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What You Should Know About Collection Agencies

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Karen Hartney laughed when she pulled the lavishly illustrated book on Galapagos Islands wildflowers out of her mailbox. She hadn't ordered the book, wasn't about to pay for it, and felt no obligation to go to the trouble and expense of returning it.

Two weeks later, she was billed \$29.95, plus mailing and handling. She threw the statement in the trash. In time, the letters grew nasty, demanding payment and warning that her credit rating would suffer if she didn't respond promptly. When a collection agent began calling her at work, she snapped.

"Leave me alone," Karen hissed. "I never wanted that dumb book anyway!"

"You might have thought of that before you decided to keep it," the man responded. "I think the word for taking things that aren't yours is 'stealing.'"

Karen (whose name has been changed) was furious-- but also worried. Could the collection agency harm her credit rating, contact her employer, neighbors, landlord? Most of all, she just wanted the harassing calls and letters to stop. Though resentful, she mailed the payment-- now a full \$37.50, including interest and collection charges.

Karen's case is not an isolated one. Despite the strong new consumer protection laws passed in recent years, abuses still exist, and a sizeable minority of retailers and collection agencies engage in such illegal collection practices. Charging for unordered goods is only one of the many activities that are prohibited by federal law. (If, by the way, you receive unrequested merchandise as Karen did, you are under no obligation to pay. You may treat it as a free gift, but you should notify the sender, in writing, of your intention as soon as you receive a "bill".)

The thorniest problems occur when a debt is truly owed and a consumer, through overextension or inadvertence, falls behind in paying it. In this case, the account is often turned over to a collection agency, which may behave unethically in its effort to recoup the money.

"Some of the most extreme cases we see involve actual threats of violence," reports Diane Conner, staff attorney for the Credit Practices Division of the Federal Trade Commission (FTC). "Children have been told over the phone, 'Tell your parents they're going to jail tomorrow if we don't get the money.' We've also heard about collection agencies trying to add on illegal fees of up to 100 percent of the original debt."

Federal law protects you against such abusive practices. By knowing which tactics are illegal and how to stop them, you can avoid being a victim.

BEYOND THE LEGAL LIMIT

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The following are violations of consumer protection laws:

REPETITIVE CALLING OR CALLS AT UNUSUAL TIMES OR PLACES. Some collection agents will call a consumer repeatedly during a single day, or telephone late at night without permission-- both of which are clearly illegal under the Fair Debt Collection Practices Act (FDCPA).

Calls at work are not considered "harassing" if an office is the most convenient place for you to receive the call-- but, says Diane Conner, "If the agent knows that your employer does not allow you to receive personal calls at work, or if you've asked not to be contacted there, then it would be a violation."

CALLS TO PERSONS OTHER THAN THE CONSUMER. If a collection agent has business with you, you are the only person with whom he may discuss that business. "We frequently hear that a collection agent has called an employer, or perhaps a neighbor, and left an 'urgent message' that the consumer should call XYZ Collection Agency regarding payment of a debt," reports Bill McDonough, an FTC staff attorney. "The only motive would be to embarrass the consumer, and it's against the law."

ABUSIVE, OBSCENE, OR THREATENING LANGUAGE. Late bill payers have been called deadbeats and bums, subjected to rude and obscene language, and given veiled as well as direct threats of violence and imprisonment. If this happens, end the conversation immediately, requesting that you never be contacted again. Follow up with a brief letter barring future contact with the collection agency. You may then wish to file a complaint with the FTC or state consumer protection agency, or pursue private legal action.

MISLEADING THREATS OF LEGAL ACTION. No one has the right to make false threats or to claim that legal action has been or is about to be instituted if that's not the case. Also prohibited are papers that look like official notices from a state agency or court of law-- including documents with headings that mimic a common legal form (such as "Ace Collection Agency v. Jane Consumer") or ones that use an agency name similar to that of a state or federal agency.

OTHER ABUSIVE BEHAVIOR. Because debt collectors show infinite ingenuity, the Fair Debt Collection Practices Act covers scores of other forbidden tricks, from tacking on collection charges not authorized by contract or law, to using false names and publishing lists of consumers in debt. Realizing that it could not foresee every possible abuse, Congress even added a prohibition against any "harassing, oppressive, and abusive conduct"-- a general phrase that increases the power of the courts and the Federal Trade Commission to protect you against improper collection practices.

