

**Management Advisory Report – Violations  
of the Fair Debt Collection Practices Act  
Resulting in Administrative or Civil Actions  
(Fiscal Year 2000)**

**August 2000**

**Reference Number: 2000-10-104**

**This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

August 3, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Management Advisory Report – Violations of the Fair Debt  
Collection Practices Act Resulting in Administrative or Civil  
Actions (Fiscal Year 2000)

This final report presents the results of our Fiscal Year 2000 analysis of Fair Debt Collection Practices Act (FDCPA)<sup>1</sup> violations resulting in administrative or civil actions. This management advisory report is being provided for informational purposes. In summary, for our audit period, there was only one violation of the FDCPA reported by Internal Revenue Service (IRS) management that resulted in an administrative action against an employee. In addition, there were no civil actions that resulted in the IRS paying monetary settlements to taxpayers because of a FDCPA violation.

We previously shared a discussion draft of this report with the Director, Strategic Human Resources, Associate Chief Counsel (Enforcement Litigation), Assistant Commissioner (Collection), and Assistant Commissioner (Customer Service) for their comments. We are also providing the Director, Legislative Affairs copies of the report for appropriate distribution within the IRS.

Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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<sup>1</sup> 15 U.S.C. §§ 1601 & 1692 (1996).

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## **Executive Summary**

The Fair Debt Collection Practices Act (FDCPA)<sup>1</sup> includes provisions that restrict various collection abuses and harassment in the private sector that did not apply to the United States (U.S.) Government when the FDCPA was enacted. However, the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)<sup>2</sup> requires the IRS to comply with certain provisions of the FDCPA and to be at least as considerate to taxpayers as private creditors are required to be with their customers. In addition, taxpayers whose FDCPA rights are violated can file a civil action against the U.S. Government under the Civil Damages for Certain Unauthorized Collection Actions.<sup>3</sup>

The RRA 98<sup>4</sup> requires the Treasury Inspector General for Tax Administration to include in one of its semiannual reports to the Congress information regarding any administrative or civil actions related to FDCPA violations. This semiannual report must provide a summary of such taxpayer actions and include any judgments or awards granted. The objective of this audit was to comply with our reporting requirement by obtaining and analyzing information on IRS administrative and civil actions resulting from violations of the FDCPA by IRS employees. We reviewed closed cases coded as FDCPA after the IRS implemented FDCPA codes on the Automated Labor and Employee Relations Tracking System (ALERTS) in March 1999 and on the Counsel Automated System Environment (CASE) in June 1999.

## **Results**

Based upon our review of information recorded on IRS computer systems, we identified only one violation of the FDCPA that resulted in the IRS taking an administrative action against an employee. In addition, the IRS did not pay any money to taxpayers for civil actions resulting from FDCPA violations.

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<sup>1</sup> 15 U.S.C. §§ 1601 & 1692 (1996).

<sup>2</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>3</sup> 26 U.S.C. § 7433 (1986).

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 703 § 1102 (d)(1)(G).

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**One Fair Debt Collection Practices Act Violation Resulted in an  
Administrative Action**

To determine if any FDCPA violations resulted in an administrative action, we reviewed Collection and Customer Service Divisions' employee cases from the ALERTS. All cases were coded as FDCPA violations and were opened after July 22, 1998, and closed during the period March 19, 1999, through March 31, 2000. Our review of all 23 cases coded as FDCPA violations identified 1 violation that resulted in an administrative action being taken against an employee.

**No Fair Debt Collection Practices Act Civil Actions Resulted in a  
Monetary Settlement to a Taxpayer**

Civil actions filed by taxpayers against the IRS are input to the CASE for tracking. For cases opened after July 22, 1998, and closed during the period June 11, 1999, through March 31, 2000, the CASE did not include any closed civil actions categorized as FDCPA. As a result, the IRS did not pay any money to taxpayers for civil actions resulting from FDCPA violations during the period of our review.

