

ANNUAL REPORT

OF THE

Banking Commissioner

OF THE

STATE OF CONNECTICUT

FOR THE YEAR ENDED DECEMBER 31, 1997

JOHN P. BURKE
BANKING COMMISSIONER

Constitution State Corporate Credit Union, Inc.

Constitution State Corporate Credit Union, Inc. is chartered by the state to serve member credit unions. It provides the means by which member credit unions may invest surplus funds and serves as a lender of funds to member credit unions with excess demand for loans so they may meet short-term and long-term liquidity needs. Constitution State Corporate reported assets of \$726.6 million. Loans to members amounted to \$10.8 million, or 1.49% of assets. Gross earnings amounted to \$44.3 million and were distributed as follows: overhead expenses \$5.9 million (13.32%), dividends to members \$36.6 million (82.61%), and \$1.7 million (3.84%) was set aside to meet statutory reserve requirements and other reserves.

Supervision

In 1997, the division conducted an annual examination of all state-chartered credit unions. The division also conducted several follow-up examinations to monitor problem credit unions and conducted some joint examinations with the National Credit Union Administration (NCUA).

Credit union examiners attended several training sessions which were made available by NCUA and the National Association of State Credit Union Supervisors (NASCUS) that included contemporary critical issues, investments, consumer compliance, corporate training and other technical training. The Credit Union Division also successfully completed the requirements for its re-accreditation by NASCUS. Connecticut was the third state, and is one of nineteen in the country, to receive its NASCUS accreditation.

Deposit Insurance

Share deposits in all state-chartered credit unions are insured by the National Credit Union Share Insurance Fund (NCUSIF) to a maximum of \$100,000 per account holder.

Credit unions are required to establish a share insurance deposit with the NCUSIF equal to one percent of insured shares. This deposit is recorded as an investment on the books of the credit union. As in previous years, the NCUSIF deposit is adjusted annually and is based on the insured level of deposits as of December 31.

Federal Credit Unions

In addition to state chartered credit unions, as of Dec. 31, 1997 there were 155 federal credit unions with total assets of \$3.1 billion, share deposits of \$2.8 billion and 701,369 members. Net capital to assets was 11.3% and delinquent loans to total loans was 1.1%. Connecticut federal credit unions are supervised by the NCUA's Region 1 office located in Albany, New York.

SECURITIES AND BUSINESS INVESTMENTS DIVISION

Subject to the general supervision of the Banking Commissioner, the Securities and Business Investments Division is charged with administering Chapter 672a of the Connecticut General Statutes, the Connecticut Uniform Securities Act; Chapter 672c of the Connecticut General Statutes, the Connecticut Business Opportunity Investment Act; and Chapter 672b of the Connecticut General Statutes, the Connecticut Tender Offer Act.

The division is responsible for 1) the registration of securities and business opportunity offerings for sale in Connecticut; 2) the registration of broker-dealers, agents, investment advisers and investment adviser agents as well as the registration of broker-dealer and investment adviser branch offices; 3) the examination of broker-dealer, investment adviser and branch office registrants; and 4) enforcement of the state's securities, business opportunity and tender offer laws.

As of year-end 1997, and excluding vacancies, the division was comprised of a division director, two assistant division directors, one chief examiner, 20 examiners and eight support personnel. Staffing levels decreased by two positions from the previous year.

Activities

1997 was a year of transition for the division. During that year, division operations began to fully experience the impact of the federal National Securities Markets Improvement Act of 1996 ("NSMIA"). NSMIA preempted the states from regulating investment company offerings (effective October 11, 1996) and large investment advisers having at least \$25 million in assets under management (effective July 8, 1997). Although NSMIA would result in a decline in registered investment company offerings and in registered investment advisers, the federal law still permitted the states to require notice filings for preempted offerings and advisers. As of December 31st, the division's investment advisory base totaled 1,082, with 560 investment advisers registered with the division and 522 federally-regulated advisers making notice filings. NSMIA also curtailed the types of investment adviser agents that states could permissibly regulate. As a result, the number of registered investment adviser agents at year-end dropped from 10,546 in 1996 to 4,001 in 1997.

