Collector's Ink

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Message From the President

ADVOCACY AND AWARENESS ARE KEY

By Chris Schumacher

As grocery stores, restaurants, sports venues and many businesses reopen following two years of COVID-19, our industry faces a host of changes that will occupy the California Association of Collectors Board, Legislative Committee and Education Committee over the next year. These are exciting and challenging times!

Our industry is resilient. We have faced many changes over the years, and I do not see it slowing down. With the ink barely dry on the Consumer Financial Protection Bureau's mammoth Regulation F, our job will be to understand a number of bills coming down the pike, challenge them if necessary, improve them if possible or outright stop them when the results would be unacceptable to our industry.

As noted by outgoing CAC President Cindy Yaklin, Reg F has yielded some true benefits, particularly around how we communicate with consumers and the added clarity on how we can best serve our clients without running afoul of new regulations. CAC will continue to provide educational webinars to our members to make sure they have the most updated information they need for running their businesses.

We need members to stay involved as we continue to face a political environment that does not understand our industry. We allow the credit markets to flow, and provide value to the overall economy by keeping the cost of credit lower for all consumers. Currently, 31 out of California's 40 state senators are Democrats, creating a super majority. With the increased polarization of politics, it is incumbent upon us to be active and reach out to those who have a vote to pass or change laws. We need to share our individual stories with our representatives so they know more about our industry and our employees. Many are willing to listen. Some are not, though, and we need to be active in communicating our stories.

> "WE NEED TO SHARE OUR INDIVIDUAL STORIES WITH OUR REPRESENTATIVES SO THEY KNOW MORE ABOUT OUR INDUSTRY AND OUR EMPLOYEES."

One way we can take an active stance and contribute to a positive outcome for all is to educate ourselves on the bills that will come before our state Senate and then attend our Sacramento Legislative Day in June. More information will be coming out soon.

During this event, we will have the opportunity to address state senators and Senate staffers directly and present our concerns as well as our solutions. There are several bills we are following closely: S.B. 1200 Enforcement of judgment– renewals and interest, S.B. 1477 Enforcement of judgments–wage garnishments and child support, and A.B. 2424 Credit services organizations, among others.

As many of you know, we have some additional exciting news! Effective Jan. 1, we transitioned our association management from AMG Group to ACA International. We believe this will allow CAC to leverage many resources that support our industry. We also just launched our newly redesigned CAC website. I look forward to moving past the COVID-19 era, and am excited about the future for CAC and our industry! CI

Executive Director's Message

By Tammy Schoenberg

Thank you for your membership with the California Association of Collectors! It's once again time to build our Political Action Committee fund for 2022.

As you read the updates from your CAC leadership in this newsletter, please consider adding your additional support to the imperative CAC PAC fund.

A pledge of $500 will go a long way to win decisively for our industry. Here's where the money will go:

- **First priority:** The legislature is in a major state of change. Members are leaving and new members have been elected at record levels in California. Before California passed term limits, that was not the case. A small interest group like CAC must move quickly to educate new members about our industry and dispel their long-held incorrect impressions.
- **Second priority:** A small group like ours needs to have the leadership in the Senate and Assembly understand us and our issues. We do not have the capacity to be a major player with the legislators, so we are left to be known by those legislators who can influence others to help us. This means the leadership of both Houses as well as committee chairs and vice chairs.

These are real, tangible benefits that will help each and every collection agency in California!

By providing just $500 to CAC's PAC fund you will become an integral part of the history-making team that continues to protect the California collection industry.

The CAC PAC fund needs your support to help elect legislators who favor creating a pro-business environment in California that allows businesses like yours to grow and prosper. We are asking you and all of your colleagues in the industry to write a check for $500 (or any amount you can provide) to the CAC PAC fund. You know where the money will go and what it will do. Now, it's up to you.

Contributions in any amount may also be made by credit card by clicking here.

Thank you for your generous help!

