RE: Independent contractors collecting debt

Dear

This letter is in response to your July 29, 2011 inquiry regarding the registration requirements that your client, a debt collection agency, would face if it hired a foreign call center to make debt collection calls to Iowa consumers. This is just a preliminary review by our office; it is not a formal opinion nor is it legal advice.

The facts of your inquiry are as follows: your client is a debt collection agency that is registered in the State of Iowa. Your client would like to “engage a call center in Latin America to handle overflow call traffic, calls from Spanish speaking consumers, and make outbound collection calls on its behalf to consumers in [Iowa].” You further stated that all contacts will be made in your client’s name; that the call center would be hired as an independent contractor; and that your client would handle all payment and remittances with consumers.

Based on this information, you asked us to answer the following questions:

- Is this practice permissible under the licensee’s current license?
- Is the licensee responsible to further license the Latin American company as a branch office?
- Is the Latin American company required to seek a collection agency license in your state?

Debt collection is governed by the Debt Collection Practices Act of the Iowa Consumer Credit Code (hereinafter “ICCC”). First, please note that Iowa does not license debt collectors. Instead, Iowa requires debt collectors who collect over $25,000 a year to
register with the Iowa Attorney General and pay a $10.00 annual fee. This requirement is
detailed in the Iowa Consumer Credit Code (ICCC), chapter 537, Iowa Code §§
537.6201-537.6203; Iowa Admin. Code r. 61—22.2. Therefore, the relevant issue is
whether or not the call center is a debt collector and therefore required to register with the
State, not whether or not they must obtain a license.

According to Iowa law, the Latin American call center would be required to register with
the State because the call center is a “debt collector.” Under the ICCC, a “debt collector”
is “a person engaging, directly or indirectly, in debt collection, whether for the person,
the person’s employer, or others.” Iowa Code § 537.7102(5). A person includes
organizations, partnerships, and other entities. Iowa Code § 537.1301(34). Since the call
center would be making calls to collect debts on behalf of your client, they fall within this
definition. It does not matter that they would be using your client’s name, because the
definition includes those collecting on behalf of others.

The call center must register regardless of the fact that your client will handle all
remittances and payments. “Debt collection” is “an action, conduct or practice in
soliciting debts for collection or in the collection or attempted collection of a debt.” Iowa
Code § 537.7102(4). Therefore, even though the call center will only be making the
calls, they are engaged in debt collection because collection includes any action or
conduct in soliciting debts.

Each entity fitting the criteria of a debt collector must independently and distinctly fulfill
the notification and fee requirements. See Iowa Admin. Code r. 61—22.4(1). As a
result, both your client and the call center must be registered with the State of Iowa. Debt
collectors are required to file a notification statement with the Iowa Attorney General
within 30 days of commencing collection activities in Iowa, and then by January 31 of
every subsequent year. The current annual notification fee is $10. The check should be
made payable to the “Iowa Consumer Credit Administration Fund” and sent to the
Consumer Protection Division of the Iowa Attorney General’s Office at 1300 East
Walnut Street, Des Moines, IA 50319.

These forms can be located online at:

Failure to file a notification statement and pay the appropriate fees subjects debt
collectors to late fees of $25 as well as a possible civil action in which the administrator
may recoup interest, the costs of the action, and a penalty not exceeding the greater of
$1,000 or three time the fee owed. See Iowa Code §§ 537.6113(3) and 537.6203(4).
Please note, this is an informal opinion of the Administrator, it is neither an official opinion of the Attorney General, nor a formal ruling of the Administrator. And again, we recommend talking with legal counsel.

If you have questions please contact me at the above phone number or address.

Sincerely,

Jessica Whitney
Assistant Attorney General
Deputy Administrator of the
Iowa Consumer Credit Code