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From: meardley@axispinnacle.com
Sent: Friday, January 20, 2023 9:57 AM
To: DFPI Regulations
Cc: bae@dfpi.ca.gov
Subject: PRO 03-21

Thank you for allowing us to comment on the above referenced proposed regulation.

As a third-party debt collector based in Carlsbad, California, we currently employ approximately 40 full time employees. The most significant portion of our collections are both loans and maintenance fees for the timeshare or vacation ownership industry. We have the following concerns regarding the proposed regulation.

Thank you for including the “complaint” exclusion for debt validation requests under U.S.C. Sec. 1692g. However, please consider providing additional definition to this exclusion. We send the model validation notice which advises consumers that they can “dispute all or part of the debt” and further provides available options to dispute the debt because 1) “this is not my debt”, 2) “the amount is wrong,” and 3) “Other”. Does this exclusion apply to all options when sent in response to our initial notice? There are several websites from timeshare exit firms that provide consumers templates on “how to get rid of your timeshare.” We are required and do answer such templates even though most are not complaints but rather long lists of requests for information that the consumers received at the time of purchase and/or annually with billings, etc. We frequently receive disputes of consumers with buyer’s remorse whose dispute revolves around timeshare sales practices, wishes to deed back their property/terminate ownership or regret that they purchased. If these are not excluded, we would have to add staff just to comply with the process required by this regulation. Our profit margins are very thin and already stressed by increased expenses. Additional labor expense risks the livelihood of our company.

Please clarify Section 1072 (c) (1)(A) to define verbal complaints as a consumer stating they want to “file” a complaint. Debt collection inherently involves consumers complaining about their debt when many times it is venting and not an actual request for complaint resolution.

Please clarify the disclosures required by Section 1072 (c) (4). Is this required if the foreign language was used verbally in the original creditor’s sales presentation or only if the contract was written in a foreign language? Is this required of a third-party debt collector that does not communicate in these languages?

Please consider eliminating Section 1072 (d). The increased labor and letter generation/mailing expense of this requirement is significant to only confirm that the complaint is received and provide contact information that the consumer has previously received on correspondence.

Please clarify Section 1072 (f) (1). As mentioned above, many of the disputes/complaints received are timeshare owners using templates found online. The review process will most definitely indicate “emerging patterns” of our clients, but not our operations. In most cases these are not valid issues as the consumer has signed a contract acknowledging the items in the complaint. Please clarify that this section only applies to the covered person’s operations and not that of our client.

Please consider allowing additional time for the response required in Section 1072 (g) (1). Federal regulations for debt collectors allow thirty (30) days and we respectfully request that the same requirements apply to this regulation. Fifteen

(15) business days may not be possible to process, request information from the original creditor if required and respond. It would most definitely require additional staffing/labor that is not financially viable.

Please confirm Section 1072 (g) (3) that closing an account in a third-party debt collector's office that was assigned by the original creditor is not considered retaliation (i.e., so that the consumer may deal directly with the original creditor for an issue which the collection agency is not authorized to resolve). Please also confirm that credit reporting in the normal course of business is not considered retaliation.

Please revise Section 1072 (h) (13) to include that the documents may be attached to the consumer's account record in an operations software (i.e., our collection information system).

Please confirm that the report required in Section 1072 (j) is for complaints regarding the covered person's operations only and not complaints regarding the original creditor in the case of a third-party debt collector.

As third-party debt collectors, we already have defined federal regulations regarding disputes, complaints, and inquiries. We spend significant resources to comply by these regulations and respond to consumers to resolve their accounts. While we realize there is a need to eliminate unfair and fraudulent operators, we also know we provide a valuable service that allows companies to continue to operate and employ significant numbers of individuals and consumers the ability to resolve accounts without permanent consequence. The requirements of this proposed regulation will place a significant financial resource burden and increased litigation costs caused by attorneys that focus on our industry. We respectfully request that you consider exempting debt collection agencies from the proposed regulations.

Thank you for your time and consideration.

Sincerely,

Margaret Eardley
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