Tammy M. Schoenberg

Tammy Schoenberg

Introducing CAC's Redesigned Website

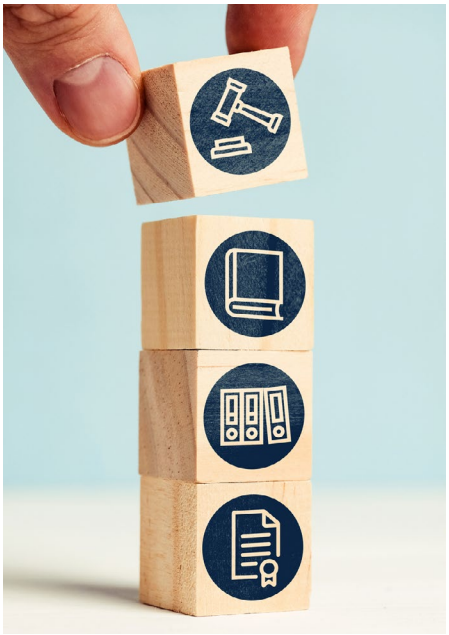
After several months of planning and creating, CAC is pleased to announce that our new website (www.calcollectors.net) has been redesigned with a cleaner look to help members more easily access the information they want and need. Please know that this is a living, breathing website. We will continue to make some tweaks as we move along. If you see anything that needs updating, please feel free to let us know.

Visit the updated website today!

CALIFORNIA LEGISLATIVE NEWS: BUSY SESSION IS UNDERWAY

Bills on credit repair services, post-judgment interest and eliminating wage garnishments are all on the agenda.

By Tom Griffin



California has one of the busiest legislative sessions in the U.S. The good news from this year is the progress on the bill sponsored by the California Association of Collectors Inc., A.B. 2424, that will require the Department of Financial Protection and Innovation (DFPI) to register and regulate credit services organizations. The not-so-good news is that a variety of bills, if passed, will further restrict the activities of debt collectors and others in the accounts receivable management industry.

First, the good news:

A.B. 2424 is authored by Assemblymember Blanco Rubio, who attended CAC's annual conference last fall, and is designed to update the Credit Services Act of 1984 by requiring credit service organizations (CSOs) to provide additional disclosures to consumers and adding certain consumer protections. This bill recently passed out of the Assembly Judiciary Committee, where CAC memeber and past president Cindy Yaklin served as the lead witness for the industry.

CAC is working with a coalition to make this bill into law. However, Lexington Law has committed considerable resources to defeat A.B. 2424, presenting significant challenges to CAC and other bill advocates.

Now, for the not-so-good news:

S.B. 1200, authored by State Sen. Nancy Skinner, seeks to reduce the post-judgment interest rate to 3% for debts incurred by an individual in acquiring property, services or money on credit for personal, family or household purposes. This bill also restricts the ability to renew a judgment. In pushing the 3% interest rate, Skinner is looking to the federal investment rate and claims—erroneously—that a 10% interest rate incentivizes debt collectors to delay their efforts to collect the subject debt.

This argument is a fallacy since debt collectors get paid when they collect; the odds of collecting a debt decrease as it gets older; and the interest rate does not cover the costs of collection (employees' time and unrecoverable post-judgment attorneys' fees).

CAC and a wide coalition of groups continue to oppose S.B. 1200.

S.B. 1477, from State Sen. Bob Wieckowski, seeks to essentially eliminate wage garnishment as a collection tool for anyone earning $75,000 or less and reduce the percentage that may be collected from those earning as much as $150,000. Wieckowski will soon reach his term limit and he has made it known that he wants to pass this legislation before his tenure ends.

Stopping S.B. 1477 is a high priority for CAC and its coalition members.

S.B. 975, from State Sen. Dave Min, proposes to permit victims of economic abuse, as defined in the bill, to avoid liability for a debt. This bill has numerous definitional, due process and procedural holes and challenges. The claim of economic abuse must be substantiated by one of a list of professionals who generally work in the area of, or have been trained in, the area of domestic violence. The alleged victim of the economic abuse may raise this claim in a complaint or a cross-complaint and is required to provide 30-days notice of making such a claim prior to filing the complaint or cross-complaint.

CAC and a wide variety of groups are opposed to this bill.

S.B. 1324, from State Sen. Maria Elena Durazo, seeks to include "rental debt" that became due on or after Jan. 1, 2019, in the definition of consumer debt under the California Rosenthal Fair Debt Collection Practices Act. If it passes, those who collect rental debt would be required to get a license from the DFPI. For example, a family member who has a rental property will be subject to the Rosenthal Act and licensing by the DFPI.

The California Apartment Association is leading the opposition to S.B. 1324.

