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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

March 7, 1988

Office of General Counsel

Charles R. Harroun, Esq.
Gordon, Harroun and Associates
1500 North Woodward Avenue, Suite 230
Birmingham, Michigan 48011

Re: Fair Debt Collection Practices Act, (Your November 18,
1987, Letter).

Dear Mr. Harroun:

You requested our opinion as to the applicability of the Fair Debt Collection Practices Act (the "Act") (15 U.S.C. 1692 et seq.) to private attorneys collecting debts on behalf of Federal credit unions ("FCU's"). The Federal Trade Commission is the proper Federal agency to resolve your question.

The Fair Debt Collection Practices Act prohibits the use of abusive, deceptive, and unfair debt collection practices by persons engaged in the business of collecting debts. In its original form, the Act exempted "any attorney collecting a debt as an attorney on behalf of and in the name of a client" from its provisions. [Public Law 95-109; 15 U.S.C. 1692a(6)(F) (1977).]

Public Law 99-361 amended Section 803(6) of the Fair Debt Collection Practices Act to delete the provision which exempted attorneys from the definition of "debt collector." [See 15 U.S.C. 1692a(6)(Supp. 1987)]

The House Report stated: (H.R. Rep. 405, 99th Cong., 2nd Sess. 2, reprinted in 1986 U.S. Code Cong. & Ad. News 1752, 1753:

[r]emoval of the exemption would require any attorney who comes within the definition of "debt collector" contained in section 803(6) to comply with the provisions of the Fair Debt Collection Practices Act. Quite simply, any private attorney who is in the business of collecting debts is regarded by the Act as a debt collector.

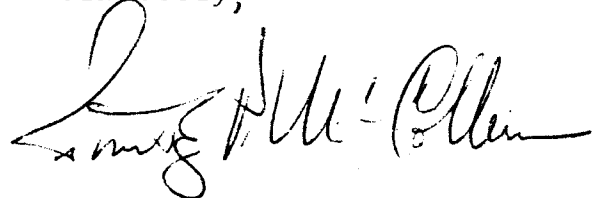
FOIA - Vol III Part B (15) Attorneys as "debt collectors"

Charles R. Harroun, Esq.
March 7, 1988
Page Two

Administrative enforcement is governed by Section 16921. "Compliance with the Act is enforced by the Federal Trade Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another agency under subsection (b)." Subsection (b) of section 16921 states "Compliance with any requirements imposed under this title shall be enforced under...(3) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the . . . National Credit Union Administration [Board] with respect to any Federal Credit Union." The Federal Trade Commission has enforcement authority for private attorney compliance with the Act [See 15 U.S.C. 16921(a)].

Based on what you have stated in your letter, we doubt you will qualify for exemption. Your firm will apparently be acting for the FCU's as their attorney and not as an FCU employee or officer. The Act exempts from the definition of debt collector "officers and employees of a creditor while, in the name of the creditor, collecting debts for such creditor." [12 U.S.C. §1692a(6)(A)]. We understand the FTC has interpreted this to include attorneys who are officers or employees of the creditor working at the direction and supervision of and on premises provided by the creditor.

Sincerely,



TIMOTHY P. McCOLLUM
Assistant General Counsel

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