

March 2018

# Fair Debt Collection Practices Act

CFPB Annual Report 2018



# Message from Mick Mulvaney

## Acting Director of the Bureau of Consumer Financial Protection

The Bureau of Consumer Financial Protection and the Federal Trade Commission are pleased to present the 2018 Fair Debt Collection Practices Act (FDCPA) Annual Report.

The Bureau is statutorily required under 15 U.S.C. § 1692m(a) to produce this annual report to Congress with regard to its administration of its debt collection

responsibilities. Under 15 U.S.C. § 1692m(b), the Bureau is allowed to obtain the views of other agencies with enforcement functions under section 1692(l) of Dodd-Frank, and so discussion of the Federal Trade Commission's debt collection activities are integrated throughout this report. In January 2012, the Bureau and the FTC entered into a memorandum of understanding that provides for coordination in enforcement, sharing supervisory information and consumer complaints, preserving the confidentiality of shared information, and consumer education. This report provides an overview of the Bureau's and FTC's activities in the debt collection space in 2017.

In 2017, the Bureau handled approximately 84,500 debt collection complaints, making it one of the most prevalent topics of complaints about consumer financial products or services received by the Bureau. The Bureau resolved one FDCPA enforcement case in 2017, and five others remain pending. The Bureau also filed briefs as *amicus curiae* in two cases in the federal courts of appeals arising under the FDCPA.

Debt collection has consistently remained among the top two most-viewed categories in "Ask CFPB," an interactive online consumer education tool. In 2017, the Bureau also launched a 21-day debt management email course for consumers. The Bureau continued research projects to improve its understanding of the debt collection market and its impact on consumers, including its nationally representative Survey of Consumer Views on Debt and its study of online debt sales. In fulfillment of the Bureau's mandate to monitor the debt collection industry, the Bureau also conducted a survey of major credit card issuers' collection practices for the 2017 Credit Card



Market Report. These research and market monitoring activities have aided in the ongoing development of a potential debt collection rule.

At the Bureau, our priority is to ensure free markets, innovation, and consumer choice by enforcing the law with consistency, prudence, and humility. We remain committed to the execution of our responsibilities under all consumer financial laws within our statutory authority, including the FDCPA, and to educating and empowering consumers to make better informed financial decisions. Going forward, we want to enforce the FDCPA as written while protecting the legal rights of all in a manner that is efficient, effective, and accountable.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mick" above a horizontal line, with "BCFP" written below the line.

Mick Mulvaney

# Message from Maureen K. Ohlhausen

## Acting Chairman of the FTC

For more than four decades, the Federal Trade Commission (FTC) has been protecting consumers from unlawful debt collection practices. Debt collection has important benefits for the availability and cost of credit in the marketplace, but certain debt collection practices, like attempts to collect phony debts or false threats of arrest or imprisonment, harm consumers. For years, debt collection has been one of the largest sources of consumer complaints received by the FTC. Not only do illegal debt collection practices harm consumers, they also harm other debt collectors who have complied with the law, sometimes at significant cost.



The FTC has employed a multipronged effort to protect and educate consumers and collectors. In 2017 alone, the FTC filed or resolved 10 cases against 42 defendants, obtained more than \$64 million in judgments, and banned 13 companies and individuals who engaged in serious and repeated violations of law from ever working in debt collection again. Our recent cases have focused on stopping the most harmful practices relating to collections, like “phantom debt collection” and false and misleading claims, threats, or harassment. Additionally, the FTC has worked to stop other forms of fraud that target consumers in debt. For example, we recently led “Operation Game of Loans,” a federal-state law enforcement sweep against student loan debt relief scams that included 36 law enforcement actions by the FTC and state partners.

In addition to vigorous law enforcement, the FTC also engages in education and public outreach to inform consumers about their rights under the FDCPA and businesses about their obligations under the law. For example, the FTC reaches tens of millions of consumers each year through print and online materials, blog posts, speeches and presentations. The FTC also educates industry members through our business education pieces (logging more than 11 million page views in 2017 to our online Business Center), as well as significant outreach to industry representatives.

The FTC has also undertaken other important initiatives that highlight our debt collection priorities, such as protecting military consumers. This last year, the FTC hosted two public workshops (in which CFPB staff participated) focused on consumer protection issues faced by servicemembers, including collection calls to commanding officers and the potential impact of debt on security clearances. Additionally, the FTC has undertaken an initiative to examine the use of existing and emerging technologies in debt collection, including the costs and benefits to consumers and businesses of such technologies.

Finally, the FTC continues to work closely with our partners at the CFPB to coordinate our valuable respective efforts to protect consumers. Our staffs regularly meet to discuss ongoing and upcoming law enforcement against collectors. We also share consumer complaints, cooperate on consumer education efforts, and consult on debt collection rulemaking and guidance initiatives.

As this Report details, the FTC is committed to protecting consumers and promoting lawful practices in the debt collection market and to working with our law enforcement partners on this important issue. We will remain vigilant in our efforts to monitor this industry and stop unlawful conduct that harms both consumers and businesses.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maureen K. Ohlhausen".

Maureen K. Ohlhausen

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# 1. Introduction

The Consumer Financial Protection Bureau is pleased to submit to Congress its annual report summarizing activities to administer the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* The Consumer Financial Protection Bureau (“CFPB” or “Bureau”) and the Federal Trade Commission (“FTC” or “Commission”) share government enforcement responsibility for the FDCPA. The Commission’s activities during the past year are included in this report. The Bureau and the Commission work closely to coordinate debt collection enforcement actions and other matters related to debt collection.<sup>1</sup>

This report provides a background on the debt collection market; contains an overview of consumer complaints submitted to the CFPB and the FTC in 2017; summarizes the Bureau’s supervisory activities in the debt collection market; describes the Bureau’s and the Commission’s enforcement actions; describes *amicus curiae* briefs filed in cases related to the FDCPA; presents the CFPB’s and the FTC’s consumer education and outreach initiatives; and discusses developments in the Bureau’s research, market monitoring, and rulemaking activities and the FTC’s policy and research initiatives.

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<sup>1</sup> See Memorandum of Understanding between the Consumer Financial Protection Bureau and the Federal Trade Commission (Mar. 2015), available at [https://www.ftc.gov/system/files/documents/cooperation\\_agreements/150312ftc-cfpb-mou.pdf](https://www.ftc.gov/system/files/documents/cooperation_agreements/150312ftc-cfpb-mou.pdf). As part of this coordination, the CFPB and FTC staff regularly meet to discuss ongoing and upcoming law enforcement, rulemaking, and other activities, share debt collection complaints, cooperate on consumer education efforts in the debt collection arena, and consult on debt collection rulemaking and guidance initiatives.



## 2. Background

Debt collection is a \$10.9 billion dollar industry that employs nearly 120,000 people across approximately 8,000 collection agencies in the United States.<sup>2</sup> The debt collection industry affects millions of Americans. According to the Bureau’s Consumer Credit Panel<sup>3</sup>, about 26 percent of consumers with a credit file have a third-party collection tradeline listed. On average, these consumers have about 3.4 collection tradelines listed on their credit reports. Debt collection efforts include calls, letters, filing lawsuits, and other methods to collect alleged debts from consumers.

In the course of attempting to collect debts, debt collectors must adhere to a variety of laws and regulations, which govern topics as diverse as telephone communications (*e.g.*, the Telephone Consumer Protection Act, or “TCPA”) and furnishing information to credit reporting agencies (*e.g.*, the Fair Credit Reporting Act, or “FCRA”) as well as various state statutes. The primary federal law that governs the conduct of debt collectors is the FDCPA,<sup>4</sup> which establishes consumer protections in the debt collection process including the rights to dispute a debt and instruct a collector to stop communication about an alleged debt. The FDCPA prohibits debt collectors from engaging in certain types of conduct in connection with the collection of a debt and imposes certain affirmative obligations on collectors.

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<sup>2</sup> Edward Rivera, *Debt Collection Agencies in the US*, IBIS World, (Dec. 2017).

<sup>3</sup> The Bureau’s Consumer Credit Panel is a longitudinal, nationally-representative sample of approximately five million de-identified credit records maintained by one of the three nationwide credit reporting companies.

<sup>4</sup> 15 U.S.C. § 1692 *et seq.*

The law empowers the CFPB and the FTC to enforce its provisions and establishes a private right of action against any debt collector who fails to comply with any provision of the FDCPA with respect to any person. The FDCPA also requires the Bureau to submit this report on “the administration of its functions” under the FDCPA and enables it to “obtain ... the views” of other agencies that enforce the FDCPA, such as the FTC.<sup>5</sup>

## 2.1 Industry breakdown

Most consumers with collection tradelines on their credit files had medical, telecommunications, or retail debt.<sup>6</sup> However, industry revenue shows a somewhat different distribution across types of debt. Financial services debt is the largest source of revenue for the industry, accounting for more than one-third of all debt collection revenue. Telecommunications debt also accounts for a large share of industry revenue – more than one-fifth.<sup>7</sup> Government, retail, and medical debt are also significant drivers of industry revenue.

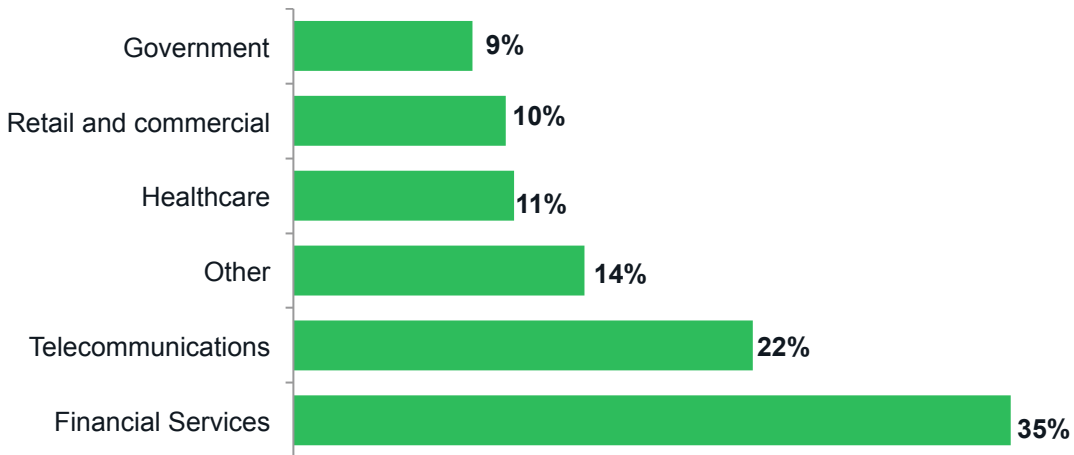
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<sup>5</sup> 15 U.S.C. § 1692m

<sup>6</sup> This data was retrieved from the Bureau’s Consumer Credit Panel, a longitudinal, nationally-representative sample of approximately five million de-identified credit records maintained by one of the three nationwide credit reporting companies.

<sup>7</sup> Edward Rivera, *Debt Collection Agencies in the US*, IBIS World, (Dec. 2017).

