

DECLARATION OF FAIR PRACTICES OF COLLECTION AGENCIES*

Approved by the Board of Governors of the
Commercial Law League of America®

July 16, 1981

1. A collection agency may engage in the business of collecting past-due accounts for customer-creditors (hereinafter "creditors"), provided, however, that the agency may not, except where permitted to do so by applicable state law:
 - (a) Institute judicial proceedings on behalf of creditors or other persons, or otherwise engage in the practice of law or represent that it is competent to do so;
 - (b) Communicate with debtors in the name of an attorney or upon the stationery of an attorney, or prepare any forms of instruments which only attorneys are authorized to prepare;
 - (c) In dealing with debtors employ instruments simulating forms of judicial process or forms of notice pertaining to judicial proceedings, or threaten the commencement of such proceedings;
 - (d) Employ or terminate the services of attorneys or arrange the terms or compensation for such services on behalf of creditors without written authority to do so;
 - (e) Intervene between creditor and attorney in any manner which would control or exploit the services of the attorney or which would direct those services in the interest of the agency;
 - (f) Demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting an account, irrespective of whether or not the agency may have previously attempted collection thereof.
2. An agency may properly agree with creditors that the agency's compensation will be contingent on success in collecting accounts, and the measure of compensation may be a percentage of the amount collected.
3. When authorized by a creditor, it is proper for an agency to recommend an attorney or attorneys to the creditor and to transmit accounts on behalf of the creditor to any attorneys so recommended on terms and conditions authorized by the creditor.
4. When authorized by a creditor, it is proper for an agency as agent for the creditor, to conduct correspondence of a routine nature (such as inquiries and reports with respect to status of the claim) on behalf of the creditor with the attorney to whom the creditor's account has been transmitted for collection, and, in general, to carry on activities similar to those ordinarily carried on by the collection department of a creditor organization provided that the attorney shall be free at all times to communicate with the creditor and provided further (i) that the agency may not attempt to control or in any way suggest or imply that it has any right to control the actions of the attorney or otherwise interfere with the attorney-client relationship between the creditor and the attorney, and (ii) that decisions as to the manner in which the claim is to be handled by the attorney, whether suit is to be brought, the claim is to be compromised or settled, whether the claim is to be returned, and any other matters requiring the decision of the creditor shall in each instance be left to the creditor and the attorney in direct communication with each other when the attorney or the creditor so desires and the attorney shall be so advised in the forwarding letter. Copies of correspondence between the attorney and the agency need not be forwarded to the creditor unless the creditor requests otherwise. When the agency receives from the attorney an accounting concerning a collection made by the attorney, such accounting or the details thereof shall be promptly transmitted by the agency to the creditor.

**This statement of proper activities of collection agencies from the standpoint of the unauthorized practice of law is intended to apply only where, and to the extent that, applicable statutes, court decisions, and regulations promulgated by government agencies do not conflict with the provisions of the statement.*