



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Financial Practices
Bureau of Consumer Protection

Joel Winston
Associate Director

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October 4, 2010

BY EMAIL AND FIRST-CLASS MAIL

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Jonathan M. Grossman, Esq.
Cozen O'Connor
The Army Navy Club Building
1627 I Street., N.W., Suite 1100
Washington, DC 20006

Re: Phillips & Cohen Associates, LTD.

Dear Mr. Wolf and Mr. Grossman:

As you know, the staff of the Federal Trade Commission's Division of Financial Practices has conducted an investigation of Phillips & Cohen Associates, LTD ("PCA") for possible violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692-1692p, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, in connection with its debt collection activities. Specifically, the investigation focused on: (1) whether in attempting to collect the debts of deceased persons, PCA may have contacted persons other than those with whom communication is permitted under Section 805(d) of the FDCPA; and (2) whether PCA may have engaged in unfair or deceptive acts or practices in attempting to obtain payments from the relatives of deceased debtors, including misrepresenting that they may be personally liable for the decedent's debts.

Through our evaluation of the information we obtained in this investigation and in other ways, we learned that there is uncertainty in the debt collection industry as to who is a proper person with whom a collector lawfully may discuss a decedent's debt. Section 805(d) of the FDCPA permits collectors to contact anyone who is an "executor" or "administrator," or is within other specified categories, such as a "spouse." Since the FDCPA was enacted in 1977, however, many states have amended their probate procedures to allow for more informal processing of decedents' estates. As a result, individuals other than those who fall within the

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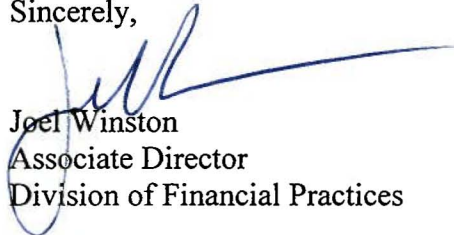
technical definition of “executor” or “administrator” may have authority to pay the debts of the decedents out of the decedents’ estate.

To provide greater clarity on these issues the Commission is publishing a proposed enforcement policy statement to clarify how it intends to enforce the FDCPA and Section 5 of the FTC Act in connection with the collection of decedents’ debts. The proposed policy statement provides guidance on how the Commission intends to exercise its prosecutorial discretion concerning: (1) with whom the debt collector can discuss the decedent’s debts; (2) how the debt collector can identify and contact the appropriate person with whom to discuss the decedent’s debts; and (3) how the debt collector can avoid creating a misleading impression about that person’s personal obligation to pay the decedent’s debts from the person’s own assets, rather than from the assets of the estate. The Commission is seeking public comment on the proposed policy statement, and it intends to issue a final policy statement after it considers the comments it receives.

Based on the Commission’s issuance of the proposed policy statement relating to the collection of decedents’ debts and other considerations, Commission staff has decided to close this investigation. In evaluating PCA’s future collection of decedents’ debts, FTC staff will consider, among other things, whether its conduct is consistent with any final policy statement the Commission issues on this topic.

The closing of this investigation is not to be construed as a determination that a violation of law did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Sincerely,



Joel Winston
Associate Director
Division of Financial Practices