**FIGURE 1:** DEBT COLLECTION MARKET SEGMENTS BY SHARE OF REVENUE, 2017 (IBIS WORLD)



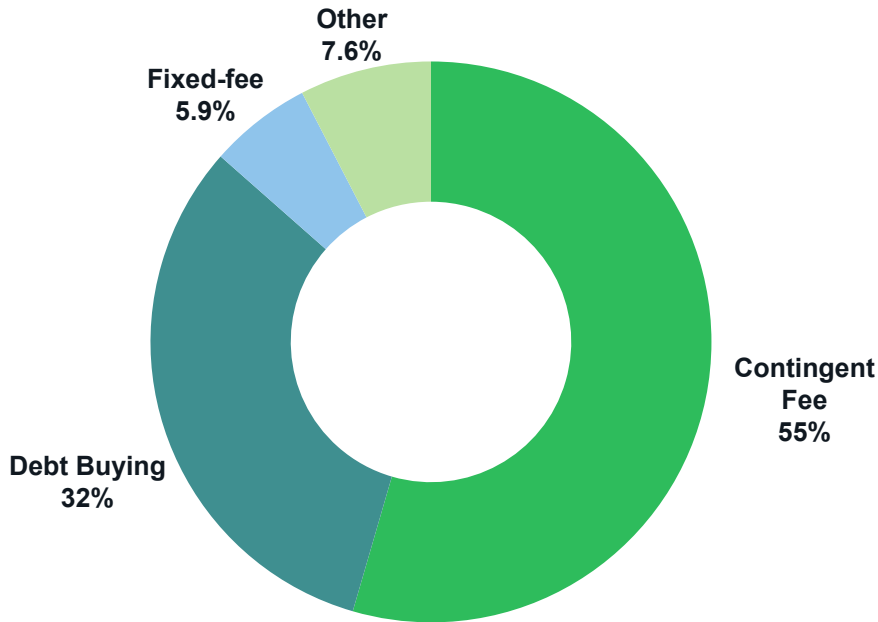
More than one-half of the industry's revenue, about \$5.9 billion, is generated by firms contracting with creditors to collect their debts on a contingency fee basis. In contingency fee collections, the creditor and the collector each receive a share of the amount collected.

About one-third of debt collection revenue, \$3.5 billion, comes from debt buyers, who purchase accounts from the original creditor or other debt buyers and then generally seek to collect on that debt, either themselves or through third-party debt collectors.<sup>8</sup> Although they represent about one-third of industry revenue, this overstates debt buyers' share of dollars collected, since debt buyer revenue includes all amounts recovered whereas the revenue of contingency collectors includes only the share of recoveries retained by the collector.

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<sup>8</sup> *Id.*

**FIGURE 2:** DEBT COLLECTION AGENCY TYPES BY SHARE OF REVENUE, 2017 (IBIS WORLD)

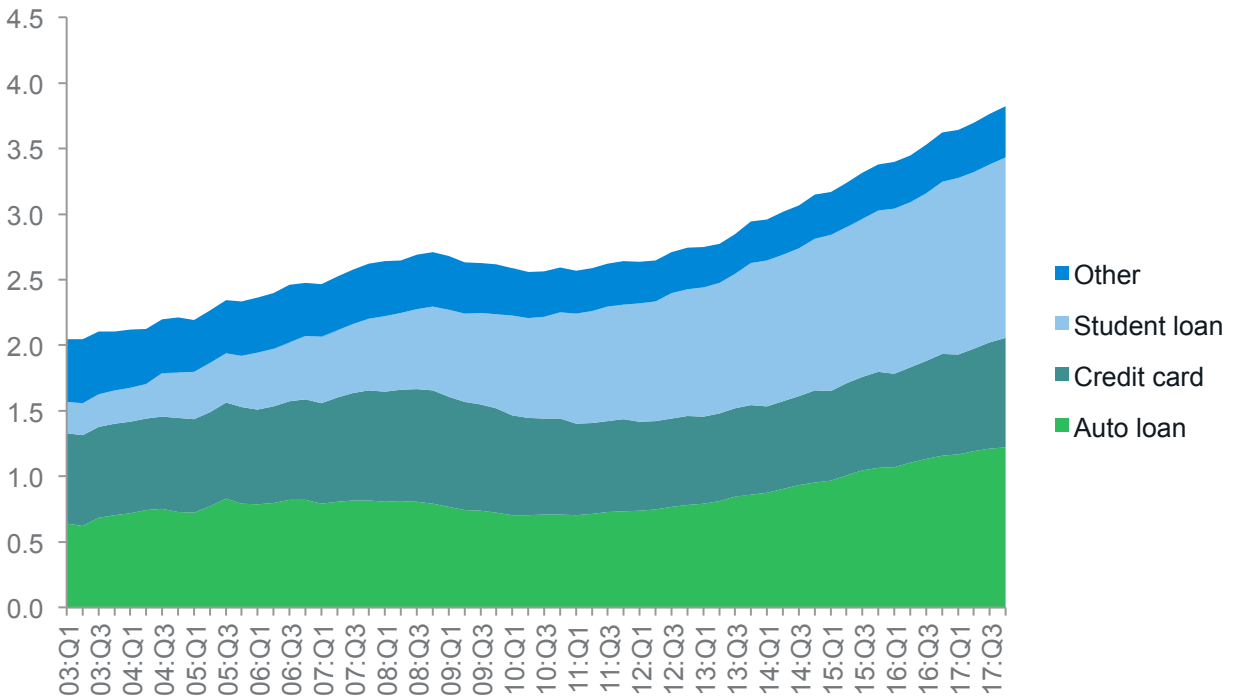


The debt collection industry is subject to considerable influence by the credit cycle, which determines how much charged-off debt is available to collect. As a result of increased consumer debt, especially in non-housing categories where debt collectors are most frequently employed, it appears likely that the availability of debt to collect will increase. This would be especially likely if an unfavorable change in economic circumstances made it more difficult for consumers to pay their obligations.

After several years of growth, consumer debt surpassed its 2008 peak in 2017, and much of that growth has been fueled by non-housing debt, including credit cards, student loans, and auto

loans. In 2017 alone, credit card debt rose by \$55 billion, student loan debt grew by \$68 billion, and auto loan debt increased by \$64 billion.<sup>9</sup>

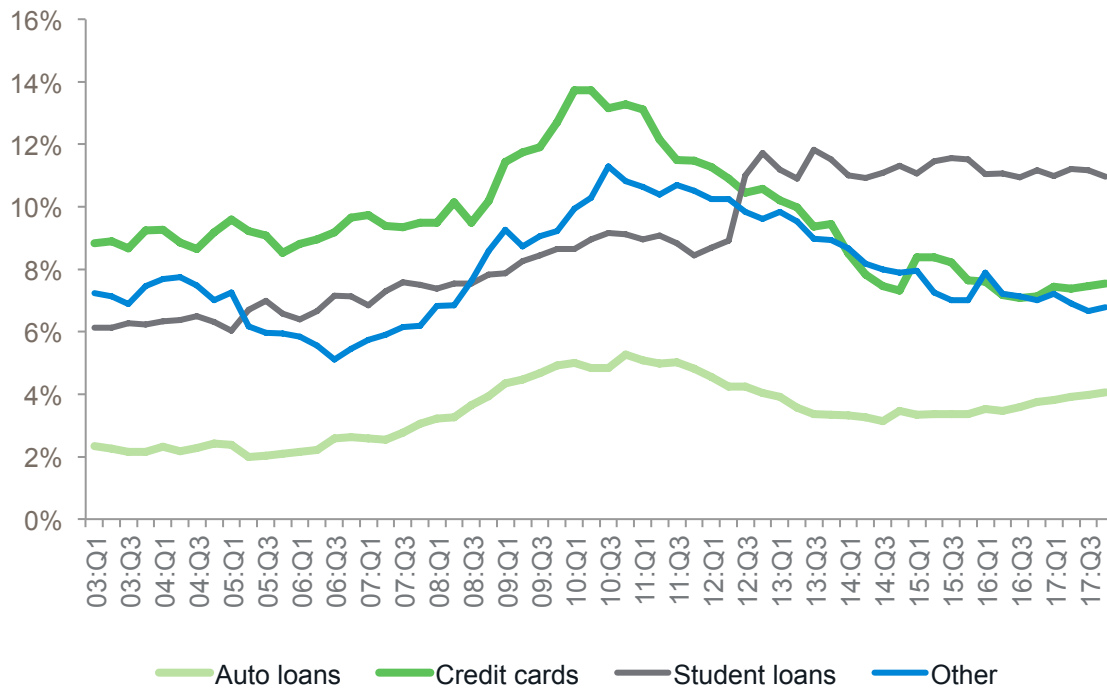
**FIGURE 3:** NON-HOUSING CONSUMER DEBT BALANCES (IN TRILLIONS), 2003–2017 (FRBNY CONSUMER CREDIT PANEL/EQUIFAX)



While student loans and auto loans have exhibited the most notable increases in debt balances over time, the flow into 90+ days delinquency for auto loans has been increasing slowly and steadily since 2012 after years of increased lending to subprime borrowers.

<sup>9</sup> Center for Microeconomic Data, *Quarterly Report on Household Debt and Credit Report 2017: Q4*, Federal Reserve Bank of New York (Feb. 2018), available at <https://www.newyorkfed.org/microeconomics/hhdc.html>.

**FIGURE 4:** PERCENT OF NON-HOUSING BALANCES 90+ DAYS DELINQUENT, 2003-2017 (FRBNY CONSUMER CREDIT PANEL/EQUIFAX)



Similarly, outstanding credit card debt continues to increase, surpassing \$800 billion for the first time ever in 2016. Credit card debt per-consumer has been steadily and clearly trending toward pre-recession levels. At the end of 2016, average consumer balances were over \$4,800, which was the highest figure observed in the Bureau’s Consumer Credit Panel as of the fourth quarter of 2017.<sup>10</sup> As with auto lending, the flow into 90+ days delinquency for credit card balances has been growing considerably in the past year, which can be seen in Figure 4 above.

<sup>10</sup> Consumer Financial Protection Bureau, *Consumer Credit Card Market Report*, (Dec. 2017), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-report-state-credit-card-market/>.

## 3. Consumer complaints

The CFPB is required to maintain a consumer complaint system to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The CFPB began taking consumer complaints about debt collection in July 2013.

The FTC also accepts complaints from consumers about problems they experience in the marketplace. These complaints are stored in the Consumer Sentinel Network (Sentinel), a secure online database available only to law enforcement. The CFPB shares complaint information with the FTC's Consumer Sentinel system.

### 3.1 Number and types of complaints handled

As in years past, debt collection remains one of the most complained about consumer financial products or services in the Bureau's complaint system. From January 1, 2017 through December 31, 2017, the CFPB handled approximately 84,500 debt collection complaints. These complaints relate to first-party (creditors collecting on their own debts) and third-party collections. Table 1 shows the types of debt collection complaints the CFPB has handled. For each of the six issues listed in Table 1, consumers also select additional, more-detailed sub-issues when submitting a complaint.

**TABLE 1: TYPES OF DEBT COLLECTION COMPLAINTS REPORTED BY CONSUMERS** <sup>11</sup>

<b>Types of debt collection complaints</b>	<b>%</b>
Attempts to collect debt not owed	39%
Written notification about debt	22%
Communication tactics	13%
Took or threatened to take negative or legal action	11%
False statements or representation	10%
Threatened to contact someone or share information improperly	4%
Total debt collection complaints	100%

As indicated in Table 1, the most common debt collection complaint is about attempts to collect a debt that the consumer reports is not owed. The vast majority of these consumers report that the debt is not their debt (57 percent) or that the debt was paid (27 percent), while the remaining consumers report that the debt resulted from identity theft (11 percent) or was discharged in bankruptcy and is no longer owed (5 percent). In response to many of these complaints, third-party collectors close and return the account to their clients or provide the consumer with additional information about the account.

