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April 21, 2014

Ms. Katie Robinson
Staff Liaison
Uniform Law Commission
11 N. Wabash Ave., Suite 1010
Chicago, Illinois 60602

Re: Draft to Revise the Uniform Unclaimed Property Act (UUPA)

Dear Ms. Robinson:

Please find below my comments and input in reference to:

- Section X) the suggestion of a Business-to-Business Exemption (apposed).
- Section 13) The Deposit of Fund unclaimed funds collected by a state to that states general fund for expenditure and how much should be held in a Trust Account to pay approved claims.
- Section 15) Filing a Claim With the Administrator and Handling of Claims by the Administrator.
- Section 25) Finder Agreements.

Section X: Business-to-Business Exemption (Section 2 of the UUPA)

I am opposed to a Business-to-Business (B2B) Exemption for the following reasons:

1) All parties should be entitled to locate and recover their unclaimed property including large corporations, small business owners, and sole proprietors. A law should not be drafted that takes the decision out of the owners hands before they even know a decision concerning their property is being made. The vast majority of active smaller businesses and individuals (former business owners) that I locate and contact concerning unclaimed property are not aware of unclaimed property and/or the laws that govern unclaimed property. Once they are aware of their unclaimed property, they want what they are entitled to.

2) My business clients cover a broad range of entities and individuals. Whether my client is a large public company or a small private corporation, they want me to recover their unclaimed assets. Out of hundreds of recoveries, I can recall only one or two occasions where my client preferred not to pursue assets because of an existing relationship. On those rare occasions, the reason they chose to pass on

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pursuing the assets was a problem between the two companies (such as past or present litigation) not because they thought the credit or refund would be worked out between the two companies.

The majority of properties that my active business clients claim are assets remitted by businesses they no longer have a current relationship with. While there are occasions when they claim assets that were remitted by a company that they do have a current relationship with, it is not the norm. When I do locate assets remitted by a company for which they do have an existing relationship, they have no reservations about recovering the funds - just as the remitter had no reservations about remitting the funds.

3) I have completed dozens of claims for sole proprietorships (active and inactive) and for dissolved corporations where the owners had no idea they had recoverable funds in the states possession. On many occasions, the owners were in critical need of cash. One couple in Alaska who had a former business in California was two to three months behind on their mortgage and was on the verge of loosing their house.

While the recovery I completed for them was only in the twenty-thousand dollar range, it was sufficient to save their home and bring them current on outstanding debts. For them, it was a life-changing recovery that would not have happened in a B2B Exclusionary environment. I have recovered unclaimed funds for many former business owners that were either in need of the funds or at the very least, very pleased to be reunited with their funds.

Shareholders of private and/or tightly held corporations (active and dissolved) are entitled to the earnings and assets of their corporations. Some of these tightly held corporations had relationships with dozens or in some cases, hundreds of vendors, suppliers, and customers. The unclaimed property law exists to protect the property of these owners just as it does individuals that were not business owners.

For every large corporation for which the amount of unclaimed property that could recovered for them may not be material to that corporation, there are hundreds of small businesses where unclaimed property is more meaningful. A B2B Exclusion would prevent many owners who in the end, are just normal citizens, from being reunited with their hard-earned money.

Section 13. Deposit Of Funds

While the vast majority of states return property within reasonable periods of time and without an unreasonable fight on the part of the owner, there are some states that do not return funds as willingly and in such states, the claim process can be contentious and contrary to the intent of the law. Part of the problem is the requirement for the states to deposit funds into the states general fund leaving, in

some cases, insufficient funds in the unclaimed fund trust account from which approved claims are paid.

When the unclaimed property department is forced to compete with their own state to pull funds back from the general fund in order to meet claim payment demands, this conflict of interest can have a negative influence on the claims approval and payment process. In addition it can cause an unnecessarily long period before claims are paid.

The current Act requires that the administrator retain in a separate trust fund at least $100,000 from which the administrator shall pay claims duly allowed.

While $100,000 may have been a sufficient trust fund from which to pay claims forty or fifty years ago, that is no longer the case in many of the larger states. This amount should be updated to reflect the reality of each individual state's unclaimed property receipts and disbursements.

The Act should be revised to require that the administrator retain in a separate trust fund an amount equal to that of claims paid by the administrator during the two preceding fiscal quarters. The purpose of this change is to ensure that the claims approval process is not negatively influenced by lack of available funds and to ensure that all states have more than sufficient funds on hand to pay approved claims.

This revision allows states to maintain trust funds that are commensurate with claims payment histories, thus allowing small states with low receipts and disbursements to maintain a low balance and at the same time requiring large states with high receipts and disbursements to maintain a fund that is sufficient to meet demand. Finally, this revision helps states pay claims timely as they do not have to apply for and, pull funds back from the general fund in order to pay approved claims.

Since the primary object of unclaimed property laws is to reunite owners with their property, this revision will help achieve that objective.

Section 15. Filing Claim With Administrator; Handling of Claims By Administrator.

While the vast majority of states return property within reasonable periods of time and without an unreasonable fight on the part of the owner, there are some states that do not return funds as willingly and in such states, a standard of review would benefit owners of unclaimed property.

I believe language should be added to this section of the Act that requires states to apply a "reasonable person" standard to the claims review process. Such a requirement would provide additional protections and benefits to owners. In the

states where the claim process is more contentious, claims are some times treated as an affront to the state or almost as if the claimant is filing a personal injury case against the state and the state is attempting to defend itself against the claimant.

In some cases, the standard seems to rise to clear and convincing evidence or beyond a reasonable doubt. In many of my current claims with those states that are contentious, the claims that are being denied would otherwise be approved by any reasonable person that did not have a financial stake in denying the claim. Even in cases where the claimant has proved beyond a reasonable doubt that they are the owner, restrictive states can still seek to find reasons to deny payment, rather than seek reasons to approve the claim. A "reasonable person" standard would help to discourage bias and self interest in the claim review and approval process.

Section 25. Finder and Claimant Representative Agreements:

I appose the requirement of Claimant Representatives to disclose so much information in an agreement that the owner has no need for their service following disclosure. Even Mr. Charles Trost, during the February meetings, questioned the wisdom of requiring finders or claimant representatives to include details that would render their service basically worthless. If finders are required to provide so much information that owners have no need for their services, the end result would be that more finders would drop out of the industry, fewer owners would be contacted by finders, and less money would be returned to owners.

I am in favor of the concept that the owner of the property can waive any fee cap.

I believe that fewer restrictions on finders and claimant representatives results in more funds being returned.

Thank you.

Sincerely,

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