Unaffected by NSMIA were broker-dealer and broker-dealer agent registrants. As of year-end, the number of individuals registered to represent broker-dealers in offering and selling securities rose from 79,764 in 1996 to 88,701. Continuing an upward trend, the number of registered securities brokerage firms increased from 2,076 in 1996 to 2,266 in 1997. Also showing an increase were the number of registered broker-dealer branch offices (1,252, up from 1,183 the previous year); and the number of registered investment advisory branch offices (454, up from 371 in 1996).

The passage of NSMIA challenged the division to more effectively allocate its resources, particularly in the areas of enforcement and examinations of registered entities. For example, examinations of Connecticut registered investment advisers nearly tripled, increasing from 37 in 1996 to 95 in 1997. Forty-seven investigatory subpoenas were issued in 1997 as opposed to 9 in 1996.

In 1997, the division received a total of 10,645 initial and renewal notice filings for federally regulated investment companies offering their shares to the Connecticut public. Initial and renewal registration filings for other securities products totaled 394. The number of registered business opportunities remained constant from the previous year. No filings were received under the Connecticut Tender Offer Act. (*see Table 38*)

In conjunction with the division's enforcement program, a total of 209 securities and business opportunity investigations were opened in 1997, 209 investigations were closed and 82 investigations were in progress as of Dec. 31, 1997. Seven cease and desist orders, naming eight parties, were issued under the Connecticut Uniform Securities Act, and eight denial, suspension or revocation orders were issued. One cease and desist order, naming two parties, was issued under the Connecticut Business Opportunity Investment Act.

Of all the securities and business opportunity-related complaints and investigations handled, most were resolved at the administrative level prior to being closed. Many administrative resolutions of enforcement matters took the form of remedial stipulation and agreements and consent orders wherein the division sought corrective measures as well as monetary fines and the reimbursement of investigative costs. For example, 11 consent orders, involving 18 parties, were executed in conjunction with securities related matters (*see Table 39*). The total amount of fines, penalties and costs imposed through the division's enforcement

program totaled \$248,532 (see Table 39). The division found the use of stipulation and agreements and consent orders to be an effective supplement to its array of enforcement tools.

In addition, informal division intervention resulted in \$1,572,299 being offered and/or returned to Connecticut securities investors during 1997. (see Table 39).

LEGISLATION

During the 1997 session of the General Assembly, the following public acts affecting areas regulated by the Department of Banking were enacted and signed into law:

Banks & Credit Unions

97-19, *An Act Concerning Credit Union Mortgage Loans* (effective May 6, 1997) amends Section 36a-442 of the General Statutes to permit Connecticut credit unions to waive the requirement that the borrower pay the attorney fees, including closing and recording fees, in connection with any mortgage loan made by such Connecticut credit union.

97-33, *An Act Concerning Community Reinvestment Requirements For Certain Transactions* (effective October 1, 1997) amends Section 36a-34 of the General Statutes to specify that in granting certain transaction approvals, the determination regarding compliance with community reinvestment laws and applicable consumer protection laws shall be based on the most recent applicable performance evaluation and any related information required by the Commissioner; to limit the requirement of filing of a community reinvestment plan to those transactions where the entity received a rating other than "outstanding" on its most recent community reinvestment performance evaluation; and to provide that the filing of a community reinvestment plan is not required in connection with an application to establish a mobile branch and authorize the Commissioner to require the filing of such information as deemed appropriate in lieu of a plan.

97-34, *An Act Concerning The Policy Limits Applicable To Savings Bank Life Insurance* (effective May 6, 1997) amends Section 36a-285(e) of the General Statutes to eliminate the limits on the amounts that may be paid by savings banks under savings bank life insurance policies and annuities contracts.

97-35, *An Act Concerning Bank Investments* (effective October 1, 1997) amends the definition of "debt securities" in Section 36a-275 of the General Statutes to include repurchase agreements.

Amends Section 36a-277 of the General Statutes to delete a duplicative provision authorizing banks to invest in the stock of "small business investment companies".

97-157, *An Act Concerning Satellite Devices* (effective June 24, 1997) amends Section 36a-65(d) of the General Statutes to eliminate the fee for investigating and processing an application for the establishment and use of a satellite device.

