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COLLECTION AGENCY BOARD

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COMMUNICATION BY FAXES

Due to the recent proliferation of fax machines, the Colorado Collection Agency Board has received inquiries about the legality of transmitting facsimile copies ("faxes") to a consumer's place of employment as a method of debt collection. At its March 26, 1991 meeting, the Collection Agency Board took the position that sending faxes to a consumer's place of employment violates the Colorado Fair Debt Collection Practices Act.

The transmission of faxes to a place of employment will, in almost every instance, result in improper disclosure about the existence and nature of a debt to third parties. Section 12-14-105(2), C.R.S. prohibits communication with others not responsible for the debt without the consumer's prior consent given directly to the debt collector.**1

A faxed transmission is analogous to communication by postcard, a practice prohibited by § 12-14-104(1)(d), C.R.S. The consumer's name and information about the debt or the fact that a collection agency is attempting to contact a consumer will be accessible to co-workers. Although the fax transmission cover page may be addressed to a particular individual or marked "personal and confidential", the fax may be easily viewed by others. Moreover, the transmission cover page will likely contain the name of the collection agency, another prohibited practice. There appears to be no method to ensure that third parties will not view faxes sent to a consumer at work.

Additionally, § 12-14-105(1)(c), C.R.S. prohibits communication at a consumer's place of employment if the collection agency knows or has reason to know that such communication is prohibited by the employer. Many employers prohibit their employees from receiving personal faxes at work.

1** The only exception to the third party contact prohibition is communication for the purpose of obtaining location information.

For these reasons, the Collection Agency Board takes the position that the transmission of faxes to a consumer at work is prohibited under the Colorado Fair Debt Collection Practices Act. This statement constitutes an advisory opinion of the Collection Agency Board pursuant to § 12-14-113(5), C.R.S.

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