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Work in Progress: Model Act on the Appointment and Powers of Real Estate Receivers

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RN's **Beverly McFarland** recently represented the California Receivers Forum as an observer at a meeting of the Drafting Committee (Committee) on the Uniform Law Commission's (ULC) "**Model Act on the Appointment and Powers of Real Estate Receivers**" (MAPRER), which met on September 27 and 28, 2013 in Minneapolis. Those in attendance representing numerous states were: **Commissioner Thomas Hemmendinger** (the Committee Chairperson) from Brennan, Recupero, Cascione, Scungio & McAllister, Providence, RI; state appointed commissioners; judges from the various state court of appeals; section advisors from the American Bar Association; practitioners and lawyers referred to as observers; and, a most important person to the Committee, **R. Wilson Freyermuth**, the MAPRER Reporter (Reporter) from University of Missouri-Columbia School of Law, Columbia, MO. Also attending portions of the meeting were ULC President, the **Honorable Harriett Lansing**, Executive Committee Chair **Richard T. Cassidy** and Executive Director **John A. Sebert**.

The Committee considered the Reporter's August 21, 2013 draft of the MAPRER document. The group also discussed the items raised in the Reporter's notes and other issues of concern to the participants on real estate receiverships. The two day meeting was "extremely productive" according to the Recorder, with everyone contributing helpful and practical substantive comments and suggestions. A summary of the positions stated in the report by the Reporter are not final decisions based on formal votes of the Commission. Instead, they reflect the consensus on what the Committee wants the Reporter to include in the discussion draft for consideration at the ULC - MAPRER Spring 2014 meeting. The Reporter advised us that, "The draft takes the middle approach between the extensive and detailed statutes of Minnesota and Washington and the more sparse statutes in some other states." (For more information, the complete report of the September 2013 MAPRER meeting is posted on line at www.uniformlaws.org):

Items of interest to our receivership community in California that the Committee discussed stemmed from information provided prior to the Washington, D.C. MAPRER meeting in April 19-20, 2013. We had supplied the Committee in advance with copies of the Miller Starr Regalia, Chapter 33 "Receivers" booklet; the relevant sections of the 2013 California Rules of Court; Rules 3.1175-31184; Cal CCP Sections 564-570; a flash drive of Loyola V and numerous references to articles in the CRF Receivership News issues. Also discussed in the April meeting was a state-by-state summary of existing laws which were debated and analyzed with the concept of picking portions of those laws that may fit into a uniform law.

The September 2013 meeting was filled with lively debates on persons eligible or ineligible to serve as receiver; receivership clauses in mortgages; ex parte appointments; receiver as a lien creditor; and powers to sell described in detail with five potential options to consider, to name a few items. It was fascinating to be in a conference room filled with professionals from many, but not all, of the states ranging from California to Kentucky to Rhode Island and all states in between and to hear the very different opinions offered by their representatives. It was also interesting to note that there was not a commissioner from California at either of the meetings that we attended.

Please review the full MAPRER report on line at the ULC website stated above and provide CRF representatives, **Gordon Dunfee** surflaw2@aol.com and **Beverly McFarland** beverlygroup@att.net with your comments to consider presenting at the next MAPRER meeting in the Spring of 2014.

* **Gordon Dunfee** is the 2013-2014 President of California Receivers Forum state organization. Law Offices of Gordon E. Dunfee focus on receivership matters and are located in San Diego.

* **Beverly N. McFarland** is an RN Associate Publisher, a chapter 11 trustee and receiver, CEO of The Beverly Group, Inc., an asset management company. Ms. McFarland is a former chair and current member of the California Receivers Forum BOD, and has enjoyed presenting at the Loyola Law School seminars through the years.