

SILVERMAN  THEOLOGOU

ARLINGTON COMMUNITY FEDERAL CREDIT UNION
Credit and Collections Seminar

 SILVERMAN
THEOLOGOU

Gary Silverman, Esq.



Discussion Topics

Best Practices

- Personal Information Best Practices
- In House Collection
- Credit Reporting Best Practices
- 1099-A and 1099-C Issuance Best Practices
- Third-Party Claims – Wage Garnishment - Bank Attachment – Tax Levy

Credit Union Remedies

- Account Ownership Interest Defined - Attachment of Member Accounts
- Setoff - Cross Collateralization – Acceleration
- Non-Judicial Repossession – Notice Requirements
- Non-Judicial Repossession – Sale of Property and Deficiency

Bankruptcy

- Bankruptcy Overview
- The Automatic Stay
- Freezing or Withholding Funds of Bankrupt Member
- Preferences, POCs, and Fraudulent Debts
- Cross-Collateralization and Reaffirmation of Debts
- Accepting Payments from Bankrupt Members
- Discharge of Debt
- Miscellaneous Issues in Bankruptcy

Litigation Process

- Member Collection Account Files
- Lawsuits - Judgments - Execution
- Garnishment
- Personal Property Attachments
- Judicial Repossession and Judgment Liens
- Silverman Theologou – Legal Services
- Silverman Theologou – Contact Information

Best Practices

Personal Information Best Practice

Highlights

The following personal information as to each Member should be obtained and continually updated:

- Member Name (legal and all aliases)
- Member Home and Work Address
- Member Home and Work Telephone Numbers
- Member Cell Phone Number and Email Information (establish policy for cell and email contact)
- Member Social Security Number or Tax I.D.
- Other Credit Union or Banking Information of Member (including cancelled checks)
- Photocopy of Member's Drivers License or other Picture I.D

Practical Tips

- Name information is required to accurately determine the Member's credit worthiness, obtain a Member's credit report, check the Member's credit information, prepare and file a lawsuit, and serve court papers
- Home and Work Address information is required to accurately determine the Member's credit worthiness, check the Member's credit information, file a lawsuit, serve court papers, and assists with collections
- Home and work telephone numbers assist with contacting a Member for loan servicing, tracing Member address information, and assists with collections
- Member Tax I.D. or social security number is required to obtain the Member's credit report, assists when tracking personal information, assist when tracking address information, and assists with collections
- Additional credit union or banking information allows for ACH payments, attachment of funds, and assists with collections
- Photocopy of driver's license provides valuable Member information, assists with service of process, and combats fraud allegations.



In-House Collection Best Practices

Highlights

- DO NOT contact a Member by telephone outside of the hours of 8:00 a.m. to 9:00 p.m. ☒ DO NOT engage in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the number (call no more than 2x per week including voice mail messages).
- DO NOT communicate with a debtor by email or cell phone or text any differently than you would by letter or telephone
- DO NOT communicate with a Member at their place of employment after having been notified that it is unacceptable or prohibited by the employer.
- DO NOT misrepresent the debt or use deception to collect the debt, including misrepresentation that you are an attorney or law enforcement officer.
- DO NOT publish the Member's name or address on a "bad debt" list.
- DO NOT seek unjustified amounts, which would include demanding any amounts not permitted under the loan documents or as provided under applicable law.
- DO NOT threaten arrest or legal action that is either not permitted or not contemplated.
- DO NOT use abusive or profane language in the course of communication related to the debt (record calls to avoid issues and be careful with voice mail).
- DO NOT reveal or discuss the nature of debt(s) with third parties (record calls to avoid issues and be careful with voice mail).
- DO NOT contact by embarrassing media, such as communicating with a Member regarding a debt by post card or text or social media.
- DO NOT report false information to any credit reporting agency or threaten to do so in the process of collection.