STEPS TOWARD SELF-DEFENSE

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What can you do if you're the victim of an overeager collection agency? Your first and simplest option under the FDCPA is to request in writing that all collection contacts stop. Once you do that, the collection agency is not allowed to call or write to demand payment; it can only advise you of new action, such as the referring of your account back to the creditor or the filing of legal action.

If the harassment continues, you may wish to contact your state consumer agency. According to Cyra Narva of the Consumer Assistance Division of the Massachusetts State Banking Department, these agencies will often intervene to solve the problem. "Usually," Narva reports, "the consumer is content just to know that the rug has been pulled out from under the collection agency and that the abusive practices will stop."

The agencies won't compensate you for their past harassment; however a successful lawsuit might. You could bring suit under the FDCPA and, if successful, recover a cash judgement of actual damages suffered, attorney's fees, court costs, and a special statutory award of up to one thousand dollars.

"If a consumer has been truly injured," says Willard Ogburn, deputy director of the National Consumer Law Center, "he or she is entitled to be compensated. The fact that attorney's fees may be recovered in a successful case encourages some attorneys to pursue strong cases on a commission basis, while the possibility of an extra statutory award of up to a thousand dollars acts as an extra incentive to the consumer. Meanwhile, the public interest is served as collection agencies learn that violating consumer protection laws can be very expensive."

Whatever decision you make, you're sure to reap some gratification from simply standing up for your rights and the rights of others like you. Rudeness and abuse need never be tolerated, and you can see to it that they're not.

STOPPING TROUBLE BEFORE IT STARTS	CONSUMER AGENCIES THAT CAN HELP YOU PROTECT YOURSELF
<p>Healthy credit use is not inconsistent with sound personal finance management, but if you overextend, these measures should enable you to resolve the problem without becoming vulnerable to further embarrassment or harassment:</p> <p>IMMEDIATELY CONTEST IN WRITING ANY INACCURATE CHARGES, AND REQUEST VERIFICATION.</p> <p>No collection activities may</p>	<p>THE FEDERAL TRADE COMMISSION (FTC). Your regional office can advise you of your rights and may even make an investigation if a collection agency's abuse has been severe or if yours is one of several complaints against the same agency. Meanwhile, let both creditor and collection agency know that you've alerted the FTC. Their attitudes may not improve, but their behavior</p>

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proceed until a charge is verified: Waiting may make a challenge more difficult.

IF YOU REALIZE THAT YOU ARE NOT GOING TO BE ABLE TO MAKE REQUIRED PAYMENTS ON A DEBT, CONTACT THE CREDITOR. Most are understanding and cooperative if you propose an alternate payment plan at the first sign of trouble. Review your own budget, determine a monthly amount you can afford to pay, then explain the problem to the creditor and offer to pay the lesser amount.

DON'T ALLOW YOUR ACCOUNT TO BE TRANSFERRED TO A COLLECTION AGENCY THROUGH YOUR OWN INACTION. Creditors use collection agencies to goad the reluctant or forgetful. A creditor who understands that you are overextended but doing the best you can will have no reason to resort to such measures.

Many people are too anxious or embarrassed to approach a creditor about difficulty in making payments. Remember that the creditor, whether a merchant or a banker, wants to keep your business. An amicable resolution is in "everyone's" interest.

probably will.

STATE CONSUMER PROTECTION AGENCY. In some states, this government office can arbitrate a dispute and order that abusive practices be stopped. If your debt is undisputed or can be proved, the agency can help you negotiate a reasonable extended-payment plan; it may also have greater power to intervene in an individual case than a regional FTC office would.

To learn what state services are available to protect you against collection harassment, contact your state government information-office or your state attorney general's office.

If the improper conduct comes from an attorney practicing law in the collection area, contact your LOCAL BAR ASSOCIATION, and ask for the disciplinary board or licensing agency that receives complaints against lawyers. They probably won't step in directly; however, a lawyer who knows that a complaint is being checked generally takes more care to act within legal and ethical bounds.

CONSUMER CREDIT COUNSELING AGENCIES. Frequently the problem is less one of outright harassment than of anxiety and increasingly short tempers on both sides. A nonprofit consumer credit counseling agency has no official enforcement power, but it "can" help you assess your financial situation

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| and act as a mediator in making
| more mutually suitable payment
| arrangements.

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