



Jonathan Mintz
Commissioner

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nyc.gov/consumers

December 6, 2010

BY REGULAR MAIL



Re: Debt collection agency question

Dear Mr. [REDACTED]

The New York City Department of Consumer Affairs ("Department") issues this letter in response to your recent inquiry. You asked the following questions:

1. Is there a "bright line rule as to when a law firm must obtain a license to serve in a collection capacity if working in high volume foreclosures though the firm does not send ANY notices re: the alleged debt directly to the debtor"?
2. "[A]re litigation-based practices considered debt collection activities?"

With regard to your first question, whether or not a law firm performing foreclosure work must obtain a debt collection license depends on the specific work in which the law firm engages. It is not only the "send[ing] of notices" to consumers that is considered an "activit[y] traditionally performed by debt collectors . . ." The statute also references contacting consumers by telephone and "other activities as determined by rule of the commissioner." N.Y. City Admin. Code § 20-489(a)(5). A law firm that does not serve notices may also come within the definition of a "debt collection agency" if it is "a buyer of delinquent debt who seeks to collect such debt either directly or through the services of another by, including but not limited to, initiating or using legal processes or other means to collect or attempt to collect such debt." N.Y. City Admin. Code § 20-489(a).

Your second question is not clear. "Litigation-based practices" may come within the umbrella of activities requiring a license. Section 20-489(a) of the Code states that "initiating or using legal processes . . . to collect or attempt to collect such debt" may render an entity a "debt collection agency" that requires a license. However, as you note, Section 20-489(a)(5) does include an exemption for attorneys "collecting a debt [as an attorney] in such capacity on behalf of and in the name of a client solely through activities that may only be performed by a licensed attorney"

Thank you for your inquiry.

Sincerely,

Department of Consumer Affairs