Credit Reporting Best Practices

Highlights

- NCUA guidelines regarding the information credit unions furnish to consumer reporting agencies about consumers relates to the “accuracy” and “integrity” of the information reported.
- How a credit union chooses to manage bad debt internally is a decision dictated by the guidelines and regulations established by the credit union.
- However, in the event the credit union chooses to continue to manage all bad debt in its database, for so long as the debt remains due, and maintains all bad debt accounts in the same manner, such action is permissible.
- There is no legal requirement that a credit union remove bad debt from its books or records, as long as all bad debt of all members and former members are treated in the same manner and the information stored and reported is updated and accurate.
- No statute of limitation on collections or requirement to remove debtors account from creditor files
- Every state maintains a civil statute of limitation outlining the time-frame within which a creditor may legally file and obtain a judgment against a debtor. However, the statute of limitations is not so much a bar from filing suit as it is a defense available to a debtor in the event the lawsuit is filed beyond the statutory period.
- Section 605 of the FCRA dictates the terms under which consumer reporting agencies may report information relating to consumers.
- The obligation to accurately report information provided by creditors, as outlined in § 605 of the FCRA, as well as to remove or correct items, as outlined in § 605 of the FCRA, is the responsibility of the consumer reporting agencies.
- There is no requirement that the creditor remove the accurate debtor information from its reports to the consumer reporting agencies, nor is there a requirement to cease collection activities if it so chooses to pursue the debtor.

Practical Tips

- A Credit Union’s obligation is to report information accurately, with integrity and consistently as to bad debt accounts.
- Bad debt remains bad debt until paid (bad debt may remain on the Credit Union’s books so long as the Credit Union is following developed guidelines and regulations established for bad debt reporting).
- Statute of limitation is not a bar to filing a lawsuit but rather a defense available to a debtor. Lawsuits may be filed once the statute of limitations has passed.
- FRCA rules regarding consumer credit reporting and timing as to the removal of aged accounts are rules that govern the consumer reporting agencies, not the Credit Union.



1099-A and 1099-C Best Practices

Highlights

- The IRS form 1099 (both A and C) is used by various entities to report income that they have perceived a third party has earned. For example, a credit union issues a credit card, makes an unsecured loan, makes a secured or unsecured auto loan, or mortgage loan, and amounts due and owing are never paid. After some time the credit union should issue the member a 1099.
- The IRS requires financial institutions (including credit unions) to report to them the amount of principal they charge-off for individual borrowers. It is only to be filed after the credit union has stopped collection activity and there has been no payment activity on the account for three years.
- Form 1099-A is used to report that property was received or abandoned by the member. It does not refer to whether or not the debt was cancelled.
- Form 1099-C indicates the cancellation of debt. A 1099-C can be issued on an unpaid debt for the entire balance that is due at the time of issuing the 1099-C or for the canceled portion of the debt when a debt settlement has been agreed to.
- The credit union may issue a 1099-C for the balance due on second mortgage write downs, settlements of unsecured or secured claims or “cram downs” where any or all of the principal balance due to the credit union remains unpaid.
- Collection efforts may continue when a 1099-A is issued.
- The law is unclear as to whether collection efforts may continue once a 1099-C is issued; however common sense would dictate that a creditor can't have it both ways: either you forgive the debt or continue to collect the debt or sell it, but not both.
- Surprisingly the IRS has issued no rulings regarding collections once a 1099-C is issued; although, if payment is received by the creditor once the 1099-C is issued the 1099-C must be reversed.
- Once the credit union issues a 1099-C, the member is required to report this unpaid debt as income on their tax returns.
- As exclusions do exist, not all members issued a 1099-C will be required to pay taxes once the 1099-C is issued.

Practical Tips

- Always issue a 1099-A on abandoned real or personal property.
- Always issue a 1099-C once the debt is uncollectable and cancelled.
- Both form 1099-A and 1099-C must be sent to the member (preferably via certified mail, return receipt requested).
- Once a 1099-A is issued the debt remains collectable and all collection efforts should be pursued.
- Once a 1099-C is issued, although no case law or statutes exist, the Internal Revenue Services has no established guidelines regarding continuing collections efforts, common sense dictates that once a 1099-C is issue collection efforts should cease.
- As exemptions do exist, members may avoid paying taxes once a credit union issues a 1099-C.