Complaints involving written notifications about debt are the second-most common issue selected by consumers (see line 2 in Table 1). The FDCPA requires collectors within five days after the initial communication with a consumer to provide the consumer with a written notice informing them, among other things, of their right to dispute, unless this information is contained in the initial communication or the consumer has paid the debt. Most consumers who complain about written notifications report they have not received enough information to verify

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<sup>11</sup> Percentages may not sum to 100% due to rounding.



the debt (72 percent). Some consumers complain that they did not receive a notice of their right to dispute (24 percent), while others report that the notification did not disclose that it was an attempt to collect a debt (5 percent).

Complaints about communication tactics used when collecting debts were the third-most common issue complained about in 2017 (see line 3 of Table 1) with many of these types of complaints concerning communications by phone. The majority of complaints about communication tactics are about frequent or repeated calls (52 percent). Some of these consumers report receiving successive calls in a short period of time (*e.g.*, several calls a day), whereas others report receiving calls over a long period of time (*e.g.*, calls consistently over several months). Complaints of continued contact attempts despite requests to stop contact were also common (24 percent). Other communication tactics complaints relate to reports of companies using obscene, profane, or abusive language (11 percent), calling outside of the FDCPA's assumed convenient calling hours from 8:00 a.m. to 9:00 p.m. at the consumer's location (4 percent), or other (10 percent).

Consumers submitted complaints describing companies taking or threatening to take legal or other negative action (see line 4 of Table 1). Most of these complaints are about threats to sue on a debt that is old (26 percent), threats or suggestions that consumers' credit histories would be damaged (25 percent), or threats to arrest or jail consumers if they do not pay (23 percent). Other complaints relate to seizures or attempts to seize property (9 percent), being sued without proper notification of the lawsuit (9 percent), collection of or attempts to collect exempt funds such as child support or unemployment benefits (5 percent), being sued in a different state from where the consumer resides or where the consumer signed the contract (2 percent), or threats of deportation or turning the consumer into immigration (0.1 percent).

The majority of complaints about false statements or representations (see line 5 of Table 1) are about attempts to collect the wrong amount from the consumer (73 percent). In addition, consumers report that companies impersonated an attorney or a law enforcement or government official (16 percent), indicated the consumer committed a crime by not paying debt (8 percent), or indicated that the consumer should not respond to a lawsuit (3 percent).

Complaints about threatening to contact someone or sharing information improperly were the least complained about debt collection issue in 2017 (see line 6 of Table 1). In these complaints, consumers most often reported that the collector talked to a third party about the debt (55

percent), contacted an employer (25 percent), contacted the consumer after being asked not to do so (19 percent), or contacted the consumers directly, instead of contacting their attorneys (2 percent).

## 3.2 How companies respond to consumer complaints

From January 1, 2017 through December 31, 2017, the CFPB has sent approximately 48,800 (58 percent) of approximately 84,500 debt collection complaints it has handled to companies for their review and response. The CFPB has referred some of the remaining debt collection complaints to other regulatory agencies (30 percent), while other complaints were found to be incomplete (10 percent), or are pending<sup>12</sup> with the consumer or the CFPB (1 percent and 1 percent, respectively).<sup>13</sup>

Companies have already responded to approximately 45,100 complaints or 92 percent of the approximately 48,800 complaints sent to them for response. Company responses include descriptions of steps taken or that will be taken, communications received from the consumer, any follow-up actions or planned follow-up actions, and categorization of the response. Response category options include “closed with monetary relief,” “closed with non-monetary relief,” “closed with explanation,” “closed,”<sup>14</sup> and other administrative options.<sup>15</sup> Monetary relief is defined as objective, measurable, and verifiable monetary relief to the consumer as a direct

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<sup>12</sup> This category contains complaints that do not include the necessary information for the CFPB to send the complaints to companies for responses or refer the complaints to other regulatory agencies.

<sup>13</sup> All complaints handled by the Bureau, including those sent to other regulators, serve to inform the Bureau in its work to supervise companies, to enforce consumer financial laws, to write better rules and regulations, and to educate and engage consumers.

<sup>14</sup> In April 2017, based on feedback from stakeholders, “Closed” was discontinued as a response category.

<sup>15</sup> Companies provide administrative responses when they identify complaints submitted by or including unauthorized third parties or complaints that are the result of fraud, scams, or business identity theft.

result of the steps taken or that will be taken in response to the complaint. Non-monetary relief is defined as other objective and verifiable relief to the consumer as a direct result of the steps taken or that will be taken in response to the consumer’s complaint. “Closed with explanation” indicates that the steps taken by the company in response to the complaint included an explanation that was tailored to the individual consumer’s complaint. For example, this category would be used if the explanation substantively meets the consumer’s desired resolution or explains why no further action will be taken. “Closed” indicates that the company closed the complaint without relief – monetary or non-monetary – or explanation. Consumers are given the option to review and provide feedback on all company closure responses.

The following table shows how companies have responded to consumer complaints.

**TABLE 2:** HOW COMPANIES HAVE RESPONDED TO CONSUMER COMPLAINTS TO THE CFPB<sup>16</sup>

<b>Company Response</b>	<b>#</b>	<b>%</b>
Closed with explanation	37,800	77%
Closed with non-monetary relief	4,700	10%
Company did not provide a timely response	2,600	5%
Company reviewing	1,700	4%
Closed (without relief or explanation)	800	2%
Closed with monetary relief	800	2%
Administrative response	400	1%
<b>Total Complaints Sent to Companies for Response</b>	<b>48,800</b>	<b>100%</b>

<sup>16</sup> Percentages may not sum to 100% due to rounding.

## 4. Bureau supervision of debt collection activities

Under the Dodd-Frank Act, the CFPB has authority to supervise certain nonbank entities that offer or provide consumer financial products or services.<sup>17</sup> In addition, for other nonbank markets for consumer financial products or services, the Bureau has the authority to supervise “larger participants” as the Bureau defines by rule.<sup>18</sup> Under the Bureau’s larger participant rule for the debt collection market, the Bureau has the authority to supervise any firm with more than \$10 million in annual receipts from consumer debt collection activities.

In 2017, the Bureau’s supervision of debt collectors uncovered a number of actions that examiners deemed to be violations of the FDCPA.<sup>19</sup>

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<sup>17</sup> Specifically, the Bureau has authority to supervise nonbank entities in the residential mortgage, payday lending, and private education lending markets. The Bureau also has the authority to supervise persons who offer or provide consumer financial products or services where it has “reasonable cause to determine, by order, after notice to the person and a reasonable opportunity for such person to respond . . . that such person is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or service.” 12 U.S.C. § 5514(a)(1)(C).

<sup>18</sup> See *Defining Larger Participants of the Consumer Debt Collection Market*, 77 FR 65775 (Oct. 31, 2012).

<sup>19</sup> In deference to the importance of confidentiality and consistent with the policies of the prudential regulators, the Bureau treats information obtained from companies through the supervisory process as confidential and privileged. See 12 U.S.C. §§ 1821(t), 1828(x); 12 C.F.R. pt. 1070; see also Memorandum to the Chief Executive Officers of Depository Institutions, Credit Unions, and their Affiliates to the Bureau’s Supervision Authority from the Consumer Financial Protection Bureau (Jan. 4, 2012) (regarding the Bureau’s Supervision Authority and Treatment

## 4.1 Impermissible communications with third parties

Under section 805(b) of the FDCPA, a debt collector generally may not communicate with a person other than the consumer in connection with the collection of a debt without permission from the consumer. Examiners determined that one or more entities did not adequately confirm that they had contacted the correct party before beginning to discuss the debt. As a result, one or more entities communicated with a third party in connection with the collection of a debt by discussing the debt with an authorized user of the credit card who was not financially responsible for the debt (and who was not otherwise a “consumer” under section 805(b)).

In response to these findings, one or more entities enhanced consumer verification processes to include the verification of first and last names as well as confirmation of date of birth or the last four digits of the Social Security number before disclosing the debt or the nature of the call to the consumer. Additionally, one or more entities revised its processes to discuss the debt with an authorized user only after explicit authorization from the cardholder. Lastly, the entities trained their collection agents on the enhanced policies and procedures.

## 4.2 Deceptively implying that authorized users are responsible for a debt

Under section 807(10) of the FDCPA, a debt collector may not use false representations or deceptive means to collect or attempt to collect any debt. Examiners determined that one or more entities violated the FDCPA by attempting to collect a debt directly from the authorized user of a credit card even though the authorized user was not financially responsible for the debt. Examiners concluded that the practice of soliciting payment from a non-obligated user in a manner that implies that the authorized user is personally responsible for the debt constitutes a

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of Confidential Supervisory Information, CFPB Bulletin 12-01), *available at* [https://files.consumerfinance.gov/f/2012/01/GC\\_bulletin\\_12-01.pdf](https://files.consumerfinance.gov/f/2012/01/GC_bulletin_12-01.pdf).

deceptive means to collect a debt in violation of the FDCPA. One or more entities have undertaken remedial and corrective actions regarding these violations.

## 4.3 False representations

As noted above, a debt collector may not use false representations or deceptive means to collect or attempt to collect any debt under section 807(10) of the FDCPA. Examiners found that one or more entities made false representations to consumers about the effect on their credit score of paying a debt in full rather than settling the debt for less than the full amount. In response to these findings, one or more entities amended training materials to remove references to how a consumer's credit score may be affected by either settling the debt in full or paying the debt in full.

## 4.4 Communicating with consumers at a time known to be inconvenient

Under section 805(a)(1) of the FDCPA, a debt collector may not communicate with a consumer in connection with the collection of any debt at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. Examiners discovered that consumers were contacted by one or more entities outside of the hours of 8:00 a.m. to 9:00 p.m. (the times which, in the absence of knowledge to the contrary, may be assumed to be convenient) or at times consumers had previously informed the entities were inconvenient. These inconvenient contacts were caused by the failure to accurately update account notes and the use of auto dialers that based call parameters solely on the consumer's area code, rather than also considering the consumer's last known address. Supervision directed one or more entities to enhance compliance monitoring for dialer systems to ensure that they correctly set up system parameters and properly monitor collectors for inputting and adhering to account notations.

## 5. Debt collection *amicus* briefs

In 2017, the Bureau has filed *amicus curiae* (friend of the court) briefs in two cases in the federal courts of appeals arising under the FDCPA. In addition, two cases in which the Bureau filed *amicus* briefs in 2016 were decided in 2017.

### Deficiency Judgment in Judicial Foreclosure: *Cohen* *amicus* brief

On June 1, 2017, the Bureau filed an *amicus* brief in the Second Circuit case of *Cohen v. Ditech Financial, LLC*.<sup>20</sup> The brief addressed whether the FDCPA applies to judicial foreclosure proceedings in state court where, under state law, the debt collector is entitled to seek a deficiency judgment against the consumer for the amount of any mortgage debt remaining after the foreclosure sale.

The Bureau's *amicus* brief argued that the FDCPA applied to judicial foreclosure proceedings that could lead to a deficiency judgment against a consumer. The court has not yet issued a decision in this case.

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<sup>20</sup> Brief as Amicus Curiae Supporting Plaintiff-Appellant, *Cohen v. Ditech Financial LLC*, No. 17-950 (2d Cir. June 1, 2017), available at <https://www.consumerfinance.gov/policy-compliance/amicus/briefs/cohen-v-ditech-financial-llc/>.

## Misrepresentation of Amount Owed: *Johnson* amicus brief

On April 10, 2017, the Bureau filed an *amicus* brief in the Eighth Circuit case of *Johnson v. Admiral Investments, LLC*.<sup>21</sup> The Bureau's brief addressed whether a misrepresentation made to a consumer's attorney about the amount of the debt owed was actionable under the FDCPA.

