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VIA ELECTRONIC MAIL

Mr. Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Room H-135 (Annex N)
Washington, D.C. 20580

***Re: Supplemental Comments of ACA International
Debt Collection Workshop
FTC FILE NO. P074805***

Dear Mr. Clark:

The following supplemental comments are submitted on behalf of ACA International in response to the Federal Trade Commission's request for comments in advance of the October 10-11, 2007, Debt Collection Workshop, P074805. Attached please find a copy of ACA's revised Code of Ethics and Operations effective July 25, 2007.

Sincerely,

Andrew M. Beato
Retained Federal Regulatory Counsel
ACA International

Attachment

cc: Gary D. Rippentrop (via electronic mail)
Rozanne Andersen, Esq. (via electronic mail)

Code of Ethics and Code of Operations

of

ACA International

*The Association of Credit and Collection Professionals
as adopted July 25, 2007*



ACATM

INTERNATIONAL
The Association of Credit
and Collection Professionals

PREAMBLE

As Members of ACA International, The Association of Credit and Collection Professionals (ACA) we assume responsibilities to fellow Members of the Association, our industry, our customers, consumers and the public at large. In doing so we strive to:

- Maintain the highest standards of business conduct by using only legal and ethical means in all business activity.
- Actively promote and encourage the highest level of integrity within the industry.
- Cooperate in every reasonable and proper way with other Association Members and work with them in the advancement of the credit and collection industry.
- Be fair and respectful to employees, associates, competitors, customers, the public and employer(s), in all business or professional relationships.
- Adhere to honesty and integrity in advertising and in all representations to the public concerning credit and collection industry products and services.
- Commit to the development and use of the highest standards and practices for processing and handling consumer, customer and competitor disputes using ACA's Code of Ethics and Code of Operations as guidance documents.
- Observe all applicable laws, regulations and rules pertaining to the processing and handling of accounts receivable.
- Support ACA's Mission, Promise and Values and agree to uphold this Code of Ethics, Code of Operations and the governing documents of ACA International.

MISSION STATEMENT

ACA International is the association of professional businesses and individuals involved in the credit and collection industry. ACA serves Members and represents the industry by:

- Developing timely information based on sound research and disseminating it through innovative education, training and communications.
- Promoting professional and ethical conduct in the global marketplace.
- Acting as the Members' voice in critical business, legislative, legal, regulatory and public arenas.
- Providing quality products and services to improve efficiency and profitability.

PROMISE

To be the comprehensive, knowledge-based resource for success in the credit and collection industry.

VALUES

Respect—for diverse customers, clients, colleagues and the global workforce.

Leadership—by uniting Members to advance a successful, service-oriented and professional credit and collection industry.

Service—by providing quality products and services to Members while meeting the highest professional standards.

Innovation—by exploring new ways to achieve excellence.

Fiscal Responsibility—by operating the association in a prudent manner while creating and maintaining a financial reserve to meet future Member needs.

DEFINITIONS

This section provides the official definitions for terms used throughout these Code of Ethics and Code of Operations and the corresponding Procedural Rules of the Ethics Committee as amended from time to time.

“Association” and “the Association” means “ACA International, The Association of Credit and Collection Professionals,” a corporation existing as a 501(c)(6) under the Rules of the U.S. Internal Revenue Service and its subsidiaries.

“Member” means any company (including the company’s employees on record), partnership, business entity or individual who has successfully applied for and obtained membership in the Association pursuant to the Rules as further described herein. For purposes of this definition Member includes Affiliate Members, Agency Members, Asset Buyer Division Members, Creditor International Members and Members’ Attorney Program Members.

