

June 5, 2007



Via UPS Overnight Delivery

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex N)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Debt Collection Workshop
Comment, Project No.: P074805

Dear Sir or Madam:

Thank you for the opportunity to offer comments in advance of the Debt Collection Workshop to be held this fall. Our company, Portfolio Recovery Associates, Inc. is one of the largest and most successful managers of accounts receivable in the United States. We are primarily engaged in the purchase and collection of delinquent consumer debt, through our subsidiary, Portfolio Recovery Associates, LLC (hereafter "PRA").

PRA is an active member of ACA International, the association of credit and collection professionals. We understand that ACA either has provided or will provide its own comprehensive comments to the FTC, based on input from its many members. As a result, we do not feel the need to comment on every topic identified in the "Topics for Comment" document, but would like to highlight our views on a few subjects of particular concern.

Documentation Required for Verification of Disputed Accounts

Item 4c of the "Topics for Comment" asks:

Are the debt verification efforts of credit issuers and third-party debt collectors (i.e., collection agencies, collection law firms, debt buyers, and mortgage servicers) adequate? If not, how could they be improved? What level of documentation should debt collectors be required to give consumers who dispute debts?

The sufficiency of documentation to verify disputed debts is a common topic of discussion and debate between consumer advocates and credit and collection professionals and is frequently the subject of litigation. We believe the subject requires a balanced approach that is flexible enough to recognize the differences between the many types of consumer debts incurred in the United States. Not all consumer debts are incurred, serviced, or collected in the same manner. Some credit cards are opened through the creditor's telemarketing efforts while others

are opened when a consumer fills out a paper application. Installment loans, wireless telephone accounts, utility accounts and many others may have some features in common and many that are not. No rigid minimum standard can apply to the many different types and ages of consumer debts in the United States. What constitutes sufficient documentation – the “level of documentation” referred to in the “Topics for Comment” – will only work if it is subjective enough to take into consideration the many different types of delinquent consumer debts.

It is important to recognize that any documentation sufficient to verify a disputed consumer debt is likely to come from the records of the original creditor, whose obligation to maintain documentation is required by the Truth in Lending Act (Regulation Z), specifically at 12 C.F.R. 226.25, and the Equal Credit Opportunity Act (Regulation B), specifically at 12 C.F.R. 202.12. Regulation B requires that credit applications be maintained for twenty-five (25) months after a creditor notifies an applicant of action taken on an application. Regulation Z requires creditors to maintain records for two (2) years “after the date the disclosures are required to be made or action is required to be taken.”

We believe the records retention requirements in Regulations B and Z are too short to either serve the interests of consumers in obtaining documentation of disputed accounts or the legitimate interests of credit grantors and debt collectors in collecting debts that are genuinely owed. It is certainly true that a credit grantor is free to retain records longer than required by federal law, but records retention can be very costly and few businesses in any field are anxious to incur administrative costs that are not absolutely necessary. The records retention requirements of Regulations B and Z are the most direct determinant of the availability of documents necessary to resolve disputed accounts and their relatively short duration has contributed to or caused the lack of clarity in many instances.

As you are probably aware, statutes of limitation on collection of delinquent accounts vary from as few as 3 years to as many as 15 years in the various states and the period during which they may be reported on credit reports is 7 years following the date of delinquency. Bearing in mind the fact that, with a couple of exceptions, a statute of limitations is only a limitation on the time period in which a *legal* action may be brought to enforce a debt, the records retention requirements of Regulations B and Z bear little relation to the much longer time period in which consumer debts are commonly collected.

The “Workshop Description and Questions for Comment” issued by the FTC in advance of the workshop (and available at www.ftc.gov) refers to “acts and practices that can cause consumer injury, including payment of amounts not owed...” While it may be true that some consumers may have paid amounts not owed, our experience has taught us that for many reasons (including mergers and acquisitions in the banking and credit card industries) a much more common occurrence is that consumers simply do not recognize or remember obligations, particularly when a consumer has many accounts and the names of various creditors may have changed for some reason. Lengthening the records retention requirements of Regulations B and Z would make it more likely for creditors, debtors, and debt collectors to sort out what is owed

and what is not. No reputable debt collector, including PRA, wants to collect a single dollar that is not owed, but nor should a reputable consumer be able to evade paying amounts that are legitimately owed. Longer records retention requirements would serve everyone in the collection process and contribute to the efficiency and operation of the economy.

For these reasons, we suggest that the question of what “level” of documentation should be required to resolve a dispute misstates the most common obstacle to dispute resolution. It is the availability of information and documents, not a particular level of documentation, that would best enhance the resolution of disputed debts. By virtue of the rulemaking authority expressly granted to it, the FTC is uniquely positioned to improve the availability of documentation by requiring longer retention periods. That one step would be the most comprehensive means of improving the ability of creditors, debtors and debt collectors to resolve disputed accounts.

Consumer Complaints to the FTC and Others

Item 4b of the “Topics for Comment” asks:

What accounts for the growing number of consumer complaints to the FTC about third-party debt collectors? What accounts for the number of complaints to the FTC about credit issuers’ in-house collectors?

There is no question that consumers in the United States and other countries borrow more than ever before. A simple internet search of the words “increasing consumer debt” in Google or another search engine demonstrates that the phenomenon of increasing consumer debt is well known (the Google search returns about 1,390,000 entries). Although there are likely a variety of reasons for the increase in consumer complaints, the best explanation is that there are simply more debt collectors collecting more debt from more debtors than ever before. It is also true that even the most legally compliant creditor, debt collection agency or debt buyer will make mistakes, resulting in consumer complaints.

The most important trend that we would like to highlight is the growing contingent of web sites and services devoted to generating disputes and customer complaints. Many websites operate under the guise of “credit repair” and do little more than counsel debtors to initiate disputes and file complaints. Many such sites unabashedly charge fees to provide sample dispute and complaint letters. The “Workshop Description & Questions for Comment” rightly points out that technological innovation has had an impact on the debt collection industry, including “the ways that data are collected, stored and exchanged between creditors and collectors...” It is no less true that technology has impacted the ways that information is exchanged between debtors on the one hand and creditors, collectors and regulators on the other hand. The ease and velocity of communication in the internet age has contributed to the rise in complaints against creditors and debt collectors. Simply put, one reason there are more complaints against creditors and debt

collectors is that more people and businesses are encouraging debtors to file complaints and even providing the content of complaints, sometimes for a fee.

Thank you again for the opportunity to share these comments. We may also provide additional research and study results prior to the September 7, 2007; deadline for those materials and we look forward to the workshop in October.

Sincerely,

Donald W. Redmond
Corporate Counsel