

These Rules Shall be Effective November 30, 2000

Chapter 1 Licensing and Disciplinary Matters

Rule 1.01 Collections Manager

- (1) All applicants for collections managers shall submit an application in the form and manner prescribed by the Administrator.
- (2) The written examination to test the competency of collections manager applicants may be taken by any individual applicant no more than three (3) times. If a collections manager applicant cannot pass the examination in three attempts, a new applicant shall be designated within thirty (30) days and the Administrator so notified in writing during that time.
- (3) No collections manager applicant may take the competency examination until payment of an examination fee established by the Administrator.

Rule 1.02 Licensure

- (1) No license shall issue until all necessary documents and information have been filed, all fees paid, and the designated collection manager's competence to collect debts has been determined. No debts may be collected nor creditor accounts solicited until a license has been issued.
- (2) Within ninety (90) days after notice from the Administrator that the application is incomplete, the applicant must complete the application for licensure by providing all necessary documents, information, and fees specified. If the licensure application is not completed within that time, the application shall be null and void and the applicant must then reapply for licensure, including payment of all fees.

Rule 1.03 Aliases

- (1) Licensees must retain records reflecting the true name of all debt collectors and, if applicable, the one alias used by each debt collector. These records shall be retained for two (2) years after the debt collector leaves the licensee's employment. The Administrator may require a licensee to submit these records at any time.
- (2) No debt collector may use more than one alias. The alias must consist of both a first and last name. Debt collectors employed by a licensee may not use the same alias.

Rule 1.04 Letters of Admonition

- (1) Any letter of admonition issued against a licensee or collections manager shall be mailed by first-class certified mail.
- (2) A licensee or collections manager receiving a letter of admonition may appeal the admonishment by filing a written request within forty (40) days after the date of the letter. Upon receipt of a timely appeal, a hearing will be held. While an appeal is pending, the letter of admonition shall be vacated until conclusion of a hearing held pursuant to Rule 1.04(3).
- (3) Any hearing held following a request to appeal the issuance of a letter of admonition shall be conducted pursuant to the State Administrative Procedure Act, title 24, article 4, of the Colorado Revised Statutes. If a violation of the Colorado Fair Debt Collection Practices Act, the rules adopted pursuant thereto, or a lawful order has occurred, or the licensee fraudulently obtained a license, the licensee, collections manager, or both, as applicable, may be disciplined as provided

in § 12-14-130(10), C.R.S.

Rule 1.05 Termination of License

- (1) Upon the revocation, expiration, or surrender of a license, the licensee must immediately cease collection activities. All client accounts must be returned to the clients within thirty (30) days unless the licensee has written authorization from the client to transfer or assign the accounts to another collection agency for collection. No later than the end of the thirty day period, the licensee must file a notarized affidavit with the Administrator of the Collection Agency Board stating its compliance with this rule and providing the names and addresses of all clients for whom it was attempting to collect debts.
- (2) The licensee shall not charge or retain any fee or commission for the return or transfer of client accounts made pursuant to Rule 1.06(1).
- (3) All consumer payments received after the revocation, expiration, or surrender of a license shall be immediately forwarded in full to the applicable client without the licensee's retention of any fee or commission.
- (4) This rule does not prohibit the bulk sale of the licensee's business, assets, and goodwill as a unit, including the provision of information to enable the purchaser to solicit reassignment of client accounts directly from the client after termination of a license. A licensee may not purchase the right to collect client accounts from another licensee but only the right to solicit their reassignment from the client.
- (5) This rule does not apply to any license voluntarily surrendered in conjunction with the simultaneous issuance of a new license due to any of the changes listed in § 12-14-122(2)(c), C.R.S.

Chapter 2 Consumer Protections

Rule 2.01 Notices

- (1) The consumer rights information required to be in the initial written communication and the validation of debts notice may be printed on two (2) separate pages provided that the first page contains language referring the consumer to the second page and the two (2) pages are attached together.
- (2) Every collection notice mailed or delivered by a licensee must contain the collection agency's name, mailing address, and telephone number. The collection agency's address may not be printed on the same line listing the Collection Agency Board's current address required by § 12-14-109(1)(f) of the validation of debts notice nor only on any portion of the collection notice designed to be returned to the agency with the consumer's communication or payment.