Amends Section 36a-155 of the General Statutes to eliminate the requirement that banks and credit unions obtain the approval of the Commissioner for the establishment and use of a satellite device.

tion with the sale of annuities or insurance by banks or out-of-state banks, including required disclosures and anti-tying provisions, and permits the Insurance Commissioner, in consultation with the Banking Commissioner, to adopt regulations to carry out the provisions of this section. Also states that nothing in this section shall limit the regulatory jurisdiction of the Insurance Commissioner over the sale of insurance in Connecticut.

Consumer Credit

97-13, *An Act Concerning Small Loan Lenders* (effective October 1, 1997) amends Section 36a-555 of the General Statutes to prohibit any person from engaging in the business of making closed-end or open-end loans in the amount of \$15,000 or less and charging interest thereon in excess of 12 percent without obtaining a license from the Commissioner, subject to certain exceptions.

Amends Section 36a-563 of the General Statutes to raise the amount that any small loan licensee may loan from \$5,000 to \$15,000, and to raise the amount that any person may owe any licensee for principal as a borrower, comaker or guarantor for loans made under the small loan law from \$5,000 to \$15,000.

Amends Section 36a-573 of the General Statutes to clarify that the prohibition on charging interest in excess of 12 percent shall apply to loans of \$5,000 or less made prior to October 1, 1997, and shall apply to loans of \$15,000 or less on or after October 1, 1997.

97-207, *An Act Concerning Creditors' Collection Practices And Service Charges For Dishonored Checks* (effective October 1, 1997) amends the definitions of "consumer debtor", "creditor" and "debt" in Section 36a-645 of the General Statutes so that the focus of the creditors' collection practices law is whether a debt is owed to a creditor by a consumer debtor rather than whether a creditor extends credit to a consumer debtor.

Amends Section 52-565a of the General Statutes to permit the imposition of a service charge of up to \$20 on a drawer who negotiates a check which is dishonored. Only one service charge may be imposed for each dishonored check and no service charge may be imposed if the drawer has stopped payment on the check, the check was stolen, or the drawer has raised a reasonable defense regarding the validity of the underlying debt.

Securities and Business Opportunities

97-220, *An Act Concerning The Connecticut Uniform Securities Act* (effective July 1, 1997) amends Section 36b-3 of the General Statutes in response to the National Securities Markets Improvement Act of 1996 by: modifying the definition of "agent" to exclude individuals who represent an issuer in effecting transactions in certain "covered securities" as defined; modifying the definition of "investment adviser" by eliminating the five client de minimis exclusion, the institutional investor exclusion and the de minimis exclusion for investment adviser publications; and adding definitions for "associated person" and "covered securities".

Amends Section 36b-5 of the General Statutes to clarify that the prohibited practices provisions of that section apply only to investment advisers that are registered or required to be registered.

Amends Section 36b-6 of the General Statutes to exempt from registration: (1) certain agents who qualify for a federal exemption as an associated person, (2) investment advisers who are registered or required to be registered with the SEC, (3) investment advisers who are excepted from the definition of investment adviser under the Investment Advisers Act of 1940, and (4) investment advisers who have no place of business in Connecticut and had no more than five Connecticut clients in the past year, provided that investment advisers who are exempt from registration under items (2) and (3) above must first file a notice of exemption, consent to service of process and a fee. The notice of exemption is renewable annually and the Commissioner may require registration for any investment adviser that fails to pay the required fee.

Amends Section 36b-7 of the General Statutes to make technical corrections.

Amends Section 36b-9 of the General Statutes to provide that the Commissioner may require the filing of a financial statement with an application for registration of a broker dealer or investment adviser in lieu of the mandatory filing of such financial statement previously required.

Amends Section 36b-13 of the General Statutes to increase the renewal fee for agents and investment adviser agents from \$40 to \$50, make conforming changes and eliminate obsolete provisions.

Amends Section 36b-14(a) of the General Statutes to eliminate the three-year record retention requirement for registered broker-dealers and investment advisers and, instead, authorize the Commissioner to prescribe the record retention period by regulation.

Amends Section 36b-16 of the General Statutes to exempt offers and sales of covered securities from registration provided they comply with the applicable notice, consent to service of process and fee requirements of subsections (c), (d), and (e) of Section 11 of the act.

