renewed for the whole year. 4 Some states have gone also to multiyear 5 licenses, and that could be done as well. 6 JAN ZAVISLAN: Do you think it would 7 require -- sorry to put you on the spot here -- but a 8 statutory change, or do you think the administrator in 9 rulemaking could take something like this up? 10 MICHAEL DEEDS: I think it's a state-by-state 11 decision, based upon how your rules are phrased. I 12 mean, I think in Massachusetts, they have the authority 13 under their existing rules and regulations. 14 I'm unfamiliar whether Colorado has granted 15 the Department of Law contracting authority to -- 16 really, the NMLS would not grant the license. You 17 would still grant the license. It merely serves as a 18 database. 19 And at the end of each year, you have to 20 scrounge a little bit. But I got all 84 of those 21 licenses renewed. 22 JAN ZAVISLAN: Okay. Thank you. Any 23 questions for Michael about that? 24 TOM ROMOLA: Is there a fee related to that 25 service?</p> |
| <p style="text-align: right;">19</p> <p>1 Loan Originator database? 2 MICHAEL DEEDS: I think it has a lot of 3 databases. And then, basically, it's all the same one. 4 It's also called NMLS. Yeah. 5 JAN ZAVISLAN: So I was not aware that you 6 could register nationally a collection agency or debt 7 collector in the NMLS. How do you think that would 8 work here? 9 What would be required for the State of 10 Colorado to participate in a national registry or 11 license database? 12 MICHAEL DEEDS: NMLS does not issue national 13 licenses. It is the data clearinghouse for the 14 information which a state would utilize and by which it 15 would vet whether the applicant is worthy of a license. 16 But you also have the advantage of a number 17 of other states. I'm going to use Idaho as an example. 18 They are very picky, and they are very demanding, in 19 terms of what they desire to have, in terms of the 20 information, quarterly filing of collectors' reports. 21 If I hire or fire a collector, I have to 22 notify them almost immediately. I think every quarter 23 is pretty tough, but we do it. Annually at the end as 24 well. 25 So it's -- you would still issue the</p> | <p style="text-align: right;">21</p> <p>1 MICHAEL DEEDS: Sure, there is. Everything 2 has a fee. We pay a fee. 3 TOM ROMOLA: What is it? 4 MICHAEL DEEDS: I'm not aware of whether or 5 not the state does. I know that -- I'll just use us as 6 an example -- we have software which we sell. We don't 7 give it away. So we charge for the delivery of 8 information. 9 So how NMLS makes their money, outside of 10 what I pay every year for my licenses, I don't know. 11 But they do use it. 12 DON SCHAEFER: Excuse me. There is a fee, 13 but it's very minimal. 14 JAN ZAVISLAN: Name, please, on the record. 15 DON SCHAEFER: Don Schaefer, S-c-h-a-e-f-e-r. 16 But the NMLS fee is very minimal, just a few dollars. 17 So it's very efficient too because, as Michael says, 18 you put in your information once, and then they pass it 19 along to everybody who is a member. 20 I'm saying, probably each year, probably 21 seeing this as well, each year, there's another two, 22 three, four, five, or more states that are jumping onto 23 the bandwagon. It's definitely worth investigating. 24 MR. ZAVISLAN: Just -- sorry. Jumping onto 25 the bandwagon, to replace or at least supplement their</p> |

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| 22 | <p>1 license of debt collection entities?</p> <p>2 DON SCHAEFER: Right. So I'm currently</p> <p>3 licensed in a number of states, and probably maybe a</p> <p>4 third of them are using NMLS. Sound about right to</p> <p>5 you?</p> <p>6 More and more every year, with the idea here</p> <p>7 being these are for, you know, how many times do I have</p> <p>8 to give this data? In the old days, we used to have to</p> <p>9 give it in every single state, and some of them had</p> <p>10 multiple bases as to how they handle the questions and</p> <p>11 their information.</p> <p>12 But here, it's kind of a deal where you turn</p> <p>13 it into them, and they give it to all of their</p> <p>14 partners, if you will, in each individual state.</p> <p>15 MICHAEL DEEDS: Certain states have also</p> <p>16 utilized the service for the filing of an annual report</p> <p>17 with the Secretary of State, in addition to licensing.</p> <p>18 And NMLS is very good about issuing email</p> <p>19 reminders. Every state has a different date upon which</p> <p>20 their annual reports expire and the amount of</p> <p>21 information required.</p> <p>22 All of the bonds are uploaded to NMLS, so you</p> <p>23 would be able to go as -- you would be the subscriber.</p> <p>24 You would have an access code. You would be able to</p> <p>25 immediately go and look at every bond that I've filed</p> | 24 | <p>1 both with the board (inaudible), prior to its</p> <p>2 dissolution. The one comment I would ask is to</p> <p>3 increase communication between the industry and the</p> <p>4 regulator.</p> <p>5 I think you have a lot of companies out there</p> <p>6 working very hard to comply, and their life would be a</p> <p>7 lot easier if the rules of the road were clear and</p> <p>8 modernized.</p> <p>9 I think there's things, such as emailing a</p> <p>10 consumer, that it would be nice to see some rules</p> <p>11 around. That, and other forms of modern communication.</p> <p>12 So to me, my request, or, I guess, my comment</p> <p>13 for the record for this meeting would be to look at</p> <p>14 getting some hearings around the rules started so that</p> <p>15 we could start chipping away, I think, at some of the</p> <p>16 antiquated rules and maybe including some that would be</p> <p>17 more helpful to the consumers, as well as the industry,</p> <p>18 so that we could comply.</p> <p>19 Jan, I'll never forgot this. It's a lot of</p> <p>20 years ago. You were interviewed by the news. And one</p> <p>21 of the comments you made was, "The purpose of the</p> <p>22 regulator was to make sure that those businesses that</p> <p>23 are attempting to comply aren't unfairly disadvantaged</p> <p>24 by those that aren't."</p> <p>25 And we'd like to see, I think, more in that</p> |