These are just a few of the bills that CAC is monitoring. It is a very active legislative session, and it has only just begun. CI

The Faces of the California Legislature

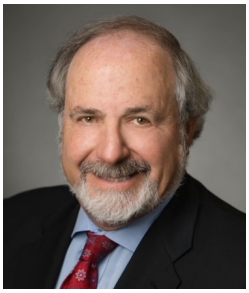
By Cliff Berg

The California legislature returned to Sacramento on Jan. 3 to continue the second year of the two-year legislative session. It is common to write "they returned to the state Capitol." They didn't. Most of the California Capitol is scheduled to be torn down and rebuilt.

Legislators, staff, and the governor all moved into what is known as the "swing space:" An office building on "O" street about two to three blocks from the Capitol building. Access is limited because of COVID-19 and security concerns.

Meanwhile, the legislature that returned to Sacramento in January is not recognizable as the same legislature that recessed in September. Hit by reapportionment, term limits and COVID-19 burnout, we are seeing dramatic changes that have been unprecedented in a mid-year session.

Facing term limits, Assemblymember Ed Chau (D-Arcadia), chair of the Assembly Privacy and Consumer Protection Committee, got the governor to appoint him to the Superior Court and resigned. David Chiu (D-San Francisco), chair of the Assembly Housing Committee, was appointed to be San Francisco City Attorney and resigned. Lorena Gonzales (D-San Diego), chair of the Assembly Appropriations Committee, resigned to take a job as head of the California Labor Federation. Assemblymember Jim Frazier (D-Concord), chair of the Assembly Transportation Committee, resigned to find a job in transportation, and Assemblymember Autumn Burke (D-Los Angeles), chair of the Assembly Revenue and Taxation Committee, resigned to join a lobbying firm. Each of these resignations means a special election, a new member, and a change in committee chairmanships.



Assemblymembers Jose Medina (D-Riverside), Bill Quirk (D-Fremont), Pat O' Donnell (D-Long Beach), Chad Mays (I-Palm Springs), Tom Daly (D-Anaheim), Mark Stone (D-Monterey), Jordan Cunningham (R-Santa Maria) and Richard Bloom (D-Los Angeles) have all announced that they are not seeking reelection this year.

Assemblymembers Cristina Garcia (D-Bell Gardens), Adam Gray (D-Merced), Kevin Mullin (D-South San Francisco), Rudy Salas (D-Bakersfield), Kevin Kiley (R-Rocklin) and Sen. Sydney Kamlager (D-Los Angeles) are not seeking reelection because they are running for congressional seats created by the new reapportionment plan.

Assemblymember Marc Levine (D-San Rafael) is not seeking reelection because he is running for insurance commissioner against incumbent and fellow Democrat Ricardo Lara. State Sen. Henry Stern (D-Los Angeles) is running for Los Angeles County Supervisor against State Sen. Bob Hertzberg (D-Van Nuys), who is termed out.

State Sens. Hertzberg (D-Van Nuys), Hueso (D-San Diego), Pan (D-Sacramento), Wieckowski (D-Fremont), Bates (R-Laguna Niguel), and Nielsen (R-Red Bluff) are all at their term limit in 2022.

State Sen. Connie Leyva (D-Chino) is not running for reelection because she was reapportioned into the same Senate district as another Senate Democrat.

"Hit by reapportionment, term limits and COVID-19 burnout, we are seeing dramatic changes in the legislature that have been unprecedented in a mid-year session."

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Faces of California Legislature - Cont'd from page 4

State Sen. Borgeas (R-Fresno) is not running for reelection because he has no Senate seat due to reapportionment.

Assemblymember Adrin Nazarian (D-North Hollywood) was reapportioned into the same Assembly district as Laura Friedman (D-Glendale) and decided to not run against her and will end his service this year.

Looking to 2024, the speaker and pro tempore are both termed out, setting up leadership changes in both the Senate and Assembly.

Despite these changes to the institution, the remaining legislators were able to find time to introduce 2,020 bills by the Feb. 18 bill introduction deadline. CAC has identified several bills of concern, including:

- S.B. 975 (Min) Debt: Coerced Debts: Right of Action, creates a new process whereby victims of economic abuse can void their debt if they were coerced into taking on the debt.

- S.B. 1200 (Skinner) Enforcement of Judgments: renewal and interest, reduces the rate of interest to 3% from the current 10% on judgments involving personal debt or credit. It also limits the renewal of money judgments.

- S.B. 1324 (Durazo) Rosenthal Fair Debt Collection Practices Act: rental debt, defines rental debt as consumer debt.