Third-Party Claims – Wage Garnishment – Bank Attachment – Tax Levy

Highlights

- Wage Garnishment
 - Judgment Creditor (employee or Member judgment)
 - Internal Revenue Service or State Authority (employee or Member tax obligation)
- Bank Attachments
 - Judgment Creditor
 - Internal Revenue Service or State Authority
- Tax Levy
 - Internal Revenue Service
 - State or Local Authority
- Child Support Orders
 - Court Orders
 - State or Local Authority

Practical Tips

- Upon receipt of notice of wage garnishment, bank attachment or tax levy the Member's accounts must be frozen.
- Notice should be provided to the Member of the credit union's receipt of notice of wage garnishment, bank attachment or tax levy.
- Member access to accounts may only be permitted when wage garnishment, bank attachment or tax levy is released or satisfied.
- Child Support Orders differ from wage garnishment, bank attachment or tax levy as they typically require weekly or monthly payments that the credit union must reserve and send as required.
- Counsel should be contacted as to the credit union's compliance requirements.
- Garnishments, Attachments or Orders from State authorities where the credit union has no branches or locations, must be domesticated, or the credit union could choose to not comply with the Garnishment, Attachment or Order.

Credit Union Remedies



Account Ownership Interest Defined – Attachment of Member Accounts

Highlights

In the event account ownership interest is not defined in the Membership Agreement or Loan Documents then Joint Accounts are established by law as follows:

- Tenants by the Entirety – An account owned 100% jointly by a husband and wife (as well as wife and wife / husband and husband)
- Joint Tenants – An account owned 100% jointly by individuals (similar ownership to Tenants by the Entirety)
- Tenants in Common - An account owned jointly (on a percentage basis) by individuals (differs from Tenants by the Entirety ownership)issues.

Practical Tips

- Tenants by the Entirety Cross Collateralized and Attachment is permitted where both spouses incur the same debt.
- Joint Tenant Cross Collateralized and Attachment is permitted where both Members incur the same debt.
- Tenant in Common Cross Collateralized and Attachment is permitted where one of the Members has incurred the debt (based on the Member's percentage of ownership of the account, funds on deposit in the account may be attached up to the amount of the debt and the credit union has the option to accelerate the entire debt or just bring the Member current).
- Membership Agreement and Loan Document contract terms and conditions will modify statutory ownership interest protection afforded Tenant by the Entirety and Joint Tenant accounts. CFPB changing the rules to stay current on the most recent cases.



Setoff – Cross Collateralization - Acceleration

Highlights

- Setoff - The process of holding or freezing depository account balances upon default of the Member's obligation for the purpose of satisfying the debt.
- Cross Collateralization - A means by which specific collateral can secure various Member accounts (even those accounts which may have existed before the acquisition of the collateral)
- Acceleration - A means by which, in the event of default, the credit union can demand immediate payment for all amounts due

Practical Tips

- Setoff and Cross Collateralization allows the Credit Union to setoff against the Member's accounts and any properly cross collateralized account in the event of default
- Setoff and Cross Collateralization allows the Credit Union to repossess collateral for default of an account other than the loan or purchase money account associated with the collateral.
- In order to avoid issues with tenants by the entirety and joint Member accounts, Membership Agreements should indicate all joint accounts are owned 100% by each Member.
- Acceleration can be avoided when the Credit Union establishes a "course of conduct" that modifies the terms of the Membership Agreement or Loan Documents.



Non-Judicial Repossession – Notice Requirements

Highlights

Upon repossession of the collateral (auto, boat, etc.) the following action is required:

- Pre Sale Notice (letter typically forwarded via certified mail)
 - Identify the collateral
 - Define the outstanding amount due
 - Send to all interested parties
 - Date, time and location of sale
 - Member's right of redemption
 - Possibility of deficiency
- Post Sale Notice (letter typically forwarded via certified mail)
 - Identify sale proceeds
 - Explain application of proceeds
 - Calculate deficiency/surplus

Practical Tips

- Only two notices (pre sale and post sale) are required to complete the non-judicial repossession process.
- The State of Maryland, the Commonwealth of Virginia and the District of Columbia DO NOT require notice to the Member prior to repossession.



