

April 2, 1991

S. Johnson  
ALPA Federal Credit union  
825 Midway Drive  
Willowbrook, IL 60521-5576

Re: Applicability of New Hampshire Law

Dear S. Johnson:

You have received a letter from an attorney who represents a member of the Air Line Pilots Association Federal Credit Union (the FCU). The letter stated that pursuant to New Hampshire R.S.A. 358-C:3, the FCU was prohibited from making any further contact with Mr. and Mrs. Kirby and that any attempt to do so could result in fines from the attorney general. You have asked whether the FCU, located in Illinois, is bound by the laws of other states. Although we do not have expertise or authority to issue binding opinions on New Hampshire law, a general analysis follows. You may wish to seek the advice of legal counsel familiar with New Hampshire law.

Analysis

New Hampshire R.S.A. (Revised Statutes Annotated) 358-C:3 (attached) prohibits a debt collector from collecting a debt in an unfair, deceptive or unreasonable manner. It is similar to the federal Fair Debt Collection Practices Act, 15 U.S.C. ~1692 et seq. Your letter is not specific, but we assume that Mr. or Mrs. Kirby is a member of the FCU, that he or she is delinquent on a loan from the FCU, and that the FCU has been attempting to collect the loan. We also assume from your letter that the Kirbys live in New Hampshire. If the FCU has gone into New Hampshire (via phone calls, letters, etc.) to attempt to collect the debt, the FCU appears to be subject to the New Hampshire law.

The New Hampshire law states that anyone who violates its provisions is liable to the debtor for damages. It also states that violations of the law constitute "unfair and deceptive acts or practices" within the meaning of RSA 358-A, (attached) and may be enforced by the New Hampshire attorney general. (See New Hampshire RSA 358-C:4.) RSA 358-A:2 states that it is unlawful for any person to use any unfair method of competition or any unfair or deceptive act or practice in the conduct of any trade or commerce within the state. RSA 358-A:4 provides that the New Hampshire attorney general may bring an action in the name of the state to restrain the use of such trade or commerce and may petition the court for an order of restitution to any person injured by the unlawful act or practice. The court also may award the state civil penalties up to \$10,000 for each violation.

We recommend that the FCU review its loan collection practices to ensure compliance with the Fair Debt Collection Practices Act and with the laws of states in which it is attempting to collect loans.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

Attachments

GC/LH:sg

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