



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

February 26, 2002

Costas A. Avrakotos, Esq.
Kirkpatrick & Lockhart, LLP
1800 Massachusetts Avenue
Second Floor
Washington, DC 20036-1800

Dear Mr. Avrakotos:

This letter is in response to your correspondence dated May 1, 2001 to the Division of Banks (the "Division") in which you request an opinion relative to whether certain contemplated activities by your client would require a collection agency license in the Commonwealth. I regret the delay in this response to you.

In your letter you state that your client is a Delaware Corporation with its principal office located in New York and is a wholly-owned subsidiary of a nationwide publicly traded securities firm. The Company intends to purchase certain distressed consumer debt from various creditors including banks and other financial institutions. Although the Company will own the debts it will not employ collection personnel to collect the debt directly. In states such as Massachusetts, the Company's accounts will be collected by licensed collection agencies or collection attorneys. Some of the accounts the Company intends to purchase are accounts where the debtor has filed for protection under the Bankruptcy Code. These accounts would require proofs of claim to be filed with the Bankruptcy Court and certain proofs of claim may have to be filed under the name of the original debtor based on Bankruptcy Code rules. You ask if your client would be required to obtain a collection agency license in the Commonwealth based on this set of facts.


Massachusetts General Laws chapter 93, section 24 requires that any person collecting or receiving payment on behalf of others of any account, bill or indebtedness must first obtain a collection agency license from the Division. However, based on the information provided in your letter, your client is not engaging in the business of collecting debts on behalf of others but rather is purchasing such debt from creditors. After becoming the owner of such debts, your client employs licensed collection agencies or collection attorneys to collect the debt from the debtors. Based on the facts as stated in your letter, it is the position of the Division that your client would not be required to obtain a collection agency license in the Commonwealth in order to purchase charged-off debt from financial institutions and employ licensed collection agencies and collection attorneys to collect the debt on behalf of your client.



Costas A. Avrakotos
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The conclusion reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in cursive script, reading "Joseph A. Leonard, Jr.", written in dark ink.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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