

VOLUME 10

“INDEBTEDNESS”

SUMMARY OF VOLUME 10 CHANGES

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VOLUME VERSION	SUMMARY OF CHANGE	ORIGINATION DATE	DATE OF CHANGES
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Submit recommended changes to this Volume, via the proper channels, to:

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VOLUME 10: INDEBTEDNESS

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REFERENCES

- (a) SECNAVINST 5430.7R CH-1
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62B
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.
Annotation of each update/change/addition to the References list is required.

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VOLUME 10

“INDEBTEDNESS”

SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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INDEBTEDNESS

0101 PURPOSE

This Volume establishes Marine Corps policy and procedure for processing certain debt complaints against active-duty Service Members from creditors and debt collectors. Financial support of dependents is governed by Volume 9 of this Order.

010101. The following types of debts are not processed under this Volume, but are processed using Department of Defense (DoD) Financial Management Regulation (FMR) procedures:

- A. Garnishments and involuntary allotments for enforcement of child support and alimony obligations and involuntary allotments for debts reduced to judgment other than for child or spousal support (FMR, Vol. 7A, Ch. 41);
- B. Collection of debts owed to and collected by the DoD (FMR, Vol. 16, Ch. 2, 3 and 4); and,
- C. Salary offset for delinquent government travel card debt (FMR, Vol. 7A, Ch. 43 and Vol.16, Ch. 2).

010102. The activity responsible for this Volume is the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps.

0102 POLICY

010201. Marines are expected to manage their personal affairs satisfactorily and pay their financial obligations in a proper and timely manner. A Marine's dishonorable failure to pay just debts may result in administrative or disciplinary action, which can include nonjudicial punishment, the initiation of court-martial proceedings and/or administrative separation proceedings. Indebtedness also may adversely impact security clearances. (32 CFR Part 147)

010202. Enforcement of private obligations is a matter for civil authorities. Except as otherwise authorized by statute or regulation, the Marine Corps has no legal authority to require Marines to pay a private debt or to divert any part of their pay for its satisfaction. The extent to which commanding officers may assist original creditors is limited to administrative referral of the complaint to the Marine.

010203. Whenever possible, indebtedness disputes should be resolved through amicable means between the parties. The Marine's chain of command shall not attempt to arbitrate disputed debts or act as a collection agent. Commanders will not tell a creditor whether adverse action has been or will be taken against the Marine as a result of the claim.

010204. Debt complaints meeting the requirements of this Volume shall receive prompt processing assistance from commanders.

010205. Assistance with indebtedness matters should not be extended to those who have not made a bona fide effort to collect the debt directly from the Service Member, whose claims are patently false and misleading, or whose claims are obviously exorbitant.

010206. Assistance with indebtedness matters shall not be extended to debt collectors or creditors who violate applicable Federal or State law. Commanders are encouraged to report violators to the installation Inspector and to the officer in charge of the appropriate Legal Assistance office.

010207. Commanders should contact the appropriate Staff Judge Advocate for assistance with questionable indebtedness complaints.

010208. Service Members and their families who are victims of suspected illegal debt collection activity should be encouraged to consult military legal assistance counsel who can advise them on filing complaints with the Consumer Financial Protection Bureau, Federal Trade Commission, and other government agencies and possible civil court action against the debt collector. Commanders are encouraged to provide copies of correspondence to the Marine concerned.

0103 CREDITOR AND DEBT COLLECTOR DEFINED

010301. A creditor is any person who offers or extends credit creating a debt owed to that person. State law generally regulates the conduct of creditors collecting on their own behalf. Such laws are often similar to the Fair Debt Collection Practices Act (FDCPA) and may require them to have a court order or consent of the debtor prior to contacts with third parties, including the debtor's command. Such laws may also require that the consent be in writing and given after default. Generally, the military Services comply with State law when that law does not infringe upon significant military interests.

010302. A debt collector is normally a third party attempting to collect a debt on behalf of the original creditor. The FDCPA prohibits debt collectors, as defined therein, from contacting third parties, such as commanding officers, in connection with the collection of a debt unless they have a valid court order or prior consent of the debtor.