CODE OF ETHICS

RULE I. CONDITIONS OF MEMBERSHIP IN ACA INTERNATIONAL

To qualify for and maintain a membership in ACA the applicant or Member shall:

- A. Abide by the ACA Code of Ethics, Code of Operations and Procedural Rules for the Ethics Committee and the Bylaws and Standard Operating Procedures of the Association (hereinafter collectively referred to as "Rules").
- B. Supply information on the nature of the applicant or Member's business and background information about company principals and management personnel.
- C. Not have been convicted of a crime or have been found liable in a civil action for actions or inactions that relate to credit or collection industry practices or procedures, including but not limited to: crimes relating to the misuse of funds, client trust accounts, fraud, forgery, embezzlement, tax evasion, identity theft, or other theft or larceny within the past 10 years.
- D. Cooperate with and abide by the Association's self-regulation efforts, its formal and informal complaint resolution programs and comply with the Association's Rules.
- E. Designate a contact person having sufficient responsibility within the organization to deal with consumer complaints and provide information about this contact person to the Association in accordance with the Procedural Rules for the Ethics Committee.
- F. Promptly respond to all complaints forwarded by the Association or from any other official complaint resolution program adopted by the Association, make a good faith effort to resolve all such complaints in accordance with generally accepted good business practices and the Procedural Rules for the Ethics Committee as amended from time to time and comply with the terms of any findings issued in such proceedings.
- G. Meet its financial obligations, including, without limitation, financial obligations to the Association.

RULE II. ETHICAL CONDUCT REQUIRED OF MEMBERS OF ACA INTERNATIONAL

- A. In addition to a continuing duty to adhere to the requirements of any applicable laws, regulations and rules concerning credit and collection industry practices, each Member has a duty to:
 1. Treat consumers with consideration and respect.
 2. Communicate with consumers with honesty and integrity.
 3. If the Member is a debt collector (as defined in Section 803(6) of the FDCPA) upon receipt of a written request for verification of a debt from a consumer, suspend collection activities on the account, and provide verification of the debt. If such Member does not or is unable to provide verification of the debt in response to a consumer's written request for verification, the Member will:
 - a.) Cease all collection efforts;

- b.) Direct or request removal of the item from the consumer's credit report or report the item as disputed to the appropriate credit reporting agency, at the member's next available opportunity (if applicable); and
 - c.) When closing and returning an account, notify the credit grantor, client, or owner of legal title to the debt that collection activity on the account was terminated due to the inability to provide verification of the debt.
 - d.) If requested by the consumer in writing, notify the consumer that collection efforts have been terminated by the Member. *[This provision will only take effect upon ACA's receipt of a formal advisory opinion from the FTC addressing a third party debt collector's ability to provide this notice.]*
4. In addition to any requirements imposed by law or regulation, in instances of alleged identity theft, fraud or mistaken identity, conduct a reasonable investigation to determine the validity of the debt, the identity of the obligor on the account and the accuracy of the information in the possession of the Member.
 5. Comply with its contractual obligations to the National Automated Clearing House Association (NACHA).
 6. Not threaten or initiate collection litigation on time barred debts.
 7. Seek to obtain access to accurate and complete information about any accounts being purchased by the Member and obtain evidence of the chain of title to the debts being purchased.
 8. Adopt an internal code of conduct.
- B. In addition to a continuing duty to adhere to the requirements of any applicable laws, regulations and rules concerning credit and collection industry practices, each Member will:
1. Not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation including but not limited to misrepresentation for the purpose of obtaining membership in the Association, a license, a certificate of registration, a certificate, a credential or business related insurance.
 2. Not harass, threaten, or coerce a person, including but not limited to, on the basis of race, sex, age, creed, religion, color, national origin, disability, sexual preference, gender or marital status in connection with a Member's professional business, Association activities or while acting in a representative capacity of the Association.
 3. Not engage in dishonorable, unethical or unprofessional conduct of a nature or character likely to deceive, defraud, or harm a consumer, customer, member of the Association or the public.
 4. Use reasonable efforts to safeguard the confidentiality, integrity and availability of consumer information entrusted to the Member's possession and control.
 5. Refrain from using the name or logo of the Association for commercial sales or advertising purposes in a manner not specifically authorized by the Association.

