

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES - LICENSING DIVISION
COLLECTION PRACTICES BOARD**

BOARD MEETING MINUTES

May 4, 2006, 10:00 a.m.

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Collection Practices Board met in Regular Session on May 4, 2006 at the Department of Labor & Economic Growth, Bureau of Commercial Services, Second Floor, Conference Room 1, 2501 Woodlake Circle, Okemos, Michigan.

CALL TO ORDER

The business meeting was called to order by Vice-Chairperson Angelo at 10:00 a.m.

Present:	Thomas M. Angelo	Vice-Chairperson
	Charles Havill	Professional Member
	Daire Rendon	Professional Member
	George R. Badeen	Professional Member
	David E. Cairnduff	Professional Member
Absent:	James P. Hoppin	Chairperson
	Dwight Stewart	Public Member
	Raquel Reardon	Public Member
	Harley Krapohl	Public Member
Staff:	Jean M. Boven	Director of Licensing
	Archie Millben	Director of Enforcement
	Ann Millben	Licensing Administrator
	Michele E. Riddering	Assistant Licensing Administrator
	William D. Wilhelm	Enforcement Division
	James C. Nelson	Enforcement Division
	Kimberly Breitmeyer	Enforcement Division
	Amy A. Shell	Policy Analyst
	Rita Burnett	Secretary
Visitor:	Mark Haskins	Michigan Creditors Service
	Jacob Ott	Best Recovery Services

ADDITIONS TO OR DELETIONS FROM AGENDA

None.

APPROVAL OF MINUTES FROM MEETING HELD AUGUST 18, 2005

MOTION: Mr. Badeen moved to approve the minutes of the August 18, 2005 meeting. Mr. Havill seconded and the motion passed unanimously.

PUBLIC COMMENT

Mr. Haskins from Michigan Creditors Service stated that he attended industry meetings in 2003 to discuss repossessions. At the meetings the group started putting together some rules regarding repossessions that they hoped would solve problems reported by the industry. Mr. Haskins discussed legislation that had been drafted recently with State Representative David Hildenbrand. Mr. Haskins asked if Article 9 was being modified by the Department and whether the repossession legislation could be bundled with it. The repossession legislation would be an amendment to Article 9, based on recommendations from the repossession group who had used some excerpts from other states' laws, including Louisiana and Arizona. He noted that Florida, Texas and California also have laws specifically for repossessions, but Michigan only has collection agency licensing. It is their consensus that grouping repossessors with them doesn't pertain to repossessors very well.

Ms. Rendon asked if there were a Bill Number yet. Mr. Haskins did not think so. The group he had been working with set up a website for repossessors to discuss problems, etc. There were 30-40 repossessors discussing problems and complaints. The repossessors in Michigan would like to separate repossessions from the collection agency industry regulation. He stated that collections would be one branch of the tree and repossessions would be another branch, where repossessors would still be included, but would have their own set of rules.

Mr. Badeen noted that he had been traveling all year as the President of the national trade association of Repossession Dealers. He had been to many hearings in Arizona, California, and Florida. David Landy and Mr. Haskins had done considerable work with picking out the parts of each state's law that they would like to see in Michigan. Ms. Millben noted that the Department had been waiting for the repossession industry to take the lead regarding legislation. Mr. Badeen added that only about a dozen states license repossessors and only two other states have the licensing under collection agencies. Most other states have repossessions under private investigators.

Mr. Haskins added that most repossessioners don't fall under the Fair Debt Collection Practices law, but do fall under some other law of the state. Ms. Riddering added that there has been an increase in the number of applications for collection agency licenses from other states for people who repossess. She has received applications from Minnesota, Indiana, Wisconsin, and Ohio. Mr. Havill pointed out that when out-of-state repossessioners take vehicles back to their state, Michigan loses revenue from that transaction.

STIPULATIONS

Melissa Anne Beyer, Non-Owner Manager, License No. 2402-001498, Complaint No. 299200

MOTION: After discussion, Mr. Havill moved to accept the Stipulation, which stated that 1) Respondent shall pay a \$1,500 fine to the Department within 60 days of the date of the mailing of the Final Order, 2) Respondent's license shall be placed on probation commencing on the date of the mailing of the Final Order and ending upon the submission of an acceptable CPA report, 3) Respondent shall submit to the Department a Certified Public Accountant Attestation report giving an opinion as to whether Respondent has deviated from the requirements of the Occupational Code, 4) the report shall be prepared for the period beginning December 1, 2004 through December 31, 2005, and is due within 60 days of the date of the mailing of the Final Order or sixty days after the date of the reporting period, whichever is later, and 5) failure of the CPA Attestation report to comply with the Occupational Code and/or failure to comply with the terms of this Stipulation shall result in a suspension of all licenses of Respondent and in the denial of any license renewal and/or future applications for licensure until compliance. Mr. Angelo seconded and the motion passed unanimously.