| 23 | <p>1 on behalf of my clients that use NMLS for collection</p> <p>2 notices.</p> <p>3 SONIA GIBSON: Additionally, for consumers,</p> <p>4 it's easier. Sonia Gibson, Encore. For consumers,</p> <p>5 it's easy to check the license and whether someone is</p> <p>6 licensed. You can search the company, and it shows you</p> <p>7 which are licensed in what state.</p> <p>8 MICHAEL DEEDS: There are certain ones for</p> <p>9 attorneys. I still rely a great deal on the attorney</p> <p>10 law functions. If I'm -- if I have an attorney</p> <p>11 licensed to practice in a particular state, and I can</p> <p>12 avoid having a collection license, I do so because I</p> <p>13 have the right as an attorney. And I stand by that</p> <p>14 right. Thank you.</p> <p>15 THE REPORTER: Tell me the name of your firm</p> <p>16 again, please.</p> <p>17 MICHAEL DEEDS: Linebarger, Goggan, Blair,</p> <p>18 and Sampson, LLP.</p> <p>19 JAN ZAVISLAN: Other comments, questions,</p> <p>20 statements, testimony? Yeah. Thank you.</p> <p>21 DAVE CANNELLA: Good afternoon. Dave</p> <p>22 Cannella, C-a-n-n-e-l-l-a, the owner of Credit Service</p> <p>23 Company of Colorado Springs, a third-party debt</p> <p>24 collection agency.</p> <p>25 I spent six years on the collection agency,</p> | 25 | <p>1 realm. That meant a lot to me as an owner trying to do</p> <p>2 the things that are right in this business, and our</p> <p>3 goal is to treat all the consumer (inaudible) equally.</p> <p>4 So that's my comments.</p> <p>5 JAN ZAVISLAN: Before I let you go, so two</p> <p>6 things. I appreciate your memory is better than mine.</p> <p>7 But I can tell you, one of the things that I have</p> <p>8 learned over the last three months is just how much</p> <p>9 effort staff are putting into unlicensed activity.</p> <p>10 The number of cease and desist letters, the</p> <p>11 number of licenses that are either a renewal is denied</p> <p>12 or an original application denied because it turns out</p> <p>13 they've been in business, for one, longest 14 years</p> <p>14 without getting a license, and their license is going</p> <p>15 to be denied.</p> <p>16 And so I think it is my view, even though I'm</p> <p>17 just temporary, but I think Julie very much had the</p> <p>18 same view, is that it's unfair to consumers when you</p> <p>19 have debt collectors that aren't following the law.</p> <p>20 But it's unfair to debt collectors like your</p> <p>21 company that get compliance, get licensed, and can't</p> <p>22 compete against these guys.</p> <p>23 So I want the room to understand that that's</p> <p>24 always going to be of interest to our office. But I'm</p> <p>25 also -- Dave, I want you to stay up there because I'm</p> |

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| <p style="text-align: right;">26</p> <p>1 curious about -- you mentioned, you know, rules that 2 address modernizing and the more modern ways that 3 people now communicate. 4 What are the other areas? You can answer, 5 and I'll open it up to the room, where you think that 6 the rules -- current rules are outdated and ought to be 7 addressed? 8 DAVID CANNELLA: Email comes to mind for me. 9 Without any guidance, sometimes it's a little bit of a 10 crap shoot on what action you take to try to 11 communicate with that consumer. And we are getting 12 that request. 13 I was listening to a call and doing an 14 evaluation. The consumer said, "Hey, could you email 15 that notice to me?" And my collector at the time 16 responds, "No. We don't have that service available." 17 And the consumer's response -- aging myself a 18 little bit -- says, "Well, it's only 2014. Why would 19 you have that service, right?" 20 I mean, so to me, as an agency and using 21 vendors that are servicing us to provide this 22 communication are looking at ways to provide a service 23 that the consumer's asking for, but then also being 24 compliant with the current state of the rules, which 25 weren't really set up to deal with this particular</p> | <p style="text-align: right;">28</p> <p>1 many payments online or over the phone, so forth, no 2 one else has to verify that payment. 3 But, once again, we're treated like 4 second-class citizens, and we're tired of it. And I 5 have another list. I'll be happy to get that to you 6 when the time comes. Those are a couple that come to 7 mind. 8 JAN ZAVISLAN: Somebody down here had a hand 9 up. 10 FRANK WOODHOUSE: My name is Frank Woodhouse 11 with Alpha Recovery Corp. And I was just going to jump 12 on board with what you were talking about. We have 13 cell phones, text messaging, all the things that, you 14 know, most people that are doing nowadays, completely 15 in a way that they do business, you know, all the way 16 through being able to access your website and make a 17 payment and things like that, I mean, you have to make 18 it -- you know, there has to be a good, strong rule in 19 place because it's amazing, the attorneys that are 20 coming after us for every little thing. 21 And it's getting onerous, obviously. That's 22 always been the case in this industry. When you start 23 talking about, you know, all their options that they 24 have to sue us on for basically following the rules, it 25 doesn't matter if you follow the rule; they can still</p> |
| <p style="text-align: right;">27</p> <p>1 technology. 2 That would be an example. Texting would be 3 another one. 4 JAN ZAVISLAN: Okay. Other -- I mean, I'm 5 curious. Tom, on this issue, where can we clarify? 6 TOM ROMOLA: There are a couple of rules. 7 And I have a list. And I'm sorry to bring this in. 8 Couple of them come to mind, and one -- this was one of 9 Julie's things, too -- was to streamline the 10 application process. 11 JAN ZAVISLAN: Okay. 12 TOM ROMOLA: And to streamline the sale or 13 the transfer of business, which is really confusing. I 14 personally won't go through that again. And relied on 15 her expertise to get that figured out. 16 I hope she did it right. But another one 17 that just irks the hell out of me is where we have to 18 verify the payment over the phone. When that rule was 19 adopted, and I worked with Laura on that, that was the 20 exception. That -- to me, that's the norm. 21 I want to guess -- other people can comment 22 on this -- I'm going to guess 90 percent of the 23 payments we get now are over the phone, whereas when 24 this rule was adopted, it was 10 percent. 25 So that rule, no one else -- you can make so</p> | <p style="text-align: right;">29</p> <p>1 sue you, and you have to settle with them. 2 So, I mean, if there's, you know, some strong 3 legislative reason, or -- to get it, you know -- get it 4 down on paper exactly what the law is and the way it 5 reads in reference to taking payments, to talking to 6 consumers, these are really, really important things 7 because we are, you know, in 2018 right now. 8 And everybody not only knows the law out 9 there, but they know how to bend the law. They bend it 10 the wrong way, rather than the people that are trying 11 to do business the right way, and spending thousands 12 of -- tens of thousands of dollars on compliance in 13 order to make sure you do it the right way, then to 14 have it come back on you. 15 And a lot of it has to do with the law 16 itself. CPA (inaudible) outdated. And nobody wants to 17 touch that at a national level with a 10-foot pole. 18 But here in the state of Colorado, being one 19 of the tightest, you know, with the CFA -- with the 20 CFDPCA, I mean, you guys should be looking to break new 21 ground and bring that to the forefront a little bit 22 because it's difficult to focus on doing the right 23 thing every single day, but it doesn't matter at the 24 end of the day. You're still going to have to defend 25 yourself for doing the right thing.</p> |