Rule 2.02 Payment Agreements and Schedules

No collection agency shall engage in unnecessary, additional collection activities on a debt while a consumer is complying with the terms of a payment agreement or schedule agreed to by the collection agency and consumer concerning that debt.

Rule 2.03 Costs of Collection

- (1) No collection agency shall add, collect, or attempt to collect a charge for costs of collection unless such costs are specifically authorized by statute or by the contract, agreement, note, or other instrument creating the debt and are not otherwise prohibited by law.
- (2) No collection agency shall advise, suggest, or request that a client add collection costs to any existing

debt unless such costs are specifically authorized by statute.

- (3) If a statute, contract, agreement, note, or other instrument specifically authorizes the addition of collection costs and such costs are collected, the collection agency may retain only those collection costs exclusive of attorney fees and court costs as its fee or commission for the collection of the debt, unless otherwise agreed to in writing with the assignor.
- (4) No collection agency shall add, collect, or attempt to collect costs of collection pursuant to § 13-21-109(1)(b) (II), C.R.S. on any dishonored check, draft, or payment order payable to it unless the check is assigned for collection to another collection agency not owned in whole or in part by the payee collection agency.

Rule 2.04 Overpayment

If a collection agency has received final payment of any debt which overpays the debt by more than five dollars (\$5.00), it shall issue a refund to the consumer of the amount of the overpayment within thirty (30) days after the end of the month in which the payment was received unless otherwise required by law or as directed by court order.

Rule 2.05 Cash Payments

A collection agency shall provide the consumer with a receipt for all payments made in cash or by any other means which does not in and of itself provide evidence of payment. The receipt shall be provided to the consumer within five (5) business days after the payment is received. A "business day" does not include Sundays or legal holidays.

Rule 2.06 Account Statements

- (1) Subject to the payment record retention requirements of Rule 3.03, a collection agency shall provide the consumer with a written statement of the consumer's payments for as long as the collection agency has had assignment of the debt within ten (10) days after the consumer makes a written request. The statement shall include the consumer's name, the creditor's name, the amounts paid, the dates on which payments were received, the allocation of money to principal, interest, court costs, attorney fees, and other costs if applicable, and the current balance due. Account statements shall be provided upon request without charge once during any twelve (12) month period. If additional statements are requested, they may be provided upon payment of a reasonable fee not to exceed five dollars (\$5.00) per statement.
- (2) After a debt has been paid or settled in full with good funds, a collection agency shall provide a written statement or receipt that the debt has been paid or settled in full within five (5) business days after request by the consumer. Such a statement shall be provided free of charge. A "business day" does not include Sundays or legal holidays.

Rule 2.07 Consumer Contact Records

Collection agencies shall maintain accurate and contemporaneous records of all communication with the consumer for two (2) years following the date of the communication.

Rule 2.08 Business Cards

- (1) No collection agency shall use a business card in obtaining or attempting to obtain location information about a consumer or in communicating or attempting to communicate with a consumer unless:
 - (a) The business card does not indicate in any way that the collection agency is in the business

of collections or is attempting to collect a debt, or,

- (b) The business card is placed in a sealed envelope which contains the consumer's name and does not indicate by means of name, symbol, or any marking, that the envelope is from a collection agency.

Rule 2.09 Attorney Letters

- (1) During the time that a licensee is in possession of a creditor account, the licensee shall not use or deliver any communication from an attorney unless the creditor has previously provided specific written authorization to commence legal action to collect the debt.
- (2) This rule does not prohibit any direct communication from an attorney if the attorney is authorized to collect the debt.

Rule 2.10 Dual Collections

No collection agency may knowingly collect a debt that is being collected by another collection agency or attorney.

Rule 2.11 Office Location

A collection agency may share an office location with another business as long as all signs, directories, and other business identification information clearly contain the collection agency's name.