Amends Section 36b-19 of the General Statutes to eliminate the registration requirements for securities issued by face-amount certificate companies, or redeemable securities issued by open-end management companies or unit investment trusts.

Amends Section 36b-20(a) of the General Statutes to make technical changes.

Amends Section 36-21 of the General Statutes to delete certain exemptions from registration for securities which exemptions are no longer necessary because the securities are covered securities that are exempted under Section 36b-16 of the General Statutes, as amended by this act. Adds an exemption for warrants or rights to purchase certain securities listed on various exchanges, adds notice, consent to service of process and fee requirements for certain covered securities, and authorizes the Commissioner to suspend the offer or sale of such covered securities for failure to comply with such requirements.

Amends Section 36b-22 of the General Statutes which authorizes the Commissioner to require the filing of offering materials and advertisements to exempt covered securities.

Amends Section 36b-27 of the General Statutes to allow the Commissioner to issue cease and desist orders against persons who have violated the Connecticut Uniform Securities Act, in addition to issuing such orders against persons who are violating or are about to violate that act, and also provides for certain notices and orders to be sent by registered instead of certified mail.

Amends Section 36b-33 of the General Statutes to require exempt investment advisers to file a consent to service of process and exempts issuers of covered securities that are listed on certain national securities exchanges from this requirement.

Miscellaneous

97-22, *An Act Concerning Technical Revisions To The Banking Law Of Connecticut And The Securities And Business Investments Law Of Connecticut* (effective October 1, 1997) makes various technical corrections to certain sections of the Connecticut General Statutes.

97-29, *An Act Concerning Regulations That Are Mandated By The General Statutes But Have Not Been Adopted* (effective July 1, 1997) adds a new section to the General Statutes which requires each agency to submit to the standing legislative regulation review committee, by December 1 of each year, a list of statutes that require the agency to adopt regulations by January 1 of such year, if the agency has not submitted the proposed regulations to the committee by December 1 or, in the case of proposed regulations which were rejected without prejudice, resubmitted to the committee, by said December 1, together with a date by which the agency proposes to submit or resubmit the proposed regulations, and an explanation of the reasons for the failure to submit or resubmit the regulations.

Amends Section 4-171 of the General Statutes to require the cochairpersons of the standing legislative regulation review committee to submit to the General Assembly, by February 15 of each regular session, a list by agency of the statutes which require the agency to adopt regulations by January 1 of the preceding year which the agency did not submit or resubmit to the committee by December 1 of such year.

97-88, *An Act Concerning The Filing Of A Request For Attorney's Fees Under The Uniform Administrative Procedure Act* (effective October 1, 1997) amends Section 4-184a(a) of the General Statutes to provide that in an appeal of an agency decision, the court may award to the prevailing party, other than the agency, reasonable fees and expenses if such prevailing party files a request for an award of such fees and expenses within 30 days of the issuance of the court's decision.

97-89, *An Act Concerning The Recording, Copying And Maintenance Of Certain Public Records* (effective October 1, 1997) amends Section 1-7 of the General Statutes by adding to the approval to use any photographic process, the approval to use micrographic, electronic imaging, or other processes, subject to the approval of the Public Records Administrator, to the extent that state agencies are required to record or copy any document.

Amends Section 1-8 of the General Statutes to revise the definition of "recorded," as used when books, records, papers or documents are required to be recorded by law, to include micrographic, electronic imaging, or any other process, subject to the approval of the Public Records Administrator, in addition to the photographic process. Also requires such recordings to be "proportional" in size to the originals.

Amends Section 1-14 of the General Statutes to broaden the definition of "certified copy:" when that term is used in any statute relating to any recording agency, by going beyond merely photographic reproduction, to allow for any reproduction of the image or images of such books, records, papers or documents which is proportional in size to the original. Provides that any process used to make such reproductions shall be subject to the approval of the Public Records Administrator. Allows any such certified copy to be admitted in evidence with the same effect as the original, and defines such certified copy to be prima facie evidence of the facts set forth therein.

