

Old Debt or Bogus Debt?



My office receives numerous complaints and inquiries regarding debt collection. Many consumers have been targeted by debt

scams, while others are confused about old debts and whether or not they still have to pay them off.

One of the more prevalent frauds currently in circulation is the bogus debt scam. A number of consumers have turned to our office in confusion because they have received a demand from a collection agency trying to collect a debt that does not seem to exist or that they do not remember incurring.

It appears that some con artists often operate with little more than a post office box, and may hope that an intimidating letter will frighten a consumer into paying a small but totally bogus debt.

Whenever a consumer complains about an unexplained debt or charge, we immediately suggest the possibility that the consumer's identity has been stolen. We also recommend that you demand proof that an unfamiliar debt actually exists.

The best way to ensure a debt's

validity is to check your credit file with the three major credit bureaus and demand documented proof from the creditor or collection agency. Legitimate lenders can readily produce a paper trail to show that a credit transaction actually took place. In a bogus debt scam, however, no proof can be produced that a debt even exists.

You may also wish to contact the Secretary of State's Office to see if the collection agency is registered in Texas.

We also receive inquiries regarding the obligation to pay old debts. If you never paid off an old debt, that does not mean it is not valid; you are obligated to pay it even if it has been several years since you were contacted by a collection agency or the business you owe the debt to.

Many consumers are under the impression that after a certain number of years, they are no longer responsible for an unpaid debt.

Under Chapter 16.004 of the Texas Civil Practice & Remedies Code, Four-Year Limitations Period, the statute of limitations for filing suit to collect a debt is no later than four years after the cause of action accrues. An example of when the cause of action accrues is the date on which the debt is declared to be in default.

Under the case law related to this

statute, debt means any outstanding liability payable in cash. In addition to consumer loans or credit card debt, this can mean a tax liability, damages related to land sale fraud, overpayment or underpayment of royalties or wages, money allegedly owed under an insurance policy, and money arising from a breach of contract.

The fact that a creditor is barred from collecting a debt through a lawsuit due to the statute of limitations does not mean the debt is erased - the debt remains in effect, and the creditor can still use other means to try to collect it. And the debt will remain on your credit report

Also, most of the cases cited involve unsecured debt, where the suit would result in a personal judgment against the debtor. There are different rules for debts secured by property, such as mortgages. You may wish to consult with a private attorney if you are unsure which type of debt is involved or what options are available in resolving it.

If you are being harassed by an abusive debt collection agency, you can contact my office and file a complaint. You can also contact the Federal Trade Commission to file a complaint and for additional information.

POINTS TO REMEMBER

Old or Bogus Debt

- Ask for documented proof of debt
- Valid debts do not go away after several years
- Check your credit file often

To obtain a copy of your credit report:

Equifax
P.O. Box 740241
Atlanta, GA 30374-0241
(800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013-2104
(888) 397-3742

Trans Union
P.O. Box 390
Springfield, PA 19064
(800) 916-8800

You can contact the FTC at:

Consumer Response Center
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
877-FTC-HELP (382-4357)
www.ftc.gov

Visit the Consumer Protection Section of our Web site at www.oag.state.tx.us for information on debt collection, ID theft and other scams.



ATTORNEY GENERAL OF TEXAS

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Information on this and other topics is available on the Attorney General's Web site at www.oag.state.tx.us.