



Alliance Collection Service, Inc.
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Add It Up

Adding fees to delinquent accounts requires compliance with both federal and state laws.

The FDCPA states that a debt collector may not use unfair or unconscionable means to collect or attempt to collect a debt. More specifically, Section 808(1) prohibits a debt collector from collecting "any amount (including any interest, fee, charge or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law."

The first step requires a thorough review of the initial contract that created the debt. A number of contracts include default provisions that address the permissible charges for which a consumer may be liable upon default. For example, many contracts provide that a consumer may be liable for a certain amount of costs, fees or interest if the account is referred to a debt collector. In these instances, it will be easier for a collector to determine the permissible fees, as the contract specifically outlines such provisions.

It's important to note that FTC staff has acknowledged that in order for the charges to be enforceable, the language outlining these charges in the contract may not be vague. FTC staff went on to state, "In order to meet the requirements of the Act, the borrower should at least have agreed to a collection amount equal to a particular percentage of the outstanding debt (such as 15

percent) or, more preferably, to a specified dollar amount." Therefore, a contract that requires the borrower to pay any amounts charged by a collection agency may be considered ambiguous and, thus, fail to meet the requirements of the FDCPA.

In situations where the contract does not address the addition of any interest, fee, charge or expense assessed upon default, a debt collector may attempt to collect an amount in addition to the debt only if such a charge is expressly permitted by state law. Thus, in instances when the contract is silent to the addition of fees, the collector must examine state law to determine the permissibility of such charges.

Many state statutes mirror the FDCPA, stating it is an unfair practice to "collect or attempt to collect any amount, including any interest, fee, charge or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law."

If a debt collector determines that fees, costs or interest may be charged to the consumer, it's prudent to itemize the amounts on the collection letter. Courts have held that a failure to separate attorney fees or collection costs from the principal balance could be misleading to the least sophisticated consumer, and, thus, violates the FDCPA.

In order to impose additional fees on delinquent accounts, a careful study of relevant state and federal law, as well as a thorough review of the contract, is vital during the collection process. This same practice should be employed when creditors draft contracts. Adopting a proactive approach can help protect both the creditor and the collection agency servicing the account. Further, compliance programs should include policies and procedures for the steps required to determine the permissibility of the addition of fees.

Collector Magazine
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Feel Good About Yourself and Your Company

Ever ask yourself where you can do more for your community? Ever wonder, if you donate money, where that money goes? Ever let not knowing where it is going prevent you from donating or helping as much as you would like?

We have. So a few years ago ACS employees got together to start "The Shepherd's Hands". This organization is a 501(c)(3) charity that is specifically designed to put money and support behind organizations that provide for women and children at risk.

The Shepherd's Hands 5th Annual Charity Golf Tournament is coming up! On August 11th, at Big Oaks Gold Course in Saltillo, Mississippi. Since we began The Shepherd's Hands has raised over \$40,000.00! And, since we have no administrative costs, the money goes to the right places.

We need your help. We would like to invite you to participate by making a small donation to the charity, playing in the golf tournament, or sponsoring the tournament at one of numerous levels of sponsorship. You can write the donation off on your taxes, get that good feeling in your

heart, and rest assured that the money being raised is being used for good in the most efficient and caring way. Wow, what a concept!

Please give Jeff Chambers a call at our office, (888)-764-3449 to help in any way possible.

Let us thank you in advance for your consideration and heartfelt support. Together we can make a big impact in the lives of women and children in need.

Ken Dulaney
Sales & Marketing Manager
Alliance Collection Service, Inc.

Your Age By Diner and Restaurant Math

This is pretty neat.

It takes less than a minute. Work this out as you read...

1. First of all, pick the number of times a week that you would like to go out to eat. (more than once but less than 10)
2. Multiply this number by 2 (just to be bold).
3. Add 5
4. Multiply if by 50.
5. If you have already had your birthday this year add 1757. If you haven't, add 1756.
6. Now subtract the four digit year that you were born.

You should have three digit number.

The first digit of this year was your original number. (I.e., How many times you want to go out to restaurants in a week.)

The next two numbers are YOUR AGE!-----(Oh yes, it is!!!!)

Inspirational Quotes

"You are what you are and you are where you are because of what has gone into your mind. You can change what you are and change where you are by changing what goes into your mind."

Zig Ziglar

"Whatever you are vividly imaging, ardently desire, sincerely believe in and enthusiastically act upon will inevitably come to pass."

Shakespeare