PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

PRACTICE AREA

COLLECTION AND COLLATERAL RECOVERY

For various reasons, some loans go bad and either are not paid as agreed or some other event occurs which the loan documents do not allow. In those situations, our attorneys provide comprehensive legal services to lenders attempting to obtain repayment either from those obligated on the debt through litigation, judgment and post-judgment collection and/or from collateral recovery and liquidation through real estate and ship mortgage foreclosure, UCC and judgment lien sales, and other methods. We have dedicated consumer and commercial paralegals trained and supervised to assist in all of these processes. Together our team has collected many millions of dollars in the face of fierce resistance from unwilling borrowers.

Personal Judgments and Collection

There is no set order which a creditor must follow to obtain recovery of a defaulted loan, but one of the first methods to consider is to file suit versus those obligated to repay the debt, which may be the borrower as well as any guarantors. Our attorneys are licensed in all Federal and State Courts in both Virginia and North Carolina and stand ready to start and aggressively pursue such claims to judgment and ultimately collection. Indeed, obtaining judgment is frequently the easier part of the process and the real work begins after one is entered. We are prepared to garnish wages and bank accounts, conduct debtor interrogatory depositions to locate income and assets, and place liens and levies on a judgment debtor's personal property. We recognize however that some obligors are "judgment proof" and so we regularly discuss with our client all options and the costs and benefits of proceeding with any course of action.

Foreclosure

Also high on the list of first steps in the collection process is to conduct a foreclosure of the real estate which secures repayment of the debt. Virginia and North Carolina have vastly different statutory requirements for conducting a foreclosure sale, but we have attorneys licensed and experienced in both states. In regard to consumer loans, Federal law imposes additional requirements but again our experienced attorneys stay up to date on the latest developments in the law and follow them strictly while still advancing the process as quickly as possible. UCC and Judgment Lien Sales

Not all loans are secured by real estate but instead are secured by collateral such as business inventory and equipment. Sales of those collateral types are primarily governed by the Uniform Commercial Code although every situation is unique and requires some interpretation. Our attorneys have conducted a number of such sales, sometimes with the assistance of auctioneers or other marketers. In regard to judgment lien sales, a judgment automatically becomes a lien on any real estate owned by the debtor in the jurisdiction where the judgment is docketed. Our attorneys are well versed in the process of conducting a judgment lien sale, also known as a "creditor's bill", if necessary to recover proceeds to satisfy the claim.

Collateral Recovery

Collateral recovery is generally a part of the collection effort as it is a process in and of itself. For example, there are occasions where a creditor needs to have some level of control over real estate collateral prior to foreclosure. Similarly, if the collateral is business equipment, the creditor may need to make arrangements for recovery and/or sale with a landlord or other interested third party. In either case, we have the knowledge and experience to follow the law but still obtain the property prior to a sale.