Professional Investigation & Collections, Inc., License No. 2401-000805, Complaint No. 298197

MOTION: After discussion, Mr. Havill moved to accept the Stipulation, which stated that 1) Respondent's license shall be placed on probation commencing on the date of the mailing of the Final Order and ending upon the submission of an acceptable CPA report, 3) Respondent shall submit to the Department a

Certified Public Accountant Attestation report giving an opinion as to whether Respondent has deviated from the requirements of the Occupational Code, 4) the report shall be prepared for the period beginning December 1, 2004 through December 31, 2005, and is due within 60 days of the date of the mailing of the Final Order or 60 days after the date of the reporting period, whichever is later, and 5) failure of the CPA Attestation report to comply with the Occupational Code and/or failure to comply with the terms of this Stipulation shall result in a suspension of all licenses of Respondent and in the denial of any license renewal and/or future applications for licensure until compliance. Mr. Angelo seconded and the motion passed unanimously.

Midwestern Audit Service, Inc., Jack E. Brusselle, Owner/Manager,
License No. 2401-000292, Complaint No. 26890

MOTION: After discussion, Ms. Rendon moved to accept the Stipulation. Mr. Havill seconded, but the motion did not pass. Mr. Angelo, Mr. Badeen and Mr. Cairnduff voted no.

MOTION: After additional discussion, Mr. Badeen moved to reject the Stipulation. Mr. Cairnduff seconded and the motion passed. Ms. Rendon voted no.

MOTION: Upon further deliberation and discussion, Mr. Havill moved to postpone the Stipulation temporarily, allowing Ms. Riddering to speak to Mr. Teague regarding the audit process. Mr. Angelo seconded and the motion passed unanimously.

Mr. Wilhelm asked board members for guidance in what they would find acceptable in the resolution of any future formal complaint. Various board members responded that suspension or revocation would be acceptable and also a possible summary suspension, as it would be the third occurrence and a definite threat to the welfare of the public.

MOTION: Mr. Havill moved to ask the Department staff to renegotiate the Stipulation asking for a \$10,000 fine within 60 days of the mailing of the Final Order and agreement to submit CPA Attestation Reports for the next three years. Mr. Angelo seconded and the motion passed unanimously.

Transworld Systems, Inc., d/b/a Credit Management Services,
License No. 2401-000566, Complaint No. 298347

MOTION: After discussion, Mr. Havill moved to accept the Stipulation, which stated that 1) Respondent shall pay a \$1,000 fine to the Department within 60 days of the date of the mailing of the Final Order and 2) failure to comply with the terms of this Stipulation shall result in the suspension of all licenses of Respondent and in the denial of any license renewal and/or future applications for licensure until compliance. Ms. Rendon seconded and the motion passed unanimously.

HEARING REPORTS

Creditco Collections, Inc., Robert Ray League, Owner/Manager,
License No. 2401-000737, Complaint No. 26953, Docket No. 2005-502

MOTION: Mr. Havill moved to receive the Hearing Report in the matter of Creditco Collections, Inc. Mr. Badeen seconded and the motion passed unanimously.

MOTION: After discussion, due to evidence of a lack of good moral character on the part of the Respondent, Mr. Havill moved that 1) Respondent pay a \$10,000 fine within 60 days of the mailing of the Final Order, 2) that Respondent's license shall be revoked immediately and 3) failure to comply shall result in the denial of any license renewal and/or future applications for licensure until compliance. Mr. Angelo seconded and the motion passed unanimously.

AllianceOne Receivables Management, Inc., License No. 2401-001874,
Complaint No. 297023, Docket No. 2005-866

MOTION: Mr. Havill moved to receive the Hearing Report in the matter of AllianceOne Receivables Management, Inc. Mr. Badeen seconded and the motion passed unanimously.

MOTION: After discussion, Ms. Rendon moved that 1) Respondent pay a \$1,000 fine with in 60 days of the date of the mailing of the Final Order and 2)) failure to comply shall result in the denial of any license renewal and/or future applications for licensure until compliance. Mr. Havill seconded and the motion passed unanimously.

STAFF REPORTS

Statistics

Ms. Riddering stated that there were currently 365 licensed collection agencies with non-owner managers, 292 agencies with owner/managers, and 498 active non-owner managers. There were 657 active collection agencies in last year's statistics, but they have now been divided into agencies with owner/manages and agencies with non-owner/managers. Mr. Badeen asked how many of those agencies were doing repossessions. Ms. Riddering replied that the last number she had for licenses specializing in repossessions was 100, but she would find the current number and email him with it.

Mr. Angelo asked about the procedure when someone writes a letter regarding a collection agency to the Department, stating that the writer does not owe the money and asking the Department or the Attorney General's office to investigate. He wondered if that letter counted in the statistics as a complaint against the collection agency. Mr. Millben stated that only a Formal Complaint would count in the statistics. Unproven allegations are not included, so there could be a number of allegations against an agency, but if a Formal Complaint is not issued, they would not be included in the statistics. A Formal Complaint is issued by the Department only if a violation of the law and rules has been committed.

