

COLLECTION AGENCY
ADVISORY RULING #4
MAY 29, 1987

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RE: Segregation of Maine creditors' collections in trust accounts, Rule 300 §2(A)(1)

A licensee with a place of business in the State of Maine inquired as to whether he had to maintain two trust accounts, one for Maine creditors and one for all other clients, as apparently directed by §2(A)(1) of Rule 300. The licensee, part of a multistate collection business, explained that such an interpretation would require expensive additional computer programming at corporate headquarters so that non-Maine clients could be segregated from Maine accounts for trust account management purposes.

It is the Bureau's position that licensees located in Maine do not have to segregate Maine creditors' accounts from all others in a separate trust account. The requirement of segregation in §2(A)(1) applies only to licensees with no place of business in Maine. Licensees who have a place of business in Maine, and who are part of multistate collection agencies, must still maintain a separate trust account for all of their Maine collections, however, and cannot commingle such collections in regional or national trust accounts.

As stated in the Basis Statement of Rule 300, the purpose of the segregated trust account requirement was to facilitate the Bureau's examination program. Segregation becomes far more critical with out-of-state licensees who do business in a number of states. In such situations collections for Maine creditors will be only a portion of their overall business. The Bureau's concern, and its jurisdiction, extend only as far as the licensee's Maine collection activity. How that licensee behaves and performs vis-à-vis its other non-Maine clients is the concern of the State in which it is located. By requiring that Maine creditors' collections be segregated the Bureau can fulfill its statutory responsibilities with a minimum of disruption to the licensee.

The situation with a licensee located in Maine is entirely different. All clients of that licensee, whether in Maine or located elsewhere, whether acquired through direct business solicitation or through forwardings, are relying, in part, on the fact that the licensee is licensed and supervised as one factor in their decision to place accounts with it. The scope of the Bureau's jurisdiction and responsibility thus extends to all clients of that licensee.

Under §2(A)(1), all clients' trust funds are to be handled the same way. Because of that there is no advantage to be gained by segregating funds collected for Maine clients from those of other, out-of-state clients - the Bureau will examine all activities of that in-state licensee relating to all of its clients, wherever located.

On the next occasion to revise or modify Rule 300 the Bureau will appropriately modify §2(A)(1) to clarify this issue.

/s/ Robert A. Burgess

Robert A. Burgess
Superintendent

RAB/rlb