- S.B. 1477 (Wieckowski) Enforcement of Judgments: wage garnishment and child support, exempts income from wage garnishments up to around $75,000 a year.

Other bills we are following include S.B. 688 (Wieckowski) judgments by confession, A.B. 1754 (Chen) adding certain repossessor middlemen to the definition of a of debt collector, A.B. 1601 (Weber) call centers, relocation out of state, and A.B. 1799 (Gallagher) exemption from money judgment, debtor's principal place of residence.

Finally, I'm pleased to tell you that Assemblymember Blanca Rubio (D-Baldwin Park) has introduced A.B. 2424, which is CAC's sponsored bill to tighten state oversight of credit service organizations (CSOs). It would provide consumers more transparency in determining whether to contract with a CSO, strengthen state oversight and provide the business community with the actual sender of the roboletters being dumped on creditors—by these CSOs. The bill was referred to the Banking and Privacy Committees. Lexington Law has already retained a national lobbying firm and is lobbying heavily against the bill. CI

Upcoming CAC Events and Education

Online Webinar:
SB531 Consumer Debt: What Collection Agencies and Creditors Must Provide to the Consumer

April 27, 2022 • 11 a.m.- Noon PST

Register Now!

Note: CAC's events will be handled through the ACA website moving forward. To register, log in to the ACA website with your ACA credentials.

Online Webinar: Legislative Roundtable

Date TBD in mid-May

More details to follow soon.

CAC Virtual Legislative Day

June 6, 2022

Keep watch for additional details coming soon. Also, keep watch for a special PAC fundraiser to happen in May!

CAC Annual Conference

Oct. 10-11, 2022

We are excited to be returning to the Omni Rancho Las Palmas Resort & Spa again this year. More details on the annual conference coming soon.

Please visit the CAC website for current event information: www.calcollectors.net.

CALIFORNIA DFPI SHARES PROGRESS ON IMPLEMENTING CONSUMER FINANCIAL PROTECTION LAW

A year after implementing one of the most expansive consumer protection laws in the U.S., California's Department of Financial Protection and Innovation (DFPI) announced it has collected close to $1 million in restitution for consumers, fielded hundreds of additional complaints related to the law, and launched more than 100 investigations using its expanded authority under the California Consumer Financial Protection Law (CCFPL), according to a news release.

The DFPI also created several new divisions to expand oversight and outreach, including the Consumer Financial Protection Division, Office of Financial Technology Innovation, Office of the Ombuds, and a targeted outreach team responsible for working with historically underserved communities that include veterans, senior citizens, students and immigrants.

It also created a Debt Collection Advisory Committee which, among other responsibilities, provides critical feedback to the DFPI on its debt collection licensing program. The committee will also advise the DFPI on matters related to the debt collection business, including proposed fee schedules and other requirements.

"The department has made substantial progress in its first year to implement the new law, expand protection for consumers, and foster responsible financial innovation," said DFPI Commissioner Clothilde V. Hewlett. "We remain committed to accomplishing the goals of Governor Gavin Newsom and are grateful to all stakeholders, including the legislature, consumer advocates, industry partners, small businesses, community-based organizations, and many others for their continued input and support."

Most provisions of the CCFPL went into effect on Jan. 1, 2021. The legislature passed the law in 2020 and it was signed by Gov. Newsom in September of that year.

Identifying gaps in consumer protection due to strict definitions in existing licensing laws, this new law provided the DFPI with the appropriate authority to oversee areas of the financial marketplace previously unregulated by the DFPI, including debt collectors, credit repair and debt relief companies, private postsecondary student loan products, and financial tech services that include early wage access products.

Licensing

The department is now licensing debt collectors. The Debt Collection Licensing Act, which took effect Jan. 1, 2022, requires any person engaging in the business of debt collection in California to be licensed annually by the DFPI.

The DFPI is expecting to license thousands of entities over the next two years, according to the news release. To avoid missing important updates, interested parties are encouraged to check the DFPI website periodically and subscribe to the DFPI's email subscription service.

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"THE DFPI HAS SAID IT EXPECTS THE LICENSING APPROVAL PROCESS TO CONTINUE THROUGH 2022 AND POSSIBLY 2023."

California DFPI - Cont'd from page 6

The first license applications were due Dec. 31, 2021, to operate in California. Before the end of the year, the DFPI received approximately 600 applications, which allowed companies to operate while the approval process played out.

