

STATE OF COLORADO

Department of Law

COLLECTION AGENCY BOARD

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

December 3, 1990

RE: Attorney Collection Agencies

Dear Mr.

This letter is in response to your November 29, 1990 letter addressed to Jack Kinkel. In that letter you asked about the status of attorneys under the Colorado Fair Debt Collection Practices Act ("the Act").

Pursuant to the act, attorneys who regularly collect or attempt to collect consumer debts are subject to the practice standards established for collection agencies as of July 1, 1990. See § 12-14-102(2), C.R.S. (1990 Supp.). While attorneys must comply with these requirements as collection agencies, they need not be licensed as collection agencies with the Collection Agency Board.

Licensure allows governmental regulation of entry into a profession and the conduct of licensees. The legislature recognized that it is within the purview of the Colorado Supreme Court to license attorneys engaged in legal activity. Because debt collection may be included within the scope of traditional legal activity, the legislature determined that the Collection Agency Board should not license attorneys as collection agencies. I trust that a law firm or legal professional corporation is likewise exempt from licensing by the Collection Agency Board.**1

Because non-attorney employees are not directly subject to the

1** Because the Collection Agency Board cannot license attorneys acting as collection agencies, complaints about the debt collection practices of attorneys are referred to the Supreme Court Disciplinary Counsel. See § 12-14-117(4), C.R.S. (1990 Supp.).

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Colorado Supreme Court's jurisdiction, they must be registered with the Collection Agency Board as debt collectors or solicitors if they are regularly employed for that purpose. See § 12-14-102(2), C.R.S. (1990 Supp.). Attorneys need not so register. The Collection Agency Board uses the same registration forms for all collectors, whether they are employed by an attorney collection agency or a more traditional "third party" collection agency. The debt collector simply inserts the attorney employer's name as the "collection agency. A registration card will then be issued for that person. Registration forms are available from this office.

To summarize, an attorney who regularly collects consumer debts is a collection agency under the Colorado act and is subject to all requirements set forth for collection agencies with the exception of licensure and complaint-investigation procedures. This opinion states our current enforcement position but does not constitute a formal advisory opinion of the Collection Agency Board pursuant to § 12-14-113(5), C.R.S. (1985).

Sincerely,



LAURA E. UDIS
Executive Director
Collection Agency Board

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