8 Things Debt Collectors Won't Tell You

by Gerri Detweiler, Credit.com

It should come as no surprise that if you’ve fallen behind on your bills, you may be hearing from debt collectors. If they do call, you will almost certainly hear that you need to pay them and that you need to do so immediately. But there are a number of things that they aren’t likely to tell you, and knowing these things can make all the difference in resolving your debts.

1. Some of their threats have no teeth.

If you can’t pay the collector the amount he is demanding, or refuse to give your bank account or debit card number to make the payment, the debt collector may threaten to “put you down for ‘refusal to pay.’ ” But that’s “a meaningless phrase in the debt collection world,” says ZipDebt.com founder Charles Phelan, who coaches consumers trying to settle debts. He elaborates:

When a collector says, “We are going to inform your creditor that you are refusing to pay this bill!” they are just using reverse psychology. Your creditor has already figured out that you aren’t paying the bill, or they would not have sent your account to a collection agency in the first place!

Another example? Bogus deadlines. Says Phelan, “Collectors will always try to create a false sense of urgency by imposing a series of deadlines, after which ‘this deal will no longer be available.’ The reality is that settlement or workout offers tend to improve over the course of a typical 3-month collection assignment (i.e., in a non-legal collection scenario).”

2. They have to stop bugging you at work if you tell them to.

The [Fair Debt Collection Practices Act] is very clear on this point. Once you tell a debt collector your employer doesn’t allow you to talk with her while you are at work, she must stop calling you there. Yet in its [2011 Annual Report to Congress] about Fair Debt Collection Practices Act complaints, the Federal Trade Commission noted that in 2010 it received 17,008 complaints related to debt collection calls to consumers at work, up from 11,991 complaints the year before. “By continuing to contact consumers at work under these circumstances, debt collectors may put them in jeopardy of losing their jobs,” notes the FTC.

3. They can’t blab about your debts to others.

Debt collectors are generally only allowed to discuss your debt with you, a co-signer, your spouse, or your attorney. They cannot discuss your debt with neighbors, relatives who aren't obligated to pay the debt, or co-workers. In fact, under the FDCPA, they are generally only allowed to contact third parties to locate you, and once they have found you, contact with third parties must stop. Sukhman Dhami of the consumer law firm Dhami Law Firm, P.C., explains:

We call these 'third party disclosures', a violation of Section 1692c(b) of the Fair Debt Collection Practices Act, and they are exceptionally common, particularly when the debt collector leaves a message on a public answering machine. These public answering machine violations are called "Foti" violations after the landmark case Foti v. NCO Financial Systems, 2005.

If a debt collector leaves a message for you on any conventional answering machine or any shared/open access voicemail system, they are likely to violate the third party disclosure restrictions per Foti, so save any machine message and/or voicemail which a debt collector leaves for you!

He goes on to warn, "If a debt collector contacts third parties, we want to know about it, because chances are that the collector violated one or more provisions of the FDCPA."

4. Your debt may be too old for me to do anything about it.

"Stale debt is not collectible," advises Atlanta bankruptcy attorney Jonathan Ginsberg. "Every State has a statute of limitations that make debt of a certain age not collectible. Debt collectors are not currently obligated to advise you that they cannot sue you or legally ding your credit report if you refuse to pay stale debt."

In most states, the statute of limitations runs four to six years from the date you last made a payment. And that's the catch. "In some states, a voluntary payment on a stale debt can revive the debt and make it legally collectible," Ginsberg warns. But don't be surprised if you hear about a very old debt. "Stale (or zombie) debt is big business," he adds.

"Seniors are constantly targeted for old debts," believes Alex Viecco of the debt negotiation firm New Era Debt Solutions. Viecco says they're seeing a trend where debts that were the result of identity theft are, "coming back around for consumers. They certainly do not remember it and suddenly (collectors) act as if it was theirs." He says his firm also hears from clients who complain about old medical debts that should have been paid by the insurance company but weren't and resurface years later.

