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CAMBRIDGE CONSUMERS' COUNCIL

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City of Cambridge

Working in Cooperation with the
Office of Attorney General

Serving the City of Cambridge and the City of Somerville

June 20, 2011

Office of Attorney General Martha Coakley
Consumer Protection Division
One Ashburton Place
Boston, MA 02108

Via Email
mary.marshall@state.ma.us

RE: Comments in Support of Proposed Regulations, 940 CMR 7.00: Debt Collection Regulations

To Whom It May Concern:

The Cambridge Consumers' Council¹ appreciates the opportunity to comment on proposed amendments to 940 CMR 7.00, the Attorney General's Debt Collection Regulations. We believe this is a particularly important time to review such regulations as the debt collection industry is quickly evolving with newer technologies being utilized to contact consumers in an attempt to collect a debt. As such, we support the Attorney General's amendments that expand and modernize the current regulations.

New technologies may be beneficial in terms of improving the communication of information between original creditors, debt buyers and consumers as a way to facilitate a more efficient and accurate debt collection process; however, we are deeply concerned that the use of new mediums to uncover information about potential debtors, particularly social networking websites (Facebook, LinkedIn, Twitter, etc.), may result in the abuse of a consumer's privacy if guidance is not provided to both the industry and to consumers.² We urge the Attorney General to consider this prior to promulgating these regulations as privacy has always been an important aspect of both federal and state debt collection laws.

With the rise of the debt buying industry and a slow recovery from the recession, we expect debt collection suits to continue to increase as many consumers continue to grapple with rising debt burdens. We believe it is necessary to ensure debt collection industry members are in possession of the necessary information needed to verify the validity of a debt as a lack of information, or inaccurate information, can lead to collection from the wrong person and/or the wrong amount of money owed. When a debt is resold, typically as one of many in a large portfolio, more and more pertinent information is omitted as the debt passes from buyer to buyer. This information often includes:

¹ The Cambridge Consumers' Council, a City of Cambridge agency, provides resources, support and influence on consumer matters affecting the citizenry. The Council serves as a local consumer program that works in cooperation with the Office of the Attorney General to mediate individual/business complaints in an attempt to avoid legal action by either party. Please note: This correspondence does not necessarily reflect the views of the City of Cambridge or any member of the Cambridge City Council.

² See Sarah Lundy, *Debt Collectors Must Tread Lightly on Social Media*, ORLANDO SENTINEL, Apr. 17, 2011, http://articles.orlandosentinel.com/2011-04-17/news/os-law-and-you-facebook-20110417_1_debt-collectors-mark-schiffman-jeff-happenstance.

- Evidence of a contract or agreement with the original creditor bearing original signature when possible;
- A consumer's payment history;
- Itemization of outstanding charges to the original creditor;
- Itemization of an outstanding balance including interest, fees and other charges levied by the original creditor or collector;
- Communications from the consumer disputing the debt, which often include complaints about not being responsible for the debt, billing errors by the original creditor or previous payments not credited by the original creditor or a previous collector;
- Whether the consumer is or has been represented by legal counsel;
- Previous settlement agreements not honored by the original creditor or a prior collector; and
- Whether the consumer previously notified the creditor or a prior collector of possessing no attachable assets.

Such a lack of information, and communication of the knowledge of this information to the consumer in a clear and conspicuous manner, often translates into the collection of judicial time-barred debt and unverifiable debt. Therefore, along with the requirement of a specific disclosure in regards to time-barred debt, we support the Office of the Attorney General further expanding *940 CMR 7.08: Validation of Debts* to include such information. This information will become particularly important for consumers who are contacted by multiple parties attempting to collect the same debt or to consumers that end up in court due to a lawsuit filed by a creditor.

Most consumers, especially our most vulnerable consumers, do not always have access to legal representation or understand their rights as established under the Commonwealth's debt collection laws. Furthermore, these consumers most often do not possess a working knowledge of the court system and its procedures. Thus, they are left to represent themselves against companies they may not recognize, concerning debts they may never heard of, without the necessary information to establish their obligation to pay such a debt.

Again, we stand in full support of the Attorney General's proposed changes to the Debt Collection Regulations. Thank you for this opportunity to share our concerns. We look forward to continue working with the Office of the Attorney General in the future on important consumer matters.

Respectfully Submitted,



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