Rule 2.12 Consumer Payments

- (1) All accepted consumer payments must be credited to a consumer's account to reflect payment on the day payment was received unless the payment is by postdated check. Post-dated checks shall be credited to the consumer's account to reflect payment as of the date of deposit in the collection agency's trust account.
- (2) This rule does not prohibit subsequent adjustments to a consumer's account to reflect dishonored checks, drafts, or other payment instruments.

Rule 2.13 Checks Not Paid Upon Presentment

A collection agency collecting a check draft, or order not paid upon presentment shall send the consumer its validation of debts notice required by § 12-14-109, C.R.S. at least fifteen (15) days prior to the mailing or service of the notice of nonpayment required by § 13-21-109(2)(a) and (3), C.R.S.

Rule 2.14 Payment Authorization by Telephone

- (1) If a consumer's authorization for payment of a debt is provided orally, the licensee must also:
 - (a) Obtain the consumer's written authorization for the payment prior to the date of payment, or
 - (b) If permitted by law, record by audio tape or other digital means the consumer's verbal authorization and retain the recording, or
 - (c) Transfer the consumer's telephone call to a manager or another debt collector to verify the amount, means, and verbal authorization for payment.
- (2) If a consumer denies or disputes the purported oral payment authorization, the collection agency must refund the payment amount within five (5) business days of receipt of good funds. A

“business day” does not include Sundays or legal holidays.

Rule 2.15 Debt Collector Obligations

Except as otherwise provided, all references in this Chapter 2 to collection agencies shall apply to debt collectors.

Chapter 3 Creditor Protections

Rule 3.01 Trust Accounts

- (1) A licensee shall not be required to maintain the trust account required by section 12-14-123(1)(c), C.R.S. if:
 - (a) The licensee maintains one or more trust accounts in other states for the benefit of its clients, including its Colorado clients, and it executes and files annual written authorization with the Administrator on an approved form acknowledging the account(s) may be attached upon order of a Colorado court, or
 - (b) The licensee does not receive nor have access to any consumer payments because they are made directly to the client according to all of the licensee's contracts or agreements.
- (2) If any of the trust account information in a licensee's license or renewal application changes, the licensee must file a new bank authorization form within thirty (30) days of the date of the change.

Rule 3.02 Unidentified Accounts

- (1) If a licensee receives a consumer payment but is unable to identify the client account on whose behalf the payment is made, the licensee shall return the entire payment to the consumer within thirty (30) days after the end of the month in which the payment was received.
- (2) No amount may be retained by a licensee as fee or commission from any consumer payment made on an unidentified account.

Rule 3.03 Payment Records

- (1) Licensees shall maintain a record of all consumer payments for two (2) years following the date the payment was received.
- (2) Records of consumer payments shall include the consumer's name, the client's name, the amounts paid, the dates on which payments were received, the allocation of money to principal, interest, court costs, attorney fees, and other costs if applicable and permitted by law, the current balance due, and the date of deposit of the payment to the trust account.

Rule 3.04 Bonds

- (1) The bond required of each licensee shall be in the form and manner prescribed by statute, and shall be filed with the Administrator.
- (2) As an alternative to the bond, a licensee may present a savings account, deposit, or certificate of deposit.
 - (a) The savings account, deposit, or certificate of deposit shall be in a federally insured bank or savings and loan association doing business and located in this state or accessible in a branch in this state.

- (b) The savings account, deposit, or certificate of deposit shall be assigned to the Attorney General of the State of Colorado for the use of the People of the State of Colorado in the form and manner prescribed by the Administrator. The assignment shall be for a period ending two (2) years after the revocation, expiration, or surrender of a license or on such earlier date as may be determined by the Administrator.
- (c) As far as practical, the procedure used to determine claims against a bond shall be used for claims against a savings account, deposit, or certificate of deposit.

Rule 3.05 List of Clients

A licensee shall, upon request by the Administrator, provide a written list of the names and addresses of all clients who have placed with it accounts for collection for the last two (2) years. The list of clients shall be considered confidential commercial information which shall not be open to the public for inspection.