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| <p style="text-align: right;">30</p> <p>1 RHONDA DENMY: Rhonda Denmy, from the 2 Collection Center. I wanted to get on that as well. 3 JAN ZAVISLAN: Were you able to hear her? 4 THE REPORTER: Not the last name. 5 RHONDA DENMY: Denmy, D-e-n-m-y. We struggle 6 with that every single day as well, as a consumer. You 7 know, I think, talking to consumers nowadays, in 8 understanding how they want to be communicated with, 9 they don't want -- they don't want to call. They don't 10 want to have a conversation. 11 They want some technology base to make that 12 payment and resolve that issue. And because of the 13 restrictions, it's hard to provide them with that doing 14 the right thing. And so I think that's definitely an 15 area we need to look at. 16 JAN ZAVISLAN: We appreciate that. 17 MICHAEL DEEDS: I'd also like to throw in the 18 added problem being an attorney in the collection 19 business and meaningful involvement when it comes to 20 accounts. 21 My firm did a billion calls this year. We've 22 mailed out just many letters. And for a plaintiffs 23 attorney to sit there and tell me that I've got to look 24 at every file and know the details of that particular 25 file (inaudible) involvement is frivolous because I'm</p> | <p style="text-align: right;">32</p> <p>1 I feel, abandoned their responsibility by not having 2 proper recognition of when attorneys do practice the 3 art of collections. 4 And it is an art because of the technical 5 nature. There needs to be greater sensitivity, not 6 only to the high volume that anyone with a predicted 7 dialer can do. I can crank and dial 2 billion calls a 8 year easy. 9 I mean, it's just a matter of shortening the 10 time being the predictive nature of the algorithm and 11 my collections (inaudible.) Left and right. But 12 there's a certain amount of -- it's a bad mix right 13 now. 14 There's no standard definition for the 15 involvement outside of what the Supreme Court has said, 16 and that turned out to be a ridiculous statement. But 17 I think the states need great sensitivity to the fact 18 that it's a high-volume, high-tech industry these days. 19 And it's no longer -- I have no office with 20 even a rotary dial or even a press button phone to make 21 collection calls. That's 20 years ago. And I just 22 think that technology has surpassed where the 23 regulations currently stand. 24 And I think the perspective on the industry 25 as being engaged is a generation old and needs to be</p> |
| <p style="text-align: right;">31</p> <p>1 relying upon the data provided by my client, coming in 2 digital format, (inaudible), I'm using that to keep up 3 with phone numbers and letters, and letters are 4 approved in every state. 5 But I still get attorneys who think we're 6 fair game simply because I do not have some associates 7 sitting down with the billing files, going over each 8 one, and putting a check on it before I send it to a 9 phone center or issue a letter. 10 And I think the states need to have a greater 11 sensitivity to what does constitute a meaningful 12 involvement when attorneys are involved in a 13 high-volume practice like debt collection because 14 meaningful involvement certainly does not apply to a 15 standard collection agency. 16 They love their data just like we do. They 17 make their phone calls just like we do. Our personnel 18 is simply working for a law firm as opposed to an 19 agency. There's an extra layer of scrutiny applied to 20 us that makes us more readily available targets to 21 attorneys. 22 I'm moving right now to have an attorney 23 disbarred for filing a frivolous lawsuit against my 24 firm because I think he's stepping over the line. But 25 the state in which this particular attorney practices,</p> | <p style="text-align: right;">33</p> <p>1 updated pretty dramatically. It's not so much from the 2 legal perspective of what the legislature needs to do 3 as much as a sensitivity for the regulators to 4 recognize that the industry technology has made 5 dramatic improvements and strides, and we're outpacing 6 the laws and the interpretation being rendered by most 7 of the regulators. 8 JAN ZAVISLAN: Michael, are there -- or is 9 there a set of regulations? Has the state taken a look 10 at this and has moved the ball forward, in your 11 opinion, on, sort of, modernizing, you know, whether -- 12 whether -- you know, whether it's meaningful 13 involvement or just general communication with the data 14 release? 15 MICHAEL DEEDS: Several large law firms -- 16 and I'll just use Thomas Knight as an example because 17 (inaudible.) 18 THE REPORTER: Speak up, please. 19 MICHAEL DEEDS: Thomas Knight is a law firm. 20 And they come in and do an efficiency audit. And they 21 will look at how much involvement my attorneys have, 22 and does that sufficiently constitute meaningful 23 involvement to shield us from frivolous lawsuits. 24 Most of the lawsuits that are filed against 25 us are frivolous. Yeah, they're -- they're -- it's not</p> |

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| <p style="text-align: right;">34</p> <p>1 as much a set of guidelines as it is there are 2 protocols in place at some of the larger firms that 3 reach out, get (inaudible), we used them, that will 4 come in and do an audit. 5 And they'll look at our procedures and, you 6 know, how do we select letters and phone calls, what 7 processes do we use to push them through the point 8 where we have to go to a lawsuit or some go back to the 9 client for dismissal or for forgiveness. 10 JAN ZAVISLAN: So I think my question, 11 though, was are you aware of a state regulator that has 12 taken on this task? 13 MICHAEL DEEDS: No. 14 JAN ZAVISLAN: Okay. 15 ALAN GREENBERG: Very briefly. Alan 16 Greenberg. I don't -- I very much share my friend's 17 issue with regard to a meaningful involvement problem. 18 I don't think that that's a problem that we 19 have with the administrator at all or with the state 20 law at all. I thought Mr. Cannella's remarks were a 21 little bit more broad about issues we do have with the 22 administrator, with the AG's office, having to do with 23 communication. 24 You indicated very briefly that here's a 25 collection agency that's been out here for 15 years and</p> | <p style="text-align: right;">36</p> <p>1 basis. Now as quid pro quo, the board is gone. I 2 understand that. This meeting and other communications 3 are supposed to facilitate some of that same guidance. 4 I'm hoping it will be more aggressive about 5 use of that guidance and more ready to promulgate rules 6 so that the compliance staff and my clients will know 7 what's going to be required. 8 JAN ZAVISLAN: Yeah. I think that's a view 9 that probably most of the industry in the room would 10 share. I've certainly seen in my three months, other 11 than vacation, about that, and I know it's been quite 12 some time since formal rulemaking was done on the 13 collection agency side. 14 Believe me, it is on everybody's radar screen 15 as we approach a point of a new administrator. We're 16 going to be getting a new Attorney General come January 17 as well. But it is something that I certainly believe 18 is overdue as well. 19 TOM ROMOLA: Before we're out of time, I want 20 to make a couple of comments. 21 JAN ZAVISLAN: Do this up here, then, just 22 for ease. 23 TOM ROMOLA: Can I follow up just quickly? 24 So just a practical on the unlicensing question, I 25 think there's a lot of circumstance that goes around</p> |
