

# **BYLAWS OF THE NEW YORK STATE COLLECTORS ASSOCIATION, INC.**

**October, 2002**

## **ARTICLE ONE NAME AND LOCATION**

1.1 Name. The name of this Association shall be the New York State Collectors Association, Inc. (Association), and it shall be incorporated as a non-profit corporation under the laws of the State of New York without capital stock.

1.2 Location. The principal office of the Association shall be located at a place designated by the President of the Association.

## **ARTICLE TWO PURPOSE OF THE ASSOCIATION**

2.1 Purpose. The purpose of this Association shall be to:

2.1.1 Serve as a collective voice of the members on legislative and regulatory issues which impact the members' delivery of credit and collection services;

2.1.2 Provide educational opportunities and services which further and promote the optimum delivery of credit and collection services and the professional development of Association members;

2.1.3 Prescribe and enforce a code of conduct and ethics;

2.1.4 Facilitate member communications and operations among and between the members, the Association and ACA International; and

2.1.5 Assist members in serving their communities and meeting the challenges created by changing markets through leadership, direction, education and service.

## **ARTICLE THREE MEMBERSHIP**

3.1 Membership Qualifications. Any person, firm or corporation operating from an office located in the State of New York who is actively engaged in the collection agency profession and who subscribes to and practices the Code of Ethics and Rules of Conduct adopted by the members of this Association may become a member upon satisfaction of the following requirements:

3.1.1 Full compliance with all membership requirements of ACA International;

3.1.2 Full compliance with any requirements prescribed under New York State

Law and registration or licensure with the appropriate New York department office or agency.

Each application for membership will be approved by the Association's Membership Committee. Each applicant must meet all requirements.

3.2 Membership Status. Except in the case of Special Membership Categories, membership shall be construed by this Association to mean that the agency itself holds the membership. The member agency must designate its particular representative to act on its behalf in Association affairs. The designee may appoint a proxy to act in behalf of the member agency provided the appointment of the proxy is in proper written form. Membership in the Association is not transferable.

3.3 Special Membership Categories. This Association shall recognize Special Membership Categories.

3.3.1 There shall be a special category of membership known as Retired members. Any person who has retired as owner, partner, corporate officer or manager of a member agency in good standing at the time of retirement shall be eligible for membership in this category upon letter of intent and payment of an annual fee to be established by the Board of Directors.

Membership in this category shall not confer the right to vote in any matters of business of this Association upon the member.

3.3.2 There shall be a special category of membership in this Association known as Credit Reporting Members. Any person, firm, or corporation engaged in the business of providing consumer and/or commercial credit reports to the credit granting public, but not engaged in the collection of past due accounts, may become a member of this category by making application which certifies:

That their reporting activity is sufficient to properly identify them as part of the credit reporting industry, and they have complied with all Federal, State, County and Municipal statutes and ordinances for regulation of those engaged in the credit reporting business.

Application by any credit reporting office under the same ownership of a regular member shall be made in the above manner providing the applicant is operating from an office located in the state of New York.

Membership in this category shall not confer the right to vote in any matters of business of this Association.

3.3.3. There shall be a special category of membership in this Association known as MAP Attorney Members, Creditors International Members and Affiliate Members. Any person or entity who maintains a membership in ACA International as a MAP Attorney Member, Creditors International Member or Affiliate Member may become a member of this category by making application which certifies:

They are a member in good standing of ACA International's MAP Attorney Members division; and Creditors International Members, or Affiliate Member, as appropriate.

They agree to be bound by the Association's Bylaws, Code of Ethics and Rules of Conduct.

Membership in this category shall not confer the right to vote in any matters of business of this Association.

## **ARTICLE FOUR MEMBERSHIP APPLICATIONS**

4.1 Application Requirements. Applications for membership shall be made on a form provided by ACA International. Completed applications shall be submitted to the Chair of the Membership Committee. Each application shall be accompanied by proof of compliance with the Membership requirements as provided in these Bylaws, and by payment of one year's dues and assessments, if any, for the ACA International, and one year's dues and assessments, if any, for the New York State Collectors Association, Inc., plus an additional application processing fee (amount to be stipulated by the Board). The application processing fee is not refundable.