The Bureau argued that a facially false statement by a debt collector is actionable even when it is made to a consumer's attorney. The brief further contended that the possibility that the attorney could uncover the falsity through an investigation did not excuse a debt collector's conduct, particularly where Congress had specifically legislated that debt collectors must be honest about the amount of the debt that they seek to collect.

The brief also addressed Johnson's standing under Article III of the U.S. Constitution to bring her FDCPA claim. The brief argued that Johnson had standing because, under Supreme Court precedent, a plaintiff suffers a concrete and particularized injury when she does not receive truthful information to which she is entitled by law.

In October 2017, the parties stipulated for a voluntary dismissal of the appeal. The Eighth Circuit therefore did not issue a decision in this case.

## Collection of Protected Social Security Funds: *Arias* case

On October 26, 2016, the Bureau filed an *amicus* brief in the Second Circuit case of *Arias v. Gutman, Mintz, Baker & Sonnenfeldt, PC* to address when a debt collector violates the FDCPA in the course of garnishing money from an account containing the consumer's Social Security or

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<sup>21</sup> Brief as Amicus Curiae Supporting Plaintiff-Appellant, *Johnson v. Admiral Investments, LLC*, No. 17-1298 (8th Cir. Apr. 10, 2017), available at <https://www.consumerfinance.gov/policy-compliance/amicus/briefs/johnson-v-admiral-investments-llc/>.



other protected funds.<sup>22</sup> In a decision last year, the Second Circuit agreed with the Bureau's position that the plaintiff in that case had stated a viable FDCPA claim in his complaint.<sup>23</sup>

## Bankruptcy Proofs of Claim: *Midland Funding* case

On December 23, 2016, the Acting Solicitor General, with the assistance of the Bureau, filed an *amicus* brief in the Supreme Court in *Midland Funding, LLC v. Johnson* to address whether a debt collector violates the FDCPA by filing an accurate proof of claim in a bankruptcy proceeding for an unextinguished time-barred debt that the creditor knows is judicially unenforceable.<sup>24</sup> In May 2017, the Supreme Court, in a 5 to 3 decision, concluded, contrary to the position taken in the government's brief, that such a filing does not violate the FDCPA.<sup>25</sup>

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<sup>22</sup> Brief as Amicus Curiae Supporting Plaintiff-Appellant, *Arias v. Gutman, Mintz, Baker & Sonnenfeldt, PC*, No. 16-2165 (2d Cir. Oct. 28, 2016), available at <https://www.consumerfinance.gov/policy-compliance/amicus/briefs/arias-v-gutman-mintz-baker-sonnenfeldt-pc/>.

<sup>23</sup> *Arias v. Gutman, Mintz, Baker & Sonnenfeldt, LLP*, 875 F.3d 128 (2d Cir. Nov. 14, 2017).

<sup>24</sup> Brief as Amicus Curiae Supporting Defendant, *Midland Funding, LLC v. Johnson*, No. 16-348 (U.S. Dec. 21, 2016), available at <https://www.consumerfinance.gov/policy-compliance/amicus/briefs/midland-funding-llc-v-johnson/>.

<sup>25</sup> *Midland Funding, LLC v. Johnson*, 137 S. Ct. 1407 (May 15, 2017).

## 6. Enforcement

The Bureau announced four new law enforcement actions in 2017 related to unlawful collection conduct in violation of the FDCPA. The Bureau's contributions to this section provide a synopsis of FDCPA matters only. In 2017, both agencies brought or continued enforcement actions addressing harmful debt collection activity in violation of laws other than the FDCPA. Unlike the Bureau, the FTC has opted to include such matters in this section. Some of these actions are still pending. The Bureau continues to be in active litigation in one FDCPA matter filed in 2015 and one filed in 2016. In addition to the Bureau's public enforcement actions involving FDCPA-covered debt collection practices, the Bureau is conducting a number of non-public investigations of companies to determine whether they engaged in collection practices that violate the FDCPA or the CFPA.

In 2017, public actions involving FDCPA cases resulted in over \$577,000 in consumer relief and \$78,800 paid into the civil penalty fund, which is used to provide relief to eligible consumers who would not otherwise get full compensation.

The FTC is primarily a law enforcement agency, and law enforcement investigations and litigation are at the heart of the FTC's recent debt collection work. Both the FDCPA and the FTC Act<sup>26</sup> authorize the Commission to investigate and take law enforcement action against debt collectors that violate those statutes.<sup>27</sup> The Commission may file a federal court action seeking

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<sup>26</sup> 15 U.S.C. § 1692-1692p; 15 U.S.C. §§ 41-58.

<sup>27</sup> The FDCPA authorizes the Commission to investigate and take law enforcement action against debt collectors that engage in unfair, deceptive, abusive, or other practices that violate the statute. 15 U.S.C. § 1692l. Under the FTC Act,

injunctive and equitable monetary relief under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), or refer the matter to the Department of Justice for civil penalties and injunctive relief under Section 5(m) of the FTC Act, 15 U.S.C. § 45(m). Where a collector's violations are so egregious that a court order is necessary to halt the conduct immediately, or where consumer redress and disgorgement are more appropriate forms of monetary relief than civil penalties, the FTC generally files the action itself under Section 13(b) of the FTC Act. In other circumstances, the FTC may refer the case to the Department of Justice.<sup>28</sup>

From January 1 through December 31, 2017, the FTC filed or resolved 10 cases against 42 defendants, obtained more than \$64 million in judgments,<sup>29</sup> and banned 13 companies and individuals who engaged in serious and repeated violations of law from ever working in debt collection again.<sup>30</sup> In several of its Section 13(b) cases, the Commission obtained preliminary relief that included *ex parte* temporary restraining orders with asset freezes, immediate access to business premises, and appointment of receivers to take over the debt collection businesses.

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the FTC may investigate and take law enforcement action against entities that, in connection with collecting on debts, engage in unfair or deceptive acts and practices. 15 U.S.C. § 45.

<sup>28</sup> In addition to filing and referring law enforcement actions, the FTC files *amicus* briefs and undertakes other law enforcement-related activities.

<sup>29</sup> These figures include cases filed and resolved in 2017, as well as cases filed in previous years but resolved in 2017.

<sup>30</sup> In 2015, the FTC began publishing a list of every individual and company that the agency has sued that has been banned from the debt collection industry. This list, located at <https://www.ftc.gov/enforcement/cases-proceedings/banned-debt-collectors>, is a valuable resource to help law-abiding collection industry professionals avoid doing business with these defendants, as well as to help state debt collection licensing officials and law enforcers better protect consumers. Currently, the list includes 152 banned individuals and companies.

## 6.1 CFPB law enforcement actions

### *In the Matter of Works & Lentz, Inc.; Works & Lentz of Tulsa, Inc., and Harry A. Lentz, Jr.*<sup>31</sup>

(File No. 2017-CFPB-0003) (consent order entered January 9, 2017)

The CFPB took action against two medical debt collection law firms and their president who the Bureau's investigation found had falsely represented that their letters and calls were from attorneys attempting to collect on a debt when no attorney had yet reviewed the account. The investigation also found that the law firms did not ensure the accuracy of the consumer information they furnished to credit reporting companies and used improperly notarized affidavits in lawsuits filed against consumers. The practices affected thousands of individuals. The CFPB ordered Works and Lentz, Inc., Works and Lentz of Tulsa, Inc., and their president, Harry A. Lentz, Jr., to provide \$577,135 in relief to harmed consumers, correct their business practices, and pay a \$78,800 penalty.

### *Consumer Financial Protection Bureau v. Navient Corporation, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc.*<sup>32</sup>

(M.D. PA 3:17-cv-00101) (complaint filed January 18, 2017)

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<sup>31</sup> Press Release, Consumer Financial Protection Bureau, CFPB Takes Action Against Two Law Firms for Misrepresenting Attorney Involvement to Collect on Medical Debts (Jan. 9, 2017), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-two-law-firms-misrepresenting-attorney-involvement-collect-medical-debts/>.

<sup>32</sup> Press Release, Consumer Financial Protection Bureau, CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment (Jan. 18, 2017), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

The CFPB filed a lawsuit in federal district court against Navient Corporation and its subsidiaries, Navient Solutions, Inc. and Pioneer Credit Recovery, Inc. The complaint alleged that Pioneer and Navient Corporation misled consumers about the effect of rehabilitation on their credit reports and overpromised the amount of collection fees that would be forgiven in the federal loan rehabilitation program. The Bureau made allegations relating to Navient's servicing practices as well. Through its action, the Bureau seeks redress for consumers harmed by these illegal practices and seeks to keep Navient Corporation, Navient Solutions, and Pioneer from committing such illegal practices in the future. The case remains pending.

### ***Consumer Financial Protection Bureau v. Weltman, Weinberg & Reis Co., L.P.A.***<sup>33</sup>

(N.D. Ohio No. 1:17-cv-00817) (complaint filed April 17, 2017)

The CFPB filed a lawsuit in federal district court against the debt collection law firm Weltman, Weinberg & Reis Co., L.P.A., alleging that the law firm had made statements on collection calls and sent collection letters, which created the false impression that attorneys had meaningfully reviewed the consumers' files, when no such review had occurred. The CFPB is seeking to stop the alleged unlawful practices, recoup relief for harmed consumers, and impose a penalty. The case remains pending.

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<sup>33</sup> Press Release, Consumer Financial Protection Bureau, CFPB Files Suit Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts (Apr. 17, 2017), *available at* <https://www.consumerfinance.gov/about-us/newsroom/cfpb-files-suit-against-law-firm-misrepresenting-attorney-involvement-collection-millions-debts/>.

## *Consumer Financial Protection Bureau v. Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC*<sup>34</sup>

(S.D. Fla. 17-cv-90495) (complaint filed April 20, 2017)

The CFPB filed a lawsuit against one of the country’s largest nonbank mortgage loan servicers, Ocwen Financial Corporation, and its subsidiaries alleging that Ocwen violated the law by mishandling basic functions, such as sending accurate monthly statements, properly crediting payments, and properly handling insurance. The CFPB also alleged that Ocwen illegally foreclosed on struggling borrowers, failed to adequately correct errors raised by customer complaints, and sold off the servicing rights to loans without fully disclosing the mistakes it made in borrowers’ records. The Florida Attorney General and Massachusetts Attorney General took similar actions against Ocwen in separate lawsuits. The case remains pending.

## 6.2 Continuation of pre-2017 matters

### *CFPB v. Universal Debt & Payment Solutions, LLC, et al.*<sup>35</sup>

(N.D.GA No. 1:15-CV-0859) (complaint filed March 26, 2015).

The CFPB filed a complaint against a group of seven debt collection agencies, six individual debt collectors, four payment processors, and a telephone marketing service provider alleging violations of the FDCPA and the Consumer Financial Protection Act (“CFPA”)’s prohibition on unfair and deceptive acts and practices, and providing substantial assistance to unfair or

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<sup>34</sup> Press Release, Consumer Financial Protection Bureau, CFPB Sues Ocwen for Failing Borrowers Throughout Mortgage Servicing Process (Apr. 20, 2017), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-ocwen-failing-borrowers-throughout-mortgage-servicing-process/>.

<sup>35</sup> Press Release, Consumer Financial Protection Bureau, “CFPB Sues Participants in Robo-Call Phantom Debt Collection Operation” (Apr. 8, 2015), available at <http://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-participants-in-robo-call-phantom-debt-collection-operation/>.

deceptive conduct. The complaint alleged that the individuals, acting through a network of corporate entities, used threats and harassment to collect “phantom” debt from consumers. The Bureau alleged their misconduct was facilitated by the substantial assistance of the payment processors and the telephone service provider. The Bureau is seeking a permanent injunction, redress for consumers, and a monetary penalty. The case remains pending.