| <p style="text-align: right;">35</p> <p>1 never licensed. Could it be they weren't aware that 2 because of the particular work they were doing, the 3 license was required? 4 We think that the statutory delegation to the 5 administrator to interpret the statute is extremely 6 limited under the 113, but the rulemaking power is very 7 broad. 8 And where the administrator has chosen to 9 regulate by enforcement particular interpretations that 10 she has of what's debt collection, of what's the 11 correct way to assess fees, these matters of 12 interpretation are being seen by my clients, many of 13 whom (inaudible) have a substantial commitment to 14 compliance, only as defendants in the administrative 15 enforcement action, no way is it discernible from any 16 reasonable interpretation of the statute or the rules. 17 We think that one of the reasons the 18 statutory delegation rulemaking is as broad as it is 19 is to provide important guideposts to the industry on what 20 conducts should or shouldn't be conforming. 21 In the old days, when the administrator had 22 regular board meetings, we were able to determine those 23 positions the administrator was taking with regard to 24 these legal issue well in advance of any enforcement. 25 And we were able to share information on that</p> | <p style="text-align: right;">37</p> <p>1 what created the unlicensing situation. 2 There was a time on the board where the board 3 members received the details of disciplinary action. 4 And we were able to kind of -- I mean, we spent hours 5 sifting through that, which gave me a lot of insight as 6 to how to help our agency members of the association or 7 agencies that are licensed in Colorado or agencies 8 seeking to license in Colorado how to comply. 9 And that level of communication decreased 10 over my six years on the board. So I guess the point 11 there is, there was -- there was a time where a few -- 12 a number of out-of-state agencies were changing -- 13 weren't changing their address. 14 They were changing their in-state office but 15 not notifying your office of that change. Everything 16 else they were doing was likely above-board, meaning 17 they were communicating with their consumers; they 18 could be found by their phone number. They were 19 answering their emails. 20 The question would be, in that case, what 21 is -- what is -- what is that -- is classified, and 22 how, as a unlicensed collection agency, from the time 23 they changed their in-state office until they renewed, 24 which has been found out about that address change, or 25 is it an organization -- because I don't like to call</p> |

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| <p style="text-align: right;">38</p> <p>1 them a business if they're not licensed in any way, 2 shape, or form, and just attempting to skirt all 3 regulation, that organization, I think, is behaving 4 with a whole different set of intentions. 5 So to me, the level of communication is super 6 helpful to the industry, so that, again, we're looking 7 for, what is the clear road? 8 And I'd much rather learn that through a 9 friendly call or friendly letter than finding myself as 10 a defendant because at that point, it's a little tough 11 to discuss what is really right and wrong. 12 You just put on your defense hat. And that's 13 all you can do. So to me, I think, again, trying to 14 reinforce the importance of the communication between 15 not just between the regulatory entity and your office, 16 but what is the interpretation? What is the law? What 17 is the clarity? That would be very helpful to us. 18 Thank you. 19 JAN ZAVISLAN: Yeah. Tom. 20 TOM ROMOLA: Thanks. I just want to make a 21 few follow-up comments. One is, I think we've already 22 mentioned, we would like to work closely with the new 23 administrator. 24 I don't want to pile on Julie. Her and I had 25 our differences and so forth. But it's easier for us</p> | <p style="text-align: right;">40</p> <p>1 Because that's what you want. There are some 2 people in this room who don't want garnishments for 3 debt. They don't want debts to be collected. And it's sad. 4 5 So think about that the next time you have a 6 medical procedure or buy a car. We're not the bad 7 guys. Please, new administrator, have her work with 8 us, please. 9 JAN ZAVISLAN: You bet. 10 TOM ROMOLA: Or he. 11 JAN ZAVISLAN: Anything else? Any other 12 comments, thoughts, suggestions, ideas? Concerns? 13 MAKYLA MOODY: Good afternoon. My name is 14 Makyla Moody from Greenberg and Sada. M-a-k-y-l-a, 15 M-o-o-d-y. I'm a licensed attorney here in Colorado, 16 and I represent a number of different agencies and 17 outside from across the country in various matters. 18 One of the things that is particularly 19 frustrating is the lack of communication. As this 20 licensing renewal process came up this June, one of the 21 issues that came to light that may have been an 22 oversight during the sunset review of the legislation 23 that we're talking about today that fostered this 24 particular meeting was that the web address that's 25 required on first notices was not updated in the</p> |
| <p style="text-align: right;">39</p> <p>1 to work together than to butt heads like we've had the 2 last few years. 3 It's also important for the consumer people 4 in this room to understand, we're not the bad guys. If 5 you look at this report, 210 complaints have been filed 6 since January 1st against licensed collection agencies. 7 My experience in dealing with Laura and Julie 8 is, out of that 210, half or less are legitimate 9 complaints. A lot of these complaints are, "I went to 10 the dentist, and my tooth fell out." 11 Well, that's not a complaint against the 12 collection agency. That's a complaint against the 13 dentist. Out of the millions and maybe billions of 14 contacts we make every year, we've had 210 complaints. 15 We're not the bad guys. 16 Without us, without collection agencies -- I 17 sometimes refer to us as civil police. Without us, 18 this country is in chaos. This country folds up in a 19 week. If there aren't people out there to enforce 20 payment of debts and allow you to have credit, then 21 we're in trouble. 22 So many of you consumer folks, next time you 23 go buy a car, think about that, how much more you're 24 paying for that car, and could you really pay cash for 25 that car with your credit dried up?</p> | <p style="text-align: right;">41</p> <p>1 statute. 2 That web address changed two years prior. 3 And when that happened, any new agency stepping into 4 Colorado couldn't -- they are looking at our laws, 5 going, "Okay, I have to put a current address on 6 there." 7 And for a long time during that two-year 8 period, the old address still worked and redirected to 9 the new thing, but without a redirect notice -- it took 10 a little while for the redirect notice to get in. 11 And only recently did that web address 12 change. The number of agencies that have contacted my 13 office, in particular, during this renewal cycle to 14 confirm what the correct address was was exceedingly 15 frustrating. 16 Previously, there had been memos sent out to 17 the licensees. Anybody who was looking to become a new 18 licensee to the State of Colorado wouldn't have gotten 19 that memo. 20 That's where an advisory opinion or notice 21 would have come in handy to have that there. I don't 22 know that your (inaudible) address at your website. 23 The last advisory opinion that was issued by the 24 administrator was in 2006. 25 Since that time, there has been a frustrating</p> |