6. Refrain from knowingly representing that it is affiliated with, or endorsed by an institution or organization when such an affiliation or endorsement does in fact not exist or that the Member has achieved a professional designation when such achievement does in fact not exist.
7. Make reasonable efforts to ensure the Member, its principals and its employees comply with the laws, regulations and rules under which the Member performs credit or collection services or debt purchasing and the Association's Rules.
8. Take adequate precautions to distinguish between the Member's personal views and the views of the Association, its subsidiaries and affiliates when communicating with third parties.
9. Not communicate, share or distribute any proprietary or confidential information which the Member acquires in the course of performing duties as an Association Member, officer, director, committee member or instructor which could have a detrimental impact upon the business or reputation of this Association, its affiliates, alliances or subsidiaries or any other member of the Association; nor shall any Member use any such information described herein to promote the Member's self interest or business interest.
10. Place any member of the Association or the industry who they suspect, or know, to be violating the ACA Code of Ethics, Code of Operations or Rules on notice of the alleged violation and seek to identify a solution. Report such member of the Association or the industry to the Association's Ethics Committee for further action if such party's continued violation of the ACA Code of Ethics, Code of Operations or Rules appears to be willful.

RULE III. ENFORCEMENT ACTIONS.

Any Member may be admonished, suspended or expelled for cause due to conduct, acts or omissions contrary to the Rules. Such conduct, acts or omissions can result in review of membership status by the Association's Membership Board of Review Committee and can result in an investigation and review by the Association's Ethics Committee in accordance with the Procedural Rules for the Ethics Committee. All final actions of the Ethics Committee regarding the suspension or expulsion of a Member shall become a matter of public record. At the request of the Member, a notice of exoneration may become a matter of public record.

RULE IV. AMENDMENTS.

The foregoing may be amended or altered in whole or in part by a majority vote of the Association's Ethics Committee. Any such amendments are then subject to final approval of the Association's Executive Committee. Notification of approved changes shall be sent promptly to the Association Membership using the most appropriate communications medium(s).

CODE OF OPERATIONS

RULE I. SCOPE AND PURPOSE.

This Code of Operations shall govern all Members of the Association and be enforced pursuant to the terms of the Procedural Rules for the Ethics Committee. It is intended to apply to the extent it does not conflict with applicable federal and state laws, statutes, rules, regulations, licensing requirements, or other authority. Members shall apply this Code of Operations to their business practices in order to promote positive business relationships among clients, vendors, and outsourcing partners.

RULE II. MEMBER RESPONSIBILITIES - BUSINESS RELATIONSHIPS.

- A. In business relationships with clients Members are encouraged to perform services subject to a written agreement.
 - 1. In the absence of a written agreement Members shall make settlement with clients at least once each calendar month. Such settlement shall not be later than thirty (30) calendar days after the close of the calendar month for which the settlement is made or as otherwise controlled by state law.
- B. When furnishing data on a consumer credit report, a Member has a duty to:
 - 1. First obtain the authorization of the creditor, forwarder or party holding title to the account to perform credit reporting services;
 - 2. Accurately report the date of delinquency as required by the Fair Credit Reporting Act;
 - 3. Take reasonable steps to avoid furnishing data to a consumer credit reporting agency about an account that is presently subject to reporting by another data furnisher; and
 - 4. Delete data furnished to a consumer credit reporting agency upon cancellation and return of an account to the creditor, forwarder or party holding title to the account.
- C. A Member may at no time engage in unlawful activities, schemes, financial arrangements or kickbacks with clients, employees of clients, agencies, entities or collection professionals, including but not limited to acts or omissions giving rise to allegations of bribery, malfeasance or unprofessional conduct as determined by the Association's Ethics Committee.

RULE III. MEMBER TO MEMBER RESPONSIBILITIES.

In relationships with fellow Members, each Member shall:

- A. Not knowingly, negligently or with disregard of the truth, misrepresent its own qualifications, record, collection rates, capacity, experience or abilities or of any other Member or employee of any Member.
- B. Not recruit or solicit prospective employees at any Association sponsored seminar, program, conference, convention, meeting or activity, or use their status or position within the Association to accomplish the same.
- C. Not knowingly or with reckless disregard of the truth, misrepresent the qualifications, record, collection rates, capacity, experience or abilities of any Member.

