



GOVERNOR'S OFFICE OF CONSUMER PROTECTION

October 27, 2014

Collecting on Past Due Accounts

According to the FBPA (Fair Business Practices Act), amounts owed on a consumer's gym membership contract cannot be placed into collections if the contract had never been approved by OCP.

The FBPA further states that:

(n) No purchaser of any note associated with or contained in any health spa contract shall make any attempt to collect on the note or to report the buyer as delinquent to any consumer reporting or consumer credit reporting agency if there has been any violation by the health spa of subsections (b) through (m) or of subsection (o) of this Code section. Any attempt by any purchaser or by any agent of any purchaser to collect on the note or to report the buyer as delinquent as described in this subsection shall be considered an unfair and deceptive act or practice as provided in Code Section 10-1-393.

What this means is that amounts owed on a consumer's gym membership contract cannot be reported to a credit reporting agency, if the facility's contract had never been approved by this office. And any attempts by a gym to report such an account as delinquent, will be considered to be an unfair and deceptive business practice.

Our statute construes such an act to be unfair and deceptive for a number of very valid reasons. For instance, O.C.G.A. § 10-1-393(b)(5), prohibits gyms from leading consumers to believe that goods or services being offered have benefits or characteristics that they do not have. This frequently occurs when a consumer makes the assumption that because a gym's doors are open for business, the facility and its membership contract are already in compliance with State law. However, if the facility does not have a statement signed by the Administrator approving the contract and consumers are led to believe that the facility does have approval from this office, the facility is in violation of the FBPA.

The second point to remember is that FBPA has clearly mandated that all gym contracts are to be approved by this office therefore, to operate in this State without having a signed statement from the Administrator approving your gym's contract is also an unfair and deceptive business practice.

As always, should there be any thoughts, reflections or questions on this matter, please do not hesitate to contact us.

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