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| <p style="text-align: right;">42</p> <p>1 lack of communication. The Collection Agency Board 2 rules, I think we will agree, need to be updated to 3 address the technology. There's licensing issues that 4 come up frequently. 5 JAN ZAVISLAN: Some what to come up? 6 MAKAYLA MOODY: Licensing issues. The 7 administrator has brought discretion about what is 8 necessary to issue a collection agency license under 9 the statute, and that's where rulemaking comes in 10 handy. 11 I understand there's some discrepancies 12 within the administrator's rules on that particular 13 topic that have caused a lot of agencies not to 14 understand when they have to be licensed because there 15 is sort of a reciprocity. 16 And over the years, what's been commonly 17 accepted by the administrator as a reciprocity has 18 apparently been narrowed down. And we're seeing issues 19 with that. 20 Again, it would be helpful if there were more 21 guidance from the administrator as to what was required 22 so that people seeking to come into Colorado to be 23 licensees know what to expect and know what they have 24 to comply with. 25 Some of them don't know who to reach out to,</p> | <p style="text-align: right;">44</p> <p>1 Some of it's just a lack of civics 2 understanding within the broader populous. But what's 3 been communicated to the industry, they have to answer 4 these complaints, and they do. It's an expense. It's 5 time. It's energy. 6 It's taking away from the normal business 7 activities. But then they get nothing communicated in 8 a response unless there's an enforcement action. I 9 understand that my clients would like to at least know 10 something's closed. 11 I've had agencies that respond to a 12 complaint, and it takes six, seven months before they 13 realize they're already into enforcement action or 14 headed to an enforcement action. 15 They're answering questions that they don't 16 know why. And some type of advisement, or at least 17 some notice so that they know when they can close their 18 files on the complaint process would be exceedingly 19 helpful for the industry as a whole. 20 And one of the new issues that we're starting 21 to see is consumers who file repetitive complaints. 22 And it's particularly bad at the national level with 23 the CFPB. I've got one agency -- my apologies; they 24 changed their acronym. 25 But at the federal level, I've got one client</p> |
| <p style="text-align: right;">43</p> <p>1 if you're an out-of-state agency, who to reach to as 2 local counsel even to inquire. They're opening (sic). 3 They've got compliance officers who are going to our 4 statutes and looking at our statues. 5 You look at the web address, and you think 6 that's the right web address. I happen to see a lot -- 7 I do notice review requirements for a lot of agencies, 8 and I am frequently correcting that for a lot people. 9 And I've given quite a few arguments with 10 agencies because they're like, "No, the statute says," 11 and I have to explain to them it's been updated, and 12 no, there isn't any notice on the AG website as to 13 that. 14 One of the other things that we end up with 15 that's a frustration for the industry is the complaint 16 process. As Tom indicated, there are 200-some 17 complaints, but the question is how those complaints 18 are getting handled and processed in that particular 19 regard. 20 Complaints over a doctor's bedside manner 21 doesn't go against the agency. Complaints about the 22 judicial process, where there's been litigation and 23 somebody's trying to use the administrative tactic to 24 overrule a judicial opinion, it doesn't quite work that 25 way.</p> | <p style="text-align: right;">45</p> <p>1 that's received nine separate complaints from one 2 consumer. And being able to shut that process down 3 instead of taking away from addressing legitimate 4 concerns to rehash the same information gets very 5 costly for these agencies. 6 And we would just like to see some kind of 7 mechanism for addressing that with the administrator. 8 And I thank you for your time. Tom? 9 TOM ROMOLA: Sorry. 10 JAN ZAVISLAN: So let's -- I think those are 11 all great points. I appreciate that very much. One of 12 the things that we have done that just purely 13 coincidentally overlapped with me as the interim 14 administrator was the decision I made, is we've 15 actually converted an STE that was formally a paralegal 16 into a compliance specialist, so who's going to be able 17 to hopefully be able to work and more get their hands 18 dirtier or bloodier in the complaints, help us analyze 19 on the one side. 20 But maybe that's an opportunity for us to 21 triage a little bit better what comes out of our office 22 to the industry as well. So just know that that's just 23 literally -- she's in the room today, but just started 24 a week ago. 25 So -- so, you know, I think that that's a</p> |

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| <p style="text-align: right;">46</p> <p>1 well-taken comment. And I worked in consumer fraud and 2 continue to work in consumer fraud. And we have a much 3 different triage methodology with complaints that come 4 in false advertising and the like. 5 We refer to other agencies. We close 6 complaints without action much more frequently, I 7 think, that the historical practice has been every 8 complaint goes out. And maybe we need to take a look 9 at that. 10 It's not going to be my decision, but I think 11 it's legitimate concern. 12 MAKYLA MOODY: Thank you for your time. 13 JAN ZAVISLAN: Anything else? The statute 14 says we do this for two years. Is there -- should this 15 look different? It won't be me setting up next time, 16 but there will be a record of it. 17 Do you think that the next time, this time a 18 year from now, this meeting, or even if you have an 19 opinion about the -- sort of the consumer side meeting 20 in January, should this look different? 21 Should this be done differently to make it 22 more meaningful? Any thoughts anybody has about that? 23 MAKAYLA MOODY: More information on the 24 actual complaint that you're seeing would be helpful. 25 JAN ZAVISLAN: Okay. In the aggregate?</p> | <p style="text-align: right;">48</p> <p>1 that report, it could provide more granular 2 information. Again, aggregated on, you know, X number 3 of complaints about, you know, X, Y, and Z practices to 4 maybe give you a little bit more insight generally over 5 the kind of complaint trends that we're seeing as we 6 collect some of the complaints. 7 That would be, I think, helpful for the next 8 time we do those reports. Yes. 9 RHONDA DENMY: It might also be helpful -- 10 JAN ZAVISLAN: And you are, again? 11 RHONDA DENMY: Rhonda Denmy, Collection 12 Center. It might also be helpful to identify what 13 percentage of those complaints end up not being 14 legitimate complaints. 15 I think, oftentimes, when you talk to the 16 public, there's this many complaints, and like Tom 17 referred to, you know, sometimes -- a lot of times, 18 less than half end up being where something was 19 actually done wrong. 20 JAN ZAVISLAN: So -- so let's -- so there's a 21 little bit of subjectivity there. I mean, obviously, 22 there are going to be those that are obviously 23 unrelated to debt collection. 24 They're complaining about a service provider, 25 not about the debt they incurred or really about the</p> |