0104 PERSONAL FINANCIAL RESPONSIBILITY AND EDUCATION

010401. Commanders must ensure that members of their command are instructed in financial responsibility, the Marine Corps policy concerning indebtedness, and the avoidance of predatory, unfair, deceptive, and abusive consumer practices. Personal financial education classes, including such subjects as insurance, government benefits, savings, credit and debt management, budgeting, and other financial education and assistance, may only be presented by persons and organizations authorized by the DoD and Service regulations.

010402. Before making decisions that impact their financial welfare, Marines are strongly encouraged to seek financial education, training, counseling, and their unit Command Financial Specialists, the Marine Corps Community Services Personal Financial Management Specialists, and/or Legal Assistance attorneys. Approved non-profit entities may assist Marines. In providing counseling, these entities may not endorse or favor any commercial supplier, product, or service, or promote the services of a specific financial institution.

010403. Marines and family members who are being subjected to unfair or unconscionable debt collection tactics from debt collectors, or who are the target of threatening scammers alleging nonpayment of fictitious debts, should seek legal assistance immediately. Commanders who become aware of such cases should inform the appropriate Staff Judge Advocate.

0105 PROCESSING DEBT COMPLAINTS

010501. Requests for Locator Service. Creditors seeking locator information for Marines should send a written request to Headquarters U.S. Marine Corps, Manpower Management Records and Performance Branch, 2008 Elliott Road, Quantico, VA 22134-5030 (phone number: 1-800-268-3710). There may be an associated processing fee. Base locators are also available at all major Marine Corps installations.

010502. Debt Complaints Based on Dishonored Checks

A. Writing checks against an account with insufficient funds is a serious matter. Doing so may result in civil or criminal penalties, including disciplinary action under the Uniformed Code of Military Justice (UCMJ) or administrative separation proceedings.

B. Checks made good within five days of notice do not require any command action if the complaint is based on bank error, failure to date the check, inconsistent or not legible amounts shown on the check, and/or lack of a legible signature.

C. Dishonored checks written by family members are not processed under this Volume. Generally, Service Members are not responsible for repaying dishonored checks written by their family members absent evidence of personal involvement in criminal conduct by the Service Member; however, dishonored checks may result in suspension of the Service Member's check cashing privilege aboard the installation. Commanders should consult with the appropriate Staff Judge Advocate.

010503. Complaints from Creditors

A. Creditors contacting commands should be informed that all debt complaints must be submitted in writing.

B. Creditors must submit the following with their debt complaint: (1) information sufficient to identify the Marine and his or her unit; (2) a copy of the contract or other instrument establishing the obligation to include a copy of applicable consumer credit disclosures given to the Marine during the credit transaction, as required by Federal and State law; (3) evidence of their attempts to contact the Marine before asking for command assistance; and (4) the Marine's written consent authorizing contact with third parties regarding the matter.

C. Complaints not meeting the requirements of this Volume will be returned to the creditor without further action.

D. Creditors who abuse the debt complaint process may be denied assistance. This includes those who contact the command in violation of applicable Federal and State law requiring a court order or permission from the debtor to contact the command.

0106 COMMAND STEPS

010601. Complaints received alleging indebtedness of a Marine who is no longer a member of the command will be forwarded to the Marine's new command. If the individual has been separated from the Marine Corps, the correspondence will be returned to the sender so informing the party. The creditor may be informed of the Marine's new military address (except in the case of a

deployed unit), but in no case shall the permanent (home) mailing address be disclosed, except as may otherwise be authorized under the Freedom of Information Act or Privacy Act of 1974.

010602. Commanders receiving a complaint that meets the requirements of this Volume shall:

A. Review the evidence submitted. Questionable claims should be discussed with the appropriate Staff Judge Advocate and incomplete claims should be returned to the creditor.

B. Advise the Marine that just financial obligations are expected to be paid in a timely manner, and that failure to pay just debts may lead to administrative or disciplinary action within the Marine Corps and to civil action by the creditor seeking a judgment from a civilian court for the amount of the debt. Advise the Marine of the opportunity to seek legal assistance and financial counseling with regard to resolving the indebtedness.

C. Consult the appropriate Staff Judge Advocate when the Marine is suspected of criminal conduct. Questioning the Marine when criminal conduct is suspected requires that the Marine be advised of his or her rights under Article 31(b), UCMJ.

D. After discussing the complaint with the Marine, inform the creditor, , without commenting on the merits of the claim, that the complaint was brought to the Marine's attention.