### *CFPB, et al. v. MacKinnon, et al.*<sup>36</sup>

(W.D.N.Y. Case 1:16-cv-00880) (complaint filed November 2, 2016)

In partnership with the New York Attorney General, the Bureau filed a lawsuit in a federal district court alleging that Douglas MacKinnon and Mark Gray operate a network of companies – Northern Resolution Group LLC, Enhanced Acquisitions LLC, and Delray Capital LLC – that harass, threaten, and deceive millions of consumers across the nation into paying inflated debts or amounts they may not owe. The Bureau is seeking to shut down this operation and to obtain compensation for victims and a civil penalty against the companies and partners. The case remains pending.

## 6.3 FTC law enforcement actions

### Phantom Debt Collection Actions

The Commission has stepped up its aggressive efforts to fight “phantom debt collection” this year. Phantom debt collectors engage in unfair, deceptive, or otherwise unlawful conduct by attempting to collect on debts that either do not exist or are not owed to the phantom debt collector. In 2017, the Commission initiated or resolved six actions involving phantom debt collection: (1) *SQ Capital LLC*; (2) *Stark Law LLC*; (3) *ACDI Group*; (4) *Alliance Law Group*;

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<sup>36</sup> Press Release, Consumer Financial Protection Bureau, CFPB and New York Attorney General File Lawsuit Against Illegal Nationwide Debt Collection Scheme (Nov. 2, 2016), available at <http://www.consumerfinance.gov/about-us/newsroom/cfpb-and-new-york-attorney-general-file-lawsuit-against-illegal-nationwide-debt-collection-scheme/>.

(5) *Lombardo, Daniels*; and (6) *Advanced Mediation Group*. *SQ Capital* and *Stark Law* are the first two cases brought by the FTC against operations for allegedly selling fake debt portfolios. This past year, the Commission also returned money to thousands of consumers who were targeted by the phantom debt scheme in *Centro Natural*.

In September, the Commission secured a court order in the *SQ Capital* matter, which involved fake payday loan debt portfolios.<sup>37</sup> The complaint, filed in late 2016,<sup>38</sup> alleged that the defendants distributed debt portfolios that listed Social Security numbers and bank account numbers of real consumers. The defendants, however, falsely claimed that the purported borrowers had failed to repay debts they never owed, or to repay loans that never existed.<sup>39</sup> The defendants also allegedly lacked the authority to sell the debts of the lenders they named. In early 2017, at the FTC's request, a federal court entered a preliminary injunction halting this operation. This last fall, the court issued a default judgment against the defendants, requiring them to pay more than \$4.1 million that they received selling the fake debts. The order also bans them from handling sensitive debt information, including bank account numbers, credit or debit card numbers, or Social Security numbers.

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<sup>37</sup> Order, *FTC v. Joel Jerome Tucker*, No. 16-082816 (D. Kan. Sept. 20, 2017); *see also* Press Release, Federal Trade Commission, *FTC Obtains Court Order Against Scheme that Sold Fake Payday Loan Debt Portfolios* (Oct. 17, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/10/ftc-obtains-court-order-against-scheme-sold-fake-payday-loan-debt>.

<sup>38</sup> Complaint, *FTC v. Joel Jerome Tucker*, No. 16-082816 (D. Kan. Dec. 16, 2016); *see also* Press Release, Federal Trade Commission, *FTC Charges Defendants with Selling Fake Payday Loan Debt Portfolios* (Jan. 9, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/01/ftc-charges-defendants-selling-fake-payday-loan-debt-portfolios>.

<sup>39</sup> To add credibility to some of the fake loans in their portfolios, the defendants used the name of a purported lender associated with another Commission law enforcement action. *See* Order, *FTC v. AMG Services*, No.12-00536 (D. Nev. Sept. 30, 2016). In 2016, a court ordered the defendants in the *AMG* payday lending scheme to pay a record \$1.3 billion for deceiving and illegally charging consumers undisclosed and inflated fees. *id.*; *see also* Press Release, Federal Trade Commission, *U.S. Court Finds in FTC's Favor and Imposes Record \$1.3 Billion Judgment Against Defendants Behind AMG Payday Lending Scheme* (Oct. 4, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/10/us-court-finds-ftcs-favor-imposes-record-13-billion-judgment>.



Similarly, in October 2017, the FTC and Illinois Attorney General secured orders halting the alleged unlawful conduct in the *Stark Law* matter.<sup>40</sup> In 2016, the FTC partnered with Illinois to file this action against an operation for allegedly demanding immediate payments from consumers for supposedly delinquent loans, often armed with consumers' sensitive personal and financial information.<sup>41</sup> The defendants also allegedly threatened consumers with lawsuits or arrest; deceptively held themselves out as a law firm with authority to sue and obtain substantial judgments against consumers; and disclosed debts to consumers' relatives, friends, and co-workers. As in *SQ Capital*, the complaint also charged these defendants with unlawfully selling portfolios of fake debt to other debt collectors in violation of the FTC Act. The court entered an *ex parte* temporary restraining order (and later a preliminary injunction) with an asset freeze and the appointment of a receiver. The permanent orders most recently secured by the Commission ban the defendants from the debt collection business and from selling debt

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<sup>40</sup> This case was part of the Commission's Operation Collection Protection, the first coordinated federal-state-local enforcement initiative targeting illegal debt collection. The nationwide crackdown included more than 165 actions by more than 70 federal, state, and local law enforcement and regulatory authorities against collectors who used illegal tactics such as harassing phone calls and false threats of litigation or arrest. *See, e.g.*, Press Release, Federal Trade Commission, FTC and Federal, State and Local Law Enforcement Partners Announce Nationwide Crackdown Against Abusive Debt Collectors (Nov. 4, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/11/ftc-federal-state-local-law-enforcement-partners-announce>; Press Release, Federal Trade Commission, FTC and State Law Enforcement Partners Announce More Actions and Results in Continuing Crackdown Against Abusive Debt Collectors (Jan. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/01/ftc-state-law-enforcement-partners-announce-more-actions-results>; Press Release, Federal Trade Commission, FTC and Illinois Attorney General Halt Chicago-Area Operation Charged with Collecting and Selling Phantom Payday Loan Debts (Mar. 30, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/03/ftc-illinois-attorney-general-halt-chicago-area-operation-charged>; Press Release, Federal Trade Commission, FTC Actions: Debt Collectors Banned from Debt Collection Business (Sept. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-actions-debt-collectors-banned-debt-collection-business>; Tom Carter, *A Debt Collection Round-up*, FTC Blog (Dec. 27, 2016), available at <https://www.consumer.ftc.gov/blog/debt-collection-round>; Lesley Fair, *Collection Protection Reflection*, FTC Blog (Dec. 30, 2016), available at [https://www.ftc.gov/news-events/blogs/business-blog/2016/12/collection-protection-reflection?utm\\_source=govdelivery](https://www.ftc.gov/news-events/blogs/business-blog/2016/12/collection-protection-reflection?utm_source=govdelivery). Participants in the Commission's Operation Collection Protection initiative continue to work closely together to share information and coordinate actions.

<sup>41</sup> Complaint, *FTC v. Stark Law, LLC*, No. 16-3463 (N.D. Ill. Mar. 21, 2016); *see also* Press Release, Federal Trade Commission, FTC and Illinois Attorney General Halt Chicago-Area Operation Charged with Collecting and Selling Phantom Payday Loan Debts (Mar. 30, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/03/ftc-illinois-attorney-general-halt-chicago-area-operation-charged>.

portfolios. Additionally, each order imposes a judgment of more than \$47 million, which will be partially suspended once the defendants surrender assets valued at more than \$9 million.<sup>42</sup>

In June 2017, the FTC also filed an action against the *ACDI Group* operation for allegedly collecting on phantom debts.<sup>43</sup> The complaint alleges that the defendants obtained counterfeit payday loan debts from the *SQ Capital* operation (described above) through a debt broker. When the defendants reported receiving consumer complaints regarding these debts to the broker, the broker returned the defendants' money and told them to stop collecting on these phony debts. However, the defendants allegedly continued to collect from consumers for at least seven more months. Litigation continues in this matter.

Additionally, this past year, the Commission obtained a permanent order shutting down the phantom debt operation in *Alliance Law Group*, which the FTC alleged attempted to collect fake debts by posing as lawyers and falsely threatening to sue or have consumers arrested.<sup>44</sup> The complaint, filed in July, alleges that the defendants called consumers without identifying themselves as debt collectors, claiming they would file lawsuits or criminal actions against consumers.<sup>45</sup> To coerce some consumers into paying the phantom debts, the defendants

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<sup>42</sup> Orders, *FTC v. Stark Law, LLC*, No. 16-3463 (N.D. Ill. Oct. 27, 2017); *see also* Press Release, Federal Trade Commission, *FTC Settlements Ban Chicago-area Phantom Debt Collector from the Debt Collection Business and from Selling Debt Portfolios* (Nov. 1, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/11/ftc-settlements-ban-chicago-area-phantom-debt-collector-debt>.

<sup>43</sup> Complaint, *FTC v. ACDI Group LLC*, No. 17-340 (W.D. N.C. June 22, 2017); *see also* Press Release, *FTC Charges Debt Collection Scheme Took Consumers' Money for Phantom Debts They Did Not Owe* (June 23, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/06/ftc-charges-debt-collection-scheme-took-consumers-money-phantom>.

<sup>44</sup> Order, *FTC v. Hardco Holding Group LLC (Alliance Law Group)*, No. 17-1257 (M.D. Fla. Dec. 5, 2017); *see also* Press Release, Federal Trade Commission, *FTC Obtains Court Order Banning Debt Collectors from Debt Collection Business* (Dec. 6, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/12/ftc-obtains-court-order-banning-debt-collectors-debt-collection>.

<sup>45</sup> Complaint, *FTC v. Hardco Holding Group LLC (Alliance Law Group)*, No. 17-1257 (M.D. Fla. July 10, 2017); *see also* Press Release, Federal Trade Commission, *FTC Charges Debt Collection Scheme with Posing as Attorneys to Take Consumers' Money for Phantom Debts* (July 17, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/07/ftc-charges-debt-collection-scheme-posing-attorneys-take>.

allegedly threatened them with prison or claimed police would arrest them at their homes. The defendants also allegedly pretended to be unrelated, legitimate small businesses, which may have caused angry consumers to call the businesses to complain. The Commission initially secured a temporary restraining order halting this operation, along with an asset freeze and a receiver. In December, all but one of the defendants agreed to a final order banning them from the debt collection business, and imposing a judgment of \$702,059 – partially suspended upon the surrender of certain assets. Subsequently, the court entered a default judgment against the remaining individual defendant, resolving this litigation.

In August 2017, the FTC also shut down the phantom debt collection scheme in *Lombardo, Daniels*. The Commission alleged that the North Carolina-based scheme used intimidation and deception to collect more than \$2.1 million from consumers.<sup>46</sup> The Commission’s action charges the defendants with falsely claiming that consumers were delinquent on payday loans or other debts they did not owe, and threatening them with arrest or other formal legal action. Their collectors also allegedly called consumers repeatedly and regularly used profanity; illegally disclosed purported debts to third parties; and failed to provide other disclosures and notices required by the FDCPA. At the Commission’s request, the court issued a temporary restraining order halting this operation, along with an asset freeze and a receiver. Litigation continues against the defendants in this matter.