Table No. 35
REGISTRATIONS AND NOTICE FILINGS
BROKER-DEALERS, INVESTMENT ADVISERS AND AGENTS

	In Effect Dec. 31		Increase (Decrease)	
	1997	1996	1997	1996
Broker-Dealers Registered	2,266	2,076	9.15%	15.65%
Agents Registered	88,701	79,764	11.20%	18.27%
Investment Advisers Registered	560	1,156	(51.56)%	7.94%
Investment Advisers Filing Notice*	522	N/A	N/A	N/A
Investment Adviser Agents Registered	4,001	10,546	(62.06)%	13.47%
Agents of Issuer Registered	155	196	(20.92)%	7.69%
Broker-Dealer Branch Offices Registered	1,252	1,183	5.83%	17.59%
Investment Adviser Branch Offices	454	371	22.37%	15.94%
Investment Adviser Branch Office Notices*	14	N/A	N/A	N/A

*Investment advisers subject to exclusive Securities and Exchange Commission oversight pursuant to the National Securities Markets Improvement Act of 1996, Public Law 104-290.

	<u>Broker-Dealers</u>	<u>Agents</u>	<u>Investment Advisers</u>	<u>Investment Adviser Agents</u>
Initial Registrations Processed	341	35,727	96	1,874

Table No. 36
TREND IN BROKER-DEALER, INVESTMENT ADVISER AND AGENT REGISTRATIONS

Year	Broker - Dealers	Percent Increase (Decrease)	Agents	Percent Increase (Decrease)	Investment Advisers	Percent Increase (Decrease)	Investment Adviser Agents	Percent Increase (Decrease)	Agents of Issuer	Percent Increase (Decrease)
1960	312	24.3	2,223	88.8	24	8.3	23	77.0	...	...
1965	345	10.5	3,268	47.0	42	75.0	62	169.5	...	...
1966	346	0.0	3,703	13.3	47	11.9	85	37.0	...	...
1967	353	2.0	4,112	11.0	56	19.6	110	29.4	...	...
1968	390	10.5	5,159	25.7	60	7.1	125	13.6	...	...
1969	434	11.3	5,955	15.4	72	20.0	145	16.0	...	...
1970	451	3.9	6,429	9.6	81	12.5	171	17.9	...	...
1971	464	2.9	6,522	1.4	86	6.2	191	11.7	...	...
1972	499	7.5	7,305	12.0	103	19.7	226	18.3	...	...
1973	464	(7.0)	7,519	2.9	109	5.8	235	4.0	...	...
1974	463	(0.2)	7,543	0.3	121	11.0	188	22.6	...	...
1975	453	(2.2)	7,899	4.7	135	11.6	322	11.8	...	...
1976	476	5.1	8,926	13.0	156	15.6	355	10.2	...	...
1977	494	3.8	9,611	7.7	186	19.2	383	7.9	3	...
1978	530	7.3	10,809	12.5	199	7.0	438	14.4	22	63.3
1979	511	(3.6)	11,318	4.7	189	(5.0)	453	3.4	178	254.5
1980	575	12.5	12,962	14.5	193	2.1	495	9.3	136	74.4
1981	647	11.1	14,700	11.8	200	3.5	618	19.9	193	29.5
1982	745	13.2	18,707	21.4	214	6.5	775	20.3	241	19.9
1983	916	22.9	22,587	20.7	263	22.9	1,095	41.2	151	(37.3)
1984	1,154	24.9	28,964	28.0	310	17.9	1,547	41.5	169	11.9
1985	1,237	7.2	33,790	16.7	341	10.0	1,798	16.2	194	14.8
1986	1,321	6.8	40,929	21.8	399	17.0	2,286	37.1	254	14.9
1987	1,418	6.7	47,332	15.6	468	17.3	3,645	59.5	258	1.6
1988	1,549	9.2	49,337	4.2	538	15.0	3,325	8.8	222	(14.0)
1989	1,563	0.9	51,465	4.3	581	8.0	2,863	(13.9)	125	(48.5)
1990	1,517	(3.0)	48,685	(5.4)	605	4.1	3,023	5.5	108	(13.6)
1991	1,491	(2.0)	50,659	4.0	660	9.0	4,266	41.0	123	13.9
1992	1,567	5.1	53,396	5.4	821	24.4	6,110	43.2	140	13.8
1993	1,702	8.6	64,181	20.2	901	9.7	6,981	14.3	187	33.5
1994	1,805	6.1	68,654	7.0	982	9.0	8,570	22.8	177	(5.3)
1995	1,795	(0.6)	67,445	(1.8)	1,071	9.1	9,294	8.4	182	2.8
1996	2,076	15.7	79,764	18.3	1,156	7.9	10,546	13.5	196	7.7
1997	2,266	9.2	88,701	11.2	560	(51.6)	4,001	(62.1)	155	(20.9)