4.2 Application Processing Requirements. Within forty-five (45) days of receipt of an application for Unit membership, the Association will submit the application to the Chief Executive Officer of ACA International.

4.3 Approval of Membership Application. The procedures to be followed by the Membership Committee shall be determined by the Board of Directors. A majority vote of the Membership Committee shall determine whether an application is approved or declined. Any applicant whose application for membership has been declined by the Membership Committee shall have the right of appeal to the Board of Directors at its next regular meeting or at a special meeting called for this purpose by the President. After due consideration, the Board may sustain or reverse the decision of the Membership Committee. If membership is denied by the Board of Directors, all funds remitted by the applicant shall be refunded with the exception of the application processing fee. Subsequent applications may be submitted by the applicant without additional payment of any application processing fees.

## **ARTICLE FIVE TERMINATION OF MEMBERSHIP**

5.1 Termination upon Change of Ownership. Upon change of ownership of any member, its membership shall automatically terminate. Membership may be conferred upon the new owner only by application made in conformity with the Bylaws of the Association as set forth in these Bylaws.

5.1.1 In all cases where a membership is a sole proprietorship, a change of ownership shall be deemed to have occurred when the control, management or assets of the proprietorship shall be vested in one or more persons other than the individual to whom they previously belonged, or by whom they have previously been controlled.

5.1.2 In all cases where a membership is a partnership, a change of ownership shall be deemed to have occurred when the control, management, or assets of the partnership shall be vested in one or more persons other than the original partners, or either of them. The acquisition by one partner of the share of ownership previously held by one or more of the original partners shall not be construed, for the purpose of this section, as a change of ownership, except in those cases where the partner who acquires the control, management, or assets of the partnership, was, in fact a silent or inactive member of the partnership which had held membership in this Association.

5.1.3 Transfer or sale of a business from one spouse to the other, shall, for the purpose of the section, be considered as a change of ownership unless that spouse who acquired the business, shall have been a partner in fact, or unless his or her previous association with the business was on a management level. Acquisition of a collection business by a spouse through estate administration or inheritance will not, ipso facto, qualify the surviving spouse for membership in this Association, unless the requirements of partnership, or previous management, as set forth above, shall have been met. In the case of a corporation, a change of ownership shall be deemed to have occurred when there is a transfer of more than fifty percent of the shares of the corporation.

5.2 Termination for Cause. Any member may be placed on probation, suspended or expelled for cause, which shall include but not be limited to: violation of any of the Bylaws or Code of Conduct of the New York State Collectors Association, Inc., the rules, regulations or Code of Ethics of ACA International, or for conduct prejudicial to the best interests of the New York State Collectors Association, Inc. or ACA International. In the event that a member is subject to probation, suspension or expulsion for any of the foregoing reasons, the Association shall adhere to the procedures set forth in these Bylaws.

Any member, whose dues or assessments or other monetary obligations owed to this Association remain unpaid for sixty or more days, may be placed on probation, suspended or expelled by the Executive Committee of this Association. Any such decision of the Executive Committee shall be final.

5.3 Termination by ACA International. The termination of a member's membership in ACA International shall cause the immediate termination of that member's membership in this Association. The Secretary of this Association shall provide any such member with written notice of termination and the effective date thereof, within 30 days of receipt of this information from ACA International.

5.4 Grievance Process. Probation, suspension or expulsion due to a member's violation of any of the Bylaws or Code of Conduct of the New York State Collectors Association, Inc., the rules, regulations or Code of Ethics of ACA International, or for conduct prejudicial to the best interests of the New York State Collectors Association, Inc. or ACA International shall be the responsibility of the Grievance Committee. Prior to making any determination on a matter, a statement of the charges shall be mailed by certified mail to the member at the member's last recorded address at least 15 days in advance of any meeting of the Grievance Committee at which the matter shall be considered. This statement shall be accompanied by a notice of the time and place of the Grievance Committee meeting at which a decision on the matter shall be made and of the member's right to present a defense at the time and place mentioned in such notice.