Non-Judicial Repossession – Sale of Property and Deficiency

Highlights

- Private v. Public Sales
 - Commercially reasonable
 - Public Sales – Recommended
 - Less Judicial scrutiny if challenged
 - Less stringent notice requirements
 - Check with repossession company regarding type of sale
- Deficiency
 - The amount of the indebtedness that exceeds the sale proceeds
 - Lawsuit to collect deficiency – exhausted all self non-judicial remedies
 - Noncompliance of notice requirements
 - Inability to collect deficiency
 - Increases write-offs

Practical Tips

- Upon completion of sale, in the event a deficiency exists, the matter should be referred for litigation IMMEDIATELY to avoid issues relating to the value of the collateral at the time of repossession.

SILVERMAN  THEOLOGOU

Bankruptcy



Bankruptcy Overview

- Bankruptcy is the process by which a member achieves a discharge of any personal legal obligation to pay debts and/or a restructuring of the repayment of debts. After discharge the member cannot be personally sued or contacted in any way to pay the debt. Although a lien generally survives and the property by which the debt is secured may still be sold to satisfy the obligation.
- Chapter 7 is the general liquidation chapter. All of the member's assets, except those that are exempted, become part of the bankruptcy estate managed by the Chapter 7 Trustee. The Trustee's job is to ensure that all of the member's creditors are properly treated according to the bankruptcy code. If there are non-exempt assets, those assets are sold by the Trustee and the proceeds are distributed to creditors.
- Chapter 11 allows for the reorganization of a business or an individual member who has too much debt to qualify for Chapter 13.
- Chapter 13 allows for arrearages of secured debt to be paid through a plan lasting for up to five years with a payout to unsecured creditors based on the member's income and expenses. At the end of the plan, remaining debt is discharged. However, the majority of Chapter 13 plans are not completed and many are eventually converted to Chapter 7.



The Automatic Stay

- The Automatic Stay Prevents:
 - Lawsuits
 - Repossessions
 - Setoffs
 - All collection activities (Pre and Post Judgment)
 - Any correspondence, such as an account statement, that can be construed as attempting to collect a debt.
- Relief from the Automatic Stay:
 - Secured creditors may file a motion for relief from the automatic stay in bankruptcy court to enforce their rights as to the secured property (such as a home or a vehicle), if the creditor is not adequately protected. Once the motion is granted, the Credit Union can proceed in enforcing its rights to the collateral. Violations of the automatic stay can lead to liability for the Credit Union.
 - Automatic Relief from Stay exists in Chapter 7 for non-reaffirmed auto loans 45 days after the 341 meeting.
- Serial Bankruptcy Filers and the Automatic Stay:
 - If a member files two bankruptcies in a year and the prior bankruptcy was dismissed, the automatic stay only lasts for 30 days (without a motion for extension) in the second bankruptcy.
 - If a member files a third bankruptcy within a year, no automatic stay is allowed without court order.



Freezing or Withholding Funds of Bankrupt Member

Highlights

- Freezing Accounts (Chapter 7 and 13)
 - All Cross Collateralized accounts should be frozen upon notice of the bankruptcy
 - Immediately refer for motion for relief from stay
 - Limitations and considerations regarding freezing accounts:
 - Account Ownership
 - Tenants by the Entirety
 - Joint Tenants
 - Cost Considerations
 - Amount in account
 - Filing Fee for Motion
 - Cost of Witness / Missed work

