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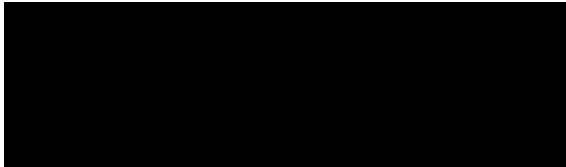
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September 8, 2022



RE: Applicability of the Iowa Debt Collection Practices Act



This letter is in response to your May 27, 2022 email inquiry about the applicability of the Iowa Debt Collection Practices Act (the “DCPA”) to an unnamed company offering deposit accounts to consumers in partnership with depository institutions and providing consumers information about status of their credit products, such as a reminder when payment is due or an alert that payment is past due. Your request indicated that consumers could use the company’s website or mobile application to request draws on a line of credit, make payments directly from the deposit account on a credit product, change a scheduled payment amount or date, or enable auto pay functionality from the deposit account. As you correctly noted, the DCPA requires a debt collector to file notification with the Administrator of the Iowa Consumer Credit Code (the “ICCC”) within thirty days after commencing business in Iowa. Iowa Code §§ 537.6201(2); 6202(1). You asked us to affirm your understanding that the company you described is not a debt collector and is thus not required to file notification.

After a review of the law, it is the opinion of the Iowa Attorney General’s Office, as Administrator of the ICCC, that the company engaged in the activities described in your correspondence is a debt collector within the meaning of the DCPA. The DCPA defines a debt collector as “a person engaging, directly or indirectly, in debt collection.” Iowa Code § 537.7102(5) (emphasis added). The phrase “debt collection” encompasses any “action, conduct or practice in soliciting debts for collection or in the collection or attempted collection of a debt.” Iowa Code § 537.7102(4) (emphasis added). The DCPA does not further define the terms it uses to define “debt collector” and “debt collection.” However the ICCC, of which the DCPA is a part, shall be “liberally construed and applied to promote its underlying purposes and policies.” Iowa Code § 537.1102. One important purpose is to “[p]rotect consumers against unfair practices by some suppliers, solicitors or collectors of consumer credit, having due regard for the interests of legitimate and scrupulous creditors.” *Id.* at § 537.1102(2)(d).

First, the company described in your inquiry solicits debts for collection. Since the term “solicit” is not defined elsewhere in the statute, Iowa state courts may refer to dictionary definitions and common usages of the word. *Schaefer v. Putnam*, 841 N.W.2d 68, 78 (Iowa 2013) (using dictionary definitions to ascertain the meaning of “initiate,” which had not been defined by the legislature); *see also Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 566 (2012). The dictionary definition of the term “solicit” is “to seek or to plead, to entreat and ask.” Black’s Law Dict. (2nd ed. 1910). A person solicits debts when he engages in any action, conduct, or practice seeking or asking for payment on debts. Your letter states that this company provides consumers reminders and alerts for due payments, which constitute requests for consumers to pay debts owed on consumer credit products. This conduct falls within the definition of debt solicitation.

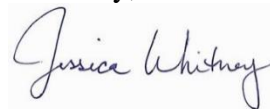
Second, this company indirectly collects or attempts to collect debts. The word “indirectly” in Section 537.7102(5) reaches those actors that play a facilitative role in debt collection. While this company may not purchase or hold servicing rights to consumer credit products, it indirectly engages in the collection or attempted collection of debt by integrating communications from consumer credit product providers to consumers. By enabling these communications, this company indirectly collects or attempts debts, and assumes the role of a debt collector under Iowa law.

Lastly, in addition to the rule of construction mentioned above, the text of the DCPA shows that the Iowa Legislature intended the broadest possible construction of terms. As a comparison, the Federal Fair Debt Collection Practices Act defines a “debt collector” as “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.” It also expressly provides for six exceptions. 15 U.S.C. §1692a(6). The use of qualifiers—such as “the principal purpose” and “regularly”—and exceptions suggest that Congress intended a narrow reading of “debt collector.” By contrast, in choosing words with broad meanings without adding qualifiers or exceptions, the Iowa Legislature intended the DCPA to have a broader reach so as to effectuate its stated purpose.

Our consideration of the text of the DCPA and its stated purpose results in the conclusion that your proposed narrower interpretation cannot be accepted. This company is a debt collector and will be required to file notification with the administration. Iowa Code §§ 537.7102(4)-(5); 537.6201(2); 6202(1).

Should you have further questions, please do not hesitate to reach out again. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Whitney".

Jessica Whitney

Deputy Attorney General for Public Protection