A decision of the Grievance Committee may be appealed, in writing, to the Executive Committee of this Association. Within forty-five (45) days of receipt of any such notice of appeal, the Executive Committee shall meet to determine whether the decision of the Grievance Committee should be sustained or reversed. Prior to making any decision on the matter appealed, a statement of the charges shall be mailed by certified mail to the member at the member's last recorded address at least fifteen (15) days in advance of any meeting of the Executive Committee at which the matter shall be considered. This statement shall be accompanied by a notice of the time and place of the Executive Committee meeting at which a decision on the appeal shall be made and of the member's right to present a defense at the time and place mentioned in such notice.

The Executive Committee may sustain or reverse the decision of the Grievance

THE EXECUTIVE COMMITTEE may sustain or reverse the decision of the Grievance Committee upon the majority vote of the membership of the Executive Committee of this Association.

5.5 Appeal from the Decision of the Executive Committee. A decision of the Executive Committee may be appealed, in writing, to the Board of Directors of this Association. Within forty-five (45) days of receipt of any such notice of appeal, the Board of Directors shall meet to determine whether the decision of the Executive Committee should be sustained or reversed. Any appeal from a decision of the Executive Committee shall be decided upon a majority vote of the Board of Directors of this Association provided that a statement of the charges was mailed by certified mail to the member at the member's last recorded address at least 15 days before final action is taken thereon. This statement shall be accompanied by a notice of the time and the place of the Board of Directors' meeting at which a decision on the appeal shall be made and of the member's right to present a defense at the time and place mentioned in such notice.

5.6 Confidentiality. All information relating to any action involving a member and which is provided to any member of the Grievance Committee, the Executive Committee or Board of Directors in their capacity as a representative of this Association shall be kept strictly confidential. Any such member's disclosure of such information to any person not otherwise serving on the same Committee or Board will subject the member to removal from office for cause and sanctions in accordance with these Bylaws.

## **ARTICLE SIX RE-INSTATEMENT**

6.1 Conditions of Reinstatement. Any member sanctioned for non-payment of dues, assessments or monies owed to this Association or for cause may be reinstated by the Board of Directors provided all dues and assessments and monies owed the Association due at the time the member was expelled, together with all dues, assessments and monies that became due subsequent to the date the member was expelled, up to the date of reinstatement, are paid to the Association.

## **ARTICLE SEVEN DUES**

7.1 Fiscal Year. The fiscal year of this Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December.

7.2 Power to Establish Dues. The annual dues for membership shall be fixed by the Board of Directors, whose decision thereon shall be submitted to the general membership for ratification at the Annual Meeting of the Membership.

7.3 Payment of Dues. Dues shall be payable annually in advance. Any member whose dues remain unpaid for sixty (60) days after the fiscal year begins may be placed on probation, suspended or expelled from this Association by the Executive Committee.

7.4 Dues Non-refundable. Dues shall not be refundable to any member whose membership is terminated for any reason.

7.5 Power to Establish Assessments. The Board of Directors may, by a two thirds majority vote of all members of the Board of Directors, recommend special assessments.

These recommendations must be approved by a majority of the members present and voting at the annual Meeting of the Membership. If approval is granted, all members shall pay the assessment. Failure to do so shall be cause for expulsion.

## **ARTICLE EIGHT GOVERNANCE AND ORGANIZATION**

8.1 Board of Directors. The affairs of this Association shall be governed by a Board of Directors, which shall consist of the President, who shall serve as Chair, the Vice President, Secretary/Treasurer, the immediate Past President, one or more National Directors, and at least three members of the Association.

8.2 Annual Meeting of the Board of Directors. The Board of Directors shall meet at least once each year prior to the annual Meeting of the Membership. It may hold additional meetings at the call of the President or at the call of a majority of the Board Members, should the President fail to act.

