

Debt Recovery Regulation Unit

Unité de la réglementation du
recouvrement des dettes

Consumer Protection Branch
5775 Yonge Street, Suite 1500
Toronto ON M7A 2E5
Tel.: 416 326-8802
Toll-free: 1 800 889-9768
Fax: 416 326-8810

Direction de la protection du consommateur
5775, rue Yonge, bureau 1500
Toronto ON M7A 2E5
Tél. : 416 326-8802
Sans frais : 1 800 889-9768
Télec. : 416 326-8810

Registrar of Collection Agencies

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Notice to Collection Agencies

Re: Cell Phone Contact and Wrong Person Contact

A number of recent complaints suggest that the industry requires some direction respecting the expectations when a debtor is contacted at a cell phone number or when a person claiming not to be the debtor is contacted.

Section 22 of the *Collection Agencies Act* provides that:

“No collection agency or collector shall communicate or attempt to communicate with a person for the purpose of collecting, negotiating or demanding payment of a debt by a means that enables the charges or costs of the communication to be payable by that person.”

In my opinion this provision applies to instances in which a collection agency contacts a person through the person’s cell phone and as a result that person is charged the costs associated with the call. Consequently, when a person informs an agency that the number being called is that of a cell phone and that the person is incurring a charge as a result of the call, a collection agency that persists in calling the number may be committing an offence. Note that the person called has no obligation to prove to the collection agency that he/she is actually being charged the costs associated with the call or to provide an alternative contact number. Agencies that persist in calling a number after being advised that costs are being incurred may be subject to disciplinary measures in the event a complaint is received.

The second matter is one that has been addressed before yet continues to spawn complaints. Section 22(5)(b) of the regulations under the *Collection Agencies Act* imposes a positive obligation on a collection agency, when informed that the person contacted is not the person the agency intended to contact, to take reasonable precautions to ensure that the person is in fact the person with whom contact is intended. Put simply if a person indicates that they are not the debtor and the debtor is not available through the telephone number, continued calls in the absence of some indication that the number is in fact the number of the debtor are a contravention of the regulation. If a complaint is received concerning continued contact and the agency cannot demonstrate that it took reasonable precautions to ensure that it was contacting the correct person then it may be subject to disciplinary measures.

Please ensure that your collectors are aware of these concerns and that policies and procedures are in place within your business that will help to avoid complaints being received respecting these matters.

Brian Pitkin, CD
Registrar