| <p style="text-align: right;">47</p> <p>1 MAKYLA MOODY: Yeah. When convenience fees 2 became an issue on the prior meeting, it was less 3 advisory opinion than was issued in 2006. That's when 4 (inaudible) issued her advisory opinion so that we had 5 more information. 6 If you're not doing advisory opinions on 7 issues like that, obviously, you said licensing was a 8 major issue for your department and unlicensed 9 agencies. 10 Having more information on what type of 11 unlicensing, if it's because a license -- they have a 12 license, and it expired because they didn't get it 13 renewed because it was issued in May and then forgot to 14 reapply in June, I've seen that happen. 15 Just generally with -- they're in business 16 and not licensing across the board, like debt scams and 17 stuff like that, that's one thing. But if they are a 18 legitimate business that a license expired, it changes 19 the ball game. 20 JAN ZAVISLAN: One thing, and it would have 21 been -- and this is just, I think, maybe, I wasn't 22 familiar with enough at the time that we did the annual 23 report this year, but we broke down in as broad as 24 possible terms the number of complaints. 25 But I certainly think in the future years on</p> | <p style="text-align: right;">49</p> <p>1 nature of collection activities. So those are clearer. 2 I don't know. I don't know how far we want to 3 interject, sort of, our subjective beliefs as a 4 regulator into the legitimacy of, maybe, the closer 5 call complaints. 6 It's worth having a discussion that we 7 certainly can have about that. 8 SONIA GIBSON: Sonia Gibson, Encore. I think 9 the distinction that we would ask for is maybe an 10 inquiry, versus complaint or dispute. So I think 11 everybody can be logged into an inquiry. 12 But, you know, the vast majority of the time, 13 I think it's something like, This is not my debt, to 14 which the response would be, Prove that, in which case, 15 it's not really a complaint. It's not -- it's more an 16 inquiry about their debt. 17 JAN ZAVISLAN: Okay. Tom. 18 TOM ROMOLA: Couple of complaints. One is 19 that when we do get a response or a debtor gets a 20 response to the complaint, it says, in so many words, 21 We're not taking any action at this time. 22 That's pretty broad. Why can't it say, We 23 found no violation based on the information provided? 24 That's one. 25 Second thing is, in the past, past</p> |

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| <p style="text-align: right;">50</p> <p>1 administrators have taken complaints, and one complaint 2 with multiple violations, didn't get a validation 3 letter, called me 45 times the same day, charging me 4 too much, et cetera, and counted each one of the 5 violations as a complaint. 6 It's one complaint. It's not four. It's not 7 three. It's one. And they had the number of 8 complaints, again, I think they may justify their 9 existence in this department and make us look bad. 10 It's one complaint. 11 JAN ZAVISLAN: So I think that when we report 12 the numbers of complaints that we receive -- Nick, I'll 13 ask you -- they are -- you're not parsing out a 14 complaint that comes in and alleges six violations as 15 six complaints received? 16 He's shaking his head no, that it's literally 17 a complaint that may contain six violations. So we are 18 not padding statistics, just for the record, by making 19 a complaint that alleges six violations as six 20 complaints. 21 TOM ROMOLA: No, I talked with Julie at the 22 convention, and that's not the case. 23 JAN ZAVISLAN: Well, I'm telling you what the 24 case is with respect to the numbers that we have 25 published.</p> | <p style="text-align: right;">52</p> <p>1 do that, we'll make it absolutely clear that we've got 2 X number of actual separate complaints, and among 3 those, we have seen the following violations. 4 (Inaudible) that, in fact, number of 5 complaints, but I think it's fair that we have to 6 accurately report individual complaints that come in. 7 I know that's what we do on the consumer fraud side of 8 the office. 9 We don't -- when we report complaint data, we 10 do this every year, we're not -- and we had plenty of 11 consumer fraud complaints that alleged multiple 12 violations of the statues that we enforce, sometimes 13 multiple violations of the federal statutes that we 14 enforce. 15 But we just -- we just report on the raw 16 complaint numbers. Michael. 17 MICHAEL DEEDS: In terms of the meeting, it 18 might be helpful if you could Skype the meeting. I 19 mean, I don't mind coming to Denver, but it's a two-day 20 trip for me. 21 Other people might want to listen and provide 22 information that I didn't want to bring up. Second 23 thing is, in terms of describing or reporting the 24 complaints you receive, the CFPD website is pretty 25 good. It's extraordinarily grand.</p> |
| <p style="text-align: right;">51</p> <p>1 TOM ROMOLA: I hope it's changed, but that 2 was not the case. 3 JAN ZAVISLAN: Neal. 4 NEAL MOYNAHAN: There's certainly -- I can 5 speak from a lending side, the confusion here between 6 number of complaints and the types of complaints, we 7 report on the lending two separate stats. 8 The first one is the number of complaints. 9 And then we also present the number of different types 10 of violations we're seeing. They may exceed total 11 number of complaints. 12 Maybe where the confusion is to (inaudible.) 13 Padded. We always report the number of complaints 14 separately to the aggregate number of types of 15 complaint. 16 JAN ZAVISLAN: And so Neal Moynahan is -- I 17 mean, he manages our regulatory side on the lending and 18 debt settlement. 19 But, Nick, on the license side, I haven't 20 seen those statistics where we report number of 21 complaints received separately from whatever happened 22 to be the number of violations that are encompassed 23 within those complaints. 24 But, you know, it's -- it's -- again, I don't 25 think it's an illegitimate concern. If we're going to</p> | <p style="text-align: right;">53</p> <p>1 It's kind of a shame on-site. It names 2 names. It has the top ten collection firms to have 3 complaints filed against it. It breaks it down, bad 4 address, multiple calls, and it's pretty -- pretty 5 detail oriented. 6 I don't know if that's the kind of detail you 7 want to do. They do show, in very, very great detail 8 one format by which they have at least reported it. 9 JAN ZAVISLAN: So we have -- to be quite 10 honest, we have technological limitations on our 11 ability to do that currently. 12 We are in the process of trying to implement 13 newer, more modern technologies that would be a 14 platform for everything from licensing, license 15 renewals, online payments, complaints -- complaints -- 16 try to really -- but we have people here that are far 17 knowledgeable about what a difficulty that has been. 18 But we're still working on that. You know, I 19 know that the administration -- not the administrator 20 but the Attorney General -- over the time that I've 21 been here, have been very reluctant almost to a person 22 to provide too much granular detail about individual 23 consumer complaints. 24 And I don't think you're telling me that we 25 would do that differently. I know the CFDPCA doesn't</p> |