8.3 Meetings of the Board of Directors. Written notice of Board Meetings shall be mailed by the Secretary to each Board member at least fifteen days in advance of each meeting. This provision can be waived only by the consent of the majority of the Board members by signing a waiver of such notice prior to the meeting. Directors shall have the power to appoint a member of this association as their proxy, provided said appointment is in writing. A quorum must be present for the Board of Directors to conduct Association business. A majority of the members of the Board shall constitute a quorum.

The Board of directors shall be permitted to conduct by mail, email and telephone any and all business that shall arise between scheduled meetings, and to vote by mail on such matters as are presented to it for a vote. In such cases, the majority vote of all Directors on record at such time shall be required to approve such measure. A period of thirty (30) days shall be afforded each Director to return his or her vote to the Secretary. The action of the Board between Annual Meetings of the Association shall be final and binding unless and until modified by the general membership at the Annual Meeting of the Membership.

8.4 Responsibilities of the Board of Directors. The Board of Directors shall be responsible to:

- 8.4.1 Establish the policies of the Association;
- 8.4.2 Fix the amount of bond required of the Treasurer, if any;
- 8.4.3 Fix the compensation, if any, of the Association officers;
- 8.4.4 Hear appeals from membership applicants whose applications for membership are declined by the Membership Committee;
- 8.4.5 Hear and determine appeals from grievance decisions made by the Executive Committee;
- 8.4.6 Suspend or expel any member for due cause;
- 8.4.7 Remove any officer or committee member for cause;
- 8.4.8 Meet as a Committee of the Whole once each year prior to the Annual Meeting of the Membership for the purpose of nominating officers and directors for the ensuing year;
- 8.4.9 Fill any officer or director vacancies, should these occur between annual Meetings of the Association, by a majority vote of the Directors; and Conduct such other business that shall be necessary and proper;
- 8.4.10 Determine the number of directors, providing that number shall always be a minimum as defined in 8.1 but may have more directors.

8.5 Indemnification. Every Director, Officer or employee of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be made a party, or in which he or she may become involved, by reason of his or her being or having been a Director, Officer, or employee of the Association at the time such expenses are incurred, except in such instances wherein the Director, Officer, or employee is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director, Officer or employee may be entitled.

8.6 Insurance. The Association shall maintain a policy of Director and Officer Liability and Corporate Reimbursement Insurance sufficient to insure the Association for reasonable risks associated with this exposure.

The Association shall maintain a policy of general business liability insurance sufficient to insure the Association for reasonable risks associated with its operation.

## **ARTICLE NINE OFFICERS**

9.1 Description. The Officers of this Association shall be President, Vice President, Secretary/Treasurer and Immediate Past-President. The Officers shall constitute an Executive Committee of the Association which will advise and aid the Board of Directors on all matters concerning the interest and management of the business of the Association.

## **ARTICLE TEN ELECTIONS**

10.1 Nominations of Unit Officers. The President, Vice President and Secretary/Treasurer of the Association shall be elected during the Annual Meeting of the Membership. The Board of Directors, acting as a Committee of the Whole, shall nominate the officers herein provided for at the Board of Director's meeting prior to the Annual Meeting of the Membership. Nominations may also be made from the floor.

10.2 Election of Unit Officers. During the annual Meeting of the Membership, voting for officers so nominated shall be conducted by secret ballot, provided however, that such secret ballot shall be waived where any given nominee is not opposed. All officers shall take office immediately upon their election and shall serve in office until the next annual Meeting of the Membership and until their successors are elected. The Secretary shall provide the Chief Executive Officer of ACA International with at least fourteen (14) days prior notice of an election or appointment of Unit Officers and with the results of such election within thirty (30) days thereof.