To determine if there were other civil actions involving FDCPA violations not properly captured on the CASE, we reviewed 25 cases opened on or after July 22, 1998, that were either still open, or were closed during the period February 1, 1999, through March 31, 2000. The Department of Justice's Tax Division provided the case information. None of the 25 cases involved FDCPA violations.

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## **Objective and Scope**

*Our objective was to obtain information on IRS administrative and civil actions resulting from violations of the FDCPA.*

Our objective was to obtain information on Internal Revenue Service (IRS) administrative and civil actions resulting from violations of the Fair Debt Collection Practices Act (FDCPA).<sup>1</sup> Our audit work was performed at the Labor Relations and Chief Counsel functions in the National Office during the period April to June 2000.

For this Fiscal Year (FY) 2000 review, we analyzed cases recorded on the Automated Labor and Employee Relations Tracking System (ALERTS) to identify violations of the FDCPA. However, we cannot ensure that cases recorded on the ALERTS encompass all FDCPA violations alleged by taxpayers. As stated in our draft report on the FDCPA that was provided to the IRS for review and comment on June 21, 2000,<sup>2</sup> we determined that the process used to identify and report potential FDCPA violations could be improved. As a result, data captured on the ALERTS related to potential FDCPA violations might not always be complete and accurate. During this FY 2000 review, we did not determine the accuracy or consistency of disciplinary actions taken against employees for FDCPA violations reported to the Labor Relations function.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

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<sup>1</sup> 15 U.S.C. §§ 1601 & 1692 (1996).

<sup>2</sup> Draft report titled, *Identification and Reporting of Fair Debt Collection Practices Act Violations Can Be Improved*, was sent to IRS for review and comment on June 21, 2000. The IRS' comments were received on August 1, 2000, and the report should be issued during August 2000.

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## **Background**

*The TIGTA must provide the Congress with information on administrative and civil actions resulting from FDCPA violations.*

The IRS Restructuring and Reform Act of 1998 (RRA 98)<sup>3</sup> requires the Treasury Inspector General for Tax Administration (TIGTA) to include in one of its semiannual reports to the Congress information regarding any administrative or civil actions related to FDCPA violations. The semiannual report must provide a summary of such taxpayer actions and include any judgments or awards granted.

The IRS' definition of administrative action includes disciplinary actions ranging from admonishment through removal. Lesser actions, such as oral or written counseling, are not considered administrative actions.

The FDCPA includes provisions that restrict various collection abuses and harassment in the private sector that did not apply to the federal government at the time the FDCPA was enacted. The Congress believes that it is appropriate to require the IRS to comply with applicable portions of the FDCPA and be at least as considerate to taxpayers as private creditors are required to be with their customers.

To ensure equitable treatment among debt collectors in the public and private sectors, the RRA 98 requires the IRS to comply with certain provisions of the FDCPA. Specifically, the IRS may not communicate with taxpayers in connection with the collection of any unpaid tax:

- At unusual or inconvenient times.
- If the IRS knows that the taxpayer has obtained representation from a person authorized to practice before the IRS, and the IRS knows or can easily obtain the representative's name and address.

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<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 703 § 1102 (d)(1)(G).

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- At the taxpayer's place of employment, if the IRS knows or has reason to know that such communication is prohibited.

Further, the IRS may not harass, oppress, or abuse any person in connection with any tax collection activity or engage in any activity that would naturally lead to harassment, oppression, or abuse. Such conduct specifically includes (but is not limited to) the use or threat of violence or harm, use of obscene or profane language, causing a telephone to ring continuously with harassing intent, and the placement of telephone calls without meaningful disclosure of the caller's identity.

If taxpayers believe the IRS has violated their FDCPA rights, they may file a civil action for damages against the United States Government under the Civil Damages for Certain Unauthorized Collection Actions.<sup>4</sup>

Taxpayers may file an administrative claim for damages with the IRS district director in the district in which they reside or file for civil damages in a federal district court.