Melinda Lee, deputy commissioner, debt collector licensing with the DFPI, said last year the department expected the approval process to continue through 2022 and possibly 2023.

CCFPL Report Takeaways

Here are some additional takeaways from the DFPI's annual report:

Enforcement

- During its first year with authority under the CCFPL, the DFPI proactively identified enforcement targets and opened 106 investigations that resulted in 49 public actions under the CCFPL.
- The DFPI investigations resulted in 49 public enforcement actions, $975,000 in restitution to consumers, $547,500 in penalties, and included several "first of its kind" actions for the DFPI in debt collection, student debt relief, earned wage access, and private post-secondary education financing.

Regulatory Activities

- In 2021, the DFPI issued four invitations for comments to solicit stakeholder feedback on various aspects of implementation of the CCFPL. The DFPI received 76 comment letters.
- As of the end of 2021, the DFPI had three pending regulation packages pursuant to the CCFPL: 1) complaint procedures, 2) commercial financing UDAAP, and 3) phase one registration categories.
- Proposed registration includes debt settlement services, student debt relief services, postsecondary education financing and wage-based advances.

Research and Market Monitoring

- In September 2021, the DFPI created a research team to help it identify emerging financial activities; scout for unlawful, unfair, deceptive, and abusive practices; and make policy recommendations based on consumer impact.
- The research team is evaluating the DFPI's consumer complaint data to identify broader market trends that may pose risks to consumers.

Consumer Complaint Handling

- In 2021, the Consumer Services Office received 638 complaints regarding products and services subject to the CCFPL.
- Complaints submitted under the new law, which covered debt collection activities in the first year, increased each quarter with a dramatic surge in the second half of the year when CCFPL complaints increased nearly 140%.
- The top categories of complaints included debt collection, cryptocurrency, and "neo banks," financial technology or "fintech" service providers, partnering with banks to offer deposit account services. The top complaints appear to have been driven by communications efforts to raise awareness about the DFPI's expanded authority and mission.

Office of Financial Technology and Innovation

- In 2021, the Office of Financial Technology and Innovation (OFTI) met with dozens of companies, venture capitalists, lawyers, industry advocacy groups, federal and state financial regulators, consumer advocacy groups, and academics to better understand stakeholder perspectives on what constitutes responsible innovation in financial services.
- OFTI participated in more than a dozen public events to publicize OFTI's activities and extend the invitation to meet, as well as holding weekly office hours.

For more information about the DFPI, visit https://dfpi.ca.gov. CI

CALIFORNIA ASSEMBLY CONSIDERING BILL TO AMEND CREDIT SERVICES ACT

California's State Assembly Committee on Banking and Finance held the first hearing March 28 on a bill amending the Credit Services Act of 1984 that would require the Department of Financial Protection and Innovation (DFPI) to register and regulate credit services organizations.

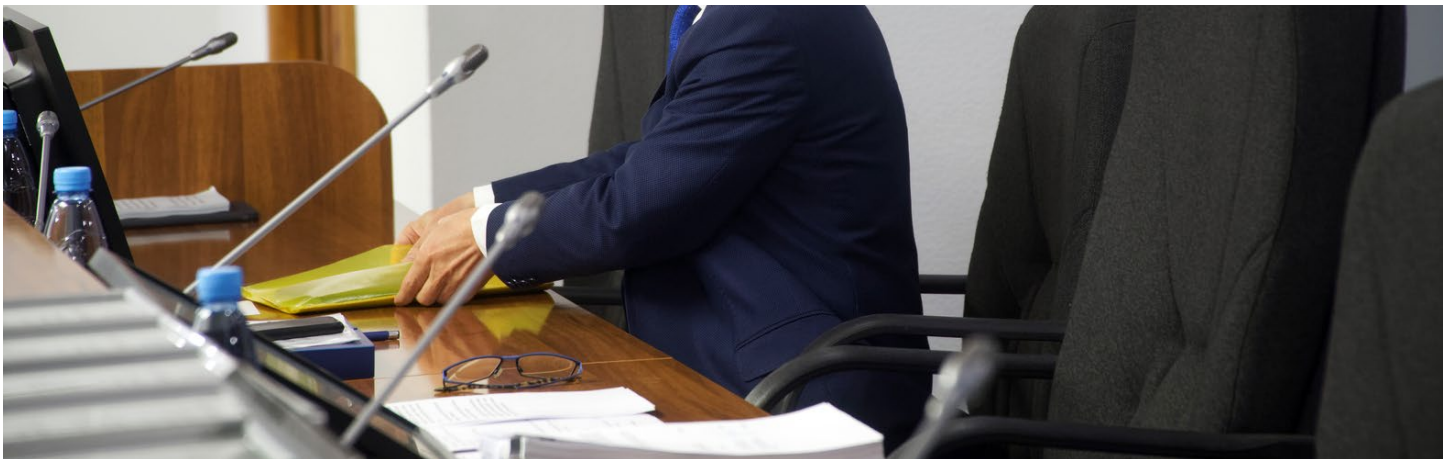
The proposed amendments would implement changes to credit services organizations' processes to submit a dispute to debt collectors and written communications to a credit reporting agency (CRA) or data furnisher.