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| <p style="text-align: right;">54</p> <p>1 identify who the consumer is or provide any personal 2 identifying information. 3 We would -- if we go that route, I'm 4 absolutely certain that whomever our Attorney General 5 is will try to stop that as well, stop it at that line 6 as well. 7 So I think it's worth having maybe further 8 discussions about, you know, you have people, I think, 9 in your industry that may not be happy to see their 10 names easily accessible by complaints filed against 11 them on our website. 12 But we get concerns raised all the time about 13 the fact that our disciplinary histories show up on our 14 website. I think it's worth having a conversation. 15 Again, speaking for myself, I'm someone who very much 16 likes transparency. 17 I think that there's a lot of value for 18 legitimate members of the industry, in particular, to 19 know who's cheating the game. 20 Other comments. Yes. 21 JULIA GERMAN: My name is Julia German. I'm 22 also with Linebarger Law Firm. I think there's an 23 opportunity to serve the consumer and create efficiency 24 based on everything that I'm saying, (inaudible) on the 25 complaint side, where I'd say we get -- I was told when</p> | <p style="text-align: right;">56</p> <p>1 aware of the way that was structured and the change in 2 the technology that is on this side, then our 3 organization's collection agency would be able to do a 4 better service in having interaction. 5 What we are seeing, and I'm getting to, which 6 is, you know, very nice. I've met Nick on the phone. 7 But, unfortunately, what we are doing is he and I are 8 having a lot of conversations with consumers explaining 9 the law, and it's nothing to do with collections. 10 It's nothing to do with bad data on our part 11 or on the appropriate calling. And so as far as this 12 room is concerned, it's outside of the sphere, but 13 we're taking so much of the resources away from your 14 office by having to explain something that consumers 15 just simply aren't aware of. 16 And that could be, you know, people say, 17 "Well, the toll road should let us know." Well, the 18 toll road has very strict notice requirements and huge 19 billboards everywhere on the highway. 20 They are very sensitive to these things, and 21 they are absolutely in compliance. And their own 22 notices before we go (inaudible) work a account, are 23 extraordinarily detailed. 24 So when we talk about clarity, thing that 25 could be on the website, creating a database that</p> |
| <p style="text-align: right;">55</p> <p>1 I was hired we get more consumer complaints than any 2 law firm. 3 But it's largely because I work for the toll 4 (inaudible) so it's debts for the toll roads. And it's 5 because the authorizing statutes are the way they're 6 formed, especially with technology, toll car accidents 7 are an enormous motivator for a change. 8 You drive through, and your bill is coming 9 from the DMV or coming from the DOR. 10 JAN ZAVISLAN: Or the rental car company. 11 JULIA GERMAN: That's right. But the statute 12 in place is a system that will work, right? Except 13 that we don't all keep our data (inaudible) do a world 14 of work. And when that system isn't clear to every 15 single driver on the road, it comes to your -- 16 THE REPORTER: I'm having a hard time hearing 17 you. People are talking over here. Could I have those 18 people stop talking, please? 19 JAN ZAVISLAN: I'll ask you to repeat a 20 little bit of what you just said. 21 JULIA GERMAN: I apologize for the 22 redundancy. My point is really just that what we see 23 is that, if the public was aware of what the statute 24 is, that isn't really a collection statute, it's a toll 25 statute and a transportation statute, if they were</p> | <p style="text-align: right;">57</p> <p>1 tracks the kinds of complaints, when someone calls me 2 and says, "I see your law firm gets all these 3 complaints," because they're seeing, you know, Internet 4 trolls. Like, "I'm angry and I'm going to put 5 something out there." 6 They assume that there's bad business 7 practice. And instead, the -- you know, I mean, we get 8 X number of complaints. If you're concerned that you 9 weren't the driver of your vehicle, there's a statute 10 that says it's the registered owner of that vehicle. 11 These simple things that I don't have to get 12 into here today. But that information is extremely 13 simple. And that's what people found. I think that we 14 would see people not going into the collections, sort 15 of, stage of their interaction with my client. 16 And then, of course, your office wouldn't 17 have to deal with all the confusion that creates a lot 18 of anger. 19 JAN ZAVISLAN: Thank you. 20 JULIA GERMAN: Thank you. 21 JAN ZAVISLAN: So has everybody filled out 22 their name on a sign-in sheet? Raise your hand if you 23 haven't seen it. Okay. 24 SONIA GIBSON: Question. Two parts to a 25 question about next time. Just wondering why the six-</p> |

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| <p style="text-align: right;">58</p> <p>1 month timeline in the meeting for consumer advocates 2 versus the collection agencies, and then also, are 3 there actually rules that are being contemplated? 4 Are you going to the rulemaking process, or 5 is it too early? What's the next process in the 6 process? 7 JAN ZAVISLAN: For the two parts, one was the 8 six-month difference between or separation between the 9 consumer meeting and industry meeting, and then whether 10 we are right now in the process of going into 11 rulemaking. 12 For the former, I wasn't involved in the 13 legislative discussions on this bill, so I don't know 14 how that was arrived at a compromise in the general 15 assembly. Tom, I'm sure, was involved and knows. 16 Maybe it's if they were too close together 17 there would be a fistfight? 18 TOM ROMOLA: It's a possibility. Yeah. No, 19 really. The original concept was to have two meetings 20 per year, period. The original concept was not to 21 divide consumers and the debt collectors. 22 JAN ZAVISLAN: Right. 23 TOM ROMOLA: Having said that, I'm -- I want 24 to say, after sitting here in the consumer portion, and 25 they probably feel the same way today, it would turn</p> | <p style="text-align: right;">60</p> <p>1 compiling a list of things that we think it's due time 2 for us to do rulemaking. And we're required in every 3 budget cycle in November to report to the legislature 4 what our rulemaking agendas are or are likely to be, 5 even if we don't end up rulemaking. 