RULE IV. MEMBER RESPONSIBILITIES AS FORWARDEES AND FORWARDERS.

In the absence of a written agreement between the Forwarder and Forwardee, Member and non-member Forwarders and Forwardees who engage in a forwarding arrangement, agree:

- A. Rates of commission and fees are matters of contract between Forwarder and Forwardee and the Association does not presume to establish or suggest any fixed rate or policy that is intended to be binding upon its Members. The Forwarder shall state in the originating forwarding document the net commission rates or fees which shall be paid to the Forwardee upon collection of the items so forwarded. If the rates or fees stated are not satisfactory to the Forwardee, he or she shall return the item(s) of collection within ten (10) business days to the Forwarder along with all original documentation thereof.
- B. Any change in rates concerning any items forwarded for collection shall be agreed to and acknowledged in writing by both the Forwarder and Forwardee.
- C. Unless otherwise agreed to by both parties, in writing and signed by both parties, the method for computing compensation for internationally forwarded accounts will be based upon a contingent fee method. This means that compensation will be based solely upon a percentage of the amount collected and remitted in the Forwarder's currency. If no funds are collected, no charges or expenses will be paid to the Forwardee. This applies to all collection efforts including legal proceedings (court costs, attorney fees, etc.) unless the parties otherwise agree in writing, in advance of any work being done and /or in advance of any legal action being started. Members who forward accounts for collection should determine whether the country or political unit wherein the Forwardee conducts business, imposes any prohibition or restrictions on the remittance of funds or assets to Forwarders, before forwarding accounts for collection to any such Forwardee.
- D. In the instance when an account is forwarded for collection of an amount which includes charges in addition to the principal balance due, the forwarding documents shall include an itemization of each such additional charge. Moreover, unless otherwise prohibited by law, any decision to collect such charges from the consumer shall be the sole responsibility of the Forwarder and said Forwarder shall indemnify and hold Forwardee harmless for any damages including compensatory, actual and punitive which Forwardee incurs as a result of Forwarder's decision and demand to collect such additional charges. As used in the Association Code of Operations, charges subject to this provision shall include, but are not limited to, interest, penalties, court costs, sheriffs' fees, bank charges, garnishment fees, attorney fees and costs of service of process.
- E. The Forwarder shall disclose any disputes of which the Forwarder has knowledge and advise whether or not an itemized statement can be produced upon request of the Forwardee.
- F. The Forwardee shall, within ten (10) calendar days of receipt of the originating forwarding letter or document acknowledge all items forwarded for collection by accepting or rejecting them in writing. If the Forwardee rejects an account or item forwarded for collection, he or she may, but is not required to, inform the Forwarder of the reason for so doing.
- G. Forwardee shall respond promptly to requests for reports from Forwarders.
 - 1. Reports shall not be requested or expected sooner than one hundred fifty (150) calendar days after the forwarded account has been either acknowledged, payment received thereon or following the last report, unless otherwise agreed to in writing by the parties.