Currently, the Credit Services Act of 1984 defines and regulates the activities of credit services organizations and "generally defines a credit services organization as a person who, for payment, performs specified credit-related services, such as improving a buyer's credit record and obtaining loans. Existing law requires credit services organizations to obtain a surety bond, as specified, before conducting business and requires that they register with the Attorney General, subject to a fee of $100."

California Assemblymember Blanca Rubio, author of A.B. 2424, seeks to amend the Credit Services Act of 1984 by:

- Replacing the term "buyer" with the term "consumer" for purposes of describing a person utilizing the services of a credit services organization prescribe other definitions in this regard.
- Requiring a credit services organization to provide a consumer a monthly statement detailing the services performed and for the organization to perform services agreed upon within 180 days of contracting for those services. Because the bill would change the definition of a crime, it would impose a state-mandated local program.
- Requiring the information statement and contract to inform the consumer that the contract can be canceled before midnight on the 5th working day after the consumer signs it.
- Extending prohibitions on counseling a consumer to make untrue statements to other specified parties.
- Prohibiting a credit services organization from submitting a dispute to a CRA, creditor, debt collector, or debt buyer more than 180 days after the disputed account has been removed, or from failing to provide along with its first written communication to a CRA or data furnisher sufficient information to investigate a dispute of an account.
- Requiring a consumer CRA, creditor, debt collector, or debt buyer that knows that a consumer is represented by a credit service organization to communicate with the credit services organization, except as specified.

During the hearing in March, the committee voted 9-0 to not pass the bill as amended and refer it back to the Assembly's Committee on Privacy and Consumer Protection, which met April 19. CI



APPLY NOW: CAC EDUCATIONAL FOUNDATION SCHOLARSHIP

CAC's Educational Foundation scholarship program is open to current high school juniors and seniors who are enrolled in a California high school and will be attending any accredited public or private college, university, or trade school within 12 months of graduation. All applicants must write an original essay on the following topic: The importance of establishing and maintaining good financial credit during your college years.

Review the application requirements and apply here: www.calcollectors.net/foundation.

Application deadline: **June 30, 2022**.

For questions or more information, contact scholarship@calcollectors.net.

First award: $2,500

Second award: $2,000

Third award: $1,500

2021-2022 Board of Directors

Chris Schumacher – President
Company: Optio Solutions, LLC, dba Qualia Collection Services
Email: cschumacher@optiosolutions.com

Kelly Parsons O'Brien – Secretary
Company: Pacific Credit Services
Email: kelly@pacificcreditservices.com

Shawn Suhr – Treasurer
Company: Continental Credit Control
Email: Shawn@contcred.com

Mike Cheek - Director
Company: California Business Bureau
Email: mcheek@cbbinc.com

Maryrose Diaz - Director
Company: Grant Mercantile Agency
Email: Maryrose-gma@sti.net

Tonya Richardson - Director
Company: California Business Bureau
Email: trichardson@cbbinc.com

Cindy Yaklin – Director
Company: States Recovery Systems, Inc.
Email: cindy.yaklin@statesrecovery.com

Tammy Schoenberg - Executive Director
Company: Calif. Assn. of Collectors
3200 Courthouse Lane
Eagan, MN 55121
Direct Line: 952-259-2143
CAC Telephone: 916-929-2125
Email: schoenberg@acainternational.org

Tom Griffin – General Counsel
Main Office: 916-925-6620
Email: tgriffin@hsmlaw.com

Cliff Berg – Legislative Advocate
Main Office: 916-448-8240
Email: cberg@govadv.com