6 I think that the real mood is from everybody 7 in the section that I've been talking to is it's long 8 overdue. So I would expect in the next three to five 9 months to see some -- either some requests for 10 information, where we would actually request more 11 formalized ideas and thoughts, both from an industry 12 and from the consumer groups, about areas of rulemaking 13 as a precursor to actually doing a notice of proposed 14 rulemaking and setting hearing. 15 But I -- you know, if it were up to me, we 16 would do it in the next six months. 17 SONIA GIBBONS: My follow-up comment, I 18 actually agree. I do think that having the ability to 19 discuss with the other side will actually speed up the 20 process and be healthy, mostly because -- so, for 21 example, if we're here suggesting that we want email 22 communication, but consumer advocates absolutely 23 disagree, then I think we're sort of letting that 24 simmer for six months until we find that that's 25 something they don't agree with.</p> |
| <p style="text-align: right;">59</p> <p>1 into a fistfight. So it's probably wise that they're 2 separated. 3 There was some -- a lot of things that went 4 into play into this compromise. It's more detailed 5 than I need to go into. We're stuck with what we have. 6 JAN ZAVISLAN: It was a legislative 7 compromise, apparently. As to rulemaking, I mean, we 8 are -- it's -- an interim anything shouldn't undertake 9 something like rulemaking. 10 So you know that the very first day that I 11 came in as interim administrator, we talked about both 12 legislative agendas and rulemaking agendas. But that's 13 going to get put off until we have a full-time 14 administrator. 15 It may, in fact, be put off until we have a 16 new Attorney General as well because the administrator 17 needs to be reappointed by the Attorney General. 18 There's no question in my mind that whomever gets hired 19 now will be reappointed. 20 I've been here too long and seen too many AGs 21 in my career to know that usually they don't reach down 22 to the administrator. Usually, the administrator is 23 somebody who has expertise the AG will need. 24 But I will tell you that, both from the 25 consumer meeting in January and from this one, we're</p> | <p style="text-align: right;">61</p> <p>1 It would be good to have a back and forth, 2 and more communication is better than less. That would 3 be nice to have a dialogue. 4 JAN ZAVISLAN: So my view is -- and I guess 5 it's a little different than Julie's. And I know that 6 there's some folks here from Bell and from Colorado 7 Legal Services, and my idea is not to exclude either of 8 you or anybody else from talking at this meeting. 9 I don't think that's what the thinking was 10 back in January. My view is, it's a public meeting. 11 And at a public meeting, the public, regardless of whom 12 they represent, are allowed to speak. 13 That's how I read our Administrative 14 Procedures Act. So for Rich or Jose or anybody else, 15 if you guys have something you just would dearly love, 16 in the spirit of -- not compromise, but 17 professionalism, I'd be happy to let you guys speak on 18 the record as well. 19 RICHARD (inaudible last name): I can stay 20 right here. I think it is beneficial to participate in 21 both of the meetings and to hear what the industry is 22 saying and suggesting. 23 And I think they may have gained something 24 from the comments that we made. Michelle is here as 25 well. (Inaudible).</p> |

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| <p style="text-align: right;">62</p> <p>1 JAN ZAVISLAN: I'm really just more 2 interested in, for the future, what makes these more 3 meaningful, what makes these more helpful to the 4 administrator, helpful to the industry, helpful to the 5 public in making all this work. Rich, thanks. I 6 appreciate that. 7 Last opportunity if anybody wants to speak. 8 MICHAEL LANDIS: I have a question about 9 getting on the -- Michael Landis from Colorado Public 10 Center Research Group. I have a question about getting 11 on the list so we get notification of the meetings. 12 And I just was wondering, how do I get on that list? 13 JAN ZAVISLAN: Talk to Kate. Right here. 14 Raise your hand. And what we'll do is -- the reason -- 15 I don't know what the sign-up sheet says, if you put 16 your email address, or if there's not a column for 17 it -- so that there is. 18 Put your contact information, and we will add 19 everybody who attends today to the -- we call it 20 "interested persons to invite." We'll add you to that. 21 Thank you. 22 ALAN DRAPER: Alan Draper. Any idea on when 23 we'll have a new administrator? 24 JAN ZAVISLAN: Not soon enough for me. How's 25 that for an answer? Hopefully in the last stretches of</p> | <p style="text-align: right;">64</p> <p>1 REPORTER'S CERTIFICATE 2 I, Wendy McCaffrey, Registered Professional 3 Reporter and Notary Public in and for the State of 4 Colorado, do hereby certify that said proceedings were 5 taken in shorthand by me at the time and place 6 hereinabove set forth and were thereafter reduced to 7 typewritten form under my supervision, as per the 8 foregoing transcript; that the same is a complete, 9 true, and correct transcription of my shorthand notes 10 then and there taken. 11 I further certify that I am not related to, 12 employed by, nor of counsel for any of the parties or 13 attorneys herein, nor otherwise interested in the event 14 of the within action. 15 My commission expires January 31, 2020; and I 16 have hereunto set my hand this August 9th, 2018. 17 18 19 20 21 22 23 24 25</p> <div style="text-align: center;">  <p><i>Wendy McCaffrey</i> Professional Court Reporter and Notary Public Calderwood-Mackelprang, Inc. 9745 E. Hampden Avenue, Suite 220 Denver, CO 80231 (303) 477-3500</p> </div> |
| <p style="text-align: right;">63</p> <p>1 that. So . . . Thank you. 2 TOM ROMOLA: I just want to thank you for 3 hosting the meeting today. And two, for changing the 4 meeting to accommodate our side -- 5 JAN ZAVISLAN: An oversight by me. 6 TOM ROMOLA: -- the conflict that we had. I 7 appreciate that very much. I look forward to working 8 with whoever. 9 JAN ZAVISLAN: Don't say with me because I'm 10 out of here. Anybody else before we go? 11 Listen, thank you all very much. I think 12 this was really interesting for me and, hopefully, 13 we'll have a record for the new administrator to come 14 in about the kind of things that are important to you. 15 And the goal being, you know, greater 16 communication. I hear that certainly loud and clear. 17 And I think the interim periods are hard for consumers. 18 But I think they're especially hard for the industry, 19 who may not get as quick a response as maybe as they're 20 entitled to. 21 So thank you all very much. Thank you. 22 (Exhibit 1 was marked after the hearing.) 23 (Whereupon, the meeting was adjourned at 24 2:51 p.m.) 25</p> | |

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