Taxpayer complaints about IRS employee conduct can be reported to several IRS functions for tracking on management information systems. If a taxpayer files a civil action or if IRS management determines that the taxpayer's FDCPA rights were potentially violated, the complaint could be referred and tracked on one or both of the following IRS systems:

- Labor Relations' ALERTS, which generally tracks employee behavior that may warrant IRS management administrative actions (suspension, removal, etc.).
- Office of the Chief Counsel's Counsel Automated System Environment (CASE), which is an inventory control system that tracks items such as taxpayer civil actions or bankruptcies.

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<sup>4</sup> 26 U.S.C. § 7433 (1986).



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The IRS implemented FDCPA codes on the ALERTS in March 1999 and on the CASE in June 1999.

## **Results**

Based upon our review of information recorded on IRS computer systems, we identified one violation of the FDCPA that resulted in the IRS taking an administrative action against an employee for the period March 19, 1999, through March 31, 2000. In addition, the IRS did not have any closed civil actions involving FDCPA violations for the period June 11, 1999, through March 31, 2000. As a result, the IRS did not pay any money to taxpayers for civil actions resulting from FDCPA violations.

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### **One Fair Debt Collection Practices Act Violation Resulted in an Administrative Action**

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IRS managers investigate a taxpayer complaint against an employee and coordinate with the Labor Relations function to determine the appropriate level of disciplinary action. If the misconduct requires an administrative action, managers refer the complaint to the Labor Relations function, which tracks it on the ALERTS. The following categories were established on ALERTS to track potential FDCPA violations:

- Contacting a taxpayer at an unusual location or time.
- Direct contact with a taxpayer without the consent of the taxpayer's representative.
- Contacting a taxpayer at his or her place of employment when prohibited.
- Conduct which is intended to harass or abuse a taxpayer.
- Use of obscene or profane language toward a taxpayer.

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- Continuous phone calls to a taxpayer with the intent to harass.
- Phone calls to a taxpayer without meaningful disclosure of the employee’s identity.

*One FDCPA violation resulted in an administrative action.*

To determine if any FDCPA violations resulted in an administrative action, we reviewed cases from the ALERTS for employees in both the Collection and Customer Service Divisions. All cases were coded as FDCPA violations and were opened on the ALERTS after July 22, 1998, and closed during the period March 19, 1999, through March 31, 2000. Our review of all 23 cases coded as FDCPA violations identified 1 violation that resulted in an administrative action being taken against the employee. This violation resulted in an admonishment being given to an employee who harassed a taxpayer.

Eleven of the 23 cases reviewed from the ALERTS were incorrectly coded as FDCPA violations. We previously identified the miscoding of FDCPA cases on the ALERTS and made a recommendation to address this issue in our June 21, 2000, draft report cited on page 1.

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**No Fair Debt Collection Practices Act Civil  
Actions Resulted in a Monetary Settlement to a  
Taxpayer**

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*No closed FDCPA civil actions resulted in a monetary settlement to a taxpayer.*

Civil actions filed by taxpayers against the IRS are input to the CASE by the cognizant District Counsel, who is responsible for coding the suit with the appropriate category code. District Counsel personnel input these suits to a national CASE database.

For cases opened after July 22, 1998, and closed during the period June 11, 1999, through March 31, 2000, the CASE did not include any closed civil actions categorized as FDCPA. As a result, the IRS did not pay any money to taxpayers for civil actions resulting from FDCPA violations during the period of our review.

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To determine if there were other civil actions involving FDCPA violations not properly captured on the CASE, we reviewed 25 cases initiated on or after July 22, 1998, that were either still open, or were closed during the period February 1, 1999, through March 31, 2000. The Department of Justice's (DOJ) Tax Division provided the case information. Because the DOJ does not track FDCPA violations separately, we reviewed the cases filed under Civil Damages for Certain Unauthorized Collection Actions, which allows taxpayers to sue the IRS for violations of the Internal Revenue Code related to collection actions. None of the 25 cases involved FDCPA violations.