Practical Tips

- ***NEVER SEIZE OR REMOVE BANKRUPT MEMBER FUNDS WITHOUT ORDER FROM BANKRUPTCY COURT***



Preferences, POCs, and Fraudulent Debts

- **Pre-petition Garnishments, Setoffs, and Payments made within 90 days of Bankruptcy are recoverable under certain circumstances by the Member or the Trustee—**
 - The Credit Union may have to return to the member exempted funds or provide the Chapter 7 trustee a portion of the payment for equitable distribution to other creditors.
- **Proofs of Claim must be Timely Filed in all Chapter 11s, 13s, and Chapter 7s where an Asset is to be Seized and Sold by the Trustee—**
 - The proof of claim gives the Trustee notice of the creditor's claim and puts the creditor in line for a payout in a Chapter 13 plan, a Chapter 11 plan, or a Chapter 7 asset liquidation. A proof of claim should be filed in ALL cases except a 'no asset' Chapter 7. If a claim is not timely filed, the Trustee does not have to honor it.
- **A Proof of Claim should be filed whenever there is a Secured Debt, even in a no asset Chapter 7—**
 - While not required, filing a proof of claim for secured debts can be useful as sometimes the debtor does not accurately report the balance of the loan or type of loan.
- **Objections to Discharge because of Fraud must be Timely Filed—**
 - Bankruptcy does not grant a discharge for debts incurred by fraud, but the Creditor must act timely. Creditors who have been defrauded by the debtor must file an adversarial proceeding (basically a lawsuit within the bankruptcy) by the appropriate deadline. The individual debt or the whole bankruptcy may be denied discharge.



Cross-Collateralization and Reaffirmation of Debts

- **Cross-Collateralized loans survive bankruptcy discharge, even if the loan specifically for the collateral is paid off—**
 - Cross-Collateralization clauses allow for the Credit Union to secure all past and future debts with any personal property collateral used to secure a loan with the Credit Union. For example, if the Credit Union provides a loan for a \$20,000.00 Jeep and a \$10,000.00 credit card, both loans are secured by the Jeep. If the member pays off the Jeep, the Credit Union should not release the lien on the car until the credit card is paid off as well.
 - Cross-collateralization agreements survive bankruptcy as long as a perfected security interest remains. Therefore, the member has to surrender the collateral or pay it off for the Credit Union to release a cross-collateralized lien, even if the collateralized loan is specifically paid off.
- **Reaffirmation agreements for auto loans should be aggressively pursued by Credit Unions—**
 - In a Chapter 7, the member must indicate the intention to surrender the vehicle to the creditor or re-affirm the debt. Often times debtors will check the ‘reaffirm’ box in the Statement of Intent but are only delaying. A motion for relief from the automatic stay should be filed to “encourage” members to sign these re-affirmation agreements.



Accepting Payments from Bankrupt Member

- During the Bankruptcy:
 - Secured Debts
 - Chapter 7
 - May accept payments;
 - Chapter 13
 - Always accept payments
 - Unsecured Debts
 - In a Chapter 7, the Trustee has absolute control of the debtor's non-exempt assets. No payments should be taken in the pendency of a Chapter 7 without Trustee approval because the Trustee is entitled to it. The debtor should only be making scheduled payments for secured loans.
 - In a Chapter 13, the Credit Union may accept payments directly from the member but must modify its proof of claim so the Trustee does not make excess payments.
- During the Bankruptcy:
 - The Credit Union may accept gratuitous payments from the Member once the bankruptcy is over.



Discharge of Debt

- **Cases Dismissed without Discharge—**

- Sometimes bankruptcies are dismissed without a discharge. This can be because the member did not pay the necessary fees or file the necessary documents. The automatic stay is terminated upon dismissal and the Credit Union can resume collection activities.

- **Post Discharge Recovery for the Chapter 7 Trustee—**

- Even after a Chapter 7 discharge, the Bankruptcy does not end until the Trustee gives a final distribution report to the court. If the Trustee believes that the debtor may come into more assets (such as through inheritance), the Trustee can keep the estate open. Even after issuing the final asset report, if the member receives assets within 6 months of filing the petition, the Trustee may seize and liquidate it to pay creditors.

- **Discharge to Discharge Timelines—**

- After a Chapter 7 discharge, the member must wait 8 years before getting another Chapter 7 discharge.
- After a Chapter 7 discharge, the member must wait 4 years before receiving a Chapter 13 discharge.
- After a Chapter 13 discharge, the member cannot receive a subsequent Chapter 13 discharge for 2 years.
- After a Chapter 13 discharge, the member cannot receive a subsequent Chapter 7 discharge for 6 years unless the member paid all allowed unsecured claims or more than 70% of those claims and demonstrated best efforts.