"Never admit to any debt without first getting more details," recommends Viecco. At a minimum, you want to establish that the debt is legitimate, you owe it, the collector on the other end of the phone isn't a scammer, and whether the statute of limitations has expired.

5. Debt collectors are under pressure to collect, just like you are to pay.

Collectors "work on sliding scale commissions and the quicker they get someone's money, the higher the commission," says Philadelphia debt collector abuse lawyer Michael Forbes. "If they don't get your money within a fixed period of time, your account will be sent back to the creditor."

So while collectors may pressure you to pay right away, staving them off a bit might work in your favor if you can't afford to pay the full amount you owe. "Collectors will generally not share that they may take a lower settlement offer at the end of the month in order to meet a quota, or nearer the end of the assignment contract when the creditor is going to pull the account back," says Michael Bovee with DebtConsolidationCare.com, a free online debt advice community that also offers free sample debt collection letters.

He explains that most assignment collection accounts (where creditors assign debts to collection agencies rather than selling them) stay with collectors for 90 days. Any accounts that are not collected at that point may go back to creditors, usually to be placed with another collection firm.

And while collectors may insist that you pay the full balance you owe over time, they may actually prefer to get a smaller, lump-sum payment, says Phelan. Why? "They get paid commissions much faster that way!"

6. If they really want to play hardball, they will have to sue you.

If you owe unsecured debt such as credit card debt, collectors must typically sue you before they can go after your property, including money in your bank accounts, or try to garnish your wages. But threatening to take such actions before they have sued you and won a judgment may be illegal. Even threatening to sue you to collect a debt may be illegal if the collector has no intention of doing so.

The FTC reports that in 2010, just over a quarter of all FDCPA complaints reported that third-party collectors falsely threatened a lawsuit or some other action that they could not or did not intend to take. In addition, 18.6% of FDCPA complaints alleged that such collectors falsely threatened arrest or seizure of property. No doubt some of these complaints involved overseas payday loan collection scammers. Still, some involved calls from collectors in the U.S. trying to collect legitimate debts.

"Debt collectors use applied psychology to persuade and threaten consumers to pay debt," Ginsberg explains. "Often this psychology involves veiled threats of criminal action or litigation when these options are not available."

7. Paying off this debt won't help your credit ratings.

Under the Fair Credit Reporting Act, a collection account will remain on your credit reports for seven years and six months from the date you fell behind with the original creditor. Collectors may make it sound like paying off collections account will improve your credit, by telling you that they will update your credit report to "paid in full" status. But this probably won't help your credit scores. Collection accounts are negative, regardless of whether they are paid or not.

In an an article titled "Will Paying a Collection Improve My Credit Score," Credit.com's credit scoring expert Tom Quinn wrote:

The fact that a collection account is on your credit report (regardless of balance) is, in and of itself, predictive of future risk, as research shows that consumers with collection accounts on their credit report are less likely to pay as agreed in the future than consumers with no credit report blemishes.

On the other hand, paying the collection account may stop the creditor or collector from suing you, and a judgment on your credit report could hurt your credit report even more. Additionally, some mortgage lenders may require you to pay or settle collection accounts before giving you a loan.

8. You probably don't have to pay your deceased relative's debt.

"Collecting debts of the deceased is a growing and lucrative business. Creepy, huh?" says Mary Reed, the co-author of more than twenty legal and financial books (including the book she coauthored with the author of this article, *Debt Collection Answers: How to Use Debt Collection Laws to Protect Your Rights*.) But generally, she points out, you aren't responsible for the debts of relatives who died unless you were a co-signer, or the debt belonged to your spouse who died and you live in a community property state. Creditors or collectors may try to collect from the estate, if there is one. If the person left nothing, however, then they may simply be out of luck. Though they are supposed to tell you that you don't have to pay the debt, they may conveniently leave that out or gloss over it.