Formation of Committee – Promulgation of Rules

Ms. Riddering noted that Department staff would like to form a committee with Board members to study Article 9 to see if there are any rules that need to be promulgated to further define the law. She added that there currently exists a need to further define certain activities relating to repossessions within the rules, even though the industry might be moving forward to initiate either separation of repossessions from the collection practices licensing law or amending the collection practices license law. She considered that it is currently a matter of importance for protection of the public to make some clarifications as soon as possible. There could be legislation later that changes the statutes and supercedes these changes in the rules, but current rules do not provide enough guidance regarding repossessions to be effective in the protection of the public.

Mr. Havill asked whether the committee's focus would only be repossessions or if they could also consider the current rules. Ms. Riddering replied that there do exist some other issues that need clarification. She fields many phone calls from consumers and licensees with questions regarding Article 9 and has concluded that there are parts of Article 9 that need to be further defined. Licensure exemptions for attorneys and out-of-state agencies could be further defined in the rules, along with what is required when an agency loses a manager. She would also like to revisit average monthly business calculations pertaining to repossession bond amounts.

Mr. Angelo asked how many would be on this committee and how often they would meet. Ms. Riddering responded that there needed to be at least three on the committee and they would meet at least once before the August board meeting. She would email the current statute to the committee members for their review and would like them come to the committee meeting with ideas and suggestions that will result in a draft to present to the full board at the August meeting. Mr. Badeen, Mr. Angelo and Ms. Rendon agreed to serve on the committee.

Mr. Havill asked what the results had been from a previous committee on which he had served. It discussed auditing out-of-state agencies. Ms. Millben replied that the committee came to a conclusion and suggested certain recommendations, but the Department did not agree. The premise was to investigate why in-state agencies are audited regularly, whereas out-of-state agencies are not audited at all. Since typically few problems are found during an audit, the committee recommended that audits be done only if there is a complaint against an agency. Mr. Havill considered that it would save the State of Michigan a large amount of money if audits were done on that basis. Ms. Millben suggested that even though the requirement for audits is in the statute, a rule could further define the criteria to determine when audits should be performed, and how out-of-state agency audits would be conducted, and the committee could review that. She noted that the last committee did not include anyone from the Department's audit unit and they should be included in this one. Ms. Riddering agreed to email the committee members the license law and rules and to inform them of the meeting date and location.

Ms. Millben informed the board members that the Department is considering an outside examination contractor that would provide all of the examinations for the division. She noted that the real estate brokers and salespersons and real estate appraiser examinations, among some other professions, are handled by an outside examination contractor. That contract will be out for bids, and the Department is looking at having current in-house examinations be administered by a contractor also. Many of the small boards have in-house examinations which will be added to the examinations already administered by a contractor. One of the advantages of having an examination contractor is that they have permanent testing sites, so the examinations could be given by appointment rather than only once a month or less. This process is at the very preliminary stages now and testing will continue as before until a new contract is signed.

Mr. Havill asked what the disadvantages might be. Ms. Boven responded that for the collection agency examination the only difference might be a higher cost for taking the examination, but the exam would be more available and there could be testing sites in other states. The exam contractor would do a new job analysis within one year of accepting the contract. They also have professional test item writers who would solicit input from board members and industry professionals as well as Department staff. This system has worked very well for other professions. The current real estate and appraiser contractor administers exams at four sites in Michigan, including one in the Upper Peninsula. The sites are kept open according to volume and if they need to expand space, they do. Ms. Millben added that another advantage might be computer-based testing rather than paper and pencil. Ms. Riddering added that the exam sites may be available in some of the states where the volume is large, making it much more convenient for those candidates, not having to fly to Michigan for the examination.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS

Mr. Angelo stated that he had received a call from the Enforcement Division regarding a complaint received asking for his opinion and professional expertise. He reviewed the complaint and provided his input. He didn't realize that was one of the responsibilities of board members. He wanted other board members to be aware that they might receive these calls. Mr. Havill noted that he had been involved with this before and commented that when board members are involved with a case, they cannot vote on the Stipulation or Hearing Report that results from it and eventually comes before the board. Ms. Millben confirmed that.

Mr. Havill asked about Peter Fletcher and the Credit Bureau of Ypsilanti. Mr. Wilhelm replied that there was a hearing held concerning a Formal Complaint and he was waiting for a Hearing Report. Mr. Havill asked about the status of the old complaint. Mr. Wilhelm replied that the \$5,000 fine was collected by the Treasury Department. Ms. Riddering reiterated that the current Formal Complaint cites unlicensed activity.

Board Member Training

Ms. Millben noted that another Board Member Training session would be held on May 17, 2006. Ms. Rendon, Mr. Angelo and Mr. Cairnduff attended last year. Ms. Rendon and Mr. Angelo commented that they found it very helpful and well worth attending.

NEXT MEETING DATE – August 24, 2006

The next regularly scheduled meeting of the Collection Practices Board will be held on August 24, 2006.

ADJOURNMENT

MOTION: Ms. Rendon moved to adjourn the meeting. Mr. Havill seconded and the motion passed unanimously.

There being no further business to be brought before the Board, the meeting was adjourned at 11:35 a.m.

/s/
James P. Hoppin, Chairperson

8-24-06
Date

/s/
Ann Millben, Licensing Administrator

8-24-06
Date