

STATE OF COLORADO

Department of Law

COLLECTION AGENCY BOARD

110 16th Street, 10th Floor
Denver, Colorado 80202
Telephone: (303) 620-4601
FAX (303) 620-4130



Laura E. Udis
Executive Director
Jack L. Kinkel
Deputy Administrator

May 1, 1991

RE: Attorneys Subject to Colorado Fair Debt Collection Practices Act

Dear

You have asked about the status of attorneys under the Colorado Fair Debt Collection Practices Act ("CFDCPA").

As of July 1, 1990, the attorney exclusion previously contained in the CFDCPA was repealed. 1990 Colo. Sess. Laws, § 27 at 797. Attorneys are now subject to all provisions of the CFDCPA with the exception of its licensing provisions if they regularly collect or attempt to collect consumer debts. See § 12-14-102(2), C.R.S. (1990 Supp.). This standard is substantially similar to the federal Fair Debt Collection Practices Act which includes attorneys as debt collectors if the attorney utilizes the mail or interstate commerce and "regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another ..." 15 U.S.C. § 1692a(6).**1 If an attorney is subject to the federal act, that person is also subject to the CFDCPA.

The federal act has been interpreted to include attorneys who engage in traditional debt collection activities such as sending dunning letters and making collection calls. It does not typically include attorneys engaging in litigation, e.g., filing

1** The federal act contains no licensing or registration provisions.

pleadings, service of process, etc. Unfortunately, there is no federal or state definition of what constitutes "regular collection" other than more than an isolated instance. You state that one partner's practice consists of "no more than 25% of time" in collections. Collections work constitutes "probably 20%" of the firm's total business. Assuming that your collections business consists of traditional debt collection in similar percentages as opposed to litigation alone, both you and the firm appear to be regularly engaged in debt collection and subject to the standards of the CFDCPA. While I cannot make a determination under the federal act, I would assume a similar conclusion would be reached.

As noted above, attorneys subject to the CFDCPA are exempt from licensing as collection agencies. Licensure allows governmental regulation of entry into a profession and the conduct of licensees. The General Assembly recognized that it is within the purview of the Colorado Supreme Court to license and discipline attorneys, including those engaged in debt collection.**2 The CFDCPA therefore mandates this office to refer all complaints concerning the collection activities of attorneys to the Colorado Supreme Court Disciplinary Counsel. See § 12-14-117(4), C.R.S. (1990 Supp.).

Because non-attorney employees are not directly subject to the Colorado Supreme Court's jurisdiction, non-attorney employees of a lawyer or law firm must be registered with this office as debt collectors or solicitors if they are regularly employed for that purpose. Section 12-14-102(2), C.R.S. (1990 Supp.). Registration forms are available from this office. The employee lists the attorney employer's name as the "collection agency." A registration certificate card will then be issued.

In conclusion, an attorney who regularly collects consumer debts is a collection agency under the CFDCPA and must comply with all requirements set forth therein with the exception of its licensure requirements. This opinion states our current enforcement

2** I trust that a law firm or legal professional corporation is likewise exempt from the CFDCPA licensing provisions.

Page 3

position but is not a formal advisory opinion of the Collection Agency Board pursuant to § 12-14-113(5), C.R.S. (1985).

Sincerely,

A handwritten signature in cursive script that reads "Laura E. Udis".

LAURA E. UDIS
Executive Director

LEU

AG Alpha No. LWCBYCB
AG File No. E9110734.107