10.3 Nominations of Unit Directors. The Unit Directors shall be elected during the annual Meeting of the Membership. The Board of Directors, acting as a Committee of the Whole, shall nominate the Directors herein provided for at the Board of Director's meeting prior to the Annual Meeting of the Membership. Nominations may also be made from the floor. During the annual Meeting of the Membership, voting for Directors so

nominated shall be conducted by secret ballot, provided however that such secret ballot shall be waived where any given nominee is not opposed. The Secretary shall provide the Chief Executive Officer of ACA International with at least fourteen (14) days prior notice of an election or appointment of Unit Directors and with the results of such election within thirty (30) days thereof. The term of service of a Unit Director shall be determined by the Board of Directors of the New York State Collectors Association.

10.4 National Director Qualifications. Directors who shall be qualified to serve on the ACA International Board of Directors shall be limited to those persons whose business or any portion thereof, is related to the collection of third party debt. The term of service for a National Director shall be determined by the Board of Directors of the New York State Collectors Association

10.5 Nominations of National Directors. The National Directors shall be elected during the annual Meeting of the Membership. The Board of Directors, acting as a Committee of the Whole, shall nominate the Directors herein provided for at the Board of Director's meeting prior to the Annual Meeting of the Membership. Nominations may also be made from the floor. During the annual Meeting of the Membership, voting for National Director candidates so nominated shall be conducted by secret ballot, provided however that such secret ballot shall be waived where any given nominee is not opposed.

Nominations for the National Director positions shall be limited to those persons who have been members of the Association for at least twelve (12) months. The Secretary shall provide the Chief Executive Officer of ACA International with at least fourteen (14) days prior notice of an election or appointment of National Directors and with the results of such election within thirty (30) days thereof.

10.6 Balloting. In all elections conducted by secret ballot, the Secretary/Treasurer shall determine the eligibility of each member's designee to cast ballots. In the event his or her decision is contested, the final authority shall rest with the Executive Committee whose majority decision of those voting on the Committee shall prevail.

## **ARTICLE ELEVEN COMMITTEES**

11.1 Committees. Immediately after being elected to office, the President shall appoint the following committees to serve for one year: Membership, Grievance, Convention, Publications, Education, Audit and Legislative. The President may appoint such other committees as he or she may deem necessary and appropriate.

## **ARTICLE TWELVE MEETINGS OF THE GENERAL MEMBERSHIP**

12.1 Annual Meeting of the Membership. The annual Meeting of the Membership shall be held at a time and place to be fixed by the Board of Directors. It shall be held at approximately the same time each year. Special meetings of the Membership may be called at such time and place as may be fixed by the Board of Directors. Unless otherwise stated in these Bylaws, notice of all meetings shall be mailed to each member at least fifteen (15) days before the date of the meeting.

## **ARTICLE THIRTEEN AMENDMENTS**

13.1 Amendments to Bylaws. Amendments to the Bylaws may be ratified at any meeting of the Association or by mail ballot. A majority of the members who vote shall determine whether a proposed amendment is adopted or rejected. Such proposed amendments shall be submitted in writing, by the Board of Directors to the Secretary/Treasurer who shall determine whether the balloting is to be conducted by mail or by the membership at its next meeting. The Secretary/Treasurer's choice of procedure may be reversed by a majority vote of the Directors. The Secretary/Treasurer shall mail a copy of each proposed amendment to every member of the Association within forty-five (45) days after receipt from the Board of Directors.

13.2 Balloting and Voting Procedures. If balloting is to be conducted by mail, the Secretary/Treasurer shall attach a ballot for each article of the Bylaws affected by the proposed amendment. If balloting is to be conducted at an annual or special meeting of the membership, the Secretary/Treasurer shall provide a notice of the date, time, and place of such meeting to every member along with a copy of the proposed amendments.

The mail ballots shall be in a form which provides a space for the member to: indicate acceptance or rejection of the proposed amendment(s), insert the date, sign their name as an individual, and print the name of the member of record they represent. The ballots shall be returned to the Secretary/Treasurer within 21 days after the postmark date on the envelope mailed from the office of the Secretary/Treasurer. The balloting shall be tallied by the Secretary/Treasurer on the 30<sup>th</sup> day following the day the proposed amendments were mailed to the members.