§ Miscellaneous Issues in Bankruptcy

- **If a member dies in Bankruptcy, the case can continue—**
 - In a Chapter 7 liquidation bankruptcy, the estate (the Trustee) will continue the case as if the debtor survived.
- **Spouses do not have to file jointly—**
 - Spouses can file jointly if they wish, but do not have to. Sometimes only one spouse files or each spouse files separately in two different bankruptcy petitions
- **The co-debtor stay applies in Chapter 13 cases but can be lifted—**
 - When one debtor in joint debt files for bankruptcy under Chapter 13, enforcement against the non-filer is covered by the automatic stay as well. However, a successful motion for relief from stay will allow the creditor to proceed against the co-debtor.
- **In a Chapter 13 or Chapter 11, the member can “avoid” second mortgages and HELOCs with no remaining equity to cover the loan or Cramdown vehicles to their present market—**
 - In Chapters 13 or 11, the member can reclassify loans as no longer secured by the current market value of a home as unsecured and thus remove liens on those homes. This is extremely common in today’s housing market. If the creditor disputes whether or not there is any remaining equity to cover the second mortgage or HELOC, a hearing will be held to determine what the value is. ☐ For cars, as long as the car was purchased beyond 910 days before the Bankruptcy, the member can re-classify the portion of the loan above the present market value of the car as unsecured and have it discharged on completion of the plan.

Litigation Process



Member Litigation Account Files

Highlights

- In order to proceed with legal collections it is important that all relevant information is forwarded including:
 - Membership Agreement
 - Loan Documents (with complete payment history)
 - Account information
 - Guaranty or other securitization documentation
 - Letters and correspondence
 - Legal Collection Cover Sheet
- Prior to forwarding accounts verify that the telephone number and address information is accurate
- Include all information relating to additional Member accounts and Cross Collateralized accounts

Practical Tips

- Prior to forwarding an account obtain a current credit report.
- As certain jurisdictions require original documents, always attempt to forward complete files with original documents.
- To ensure proper Member communication it is important to forward current telephone number and address information (and copy of drivers license for verification purposes).



Lawsuits – Judgment – Execution

Highlights

- The purpose of a lawsuit is to provide the Credit Union certain tools to collect a debt that would not otherwise be granted without an order of the Court.
- At trial, the Credit Union will be required to introduce all evidence of the alleged debt.
- Witnesses for the Credit Union will be required to testify about the circumstances surrounding the debt and must either have personal knowledge of the Member's account or be someone who shares the responsibility of maintaining the records associated with the Member's account.
- Judgments are obtained by default, by confessing judgment or upon a successful verdict at the end of a trial.
- Execution is typically accomplished by garnishment, property attachments or judgment liens which typically can be filed simultaneously.

Practical Tips

- Must have complete statement of account to support balance due.
- Once judgment is obtained some jurisdictions will place restrictions on when you may begin to execute on a judgment (specifically in certain jurisdictions you may need to wait up to thirty days after the entry of judgment to execute).
- Execution on a judgment may also be stayed pending the outcome of any properly filed appeal of the judgment.
- Typically the collection process is faster when suit is filed in the State where the Member is located.



Garnishments

Highlights

- In order to file a garnishment, the Credit Union must have a valid judgment.
- Property garnishments
 - A garnishee is a bank, contractor or anyone owing the Member money
 - Directs a garnishee to freeze the Member's funds and release them to the Credit Union up to the amount of the judgment
 - The Member and the garnishee have the ability to object to payment
- Wage garnishments
 - Directs an employer to seize or withhold a portion of the Members pay
 - Funds are paid to the Credit Union
 - Most states set the amount of a wage garnishment at a certain percentage of the Member's disposable income and restrict garnishment payments to that amount (usually less than 25%)

Practical Tips

- Banking Information obtained from loan documents and copies of checks assists with bank attachments.
- Work address, phone numbers and social security numbers obtained from loan documents will assist with post judgment payment plans and post judgment proceedings.



