

Opinion No. 60-237

December 28, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Howard M. Rosenthal, Counsel State Banking Department 341 Don Gaspar Avenue Santa Fe, New Mexico

QUESTION

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Must a person fulfill the experience qualification required to obtain a license as a collection agent while in the employ of a licensed collection agency?

CONCLUSION

Not necessarily, but see analysis.

OPINION

{*661} ANALYSIS

The question posed by you requires an interpretation of Section 67-15-23 (K), N.M.S.A., 1953 Compilation (P.S.) First it should be mentioned that Section 67-15-33, N.M.S.A., 1953 Compilation (P. S.) sets forth that an application may be made by any "qualified person". Subsection (K), supra, defines a qualified person as one who, among other things, has "actively and continuously engaged or employed in the collection of accounts {*662} receivable for at least two [2] years next preceding the filing of his application for a collection agency license." The question referred by you to us for opinion is whether a person who has handled a large number of collections in the course of his business over the past several years though not while in the employ of a licensed collection agency, has fulfilled this experience requirement.

It is our opinion that subsection (K), supra, does not intend that the collection experience must necessarily have been performed for a collection agency. It appears that had the Legislature so intended, it should have specifically provided that the experience was obtained while employed by a collection agency. The Legislature did not so provide but merely set forth that the experience must be in the "collection of accounts receivable."

Thus, it is our view that the question of experience resolves into one of a fact determination, i.e., whether a person has actively and continuously engaged in the collection of accounts receivable for at least two years. If, upon investigation, the

administrator determines that the person has been so engaged, then it appears that he has fulfilled that particular requirement.

In conclusion, therefore, it is our opinion that the question of experience is one for administrative determination upon the facts presented but that, as a matter of law, it is not required that such experience be gained while in the employ of a licensed collection agency.

By: Thomas O. Olson

First Assistant Attorney General