## **Conclusion**

Based upon our review of information recorded on IRS systems, we identified one violation of the FDCPA that resulted in the IRS taking an administrative action against an employee during the period March 19, 1999, through March 31, 2000. In addition, the IRS did not have any closed civil actions involving FDCPA violations for the period June 11, 1999, through March 31, 2000. As a result, the IRS did not pay any money to taxpayers for civil actions resulting from FDCPA violations.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The objective of this audit was to obtain information on Internal Revenue Service (IRS) administrative and civil actions resulting from violations of the Fair Debt Collection Practices Act (FDCPA).<sup>1</sup> Specifically, we:

- I. Determined the number of FDCPA violations resulting in administrative actions.
  - A. Obtained a computer extract from the Automated Labor and Employee Relations Tracking System (ALERTS) of 23 cases, involving Collection or Customer Service Divisions employees, that were opened after July 22, 1998, and closed during the period March 19, 1999, through March 31, 2000 coded as FDCPA violations.<sup>2</sup>
    1. Analyzed available ALERTS information to ensure the cases were accurately coded as FDCPA violations.
    2. Obtained additional case file information from the Labor Relations function to determine if cases were coded accurately as FDCPA violations.
  - B. Determined whether any cases involving FDCPA violations resulted in an administrative action.
    1. Reviewed the final disposition code for the cases involving FDCPA violations.
    2. Determined if any cases resulted in a minimum disciplinary action of admonishment.

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<sup>1</sup> 15 U.S.C. §§ 1601 & 1692 (1996).

<sup>2</sup> The IRS Restructuring and Reform Act of 1998 was signed into law on July 22, 1998. The application of the fair debt collection procedures to the IRS is effective on this date. The Treasury Inspector General for Tax Administration's (TIGTA) audit report entitled, *The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations* (Reference Number 2000-10-014, dated December 1999) included a recommendation that FDCPA codes be added to the ALERTS. Labor Relations management added these codes on March 3, 1999, and issued guidance concerning these additional issue codes to all ALERTS Coordinators on March 15, 1999.

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3. Reviewed case file information from the Labor Relations function, if necessary, to determine if the violations resulting in administrative actions occurred after July 22, 1998.
- II. Identified IRS civil actions (judgments and awards granted) resulting from violations of the FDCPA.
- A. Requested a Counsel Automated System Environment (CASE) computer extract for Subcategory 511 (established to track FDCPA violations) of cases opened after July 22, 1998, and closed during the period June 11, 1999, through March 31, 2000.<sup>3</sup>
  - B. Requested from the Department of Justice's (DOJ) Tax Division copies of any complaints initiated on or after July 22, 1998, involving any Internal Revenue Code § 7433 civil actions that were either still open or closed during the period January 1 through March 31, 2000. (We reviewed one case meeting these criteria).
  - C. Used the case review results reported in our draft report for our FDCPA audit.<sup>4</sup> (We reviewed 24 cases from the DOJ that were initiated on or after July 22, 1998, and were either still open or closed during the period February 1, 1999, through December 31, 1999, and found none related to the FDCPA not recorded on the CASE.)

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<sup>3</sup> The TIGTA's audit report entitled, *The Internal Revenue Service Is Now Tracking Potential Fair Debt Collection Practices Act Violations, But May Not Always Be Properly Reporting Violations* (Reference Number 2000-10-014, dated December 1999) included a recommendation that an FDCPA code be added to the CASE. The Office of the Chief Counsel management added this code on June 11, 1999.

<sup>4</sup> *Identification and Reporting of Fair Debt Collection Practices Act Violations Can Be Improved* (draft report dated June 21, 2000).

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**Appendix II**

**Major Contributors to This Report**

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Nancy Nakamura, Director

Jeffrey Jones, Audit Manager

Cheryl Cerqua, Senior Auditor

Thomas Polsfoot, Auditor

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**Appendix III**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
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