

Code of Operations

of

ACA International

*The Association of Credit and Collection Professionals
as amended February 21, 2001*



ACA

INTERNATIONAL

The Association of Credit
and Collection Professionals

RULE 1. 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 Association Ethics and Professional Responsibility Committee. It is intended to apply to the extent it does not conflict with applicable law, statutes, rules, regulations, licensing requirement, or other authority. It is also intended to apply to the extent it does not conflict with the patterns, practices or contracts of the parties involved in transactions subject to this Code of Operations.

RULE 2. ASSOCIATION MEMBER RESPONSIBILITIES WITH CREDITOR-CLIENTS

In relationships with creditor-clients, each Association Member shall use his or her best efforts to:

- A. Promote positive business relationships with creditor-clients by providing each such client with the most effective, efficient and professional collection services reasonably available.
- B. 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 or contract.
- C. In the instance where more than one account is being collected in installments from the same debtor and unless otherwise prohibited by law, relevant statutes of limitation, contracts or conflicting doctrines of law, each Association Member shall make disbursements to creditor-clients in the order of priority of which the accounts were received. It is up to the discretion of the Association Member to give preference to any such creditor-client who supplied material information or assistance without which collection of the debt(s) would not be possible.
- D. Unless otherwise agreed, and within thirty (30) calendar days of written demand, allow a client the right to withdraw any account or item six months after it has been listed for collection, if there has been neither payment nor promise of payment since the listing for collection which reasonably entitles the Member to retain the account or item for further effort.
- E. At no time engage in unlawful activities, schemes, financial arrangements or kickbacks with clients, agencies, entities or collection professionals which would create even the appearance of impropriety, bribery, malfeasance or unprofessional conduct as determined by the Association Ethics and Professional Responsibility Committee.
- F. Not knowingly or with reckless disregard of the truth, misrepresent the qualifications, record, collection rates, capacity, experience or abilities of any Association Members or employees of Association Members, to the detriment of creditor-clients.

RULE 3. ASSOCIATION MEMBER RESPONSIBILITIES WITH ASSOCIATION MEMBERS

In relationships with fellow Association Members, each Member shall:

- A. Compete in a fair and honorable manner, never publicly attacking or

misrepresenting the reputation of a competitor.

- B. Comply with the provisions as outlined in the preceding section when accounts are forwarded to or received from Association Members, and a client-collector relationship exists.
- C. Not communicate directly with any Forwarder's clients concerning the forwarded accounts without authorization of the Forwarder.
- D. 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 same.
- E. Not knowingly or with reckless disregard of the truth, misrepresent the qualifications, record, collection rates, capacity, experience or abilities of any Association Members or employees of Association Members to any other Association Members or employees of Association Members.

RULE 4. ASSOCIATION MEMBER RESPONSIBILITIES WITH FORWARDEES AND FORWARDERS

In relationships with both Member and non-member Forwarders and Forwardees, each Association Member agrees that:

- 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 the U.S. based Forwarders, before forwarding accounts for collection.
- 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, any decision to collect such charges from the debtor 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 addition 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. All monies collected from debtor including interest and/ or costs must be reported to the Forwarder, even if such costs or interest are retained by the Forwardee, even if the Forwardee is entitled to such costs or interest.
- 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. 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:
 - 1) there has been neither payment or promise of payment since the account or item was forwarded which reasonably entitles the Forwardee/member to retain the item or account for further collection effort; or;
 - 2) there is evidence that the Forwardee has breached the contract in effect between the Forwarder and Forwardee.
 - I. Unless otherwise allowed by applicable law or contract, the Forwardee shall make settlement with the Forwarder within thirty (30) calendar days of receipt of negotiable, collected funds on a forwarded account.
 - 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. Unless otherwise agreed to by both parties in writing, costs and interest, if totally retained by a Forwardee shall only be deducted after the principal amount of the original debt, less the appropriate commission has been made by Forwardee. 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 three (3) business days of discovering that a check used as the manner of payment by a debtor 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 debtor 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 therefor determine whether the debtor resides in a geographic area serviced by Forwardee. If the Forwardee learns that the debtor 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 debtor, 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. No Forwardee shall retain the entire amount of interest collected on an account forwarded, unless special arrangements have been made in advance with the Forwarder. Such interest which accrues after the account is forwarded shall be part of the amount upon which the Forwardee's commission is based. The same commission rate shall apply to interest collected as to the principal amount.
 - Q. 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.

- R. A Forwardee, having relinquished an account, and after giving notice to that effect to the Forwarder, may accept payment from the debtor with the understanding that said Forwardee is not entitled to compensation on any such payment unless expressly authorized by the original Forwarder.
- S. If a Forwardee determines that he or she cannot properly service an item of business forwarded for collection for any reason, including a conflict of interest, he or she shall immediately halt collection activities, notify Forwarder of the conflict, and offer to return the particular item to the Forwarder.
 - 1) “Conflict of Interest” as used in this provision includes, but is not limited to, any relationship with a debtor in which the Fowardee:
 - a) is a friend or relative;
 - b) the employer of a friend or relative of the debtor;
 - c) has a prior obligation to another Forwarder concerning the debtor of a particular item forwarded for collection.
- T. 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.
- U. A Forwardee shall not show, read, or deliver to a debtor, any communication received from a Forwarder or the creditor of an account without the written consent of the Forwarder or the creditor other than information which Forwardee may be required to provide debtor by law or regulation. The Forwardee shall limit all written and oral communication to the Forwarder’s client to only those matters which the Member-Forwardee agency has been expressly authorized to communicate.
- V. 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.
- W. 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 double commissions by the Forwarder to the Forwardee.
- X. No Forwardee shall compromise or settle any account forwarded for collection without first obtaining the written consent of the Forwarder.
- Y. 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.
- Z. Unless otherwise agreed to in writing, 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 Professional Responsibility, and the Procedural Rules for the Association Ethics and Professional Responsibility Committee.

- AA. A Member may not advertise in the Association Roster claiming the ability to perform collections in a specific country unless the Member operates an office in that country.

RULE 5. AMENDMENTS

This Code of Operations may be amended or altered in whole or in part by a majority vote of the Ethics and Professional Responsibility Committee and with final approval of the Association Executive Committee. Notification of any changes will be sent promptly to the Association Membership using the most appropriate communication method(s).

This information is not intended as legal advice and may not be used as legal advice. It should not be used to replace the advice of your own legal counsel. Any information contained in this material is based on current research into the issues and on the specific facts involved herein.