



November 9, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Proposed Statement of Enforcement Policy Regarding Communications in
Connection with Collections of a Decedent's Debt

Dear Commissioners:

On behalf of the thousands of consumers that we have assisted with debt collection activities, we thank you for your efforts in clarifying which communications are permissible under the FDCPA—and urge you not to make it easier for debt collectors to communicate inappropriately with third parties about a consumer's debt.

In particular, we urge the FTC to adopt an enforcement rule that communication with the family of a deceased individual within 30 days of the individual's death is a per se "unfair" communication under 15 U.S.C. sec. 1692f. This rule would not preclude the finding that, depending on the circumstances, such communication within 60 days or even longer could be a violation. But this 30-day period represents a minimum (and constitutionally permissible) period during which a vulnerable and grieving family should be free from intrusion by the importunities of debt collectors. *See Florida Bar v. Went For It, Inc.*, 515 U.S. 618 (1995).

The East Bay Community Law Center (EBCLC) is the largest provider of free legal services in the East Bay in the San Francisco Bay area. EBCLC's Neighborhood Justice Clinic assists individuals – approximately twenty each week – with debt collection issues and lawsuits relating to credit card and consumer debt.

The Commission's proposed policy statement appears to contravene the plain language of the Fair Debt Collection Practices Act (FDCPA), which strictly limits the communications debt collectors may have with third parties regarding a consumer's debt. 15 U.S.C. §§ 1692c(b), 1692b. We are confident that the Commission did not mean to imply that debt collectors may contact a deceased (alleged) debtor's relatives on the same day that the individual has passed away—but the enforcement statement as proposed leaves open that possibility. In our experience, debt collectors routinely violate the FDCPA's existing restrictions on communications with third parties. We therefore urge



the FTC to establish a 30-day no-contact period following a consumer's passing to ensure that debt collectors not take advantage of a deceased consumer's unobligated family during a particularly sensitive and vulnerable time.

Sincerely,

Tirien Steinbach
Executive Director
East Bay Community Law Center

Elisa Della-Piana ✓
Director, Neighborhood Justice Clinic
East Bay Community Law Center