

Opinion No. 69-44

May 13, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Robert J Laughlin, Assistant Attorney General

TO: Honorable Turner W. Branch, State Representative, 4308 Avenida La Resolana, N.E., Albuquerque, New Mexico

QUESTIONS

FACTS

A group of individuals residing in the Albuquerque area have formed an advisory group for the purposes of assisting businesses in collection matters. They do not propose to collect moneys themselves, but will be giving advice to individual businesses in the collection of their own accounts.

QUESTIONS

Does this group have to obtain a collection agency license pursuant to the Collection Agency Act, Sections 67-15-22 to 79, N.M.S.A., 1953 Compilation.

CONCLUSION

No.

OPINION

{*67} ANALYSIS

Section 67-15-23 (C), N.M.S.A., 1953 Compilation, defines a collection agency as follows:

"The term 'collection agency' means and includes all persons engaging, directly or indirectly and as a primary or secondary object, business or pursuit, in soliciting claims for collection either directly or through agents and repossessioners or in the collection of claims owed or due, or asserted to be owed or due to another. Any person, when engaged in collection claims for another, where the employment is for one or more persons, is engaged as a collection agency."

In order to be considered a collection agency a person or group must be "soliciting claims for collection either directly or through agents and repossessioners" or must be engaged directly in the "collection of claims owed or due, or asserted to be owed or due to another."

It is our opinion that a person or group of persons who have no direct contact with debtors, and are merely advising a person or a business establishment on how to collect their own claims, should not be defined as a collection agency, and thus would not have to be licensed as such. The advice given should be limited to business advice, and should not include legal advice, lest there be a problem with practicing law without a license.