2. After two (2) requests for reports have been made by a Forwarder, without response from the Forwardee, the Forwarder may give fifteen (15) business days' notice of cancellation of the forwarded account by certified mail, and if no report is given within this time (15 business days), the forwarded account shall be considered canceled and returned to the Forwarder.
- H. Except as provided in paragraph I below, allow the Forwarder or the client of the Forwarder the right to withdraw any account or item forwarded for collection, six months after they have been listed for collection, within thirty (30) calendar days of receipt of such a request in writing, if there has been neither payment, promise of payment or legal action filed since the account or item was forwarded which reasonably entitles the Forwardee to retain the item or account for further collection effort.
 - I. Allow the Forwarder or the client of the Forwarder the right to withdraw any account or item forwarded for collection immediately upon evidence that the Forwardee has breached the contract in effect between the Forwarder and Forwardee.
 - J. The Forwarder shall promptly report to Forwardee any direct payments made either to Forwarder, or to the creditor. The Forwarder shall remit such amounts to the Forwardee within thirty (30) calendar days after being rendered a statement by the Forwardee or otherwise settle with Forwardee in a manner acceptable to both Forwarder and Forwardee.
 - K. Where a forwarded account is paid directly to the creditor or to the Forwarder after the account or item for collection has arrived at the office of the Forwardee and the Forwardee has acknowledged receipt of same and commenced work on the account, the Forwardee shall be entitled to the usual commission.
 - L. Unless otherwise agreed by both parties in writing, the Forwardee shall make settlement with the Forwarder within thirty (30) calendar days of receipt of negotiable, collected funds on forwarded account. Forwardee shall be entitled to retain its court costs and attorney fees before application of principal amount. The costs of transmitting funds are to be paid by the agency forwarding the funds unless otherwise agreed to in writing by the parties.
 - M. Within thirty (30) calendar days of discovering that a check used as the manner of payment by a consumer was dishonored or recalled by bankruptcy petition, the Forwardee shall provide Forwarder with actual notice of this information. If after having complied with the preceding notice provision, the proceeds of a collection item are received by a Forwarder, and the check that was the manner of payment by the consumer is dishonored by the drawee bank or recalled by bankruptcy petition, the Forwarder shall be obligated to restore to the Forwardee all the remitted funds including the shares of both the creditor and the Forwarder, irrespective of whether the Forwarder has actually remitted the proceeds to the creditor, or not.
 - N. Upon receipt of an account forwarded for collection, the Forwardee shall, within thirty (30) calendar days of receipt determine whether the consumer resides in a geographic area serviced by Forwardee. If the Forwardee learns that the consumer is located in a geographic area other than that serviced by the Forwardee, the Forwardee shall return the forwarded account to the Forwarder. However, if the Forwardee has made settlement arrangements with the consumer, the Forwardee will be permitted to retain the account so long as payments are being timely received in accordance with the terms of the settlement arrangement.

- O. The Forwardee may not reforward a claim without the written consent of the original Forwarder.
- P. In cases where the item forwarded is a judgment which includes costs, the Forwardee shall be entitled to receive the regular commission due on the collection of the entire judgment, unless different arrangements have been made in advance between the parties.
- Q. A Forwardee, having relinquished an account, and after giving notice to that effect to the Forwarder, may accept payment from the consumer with the understanding that said Forwardee is not entitled to compensation on any such payment unless expressly authorized by the original Forwarder.
- R. No Forwardee shall charge and retain from one account the commissions claimed on another, where there is no authority to do so. This means that no Forwardee may offset one account against another, even if from the same Forwarder.
- S. The Forwardee shall limit all written and oral communication to the Forwarder's client to only those matters which the Forwardee agency has been expressly authorized by Forwarder to communicate.
- T. When returning, relinquishing or terminating an account or item for collection, the Forwardee shall return all of the original documents evidencing the obligations which were provided to the Forwardee by the Forwarder.
- U. Before reforwarding an account, Forwarder shall request return of the account and secure its release from the original Forwardee in writing. Failure to comply with this provision may result in liability for multiple commissions by the Forwarder to the Forwardees.
- V. No Forwardee shall compromise or settle any account forwarded for collection without first obtaining the written consent of the Forwarder. In addition to other sanctions and penalties, a Forwardee who violates this provision shall be liable to the Forwarder for the full amount of the account, less commission, unless the Forwarder ratifies the settlement or compromise.
- W. It shall be assumed that all accounts forwarded by any Member of this Association and, all related activity to any other Member of this Association, is pursuant to this Code of Operations, the related Code of Ethics, and the Procedural Rules for the Association Ethics Committee.
- X. Any healthcare account forwarded for collection must be serviced according to a business associate agreement between the Forwarder and Forwardee.

RULE V. AMENDMENTS.

The foregoing may be amended or altered in whole or in part by a majority vote of the Association's Ethics Committee. Any such amendments are then subject to final approval by the Association's Executive Committee. Notification of approved changes shall be sent promptly to the Association Membership using the most appropriate communications medium(s).

RULE IV. EFFECTIVE DATE.

This Code of Ethics and Code of Operations shall be effective as of this 25th day of July 2007.



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