Table No. 37
EXAMINATIONS
BROKER-DEALERS AND INVESTMENT ADVISERS

	1997	1996
Broker-Dealers.....	107	149
Investment Advisers.....	95	37

Table No. 38
REGISTRATIONS AND NOTICE FILINGS
SECURITIES, BUSINESS
OPPORTUNITIES AND TENDER OFFERS

	Received		Effectuated/Processed	
	1997	1996	1997	1996
SECURITIES				
Open End Management Investment Company Initial Filings*	750	774	735	793
Open End Management Investment Company Renewals*	9,330	4,614	8,840	4,960
Unit Investment Trust Initial Filings*	507	386	509	393
Unit Investment Trust Renewals*	57	28	14	16
Other Investment Company Notice Filings*	1	N/A	1	N/A
Post-sale Registrations	5 **	9	5	6
All others	<u>394</u>	<u>1,322</u>	<u>313</u>	<u>1,094</u>
Total Registrations and Notice Filings	11,044	7,133	10,417	7,262

*Effective October 11, 1996, under the National Securities Markets Improvement Act of 1996, Public Law 104-290, the states were preempted from requiring registration of investment companies subject to exclusive Securities and Exchange Commission oversight. State authority to require notice filings was preserved by the federal legislation.

**Figure represents carryover from prior year. No post-sale registrations received in 1997.

	Received		Effectuated	
	1997	1996	1997	1996
SECURITIES EXEMPTION FILINGS				
Private placement filings	1,651	1,893		
Other Exemption or Exclusion Notices.....	119	142		
BUSINESS OPPORTUNITIES				
Business Opportunity Initial Registrations	35	34	27	23
Business Opportunity Renewals	27	34	24	31

Table No. 39
ENFORCEMENT ACTIVITIES
SECURITIES AND BUSINESS OPPORTUNITIES

	Securities		Business Opportunities	
	1997	1996	1997	1996
Investigations Opened	207	184	2	3
Investigations Closed.....	207	186	2	10
Investigations in.....				
Progress (Dec. 31).....	80	82	2	2
Subpoenas Issued	43	9	4	0
Cease and Desist Orders	7 (8)	5 (8)	1 (2)	5 (8)
Denial, Suspension & Revocation Orders.....	8 (7)	6 (6)	0	0
Orders Imposing Fine	2 (2)	0	0	0
Consent Orders	11 (12)	18 (20)	0	0
Stipulation and Agreements	4 (4)	12 (12)	0	1 (1)
Criminal Referrals	2	3	0	0
Civil Referrals to the Attorney General's Office.....	1	0	0	0
Fines, Penalties and Costs Imposed	\$248,532	\$433,814	0	0
Offered and/or Returned to Investors Following				
Informal Division Intervention	\$1,572,299	\$9,934,161	0	0

Note: Parenthetical number indicates number of parties named in Notice, Order or Stipulation and Agreement.

BANKING COMMISSIONER'S REPORT

ROSTER

**DEPARTMENT OF BANKING
ADMINISTRATION**

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Jeanne M. Charbonneau, *Secretary to the Commissioner*

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Staff Assistants

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Fiscal/Administrative Officer

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Fiscal/Administrative Officer

Ismael Marrero
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Financial Clerk

Sallie M. Miller
Clerk

Ivy L. Lawrence
Telephone Operator

Personnel OfficeAnne S. Rock, *Personnel Officer 2*Inge E. Simmons, *Personnel Officer 1***Management Information Systems**Michael G. Bannon, Sr., *Agency Data Processing Manager 2*George T. Roman, *Agency Data Processing Manager 1**Staff Assistants*James Black, Jr.
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*Systems Developer 3*Shirley A. Cafro
*Change Control Analyst*Eustacia G. Williams
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*Secretary 1*Genafa B. Byar
Secretary 1

BANKING COMMISSIONER'S REPORT

CONSUMER CREDIT DIVISION

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