Additionally, last fall, the FTC halted a Georgia-based operation, *Advanced Mediation Group*, which the Commission charged with tricking people into paying for debts defendants did not have the authority to collect.<sup>47</sup> The defendants allegedly claimed, falsely, that consumers had committed a crime and faced dire consequences – including lawsuits, garnishment, and even

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<sup>46</sup> Complaint, FTC v. v. Lombardo, Daniels & Moss, No. 17-00503 (W.D. N.C. Aug. 21, 2017); *see also* Press Release, Federal Trade Commission, FTC Charges Debt Collection Operation Took Consumers’ Money for Phantom Debts (Aug. 29, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/08/ftc-charges-debt-collection-operation-took-consumers-money>.

<sup>47</sup> Complaint, FTC v. Global Processing Solutions, No. 17-4192 (N.D. Ga. Oct. 23, 2017); *see also* Press Release, Federal Trade Commission, FTC Charges Debt Collection Business Defrauded Consumers into Paying Debts They Did Not Owe (Nov. 8, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/11/ftc-charges-debt-collection-business-defrauded-consumers-paying>.

imprisonment – if a purported debt was not paid. Using these tactics, the operation collected more than \$3.4 million from consumers. The defendants also illegally contacted consumers’ friends, non-spouse relatives, and employers, and failed to provide statutorily-required written notices and disclaimers. The Commission secured a temporary restraining order, with an asset freeze and receiver, from the court in this case. Litigation continues in this matter.

In addition to the law enforcement actions above, this past year the Commission also returned funds to consumers who lost money to a phantom debt collection operation previously stopped by the FTC. This past September, the agency mailed 2,158 checks totaling \$279,134 to consumers in the *Centro Natural* matter – following the issuance of a previous, first round of checks in 2016.<sup>48</sup> In addition to this monetary relief, the Commission had secured stipulated orders banning the defendants from debt collection or telemarketing, after alleging they targeted thousands of Spanish-speaking consumers with unlawful tactics to collect on fake debts and to coerce consumers into purchasing goods they did not want.<sup>49</sup>

## Other Actions to Halt FDCPA & FTC Act Violations

In addition to the phantom debt cases described above, the FTC successfully resolved four other actions in 2017 to protect consumers from unlawful debt collection practices: (1) *GC Services*, (2) *American Municipal Services*; (3) *Unified Global Group*, and (4) *Commercial Recovery Systems*. The Commission also returned money to thousands of consumers harmed by the unlawful conduct in the *Rincon Debt Management* and *Goldman Schwartz* matters.

In February 2017, the Commission secured an order for \$700,000 in civil penalties and important conduct relief regarding the use of voicemail messages against *GC Services*, a large

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<sup>48</sup> Press Release, Federal Trade Commission, FTC Returns Money to Victims of a Bogus Debt Collection Scheme (Sept. 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/refunds/centro-natural-refunds>.

<sup>49</sup> Order, *FTC v. Centro Natural Corp.*, No. 14 -23879 (S.D. Fla. June 30, 2015); see also Press Release, Federal Trade Commission, FTC Action Puts an End to Fraudulent Debt Collection Scheme that Targeted Spanish-Speaking Consumers (July 8, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/07/ftc-action-puts-end-fraudulent-debt-collection-scheme-targeted>.

collector of federal student loan debts.<sup>50</sup> The complaint alleged that the defendant’s collectors left phone messages that illegally disclosed purported debts to third parties without consumers’ permission. The complaint also alleged that the company falsely claimed it would stop calling specific phone numbers after being informed that it had the wrong number, and that it made improper repeated location communication calls to third parties. The order secured in this case prohibits this conduct. And it specifically prohibits the defendant from leaving voicemail messages stating the consumer’s name and identifying itself as a collector, unless: the recorded message on the machine names only the debtor; the debtor previously confirmed that only the debtor could access the messages left at the number; or the debtor has consented to receiving messages at that number.

In March, the Commission obtained an order against *American Municipal Services*, which the FTC charged with using deceptive tactics to collect court fines, parking tickets, and other debts owed to more than 500 municipalities.<sup>51</sup> The defendants allegedly used letterhead with titles like “Warrant Enforcement Division” and “Municipal Enforcement Division” that falsely suggested they were a government agency. According to the Commission’s complaint, after sending consumers an initial warning letter, the defendants then sent a purported “FINAL NOTICE” falsely claiming that consumers were subject to imminent arrest for nonpayment, that their driver’s licenses may be suspended for nonpayment, and that the debts would be reported to consumer reporting agencies. The Commission obtained a stipulated final order that prohibits the defendants from making the false claims that they are the government and the false claims as to the consequences of nonpayment. The order also required the defendants to pay \$350,000.

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<sup>50</sup> Complaint and Order, *FTC v. GC Services Ltd.*, No. 17-00461 (S.D. Tex. Mar. 2, 2017) (Complaint and Order, filed by the Department of Justice); *see also* Press Release, Federal Trade Commission, Student Loan Debt Collector Will Pay \$700,000 for Unlawful Collection Calls in Settlement with FTC (Feb. 14, 2017), *available at* <https://www.ftc.gov/news-events/press-releases/2017/02/student-loan-debt-collector-will-pay-700000-unlawful-collection>.

<sup>51</sup> Complaint and Order, *FTC v. American Municipal Servs.*, No. 17-00168 (E.D. Tex. Mar. 21, 2017); *see also* Press Release, Federal Trade Commission, FTC Settlement Halts Allegedly Abusive Practices by Company Collecting Debts for More Than 500 Municipalities (Mar. 24, 2017), *available at* <https://www.ftc.gov/news-events/press-releases/2017/03/ftc-settlement-halts-allegedly-abusive-practices-company>.

Last summer, the FTC also resolved its litigation against the *Unified Global Group* operation by securing an order against the final defendant – banning him from debt collection and imposing a suspended \$9.39 million judgment.<sup>52</sup> In 2016, the Commission secured settlements with the other four defendants, banning them from the industry as well. The FTC’s complaint against *Unified Global Group*<sup>53</sup> alleged that the defendants sent texts to trick consumers into calling them back. The texts included false statements such as, “YOUR PAYMENT DECLINED WITH CARD \*\*\*\*\_\*-\*\*\*\*\_\*-\*\*\*\*\_\*-5463 . . . CALL 866.256.2117 IMMEDIATELY,” even though consumers had never arranged to make payments to the defendants. The defendants also allegedly used deceptive emails and calls that threatened arrest and civil lawsuits, and unlawfully contacted consumers’ friends, non-spousal family members, and co-workers about the supposed debts.<sup>54</sup>

In *United States v. Commercial Recovery Systems*, a case that the FTC referred to the Department of Justice for prosecution, the court ordered the one remaining defendant to pay a \$2 million penalty to resolve this litigation.<sup>55</sup> In 2016, the court entered summary judgment

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<sup>52</sup> Order, *FTC v. Unified Global Group, LLC*, No. 15-422 (W.D.N.Y. Aug. 24, 2017); *see also* Press Release, Federal Trade Commission, *FTC Obtains Court Order: Debt Collector Banned from Debt Collection Business* (Aug. 30, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/08/ftc-obtains-court-order-debt-collector-banned-debt-collection>. This case was part of a 2015 law enforcement sweep, called “Messaging for Money,” targeting operations that used deceptive, threatening, or otherwise unlawful text messages or emails to harm consumers. *See* Press Release, Federal Trade Commission, *FTC Halts Three Debt Collection Operations That Allegedly Threatened and Deceived Consumers via Illegal Text Messages* (May 21, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-halts-three-debt-collection-operations-allegedly-threatened>.

<sup>53</sup> Complaint, *FTC v. Unified Global Group, LLC*, No. 15-422 (W.D.N.Y. May 11, 2015); *see also* Press Release, Federal Trade Commission, *FTC Halts Three Debt Collection Operations That Allegedly Threatened and Deceived Consumers via Illegal Text Messages* (May 21, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-halts-three-debt-collection-operations-allegedly-threatened>.

<sup>54</sup> Order, *FTC v. Unified Global Group, LLC*, No. 15-422 (W.D.N.Y. Aug. 26, 2016); *see also* Press Release, Federal Trade Commission, *FTC Actions: Debt Collectors Banned from Debt Collection Business* (Sept. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-actions-debt-collectors-banned-debt-collection-business>.

<sup>55</sup> Memorandum Opinion and Order, *United States v. Commercial Recovery Sys., Inc.*, No. 15-36 (E.D. Tex. Mar. 21, 2017); *see also* Press Release, Federal Trade Commission, *Debt Collector Ordered to Pay \$2 Million in Civil*

against this defendant and one other – banning them from the debt collection business. The court found that these debt collectors had “repeatedly and routinely violated the FDCPA . . . in multiple ways, by making blatantly false representations for the purpose of intimidating consumers into paying debts.”<sup>56</sup> Among other things, the court found that their routine threats to sue consumers were “patently false,” and further that they falsely impersonated attorneys and threatened to seize or garnish consumers’ property or wages. The court banned these two defendants from debt collection,<sup>57</sup> and a third defendant agreed to a final order also subjecting him to a debt collection ban.<sup>58</sup>

The Commission has also returned money to thousands of additional consumers targeted by other debt collection operations alleged to have engaged in unlawful conduct. In March, the agency mailed 5,232 checks totaling more than \$2.7 million (an average of \$525 per consumer) to consumers who lost money to the *Rincon Debt Management* scheme.<sup>59</sup> The FTC had obtained a judgment of more than \$23 million against this operation (partially suspended after \$3.3 million in assets was handed over), along with a complete ban on debt collection activity.<sup>60</sup> This relief resolved allegations that this operation targeted Spanish-speaking consumers and others with abusive practices to coerce repayment of alleged debts that they often did not owe.

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Penalties (Mar. 24, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/04/debt-collector-will-pay-2-million-settle-ftc-charges>.

<sup>56</sup> Memorandum Opinion and Order, *United States v. Commercial Recovery Sys., Inc.*, No. 15-36 (E.D. Tex. Apr. 7, 2016).

<sup>57</sup> Order, *United States v. Commercial Recovery Sys., Inc.*, No. 15-36 (E.D. Tex. Apr. 18, 2016); see also Press Release, Federal Trade Commission, FTC Action: Debt Collector Banned from Collection Business (Sept. 22, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-action-debt-collector-banned-collection-business>.

<sup>58</sup> Order, *United States v. Commercial Recovery Sys., Inc.*, No. 15-36 (E.D. Tex. Sept. 21, 2016).

<sup>59</sup> Press Release, Federal Trade Commission, FTC Returns Money to Victims of Debt Collection Scheme (Mar. 30, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/03/ftc-returns-money-victims-debt-collection-scheme>.

<sup>60</sup> Order, *FTC v. Rincon Management Services, LLC*, No. 11-01623 (C.D. Cal. Mar. 26, 2014); see also Press Release, Federal Trade Commission, FTC Obtains More Than \$3.3 Million for Consumers; Defendants Agree to Be Permanently Banned from the Debt Collection Business (Apr. 3, 2014), available at <http://www.ftc.gov/news-events/press-releases/2014/04/ftc-obtains-more-33-million-consumers-defendants-agree-be>.

Additionally, in June, the FTC mailed 4,380 checks totaling more than \$550,000 to consumers who paid *Goldman Schwartz*, a debt collection operation that the Commission had sued for multiple law violations, including making false threats and collecting bogus attorney's fees and other charges.<sup>61</sup> The defendants were also banned from the debt collection business under a settlement with the FTC.<sup>62</sup>

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<sup>61</sup> Press Release, Federal Trade Commission, FTC Returns Money to Victims of Abusive Debt Collection Operation (June 30, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/06/ftc-returns-money-victims-abusive-debt-collection-operation>.