Personal Property Attachment

Highlights

- A writ of execution directs the sheriff or other official to seize personal property and levy or auction that property.
- Proceeds of sale go to satisfy the judgment.
- Writs of execution are generally for automobiles, boats or big ticket items.
- Writs of execution can be obtained in any jurisdiction where the judgment has been recorded. ☐ The assets to be attached must be located in the jurisdiction where the writ is issued.

Practical Tips

- Usually a sheriff's sale of this kind attracts little attention and few bids.
- There are seldom sufficient proceeds to pay off a judgment.
- Writs of execution can be powerful tools to encourage the Members with the means to pay to finally satisfy a judgment.
- A writ of execution is a much weaker tool than a garnishment or a judgment lien against real property.



Judicial Repossession and Judgment Liens

Highlights

- Replevin
 - Utilized when non-judicial repossession methods are unavailable
 - Court issues Writ of Replevin authorizing the Sheriff to repossess collateral
 - Sheriff can gain access where the public may not (garages, gated yards, etc...)
 - Limitations
 - Alerts the Member of pending repossession
 - Expensive – Bond requirement up to the value of the collateral
 - Extra Time Required (Service of Complaint - Issuance of the Writ - Service of the Writ)
- Detinue
 - Same process as Replevin; however, judgment must be previously obtained by Credit Union
- Judgment Liens
 - Ability to place liens on property owned by the Member (typically real property)
 - These liens can either automatically attach to any real property located in the jurisdiction when judgment is entered or a copy of the judgment has to be recorded in land records for that given county
- Writ of Execution
 - Much like a Replevin, the Sheriff executes the Writ of Execution and either gains physical control over the Member's personal property or constructive control over real property
 - Unlike a Replevin, the Sheriff conducts the sale as opposed to the Credit Union selling the collateral

Practical Tips

- Judgment liens usually are recorded in any individual jurisdiction where the Member owns real property
- Usually a judicial sale is costly and slow in developing
- Judgment liens can prevent a Member from refinancing or selling their home
- In most jurisdictions judgment liens are valid for a period of twelve (12) years and may be renewed for an additional twelve (12) years



Silverman Theologou LLP Legal Services

Silverman Theologou Legal Services:

- Immediately open (same day or next day) all accounts forwarded by the Credit Union
- Immediately upon receipt of a new account generate and forward a demand letter to the Member
- Within the first 30 days after receipt of a new account, the Member is contacted in an attempt to collect the outstanding balance due
- At the end of the 30 day period, if the Member fails to make payment or enter into a fully executed confessed judgment payment plan, a lawsuit is filed
- For those matters located in Maryland, D.C., Virginia, and Pennsylvania, or for those matters located in all other jurisdictions where the Credit Union Membership Agreement or Loan Documents grant jurisdiction in our service area, a lawsuit is filed by Silverman Theologou
- For those matters located in Maryland, D.C., Virginia, and Pennsylvania, and where payment is not received upon obtaining judgment, Silverman Theologou will execute on those judgments
- For those matters located outside Maryland, D.C., Virginia, and Pennsylvania, or where Silverman Theologou obtained judgment but cannot execute on the judgments due to the Members state of residence, those accounts will be referred to a Silverman Theologou Affiliate law firm

Added Value Services:

- Same day/next day response to telephone inquires regarding Member accounts
- Same day/next day response to email or other electronic inquires regarding Member accounts
- Access to the Silverman Theologou Web Remote Viewer (“WRV”) allowing real-time access to status of Member accounts
- Weekly Payment Reports (Together With Payments Received)
- Monthly Status Reports Indicating The History Of All Open Accounts
- Tracking of Affiliate Law Firm accounts on Silverman Theologou Monthly Status Reports
- Employee Seminars Relating To Credit And Collection Matters



For Additional Information



Silverman Theologou LLP
11200 Rockville Pike
Suite 520
North Bethesda, MD 20852

Phone: (301) 468-4990
Fax: (301) 468-0215

Gary Silverman, Esq.
gsilverman@silvermanlegal.com
www.silvermanlegal.com