13.3 Record Retention and Inspection. The Secretary/Treasurer shall notify the President of the voting results on this same day. The ballots and the envelopes used to mail the ballots to the Secretary/Treasurer shall be retained as property of the Association for a period of two years during which time any member of the Association may inspect the ballots in the presence of the Secretary/Treasurer. Such property shall be available for inspection at all meetings of the association during this two-year period. The Secretary/Treasurer may appoint any member of this association to be his or her deputy for the specified purposes of mailing the proposed amendments and ballots, tallying the votes and witnessing the inspection of the ballots.

13.4 Ad Hoc Elections Committee. In all elections conducted by secret ballot the President shall appoint an Ad Hoc Elections Committee to tally the ballots and certify the election. The Election Committee shall be made up of four members of the Association, provided none of them has been nominated for any elected position at the annual Meeting of the Membership.

## **ARTICLE FOURTEEN EXECUTIVE COMMITTEE POWERS**

14.1 President. The President shall preside at all meetings, serve as the Executive Officer of the Association, serve as Chair of the Board of Directors, sign all official documents, appoint all committees and generally supervise the affairs of the Association. He or she will countersign all checks drawn upon Association funds in excess of \$1,000.

14.2 Vice President. The Vice President shall advise and assist the President and perform all the duties of the President when the latter is absent or in any manner unable to serve. He or she shall be the President in the event the President's office is vacated by death, resignation or any event which makes it impossible for the President to carry out the duties and responsibilities of his or her office. Upon completion of his or her term of office, the Vice President shall be nominated for the office of President by the Board of Directors unless he or she declines to accept such nomination or unless the Board fails to reach a majority vote for such nomination.

reach a majority vote for such nomination.

14.3 Immediate Past President. The Immediate Past President shall advise with and assist the President in the affairs of the Association.

14.4 Secretary/Treasurer. The Secretary/Treasurer shall have charge of the records and correspondence of the Association and perform the following duties as required:

14.4.1 Sign all orders for payment of money for the expenses of the Association;

14.4.2 Keep the records of the proceedings of the meetings of the Association and the Board of Directors;

14.4.3 Affix the corporate seal to all documents so required;

14.4.4 Keep the membership records showing the names and addresses of each member together with the name of each members designee;

14.4.5 Keep the records of all other matters of the Association and comply with all requirements otherwise imposed upon the Unit pursuant to the ACA International Bylaws and Standard Operating Procedures;

14.4.6 Comply with all notice requirements as provided for in these Bylaws;

14.4.7 Send copies of the Minutes of all Board meetings to each member of the Board;

14.4.8 Distribute the Unit Membership Certificates upon payment of dues;

14.4.9 Prepare a list of all members and their membership designee, at the end of the first quarter of each fiscal year;

14.4.10 Have custody of and be responsible for all funds and securities of the Association and deposit all such funds of the Association in accordance with the resolution of the Board;

14.4.11 Have charge and control of all disbursements of funds, record and account for all receipts and disbursements and make a report of same once each year to the Board of Directors and the annual meeting of the Board of Directors and to the general assembly at the annual Meeting of the Membership;

14.4.12 Set up and keep the books of the Association in such a manner that the books will show at all times the amount of money collected, the purpose for which same was collected, amount of money disbursed, the purpose for which same was disbursed and the balance in the Treasury;

14.4.13 Prepare the non-profit tax return for the Association and file it with the Internal Revenue Service; and

14.4.14 Be responsible for the billing and collection of each member's dues and assessments and other monetary obligations owed to this Association and ACA International.

## ARTICLE FIFTEEN

## **PARLIAMENTARY PROCEDURES**

15.1 Parliamentary Procedure. In all questions of order and parliamentary procedure not covered by these Bylaws or State law, Robert's Rules of Order shall govern. The President may appoint any person as Parliamentarian who is well versed in recognized Parliamentary Law to advise the presiding officer at any given meeting.

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By-laws -- New York State Collectors Association -- Dated October, 2002