<sup>62</sup> Order, *FTC v. Goldman Schwartz, Inc.*, No. 13-00106 (S.D. Tex. May 28, 2014); see also Press Release, Federal Trade Commission, FTC Puts Texas-based Operation Permanently Out of the Debt Collection Business After It Allegedly Used Deception, Insults, and False Threats against Consumers (May 19, 2014), available at <http://www.ftc.gov/news-events/press-releases/2014/05/ftc-puts-texas-based-operation-permanently-out-debt-collection>.



# 7. Education and outreach initiatives

The Bureau empowers consumers to make sound financial decisions for themselves and their families through wide-ranging consumer education efforts. These efforts include outreach to targeted consumer populations, including students, older Americans, servicemembers, veterans, and low-income and economically-vulnerable consumers, as well as to the general population and to financial educators. The CFPB’s financial education work is focused on encouraging consumers to ask questions, make plans, and take action in their financial lives to reach their own life goals. The FTC has also worked to educate consumers and businesses about their rights and responsibilities under the FDCPA and the FTC Act.

## 7.1 Bureau education and outreach

The Bureau provides consumers with information about specific financial matters, including those relating to debt collection. A major Bureau consumer education product is Ask CFPB, an interactive online tool that helps consumers find clear and impartial answers to a wide variety of financial questions.

The Bureau began publishing “Ask CFPB” questions and answers including the topic of debt collection in October 2012. From its beginning until December 2017, Ask CFPB has been viewed more than 18.6 million times. Debt collection is consistently one of the two most-viewed categories in Ask CFPB. It also provides practical tips to consumers regarding steps they can

take when faced with debt collection as well as steps to take to manage debts in a way that may prevent the debts from ending up in collection.<sup>63</sup>

In July 2013, the Bureau added five sample letters to Ask CFPB that consumers may use when they interact with debt collectors. The five letters are intended for consumers who: (1) need more information about a debt; (2) want to dispute their debt; (3) want to restrict how and when a collector can contact them; (4) want to stop all communication from the debt collector; and (5) want to direct further communications with respect to the debt matter to an attorney.<sup>64</sup> These letters are available in English and Spanish.

These letters have been downloaded more than 517,000 times from June 2014 to the end of December 2017. The two most downloaded letters are “I need more information about this debt” and “I do not owe this debt.”

**TABLE 3:** DOWNLOADS OF CFPB’S COLLECTION-RELATED LETTERS

Letter	% total downloads
“I need more information about this debt”	40%
“I do not owe this debt”	34%
“I want to specify how the debt collector can contact me”	10%
“I want the debt collector to stop contacting me”	13%
“I want the debt collector to only contact me through my lawyer”	3%

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<sup>63</sup> Ask CFPB, *Debt Collection*, Consumer Financial Protection Bureau, <http://www.consumerfinance.gov/consumer-tools/debt-collection/> (last visited Feb. 22, 2018).

<sup>64</sup> Ask CFPB, *What Should I Do When a Debt Collector Contacts Me*, Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/ask-cfpb/what-should-i-do-when-a-debt-collector-contacts-me-en-1695/> (last updated Feb. 2, 2017).

In addition to online resources for consumers, the Bureau offers print publications on financial topics including debt collection, which consumers and organizations can download or order in bulk free of charge. The Bureau’s brochure “Know Your Rights When a Debt Collector Calls” was updated in 2017 and is available in both English and Spanish. There is also a version tailored specifically to servicemembers, covering their unique rights and issued by the Bureau through its statutorily required Office of Servicemember Affairs.

Debt collection, including debt management to avoid entering collections, is covered in the Bureau’s *Your Money, Your Goals* financial empowerment toolkit for social services organizations. As of the end of 2017, over 24,400 staff and volunteers in social services organizations had been trained on *Your Money, Your Goals*, reaching an estimated 956,000 people.

Another resource focused on helping consumers address problems surrounding debt is the Bureau’s booklet, “Debt getting in your way?” This is a colorful, compact booklet that includes a selection of simplified paper tools from the *Your Money, Your Goals* toolkit. The tools in this booklet can help a consumer get a full picture of existing debt, order a credit report, prioritize debts and set repayment goals, and plan how to avoid additional debt in the future. Since the booklet’s release in the fall of 2017, more than 30,000 copies have been distributed throughout the United States. The *Your Money, Your Goals* booklet, toolkit, and trainings for using them can be accessed at [www.consumerfinance.gov/your-money-your-goals](http://www.consumerfinance.gov/your-money-your-goals).

In November 2017, the Bureau, through its Office of Consumer Engagement, developed a 21-day email course that includes tools and resources from *Your Money, Your Goals*. The *Get a Handle on Debt Boot Camp*<sup>65</sup> is a program that allows consumers to sign up for periodic messages about steps to manage their debt effectively and meet their financial goals. In its first two months of operation in 2017, the *Debt Boot Camp* attracted 4,268 sign-ups.

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<sup>65</sup> Courtney-Rose Dantus, *Sign-up for our Email Course and Get Your Finances in Shape*, CFPB Blog (Feb. 5, 2018), available at <https://www.consumerfinance.gov/about-us/blog/sign-our-email-course-and-get-your-finances-shape/>.

Debt collection is also a significant issue facing the servicemember population. In October 2017, the Bureau issued a *50 State Snapshot of Servicemember Complaints*.<sup>66</sup> Servicemember complaints indicated that debt collection was the top category of complaints in each of the 50 states. In May 2017, the Bureau’s Office of Servicemember Affairs released a report entitled *Charting our course through the military lifecycle*.<sup>67</sup> Debt collection continues to be the largest category of complaints from the military community, and as of April 1, 2017, they comprise 42 percent of total complaints from military consumers.

Student loan debt is also a significant issue for the military population. Repaying student debt will help servicemembers stay on track as they progress through their military career. The Bureau’s Office of Servicemember Affairs also offers servicemember-specific materials, such as “Tackling Student Loan Debt”<sup>68</sup> and “Tips for Servicemembers with Student Loan Debt.”<sup>69</sup>

A list of the Bureau’s consumer education materials relating to debt collection and information on the extent of their distribution is set forth in Appendix A.

## 7.2 FTC education and public outreach

Education and public outreach are important parts of the Federal Trade Commission’s debt collection program. The FTC uses multiple formats and channels to inform consumers about

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<sup>66</sup> Consumer Financial Protection Bureau, *50 State Snapshot of Servicemember Complaints*, (Oct. 2017), available at [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_monthly-complaint-report\\_50-state-snapshot-servicemembers\\_102017.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_monthly-complaint-report_50-state-snapshot-servicemembers_102017.pdf).

<sup>67</sup> Consumer Financial Protection Bureau, *Charting Our Course Through the Military Lifecycle*, (May 16, 2017), available at [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201705\\_cfpb\\_OSA\\_Military-Lifecycle-Report.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201705_cfpb_OSA_Military-Lifecycle-Report.pdf).

<sup>68</sup> Consumer Financial Protection Bureau, *For Servicemembers: Tackling Student Loan Debt*, available at [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201604\\_cfpb\\_servicemember-student-loan-guide.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201604_cfpb_servicemember-student-loan-guide.pdf).

<sup>69</sup> Seth Frotman & Paul Kantwill, *Tips for Servicemembers with Student Loan Debt*, CFPB Blog (Nov. 6, 2017), available at <https://www.consumerfinance.gov/about-us/blog/tips-servicemembers-student-debt/>.

their rights under the FDCPA, as well as what the statute requires of debt collectors, and to inform debt collectors about what they must do to comply with the law. The FTC also uses education and public outreach to enhance legal services providers' understanding of debt collection issues.

The Commission reaches tens of millions of consumers through English and Spanish print and online materials, blog posts, speeches and presentations. To maximize its outreach efforts, FTC staff works with an informal network of about 16,000 community-based organizations and national groups that order and distribute FTC information to their members, clients, and constituents. In 2017, the FTC distributed 13.8 million print publications to libraries, police departments, schools, non-profit organizations, banks, credit unions, other businesses, and government agencies. In 2017, the FTC logged more than 60 million views of its business and consumer education website pages. The FTC's channel at [YouTube.com/FTCvideos](https://www.youtube.com/FTCvideos) houses 212 business and consumer videos in English and Spanish, which were viewed more than 581,000 times in 2017. A new video — [Debt Collection: Know Your Rights](#) — summarizes consumer rights and encourages viewers to report problem calls to the FTC. The Commission's consumer blogs, in [English](#)<sup>70</sup> and [Spanish](#),<sup>71</sup> reached 199,860 (English) and 50,480 (Spanish) email subscribers, and regularly serve as source material for local and national news stories.

As part of its work to raise awareness about scams targeting the Latino community, the FTC has developed a series of fotonovelas in Spanish. The graphic novels tell stories based on complaints Spanish speakers make to the FTC and offer practical tips to help detect and stop common scams. Consumers ordered more than 37,000 copies of the *Cobradores De Deuda* (Debt Collectors) fotonovela in 2017.

The Commission also educates industry members by developing and distributing business education materials, delivering speeches, blogging, participating in panel discussions at industry

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<sup>70</sup> Andrea Arias, *Shopping for a VPN App? Read This.*, FTC Blog (Feb. 22, 2018), available at <http://www.consumer.ftc.gov/blog>.

<sup>71</sup> Karen Dodge, *Advertencia Sobre los Reembolsos de Western Union*, FTC Blog (Feb. 21, 2018), available at <http://www.consumidor.ftc.gov/blog>.

conferences, and providing interviews to general media and trade publications. The FTC's business education resources can be found in its online [Business Center](#).<sup>72</sup> The Business Center logged more than 11 million page views in 2017, and there are more than 68,000 email subscribers to the [Business Blog](#).<sup>73</sup> A complete list of the FTC's consumer and business education materials relating to debt collection, and information on the extent of their distribution is set forth in Appendix B.

FTC staff also regularly meets with legal service providers, consumer advocates, and people who work in immigrant, Native American, Latino, Asian, and African American communities to discuss consumer protection issues, including the FTC's work in the debt collection arena. For example, the FTC hosted six Ethnic Media Roundtables around the country in 2017, bringing together law enforcement, community organizations, consumer advocates, and members of the ethnic media to discuss how consumer protection issues — including debt collection — affect their communities.

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<sup>72</sup>Federal Trade Commission, *Business Center*, <http://business.ftc.gov/> (last visited Feb. 22, 2018).

<sup>73</sup> Federal Trade Commission, *Business Blog*, <http://business.ftc.gov/blog> (last visited Feb. 22, 2018).

# 8. Rulemaking, research, and policy initiatives

## 8.1 Bureau rulemaking and research

### 8.1.1 Bureau research projects

The Bureau is engaged in research to better understand the debt collection market and its impact on consumers, which will help inform the development of rules. This research relies on various data sources, including publicly and commercially available data as well as information obtained through industry outreach and other efforts.

The Bureau released findings from its “Survey of Consumer Views on Debt” in January 2017.<sup>74</sup> The survey results substantially expand the understanding of debt collection in the United States by providing the first comprehensive and nationally representative data on consumers’ experiences and preferences related to debt collection. The survey asked consumers about their

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<sup>74</sup> Consumer Financial Protection Bureau, *Consumer Experiences With Debt Collection: Findings From the CFPB’s Survey on Consumer Views on Debt*, (Jan. 2017), available at <http://www.consumerfinance.gov/data-research/research-reports/consumer-experiences-debt-collection-findings-cfpbs-survey-consumer-views-debt/>. The Bureau released some preliminary findings from this survey in July 2016. See Appendix B of Consumer Financial Protection Bureau, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking*, (July 28, 2016), available at [http://files.consumerfinance.gov/f/documents/20160727\\_cfpb\\_Outline\\_of\\_proposals.pdf](http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf).

experiences, if any, with debt collectors over the past year. Some key findings of the survey were discussed in the 2017 FDCPA Annual Report.<sup>75</sup>

A recent research paper presented by Bureau economists uses detailed administrative data on new credit card accounts to study the effects of four recent state laws and regulations that placed restrictions on the conduct of debt collectors.<sup>76</sup> The economists found no effect of the state laws on credit card interest rates but found that the new restrictions on debt collection in these states reduced, by a very small magnitude, access to credit cards and credit limits on average. Splitting the results on credit access by prime and subprime consumers, the paper finds a somewhat larger effect on credit access for sub-prime borrowers. However, even broken out, the estimated effects are still small in magnitude; the effect of these debt collection restrictions is equivalent to an error that lowers consumers' credit scores by eight points or less. This paper represents the independent views of the researchers and does not necessarily reflect the views of the Bureau.

