



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

October 1, 1997

Mr. Daniel P. Shapiro
Goldberg, Kohn, Bell, Black,
Rosenbloom & Moritz, LTD.
Suite 3700
55 E. Monroe Street
Chicago, IL 60603-5802

Dear Mr. Shapiro:

I have your cover letter of August 11, 1997, to your request of **the same** date for **an** informal staff opinion concerning the status of your client, DM Services, Inc. **vis a vis** the Fair Debt Collection Practices Act ("Act"). **Your** request **describes** a **set** of circumstances in which DM Services collects debts that are obtained while **they** are still **current**, on behalf of and in the name of a creditor, in a context that you believe would exempt **DM Services** from FDCPA coverage under Sections 803(6)(A) and (F) (iii) of the Act. You **ask** whether we agree. In providing this opinion, I incorporate by reference your letter of August 11 and the facts outlined therein.

Based on these facts, Commission staff agrees with your conclusion that the de facto employee exemption outlined in the staff commentary would apply to DM's activities, even when DM employees do not work on the premises of the creditor-catalogue company. This is premised on the extensive degree of control that you state the catalogue company will maintain over the collection activities of DM and the fact that they will be collecting in the catalogue company's name and not the name of DM.

We also agree that, to the extent that DM's collection activities concern debts not in default when obtained, they would be exempt from the Act under Section 803(6) (F) (iii).

Please be advised that this is merely the opinion of Commission staff and is not binding upon the Commission itself.

Sincerely,

A handwritten signature in cursive script, appearing to read "John F. LeFevre".

John F. LeFevre
Attorney