## 8.1.2 FDCPA rulemaking

The Bureau issued an Advanced Notice of Proposed Rulemaking in November 2013 to explore the idea of developing debt collection rules. On July 28, 2016, the Bureau published an Outline of Proposals Under Consideration (the “Outline”) in preparation for a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel. The Outline addressed proposals under consideration for those who are defined as “debt collectors” under the FDCPA.<sup>77</sup> On August 25, 2016, the Bureau convened a panel pursuant to the SBREFA composed of the Bureau, the Small Business Administration (SBA), and the Office of Management and Budget (OMB) to obtain input from small businesses in the debt collection industry on the possible effect of debt collection rulemaking on their businesses. The Bureau is continuing to consider the feedback it received through the SBREFA panel and from other stakeholders subsequent to publication of

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<sup>75</sup> Consumer Financial Protection Bureau, *Fair Debt Collection Practices Act Annual Report*, at 58 (Mar. 2017).

<sup>76</sup> Charles Romeo and Ryan Sandler, *The Effect of Debt Collection Laws on Access to Credit*, Office of Research, Consumer Financial Protection Bureau (Nov. 20, 2017).

<sup>77</sup> The outline can be found at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-considers-proposal-overhaul-debt-collection-market/>.



the Outline. Additionally, the Bureau, among other things, is engaged in research and market outreach, as described below in Section 8.1.3.

### 8.1.3 Market monitoring and outreach

The Bureau continues to monitor the debt collection industry and engages key debt collection stakeholders to improve its understanding of the market and to develop informed policies that will protect consumers without imposing unnecessary costs.

Throughout 2017, Bureau staff spoke at both regional and national debt collection industry events and conducted industry site visits. The Bureau also held meetings with consumer advocates, industry groups, vendors, and government officials to better understand consumers' experiences with debt collection as well as how the market and industry function.

In addition, the Bureau has held a number of meetings with market participants to inform the Bureau as a part of the rulemaking process. The results of this outreach have provided Bureau staff with detailed information related to the costs of operating a debt collection business and potential impacts of the proposals under consideration.

In 2017, the Bureau also gathered information from major credit card issuers regarding their collection and recovery practices and published key insights in the Bureau's 2017 Credit Card Market Report.<sup>78</sup> The survey and resulting report addressed a variety of relevant topics in the collection industry, including consumer communication methods, use of modern technologies, debt sales, and litigation practices, among others.

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<sup>78</sup> Press Release, Consumer Financial Protection Bureau, CFPB Releases Report on the State of the Credit Card Market (Dec. 27, 2017), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-report-state-credit-card-market/>.

## 8.2 FTC’s research and policy development activities

Throughout the past year, the FTC has used public workshops and other initiatives to continue its monitoring and evaluation of the debt collection industry. It has also provided input to the Bureau on its debt collection rulemaking and guidance initiatives.

In July 2017, the FTC hosted the “Military Consumer Financial Workshop” in San Antonio, Texas, to examine financial issues and scams that can affect military consumers.<sup>79</sup> The workshop included a panel on debt collection that discussed, among other things, collector contacts (or threatened contacts) with commanding officers, the potential impact of debt on security clearances, and how increased financial literacy can assist this community. Additionally, in September, the FTC hosted a related Common Ground Conference – along with state and local partners – in Los Angeles, California, to help educate military consumers and train military attorneys, law enforcement, and consumer protection officials on fraud and other issues that affect servicemembers and their families, including debt collection.<sup>80</sup> Bureau staff participated as panelists at both of these events.

Additionally, this past year, as a natural outgrowth of the agency’s work on issues related to financial technologies (or “FinTech”),<sup>81</sup> the FTC began its Debt Collection Fintech (or “DebtTech”) Initiative. As part of this initiative, the FTC is engaging in outreach with industry

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<sup>79</sup>More information about this workshop, including an agenda and video of the event, is available at <https://www.ftc.gov/news-events/events-calendar/military-consumer-workshop>.

<sup>80</sup>Additional information about this event is available at <https://www.ftc.gov/news-events/events-calendar/2017/09/protecting-military-consumers-common-ground-conference>.

<sup>81</sup>The FTC is engaged in extensive research and dialogue with stakeholders relating to Fintech to assess how to protect consumers in connection with Fintech, while avoiding policies and enforcement that would chill or hinder Fintech or impose unnecessary or undue burdens on Fintech firms. For example, the FTC has held three forums on several Fintech topics, such as marketplace lending, crowdfunding, peer-to-peer payment systems, artificial intelligence, and blockchain. *See generally* Federal Trade Commission, *Financial Technology News Events*, <https://www.ftc.gov/news-events/media-resources/consumer-finance/financial-technology> (last visited Feb. 22, 2018).

and consumer groups, conducting research, and taking other steps to continue building expertise on the use of existing and emerging technologies in debt collection. The FTC or its staff also may share this expertise with other federal or state government officials, where appropriate, through public comments and other means. The Commission will be exploring the costs and benefits to consumers and businesses of such technologies, including whether they can combat fraud and other harmful conduct, (*e.g.*, phantom debt collection).

Finally, the FTC continues to work closely with the CFPB to coordinate efforts to protect consumers from unfair, deceptive, and abusive debt collection practices.<sup>82</sup> As part of this coordination, FTC and CFPB staff regularly meet to discuss ongoing and upcoming law enforcement, rulemaking, and other activities; share debt collection complaints; cooperate on consumer education efforts in the debt collection arena; and consult on debt collection rulemaking and guidance initiatives.

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<sup>82</sup> The Dodd-Frank Act directs the FTC and the CFPB to coordinate their law enforcement activities and promote consistent regulatory treatment of consumer financial products and services, including debt collection. *See* Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 § 1024(c)(3) (2010). In January 2012, the FTC and CFPB entered into a memorandum of understanding (“MOU”) that supplements the requirements of the Dodd-Frank Act and creates a strong and comprehensive framework for coordination and cooperation. Memorandum of Understanding Between the Consumer Financial Protection Bureau and the Federal Trade Commission, (Jan. 2012), *available at* <http://www.ftc.gov/sites/default/files/attachments/press-releases/federal-trade-commission-consumer-financial-protection-bureau-pledge-work-together-protect-consumers/120123ftc-cfpb-mou.pdf>. The agencies reauthorized the MOU in March of 2015 for a three-year term. *See* Press Release, Federal Trade Commission, FTC, CFPB Reauthorize Memorandum of Understanding (Mar. 12, 2015), *available at* <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-cfpb-reauthorize-memorandum-understanding>.

## APPENDIX A:

# CFPB Debt Collection Information 2017

Title	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
<i>Consumer information</i>				
<a href="#">Ask CFPB Debt Collection Topic Page</a>	83,594			
<a href="#">How to negotiate a settlement with a debt collector</a>	838,255	1,508		
<a href="#">What should I do when a debt collector contacts me?</a>	266,338	1,250		
<a href="#">Sample letters to debt collectors</a>	136,866	370		
<a href="#">What is a statute of limitations on a debt?</a>	78,765	6,292		
<a href="#">How can I verify whether or not a debt collector is legitimate?</a>	69,604	190		
<a href="#">What is harassment by a debt collector?</a>	63,826	3,743		
<a href="#">Know Your Rights When a Debt Collector Calls</a>	1,519	269	96,278	66,087
<a href="#">Behind on bills?</a>	5,395		130,609	

Title	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
Planning to become debt free? <sup>83</sup>	2,758	331	95,079	64,142
<a href="#">Debt getting in your way? Get a handle on it.</a>	920		19,700	
<a href="#">Servicemembers: Know your rights when a debt collector calls</a>	934		12,501	
<i>Consumer video</i>				
<a href="#">Debt collection stories</a>	51,400			

## CFPB Consumer Content

### Consumer blog posts

- [Consumer experiences with debt collection: Findings from our survey](#)
- [Your voice, your story. Consumer views on debt collection](#)
- [The IRS is using private debt collectors. Here's what you should know \(authored by FTC\)](#)
- [How to respond when a debt collector contacts you in three easy steps](#)
- [Servicemembers and debt collection: Sharing your stories](#)
- [How to get a handle on debt](#)
- [Sign up for our email course Get a Handle on Debt Boot Camp and get your finances in shape <sup>84</sup>](#)

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<sup>83</sup> Available only by download or print.

- [5 financial New Year's resolutions](#)

## Webinars and trainings for financial educators

- Debt collection resources<sup>85</sup> (February 2017)
- Community Financial Education Program<sup>86</sup>

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<sup>84</sup> First published October 18, 2017.

<sup>85</sup> The participants in this webinar were primarily a mix of financial education practitioners (such as housing counselors, credit counselors and financial coaches) and representatives from debt collection companies.

<sup>86</sup> This included seven in-person training events for librarians on financial topics, including debt collection, in 2017.

## APPENDIX B:

# FTC Debt Collection Information 2017

Title	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
<i>Consumer information</i>				
<a href="#">Coping with Debt</a>	95,987	10,177	72,600	13,400
<a href="#">Debt Collection</a>	328,317	47,001	101,700	
<a href="#">Debt Collection Arbitration</a>	12,236	952	1,800	
<a href="#">Debt Collectors (fotonovela)</a>				37,425
<a href="#">Debts and Deceased Relatives</a>	71,117	27,466		
<a href="#">Fake Debt Collectors</a>	83,421	2,273		
<a href="#">Garnishing Federal Benefits</a>	32,277	1,642		
<i>Consumer videos</i>				
<a href="#">Helping Victims of Identity Theft</a>	420			
<a href="#">Fraud Affects Every Community: Debt Collection</a>	7641			
<a href="#">Debt Collection: Know Your Rights</a>	2455	313		
<i>Business information</i>				
<a href="#">The Fair Debt Collection Practices</a>	12,566		14,770	

Title	Page views or downloads in English	Page views or downloads in Spanish	Print distribution in English	Print distribution in Spanish
<a href="#">Act</a>				
<i>Business video</i>				
<a href="#">Debt Collection</a>	605	125		

## FTC Consumer Content

### Consumer Blog Posts

- [Defendant pays the price for selling fake consumer debt portfolios](#)
- [FTC schools student loan debt collectors](#)
- [Lies, threats, debt collection: Tale of a few cities](#)
- [Company kept collecting debts it knew were phony](#)
- [Know your debt collection rights](#)
- [Fake debt collectors impersonate real businesses](#)
- [Phantom debt collectors impersonate law firms](#)
- [FTC halts abusive debt collection operation](#)

### Video

- [Debt Collection: Know Your Rights](#)
- [Cobranza de deuda: Conozca sus derechos](#)

### Business Blog Posts

- [Outfit that orchestrated phantom debt scheme struck a sour note](#)



- [We can't go for that \(no can do\)](#)
- [Debt-erring phantom debt collection](#)
- [Debt collector for governments made false threats](#)